

STANDARD FORM OF AGREEMENT FOR DESIGN AND INSTALLATION

Approved by the

National Kitchen & Bath Association

Between Purchaser:

Name: _____

Home Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____

Delivery Address (if different) _____

And Seller:

1. The Seller agrees to furnish the materials and services set forth in the drawings (numbered _____ and dated _____) and specifications annexed hereto.

The Purchaser agrees to make payment therefore in accordance with the following:

Contract Sales Price \$ _____

Sales Tax (if applicable) \$ _____

Total Purchase Price \$ _____

Schedule of Payment:

Upon signing of this Agreement: \$ _____

Upon commencement of job \$ _____

Upon substantial completion \$ _____

Purchaser may not change the drawings, plans, specifications, or items specified unless agreed to by Seller in writing. Seller is not required to accept any such change to this Agreement. Should Purchaser request any changes or extra work, Seller shall determine the cost thereof and such work will only be included as part of this Agreement pursuant to a written change to this Agreement signed by both parties. The Purchaser shall pay in advance to Seller, the total cost of each change order, which amounts are non-refundable to Purchaser.

2. Upon completion of the work specified and payment in full by the Purchaser, Seller shall deliver and assign to Purchaser, without recourse, all manufacturers, installers, and suppliers warranties, if any, covering such material. **AS TO SUCH MATERIALS, SELLER NEITHER MAKES OR ADOPTS ANY SUCH MANUFACTURERS, INSTALLERS, OR SUPPLIERS WARRANTY AND SPECIFICALLY EXCLUDES AND DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE RELATING THERETO, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

3. The Purchaser agrees to accept delivery of the product or products when ready. The risk of loss, as to damage or destruction, shall be upon the Purchaser upon the delivery and receipt of the product(s).

4. The Purchaser understands that the products described are specially designed and custom built and that the Seller takes immediate steps upon execution of this Agreement to design, order and construct those items set forth herein. Accordingly, this Agreement is not subject to cancellation by the Purchaser for any reason. In the event that Purchaser attempts to cancel this Agreement or otherwise defaults in the performance of Purchaser's obligations hereunder, Seller may, at Seller's option, cancel this Agreement and retain as liquidated damages, and not as a penalty, all amounts paid by Purchaser. Alternatively, Seller shall have the right to pursue any legal and equitable remedies available to it, including specific performance. Notwithstanding anything to the contrary set forth above, in the event of Purchaser's default, Seller shall have the right to stop performance hereunder until such time as Purchaser cures the default.

5. No installation, plumbing, electrical, flooring, decorating or other construction work is to be provided unless specifically set forth herein. In the event the Seller is to perform the installation, it is understood that the price agreed upon herein does not include the possible expense entailed in coping with hidden or unknown contingencies found at the job site. In the event such contingencies arise and the Seller is required to furnish labor or materials or otherwise perform work not provided for or contemplated by the Seller, the actual costs plus _____% thereof will be paid for by the Purchaser. Contingencies include, but are not limited to, the following: inability to reuse existing water, vent, and waste pipes; air shafts, ducts, grilles, louvers and registers; the relocation of concealed pipes, risers, wiring or conduits, the presence of which cannot be determined until the work has started; or imperfections, rotting or decay in the structure or parts thereof necessitating replacement.

6. Title to the item sold pursuant to this Agreement shall not pass to the Purchaser until the full price as set forth in this Agreement is paid to the Seller.

7. Delays in payment shall be subject to interest charges of _____% per annum, and in no event higher than the interest rate provided by law. If Seller is required to engage the services of a collection agency or an attorney, the Purchaser agrees to reimburse the Seller for any amounts expended in order to collect the unpaid balance, including reasonable attorneys' fees.

8. The Seller retains the right, upon breach of this Agreement by the Purchaser, to sell those items in the Seller's possession. In effecting any resale on breach of this Agreement by the Purchaser, the Seller shall be deemed to act in the capacity of agent for the Purchaser. The purchaser shall be liable for any net deficiency on resale, plus the costs and expenses incurred in reselling the items.

9. The Seller agrees that it will perform this contract in conformity with customary industry practices. The Purchaser agrees that any claim for adjustment shall not be reason or cause for failure to make payment of the purchase price in full. This Agreement shall be governed by the laws of the State/Province of _____. Any unresolved controversy or claim arising from or under this contract shall be settled by binding arbitration in accordance with the rules of the American Arbitration Association in the United States or the Better Business Bureau of Canada and judgment upon the award rendered may be entered in any court of competent jurisdiction.

10. The Seller anticipates that the delivery date or the date upon which the installation, if appropriate, is to begin will be _____ and that the materials and services set forth in this contract shall be completed by _____. The Purchaser understands that the above dates, when given, shall be deemed approximate, and performance is subject to delays caused by, but not limited to, strikes, fires, availability of the product at the time of delivery, acts of God, and/or other reasons not under the reasonable control of the Seller.

In the event delays do occur, the Seller shall give timely, written notice explaining the reasons for the delay along with the new anticipated delivery, installation or completion dates to the Purchaser.

11. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, personal representatives, successors and assigns, providing however that Purchaser shall not have the right to assign the benefit of this Agreement without the express consent of Seller. Any notice required or permitted to be given under this Agreement shall be in writing and be deemed given: (a) if by hand delivery, upon receipt thereof, or (b) if by mail, three (3) days after deposit in the U.S. mail, sent by registered or certified mail, return receipt requested, postage prepaid, delivered or addressed to the addresses set forth herein, or to such other address as provided in advance by written notice to the other party.

12. This Agreement sets forth the entire agreement between the parties and any and all prior agreements, warranties or representations made by either party are superseded by this Agreement. If any provision of this Agreement is declared invalid or unenforceable by any tribunal, the remaining provisions of the Agreement shall not be affected thereby. All changes in this Agreement shall be made by a separate document and executed by both parties. No agent of the Seller, unless authorized in writing by the Seller, has any authority to waive, alter, or enlarge this contract, or to make any new or substituted or different contracts, representations, or warranties.

Accepted: _____
Seller

Accepted: _____
Purchaser

Accepted: _____
Purchaser

Date: _____

Date: _____

NOTICE

This Standard Form of Agreement provides information and general advice which may have substantial legal consequences. The laws of the various states are different and may impose particular limitations on the use of this Agreement or require that additional provisions be included in order to make the Agreement binding and enforceable. You should not use this Agreement unless you obtain specific legal advice geared to your specific situation and the state in which you are located. No published material or contract is a substitute for personalized advice from a knowledgeable attorney licensed to practice in your state. The National Kitchen and Bath Association makes no representation or warranty that the Standard Form of Agreement is appropriate for your particular use or valid and enforceable in your state/province.