

All contracts are subject to all the terms and conditions in these General Terms and Conditions of Sale which shall be deemed to be the basis of Hanson's (hereinafter "Seller") Offer to sell all of which are accepted by Buyer, supersede Buyer's order form or oral request for product, if any, and constitutes, with any additional terms on Seller's Acknowledgement, the entire contract between the parties. Contracts shall become binding for the entire quantity of goods specified upon the face of any Acknowledgement upon its acceptance by Seller, such acceptance being complete when the Acknowledgement is signed by Seller or when Seller delivers or bills all or any part of the goods specified therein, **and** upon the occurrence of one or more of the following events: (1) Upon Buyer's returning a signed copy of the Acknowledgement to Seller; (2) Upon Buyer's retaining the Acknowledgement for ten (10) days without making written objection thereto; (3) Upon Buyer's giving instructions to Seller respecting production or delivery; (4) upon Buyer's accepting delivery of all or any part of the goods specified in the Acknowledgement; (5) Upon Buyer's paying for all or any part of the goods; or (6) Upon Buyer's indicating in some other manner its acceptance of the Acknowledgement. Our specific terms of sale are as follows:

**1. Delivery:** Delivery of any installment of Products within fifteen (15) days after the date specified on the Acknowledgement shall constitute a timely delivery. Thereafter, shipment or tender of delivery shall be deemed timely delivery unless prior thereto Seller has received written notice of cancellation. If Buyer has not furnished shipping instructions within the time specified therefore, or, if no time is specified, within fifteen (15) days after demand by Seller therefore, Seller may, at its option, bill Buyer for the Products at finished goods prices or supply its own shipping instructions and invoice the merchandise as thus assorted; or Seller may treat the contract as breached, and Seller may, in addition to any other remedies provided by this contract or available at law, sell off for Buyer's account at public or private sale any or all undelivered Products, Buyer remaining liable for the expenses of such sale and any deficiency in the price received by Seller as compared with the price set forth in the Acknowledgement. If Seller permits Buyer to complete shipments subsequent to the time specified, Seller may delay delivery for such time as may be necessary and Buyer shall pay any additional costs resulting therefrom. Unless otherwise agreed in writing, all products shall be made available to Buyer FOB Seller's plant during Seller's regular hours of operation and all costs of delivery shall be at Buyer's expense. If delivery by Seller is agreed, title shall pass at the jobsite, and Buyer agrees to give Seller reasonable notice of the time and date of deliveries required. Additional charges will apply to deliveries on Saturdays, Sundays, Holidays, orders to be filled outside of Seller's regular hours of operation, partial cubes and returns. When deliveries are to places other than on paved streets, the Buyer agrees to provide roadways or approaches permitting access of trucks to point of delivery under their own power. The Seller reserves the right to stop deliveries in the event such roadways are not provided. If the Buyer orders deliver-

ies beyond the curb line, the Buyer assumes all liability for all injury to persons and damage to sidewalks, driveways, or other property and agrees to indemnify the Seller to the maximum extent permitted by law against any and all liability, loss, cost, fines, claims and expense incurred as a result of such delivery, including, without limitation, damage to the Seller's equipment and loss of time.

**2. Negation of Warranty:** Seller warrants that goods supplied shall meet ASTM specifications, unless otherwise stated on the face hereof. Seller manufactures to the following specifications: (i) C216 standard specification for facing brick, (ii) C62 standard specification for building brick, (iii) C902 standard specification for pedestrian and light traffic paving brick, and (iv) ASTM C-55 standard specification for concrete brick, all as applicable. EXCEPT TO THE EXTENT EXPRESSLY SET FORTH HEREIN, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

**3. Limitation of Liability:** In no event shall Seller be liable to Buyer for any indirect, special or consequential damages or lost profits arising out of or related to this Agreement or the performance or breach thereof, even if Seller has been advised of the possibility thereof. Seller's liability to Buyer, if any, shall in no event exceed the total amount paid to Seller for the Products in question. Buyer shall hold Seller harmless from any claims by any third parties relating to the Products sold. Seller shall not be responsible for color variation, chip-page, distortion of units or faulty structural design after the units have been placed in use and Purchaser agrees to inspect all Products prior to use. Seller shall not be responsible for problems or damage arising from improper cleaning methods or use of improper cleaning solutions. Proper cleaning procedures may be found at our website at [www.hansonbrick.com](http://www.hansonbrick.com). All field panels erected for customer approval shall also have the written approval of Seller.

**4. Maturity of Claim:** Any claim of defects arising out of or related to any sale shall be brought no later than thirty (30) days after delivery, except for claims of damaged Products or shortages which shall be brought within seven (7) days of delivery. In the event of any defect or damage claims, Seller shall have the right to require that Buyer return the Product for evaluation by Seller. Any claim of breach may be brought within forty-five (45) days of learning thereof, but in no event longer than one year after delivery. No claims shall be allowed after products have been put to use and Buyer's use of the products shall constitute acceptance by Buyer.

**5. Credit Extension: NO CONTRACT SHALL BE DEEMED EFFECTIVE UNLESS AND UNTIL BUYER'S CREDIT HAS APPROVED BY SELLER, IN ITS SOLE DISCRETION.** If at anytime the financial responsibility of the Buyer becomes unsatisfactory to Seller in its sole discretion, Seller reserves

the right to require payment in advance, or satisfactory security or guarantee that invoices will be paid when due, or to terminate this contract. Buyer represents and warrants that it is solvent at the time each contract is made and hereby makes a continuing representation and warranty of solvency at the time of each tender of delivery or delivery hereunder.

**6. Payment:** Checks are accepted subject to collection and the date of collection shall be deemed the date of payment. No allowance may be taken unless agreed in writing. Any payment received from Buyer may be applied, regardless of any statements thereon, against any amounts then owing to Seller without discharging Buyer's liability for additional amounts owed. On any invoice not paid by the maturity date, Buyer shall pay interest at the maximum rate permitted by law. Should Buyer fail to make any payment required, or become insolvent or file for bankruptcy protection, Seller may declare all outstanding amounts immediately due and payable and/or may cancel the unfilled portion of the contract without notice. Any property of Buyer held by Seller shall be deemed security for Buyer's obligations hereunder and in the event of a default by Buyer hereunder, said property may be sold at a public or private sale, with Buyer remaining liable for the costs of such sale and any deficiency in the price received by Seller as compared with the price set forth herein. In the event of a dispute between the parties, Buyer shall pay Seller all undisputed amounts without offset.

**7. Prices:** Prices for undelivered goods may be increased by Seller in the event of any increase in the cost to Seller of supplies, labor or services, or any increase in Seller's cost resulting from governmental or administrative action or any other cause beyond Seller's control. Invoices shall be deemed correct unless contested in writing within seven (7) business days of invoice date.

**8. Taxes:** Any manufacturing, processing, sales or other tax (except for tax on Seller's net income) now in effect or later imposed by any governmental entity (national, state, province or local), shall be added to the invoices and paid by the Buyer. Quoted prices are made before addition of applicable taxes.

**9. Quantities and Estimates:** The Seller shall not be obligated to furnish more than the quantity acknowledged. At Buyer's request, Seller's personnel may assist in estimating brick quantities. The accuracy of these takeoffs cannot be guaranteed and Seller will not be responsible for inaccurate estimates or ordering quantities.

**10. Force Majeure:** Seller shall not be liable for failure or delay in shipping goods, if such failure or delay is due to an Act of God, weather, labor difficulties, accident, inability to obtain raw materials or causes of any kind whatsoever beyond the control of Seller. Seller's obligations hereunder shall be subject to the condition that at the time of delivery it shall have all applicable licenses and permissions of any kind or nature necessary for it to perform hereunder, failing which Seller's performance shall be excused.

**11. Entire Agreement:** The terms and conditions set forth in these General Terms and Conditions, as well as any additional terms contained in Seller's Acknowledgement are the sole agreement between the parties relating to the subject matter hereof and supersede all prior understandings, writings, proposals, representations or communications, oral or written of either party and may only be amended by an instrument executed by the authorized representatives of both parties.

**12. Expenses:** Buyer agrees to pay collection costs and disbursements and attorney fees equal to 25% of the account balance in the event Buyer's account is referred to an attorney or collection agency for collection or lawsuit.

**13. Choice of Law:** This Agreement shall be deemed performed in its entirety in the State where issued and shall be interpreted exclusively in accordance with the laws thereof. The parties agree to the exclusive jurisdiction of the courts sitting in said state.

**14. Specials:** Products manufactured to customer specifications (shape, size, custom blend) will be invoiced on completion or with the first shipment, whichever occurs first. Specials cannot be cancelled once manufacturing has begun.

**15. Future Transactions:** Except to the extent that a future transaction is governed by a signed contract between the parties, the printed terms and conditions of these General Terms and Conditions shall apply to all future transactions.