

TERMS AND CONDITIONS

THESE TERMS AND CONDITIONS AND THE TERMS STATED ON THE SALES ORDER AND THE INVOICE SHALL APPLY AND SUPERSEDE ALL PRIOR POLICIES, TERMS, CONDITIONS, OR OTHER AGREEMENTS IN CONNECTION WITH THE SALE OF TILES. THESE TERMS AND CONDITIONS ARE SUBJECT TO CHANGE BY COMPANY WITHOUT PRIOR WRITTEN NOTICE AT ANY TIME, IN COMPANY'S SOLE DISCRETION.

1. **Definitions.** "COMPANY" shall mean FERRE EXPRESS INTERNATIONAL, INC., a Florida corporation, d/b/a FXI CERAMICS. "CUSTOMER" shall mean the person or entity to which the TILES are being sold. "TILES" shall mean the products described on the SALES ORDER and/or the INVOICE. "PURCHASE ORDER" shall mean CUSTOMER's order for the sale of TILES and "SALES ORDER" shall mean "COMPANY's order to sale of TILES to CUSTOMER.

2. **Sales Order.** The PURCHASE ORDER shall not be binding on COMPANY until the SALES ORDER has been received, approved, and accepted by CUSTOMER in writing.

3. **Construction and Legal Effect.** The sale of COMPANY's TILES to CUSTOMER as requested by CUSTOMER in the PURCHASE ORDER and described by COMPANY on the SALES ORDER and/or the INVOICE is made upon and expressly subject to these Terms and Conditions and the SALES ORDER. These Terms and Conditions, along with the SALES ORDER, constitute a binding contract between CUSTOMER and COMPANY with respect to such sale of TILES. CUSTOMER's acceptance of the TILES shall constitute CUSTOMER's acceptance and shall be subject to these Terms and Conditions and the terms of the SALES ORDER. No waiver of or modification or addition to any of these Terms and Conditions or the SALES ORDER shall be effective unless in writing and signed by COMPANY.

4. **Delivery.** COMPANY shall not be liable for failure to deliver or delays in delivery occasioned by strikes, lockouts, fires, inability to obtain materials or shipping space, breakdowns, delays of carriers or suppliers, governmental acts and regulations, and other causes beyond COMPANY's control.

5. **Inspection of Tiles.** CUSTOMER expressly agrees to inspect and shall inspect TILES (i) upon receipt, (ii) BEFORE installation of TILES occurs. CUSTOMER expressly agrees to inspect and shall inspect TILES to ensure the appearance and shade/color match with the walls and flooring prior to installation of the TILES. CUSTOMER further expressly agrees to inspect and shall inspect TILES to ensure TILES' shade and color match with that of new shipments, old inventory, and samples in CUSTOMER's possession. CUSTOMER's acceptance of these Terms and Conditions shall represent CUSTOMER's express compliance with this Paragraph 5.

6. **Installation of Tiles.** CUSTOMER expressly guarantees that any installer used by CUSTOMER to install the TILES shall have the necessary knowledge and experience to install the TILES. CUSTOMER understands that each tile manufacturer conducts their respective inspections in accordance with their own specific compliance data necessary to meet industry standards. Variations of levels of compliance vary depending on the

type of product, dimension, caliber, warpage, lippage, etc. CUSTOMER understands that while two similar products may comply with industry standards, one product may be within the top accepted range, while the other may be within the bottom of the accepted range. CUSTOMER shall be responsible for requesting information on technical specifications, such as caliber, warpage, recommended grout joints, dimensions, etc., for TILES being ordered from the COMPANY.

7. **Disclaimer.** CUSTOMER understands that TILES may vary in color, texture, and/or appearance according to the manufacturer's design for any product line. Except as otherwise expressly stipulated herein, COMPANY does not warrant that the TILES are fit for any particular purpose. COMPANY shall not be liable for any manufacturing defects or customary variances from specifications. COMPANY MAKES NO WARRANTIES OF MERCHANTABILITY OR FITNESS, NOR ANY OTHER WARRANTIES OF ANY KIND REGARDING THE TILES, WHETHER EXPRESSED OR IMPLIED.

8. **Defects.** Defected TILES will be replaced; provided, however CUSTOMER provides notice to COMPANY within fifteen (15) after delivery and subject to paragraph 5 herein. CUSTOMER expressly agrees that all claims for any alleged defects on the TILES shall be deemed waived unless notified to COMPANY in writing promptly upon CUSTOMER's receipt of the TILES. All claims of defect shall be deemed waived if made after CUSTOMER has installed the TILES, subject to the provisions of paragraph 5 herein.

9. **Amendments.** These Terms and Conditions may not be changed or terminated orally, and no change, termination, or waiver of any of these provisions shall be valid unless in writing and signed by the party against whom the same is sought to be enforced.

10. **Notices.** Notices and other communications called for by the SALES ORDER or these Terms and Conditions shall be given by fax, e-mail, or any method prescribed by law, at the addresses stated for CUSTOMER and COMPANY on the SALES ORDER.

CUSTOMER'S ACCEPTANCE OF THE TILES SHALL CONSTITUTE CUSTOMER'S EXPRESS ACCEPTANCE OF THESE TERMS AND CONDITIONS AND THE TERMS STATED ON THE SALES ORDER AND/OR INVOICE.