

TERMS AND CONDITIONS – INTERNET SALES OF PRODUCT ONLY

1. GENERAL. All sales of H. J. Martin & Son, Inc. (hereafter “Company”) are subject to the following terms and conditions. Company objects to the inclusion of any different and/or additional terms proposed by Purchaser. Unless Company accepts any such different terms and/or additional terms in writing, Purchaser’s acceptance of Company’s delivery or Purchaser’s pickup of materials shall conclusively constitute Purchaser’s acceptance of Company’s terms and conditions herein.
2. FORCE MAJEURE. Company shall not be responsible for delays or defaults where occasioned by any causes of any kind beyond its control, including, but not limited to, armed conflict or economic dislocation resulting therefrom; embargoes; shortages of labor, raw materials, production facilities or transportation; labor difficulties; civil disorders of any kind; action of civil or military authorities (including priorities and allocations); fire, flood, storm, pandemics, accident, or any act of God, or other causes beyond Company’s control.
3. ALL SALES ARE FINAL. No returns or exchanges will be accepted on sale materials, excepting those items damaged during our delivery. No credit will be allowed on claims of error or shortage unless reported immediately.
4. SECURITY OF MATERIALS. Hardwood, laminate and luxury vinyl tile/plank should be kept in a climate-controlled area prior to installation. Company is not responsible for claims for damaged material due to incorrect storage and handling. Certain roll goods and remnants are limited to specific installation or care. Please make note of instructions next to the descriptions of products.
5. COLOR DISCLAIMER FOR INTERNET SALES. Actual colors may vary due to the many variations in monitors and browsers, colors may appear different on different monitors. Computer monitors are not all calibrated equally and color reproduction on the Internet is not precise. Also, do not mistake the color name to be what you may think that color should be. Example, just because a color may have the name Pecan, does not mean it will necessarily look like most people would consider to be Pecan color. We cannot guarantee that the color you see accurately portrays the true color of the product.
6. SPECIFIC CARE/INSTALLATION INSTRUCTIONS. Certain roll goods and remnants are limited to specific installation or care; please see special care/installation instructions next to the description.
7. LABOR. Purchaser is purchasing materials only. Installation services, if requested, will be contracted separately.
8. PAYMENT. Full payment is required at the time of checkout. If Purchaser’s credit card payment is reversed for any reason, Purchaser shall pay all costs of Company, including reasonable attorney’s fees and court costs incurred by Company in collection of amounts due from Purchaser.
9. TAXES. Any sales, excise, processing or any direct tax imposed upon the manufacture or sale of materials shall be added to the price.
10. DAMAGES. Purchaser is responsible to inspect materials at delivery or pickup. Any damage after pickup or delivery, not caused by Company, will be the sole responsibility of Purchaser. Any expense incurred by Company for insurance or bond to cover liability under any “hold harmless” or “indemnify” clause or clause of a similar nature in any contract, specifications, letter or acceptance notice which in any way requires Company to assume any liability which is not imposed by law shall be paid by Purchaser. Company shall not be responsible for any damages to Purchaser, including compensatory, punitive, consequential, incidental, intentional, nominal or multiple damages.
11. RIGHT AND TITLE TO MERCHANDISE. The title and right of possession of the merchandise sold hereunder shall remain with Company, and such merchandise shall remain personal property until all payments hereunder shall have been made in full. Purchaser agrees to do all acts necessary to perfect and maintain such security interests and rights in Company.

12. DISCLAIMER OF CONSEQUENTIAL DAMAGES. In no event shall company be liable for consequential damages arising out of or in connection with this agreement, including without limitation, breach of any obligation imposed on Company hereunder or in connection herewith. Consequential damages for purposes hereof shall include, without limitation, loss of use, income or profit, or losses sustained as the result of injury (including death) to any person or loss of or damage to property (including without limitation property handled or processed by the use of product). Buyer shall indemnify Company against all liability, cost or expense which may be sustained by Company on account of any such loss, damage or injury.
13. WARRANTY. Pursuant to the warranty, if any, of a manufacturer, manufacturer's liability is limited to replacing any materials proved to be defective, provided, however, notice of the defective materials has been provided to manufacturer pursuant to any warranty thereof, if any, prior to said defective product being installed or used. The manufacturer's warranty, if any, does not apply to any materials which have been subject to misuse, mishandling, misapplication, neglect (including but not limited to improper maintenance or storage), accident, modification or adjustment. All claims made by Purchaser for breach of warranty, either express or implied shall be made within sixty (60) days after completion. There are no representations, promises, warranties, or agreements not expressed set forth herein.
14. CONSTRUCTION LIEN NOTICE. **IN THE EVENT WE ARE THE PRIME CONTRACTOR UNDER SEC. 779.02(2)(a), WIS. STATS., OR, THE SUBCONTRACTOR UNDER SEC. 779.02(2)(b), WIS. STATS., AS REQUIRED BY WISCONSIN CONSTRUCTION LIEN LAW, COMPANY HEREBY NOTIFIES OWNER THAT PERSONS OR COMPANIES FURNISHING LABOR OR MATERIALS FOR THE CONSTRUCTION ON OWNER'S LAND MAY HAVE LIEN RIGHTS ON OWNER'S LAND AND BUILDINGS IF NOT PAID. THOSE ENTITLED TO LIEN RIGHTS, IN ADDITION TO COMPANY, ARE THOSE WHO CONTRACT DIRECTLY WITH THE OWNER. FOR THOSE WHO GIVE THE OWNER NOTICE WITHIN SIXTY (60) DAYS AFTER THEY FIRST FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION. ACCORDINGLY, OWNER PROBABLY WILL RECEIVE NOTICES FROM THOSE WHO FURNISH LABOR OR MATERIALS FOR THE CONSTRUCTION, AND SHOULD GIVE A COPY OF EACH NOTICE RECEIVED TO HIS MORTGAGE LENDER, IF ANY. COMPANY AGREES TO COOPERATE WITH THE OWNER AND HIS LENDER, IF ANY, TO SEE THAT ALL POTENTIAL LIEN CLAIMANTS ARE DULY PAID.**
15. GOVERNING LAW, VENUE AND SEVERABILITY. This agreement shall be construed under and in accordance with the laws of the State of Wisconsin. The parties hereby consent to exclusive venue and personal jurisdiction in Brown County, Wisconsin for all disputes arising out of this agreement. If any provision of this agreement is invalid or unenforceable, the invalid or unenforceable provision should not affect any other provisions and this agreement shall be construed as if the invalid or unenforceable provisions have been omitted.