

## TERMS AND CONDITIONS OF SALE

### TERMS:

**1. THESE ARE ALL THE TERMS AND CONDITIONS OF MERCHANDISE SALES, UNLESS A SEPARATE WRITTEN AGREEMENT IS SIGNED.** Orders must be submitted in writing, and either by Fax, by e-mail, by telephone (if followed by a written purchase order); and is binding only when accepted and communicated to customer, in writing, and always subject to credit approval, and payment method (cash, check, money order, credit card, certified Fed Funds) deposit arrangement, payment terms, production scheduling and delivery details. Credit cards are accepted at time of sale only. All State, Federal, use and excise taxes are the responsibility of customer.

### 2. MERCHANDISE DESIGN AND SPECIFICATION:

Prices, terms, specifications and applications are subject to change without notice, due to our policy of continued research for the improvement of our merchandise.

### 3. SHIPMENTS:

Shipment will be made per the customer's written or verbal instructions. Any shipping dates provided by H & H Specialties, Inc. are estimates only. All shipments are delivered to the shipper in good order and are F.O.B. H & H Specialties, Inc. City of Industry, CA 91746. Within (10) ten business days of customer's receipt of merchandise, customer shall check shipping container for damages and/or shortages and report any to carrier and H & H Specialties, Inc.; or shipment shall be deemed accepted in good order. The carrier is solely liable for damages during shipment regardless of who selected the carrier. No claims for damaged merchandise shall be made beyond (10) ten business days from customer receipt of merchandise. All shipments outside the U.S. containing curtain tracks shall incur a minimum fee of USD 100.00 for export crating, or as otherwise quoted.

### 4. RETURNED ITEMS:

No merchandise shall be accepted for return for credit unless prior written permission from H & H Specialties, Inc. has been obtained and in no event beyond 90 days from date of shipment from our factory. All merchandise returned for credit shall be brand new and in saleable condition as determined by H & H Specialties upon their return with all transportation charges prepaid. All returns are subject to a 20% restocking charge. Custom manufactured items, cut operating line and cable, and curved tracks are not returnable.

### 5. LIMITED WARRANTY:

All merchandise manufactured by H & H SPECIALTIES, INC. is warranted to be free from defects of material or workmanship for a period of two years from date of shipment from our factory. All merchandise not manufactured by H & H SPECIALTIES, INC. is warranted only to the extent and in the manner warranted by the original manufacturer. Modifications or alteration of any kind, or rental use of any merchandise invalidates any kind of warranty. Ordinary wear and tear is also excluded. H & H SPECIALTIES, INC. makes no representation of the suitability of any merchandise or any application or installation of any merchandise unless specific drawings are made by the factory and the merchandise is installed in precisely the exact manner as detailed by our design staff. **NO MERCHANDISE OF H & H SPECIALTIES, INC. IS DESIGNED, INTENDED OR WARRANTED FOR THE USE OF LIFTING OR TRANSPORTING PEOPLE OR ANY OTHER LIVING ENTITY SUCH AS ANIMALS.** No claims will be honored or in circumstances where, in our opinion, the defect was caused by misuse, abuse, accident, alteration, improper installation, improper maintenance, Act of God, or any use in a manner not intended.

### 6. LIMITATION OF LIABILITY:

UNDER NO CIRCUMSTANCES WILL H & H SPECIALTIES, INC., IT'S AFFILIATES, SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: (A) ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHICH INCLUDES BUT IS NOT LIMITED TO, LOSS OF PROFITS, REVENUES OR SAVINGS, EVEN IF H & H SPECIALTIES, INC. HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES, WHETHER A CLAIM FOR SUCH LIABILITY IS PREMISED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY; (B) CLAIMS, DEMANDS OR ACTIONS AGAINST CUSTOMER BY ANY THIRD PARTY; (C) ANY LOSS OR CLAIM ARISING OUT OF OR IN CONNECTION WITH CUSTOMER'S IMPLEMENTATION OF ANY CONCLUSIONS OR RECOMMENDATIONS BY H & H SPECIALTIES, INC. IN CONNECTION WITH THE MERCHANDISE; OR (D) THE MERCHANDISE BEING UNAVAILABLE FOR USE. NOTWITHSTANDING THE FOREGOING, IN THE EVENT OF ANY LIABILITY CLAIMED, H & H SPECIALTIES, INC.'S ENTIRE LIABILITY FOR DAMAGES FROM ANY CAUSE WHATSOEVER SHALL NOT EXCEED THE LESSER OF: (A) THE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE MERCHANDISE GIVING RISE TO THE CLAIM; OR (B) A MAXIMUM OF \$1,000.00. **H & H SPECIALTIES, INC. WILL NOT BE RESPONSIBLE FOR ANY DELAYS IN DELIVERY WHICH RESULT FROM ANY CIRCUMSTANCES BEYOND ITS CONTROL, INCLUDING WITHOUT LIMITATION, MERCHANDISE UNAVAILABILITY, CARRIER DELAYS, DELAYS DUE TO FIRE, SEVERE WEATHER CONDITIONS, FAILURE OF POWER, LABOR PROBLEMS, ACTS OF WAR, TERRORISM, GENERAL INSURRECTION, ACTS OF GOD OR ACTS OF ANY GOVERNMENT AGENCY.**

### 7. JURISDICTION/DISPUTE RESOLUTION:

The laws of the State of California and the Superior Court of Los Angeles County and the United States District Court of Los Angeles shall have the sole and exclusive jurisdiction of any dispute notwithstanding any State, or Federal or International or "Internet" law to the contrary. The parties agree to a voluntary 4 hour non-binding mediation of any dispute up to \$25,000 upon 30 days request by any party (except as to non-payment) before Judicial Arbitration Mediation Services, Los Angeles County, pursuant to their rules. The parties shall share the costs of the mediation services equally. The failure of either party to submit to mediation shall result in the non awarding of attorney fees to that party even if they prevail in a Court proceeding or arbitration. The prevailing party in a court proceeding or arbitration shall be entitled to its reasonable attorney fees and costs. The customer acknowledges receipt of a copy of these terms and conditions.