

# TERMS AND CONDITIONS

West Coast Awning, Inc., is hereinafter referred as "WCA" and the buyer or owner is hereafter referred as "purchaser"

- 1. Purchaser's Responsibilities.** The Purchaser is responsible to supply water & electrical. Purchaser agrees to allow and provide Contractor and his equipment access to the property. Purchaser must follow up with progress payment due.
- 2. Title of goods.** All Goods sold under this contract, whether installed as fixed to existing property, or not, shall be deemed personal property of "WCA". Purchaser grants to "WCA" and "WCA" retains a security interest in the goods to secure purchaser's full performance of all obligations arising under this contract. As such, "WCA" shall be deemed a secured party as that term is referred to in Division 9 of the California Commercial Code, and shall have rights and remedies on default allowed the holder of the security interest under that Division. Without limiting the scope of these remedies, "WCA" as secured party shall have the right, at any time after purchaser's default and without notice to purchaser (except when required by law) to repossess and without breach of the peace to remove the goods wherever installed and however attached and no refund of any payment shall be issued. This contract shall be deemed a security agreement as that term is referred to in the above Division 9. Purchaser agrees that in the event of any default in the making of any installment payment or in the performance of any of the provisions herein contained, or if any attachment of execution is made or levied on the goods or if a petition in bankruptcy or insolvency or for the appointment of receiver or trustee shall be filed by or against the purchaser or any of purchaser's property, or if the purchaser makes any assignment for the benefit of creditors or if "WCA" deems itself insecure for any reason, all remaining installments may be declared by "WCA" due and payable and in the event of nonpayment, purchaser agrees on demand to deliver said goods to "WCA".
- 3. Completion of Work.** "WCA" will manufacture all goods required in approx 3 weeks. The 4th week will be for installation. "WCA" will complete all work in a workmanlike manner according to standard practices and using materials as specified. Purchaser will notify "WCA" of any defect in materials or workmanship within 10 days of substantial completion. It is purchaser's responsibility to ensure that product sizes and specifications are adequate to accomplish Purchaser's objective or purpose. With respect to contracts for the recover of Purchaser's existing framework, "WCA" makes no warranties regarding soundness, quality, safety, appearance, legality, or longevity of Purchaser's underlying framework nor does "WCA" guarantee fit when Purchaser's underlying is flawed defective, damaged or "off square."
- 4. Delay.** "WCA" shall be excused for any delay in completion of the contract caused by acts of God, acts of the purchaser or the purchaser's unavailability of materials, stormy weather, labor trouble, acts of public utilities, public bodies or inspectors, extra work, failure of the purchasers to make progress payments promptly or other contingencies unforeseen by "WCA" or beyond reasonable control of "WCA". Failure of a Contractor without lawful excuse to substantially commence work within 20 days from the commencement date approximated on the reverse is a violation of the Business and Professions Code Section 7159.
- 5. Legal Action.** In case of any legal action taken by "WCA" against Purchaser in collection of any amounts due hereunder, Purchaser agrees to pay all collection costs, including reasonable attorney fees and costs of suit as may reasonably be incurred.
- 6. Addition Work.** Should the purchaser, construction lender, or any public body or inspector direct any modification or addition to the work covered by this contract, a charge for the work shall be added to the contract price. Requests for extra work must be made in writing and "WCA" is entitled to be paid for extra work whether in writing or not. "WCA" shall have the right to stop work if any payment shall not be made as required under this agreement. "WCA" may keep the job idle until all payments due are received. Purchaser agrees to pay interest at the maximum rate permitted by law on all overdue installments.
- 7. Warranty.** If no warranty specified in writing, product is sold as is (No Warranty). If warranty is stated in writing that is limited and prorated warranty. Labor is covered for the first two years. Material warranty if any must be specified in writing (maximum 4 years). Purchaser can purchase extended warranty if requests to do so. Enamel painted frames will rust, therefore there is no warranty against rust. To improve the odds against rust, galvanized or powder coated frames are recommended. "WCA" has the right to repair, replace or prorate the product. Exclusive Remedy shall be repair. Normal wear and tear, whether soiling or stains from environmental pollution or other sources are not covered. The warranty does not apply against deterioration of any kind due to abusive use, malfunction, negligence, vandalism, perforations or act of God. (Approx. 4% a year fading is normal.) Retractable awnings are not design for wind or rain protections, they must be closed in windy and rainy days. There is no warranty on drops, umbrellas, free hanging valance, or gazebos. Warranty becomes effective Only if the product has been paid in full within 2 weeks from the day of installation. This warranty is not transferable. Proof of purchase must be presented. A reasonable time shall be given to inspect and repair the product. Light color acrylic fabrics do not last as long as dark colors. Also a light color will show more dirt and mildew. Stripe fabric in some cases might not match.
- 8. Liability.** "WCA" is not liable for injuries or damages to persons or property, including property purchased in connection with this contract, caused by misuse, fire, lightning, wind, rain, tornado, hail, explosion, riot, vandalism, vehicles, smoke, earthquake, flood, war or similar perils including any and all Acts of God or Nature. Purchaser agrees to carry property insurance including but not limited to fire, windstorm and earthquake.
- 9. Permits.** Permit fees and architectural drawings are not included as a part of this contract unless expressly itemized and separately priced. Purchaser agrees that the absence of such itemization indicates that the purchaser has declined to contract with "WCA" for permit services and purchaser has represented to "WCA" that purchaser has obtained or intends to obtain any and all required permits and licenses at purchaser's time and expense.
- 10. Cancellation.** Purchaser may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. Purchaser acknowledges receipt of attached notice of cancellation form explaining this right.

- 11 Type of Contract.** This contract is a Lump Sum Contract. "WCA" will pay Sales and Use Tax on the cost of materials purchased. Labor Installation makes up approximately 70% of the contract amount. Materials are the remaining 30% of the contract amount. Labor Installation is not taxable. All Patio Covers are materials and labor. Awnings and Roller Shades are approximately 25% materials 5% prior processing and 70% Installation Labor.
- 12 Declaration.** Purchaser declares that he has read this contract, that if the signer hereto is executing this contract on behalf of another party or of a corporation or a partnership he is duly authorized to execute this contract; that he has received a copy of the contract and agrees that this contract contains the entire agreement between the parties and that there are no other terms or provisions, either expressed or implied, in the event the building on which this contract work is to be performed is not owned by purchaser, the purchaser agrees to secure the approval or permission of the building owner for this work and to inform the owner of all terms, conditions and notices as printed on this contract. Purchaser agrees to hold "WCA" harmless from any claims or damages brought by the building owner as a result or arising from the installation or removal of the goods or work.

**"Contractors are required by law to be licensed and regulated by the Contractors State License Board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning the contractor may be referred to the Registrar, Contractors State License Board, Post Office Box 26000, Sacramento, CA 95826."**

## NOTICE TO OWNER

"Under the California Mechanics' Lien Law, any contractor, subcontractor, laborer, supplier, or other person or entity who helps to improve your property, but is not paid for his or her work or supplies has a right to place a lien on your home, land, or property where the work has performed and to sue you in court to obtain payment. This means that after a court hearing, your home, land, and property could be sold by a court officer and the proceeds of the sale used to satisfy what you owe. This can happen even if you have paid your contractor in full if the contractor's subcontractors, laborers, or suppliers remain unpaid. To preserve their rights to file a claim or lien against your property, certain claimants such as subcontractors or material suppliers are each required with a document called a "Preliminary Notice". Contractors and laborers who contract with owners directly do not have to provide such notice since you are aware of their existence as an owner. A preliminary notice is not a lien against your property. Its purpose is to notify you of persons or entities that may have a right to file a lien against your property if they are not paid. In order to perfect their lien rights, a contractor, subcontractor, supplier, or laborer must file a mechanics' lien with the county recorder which then becomes a recorded lien against your property. Generally, the maximum time allowed for filing a mechanics' lien against your property is 90 days after substantial completion of your project.

## NOTICE TO INSURE EXTRA PROTECTION FOR YOURSELF AND YOUR PROPERTY, YOU MAY WISH TO TAKE ONE OR MORE OF THE FOLLOWING STEPS:

- 1 - Require that your contractor supply you with a payment and performance bond (not a license bond), which provides that the bonding company will either complete the project or pay damages up to the amount of the bond. This payment and performance bond as well as a copy of the construction contract should be filed with the county recorder for your further protection.**
- 2 - Require that payments be made directly to subcontractor and material suppliers through a joint control. Funding services may be available for a fee in your area which will establish voucher or other means of payment to your contractor. These services may also provide you with lien waivers and other forms of protection.**
- 3 - Issue joint checks for payment made out to both your contractor and subcontractors or material suppliers involved in the project. The joint checks should be made payable to the persons or entities which send preliminary notices to you. Those persons or entities have indicated that they may have lien rights on your property, therefore you need to protect yourself. This will help to insure that all persons due payment are actually paid.**
- 4 - Upon making payment on any completed phase of the project, and before making any further payments, require your contractor to provide you with unconditional "Waiver and Release" forms signed by each material supplier, subcontractor, and laborer involved in that portion of the work for which payment was made. The statutory lien releases are set forth in exact language in Section 3262 of the Civil Code. The material suppliers, subcontractors and laborers that you obtain releases from are those persons or entities who have filed preliminary notices with you. If you are not certain of the material suppliers, subcontractors, and laborers working on your project you may obtain a list from your contractor. On projects involving improvements to a single-family residence or a duplex owned by the individuals, the persons signing these releases lose the right to file a mechanics' lien claim against your property.**

To protect yourself in a commercial project, you must be certain that all material suppliers have signed the "Waiver and Release" form. If a mechanics' lien has been filed against your property, it can only be voluntary released by a recorded "Release of Mechanics' Lien" signed by the person or entity that filed the mechanics' lien against your property unless the lawsuit to enforce the lien was not timely filed. You should not make any final payments until any and all such liens are removed. You should consult an attorney if a lien is filed against your property.