

FOR CONTRACTOR, COMMERCIAL OR MATERIAL ONLY SALES*

(* - NOT Applicable to contracts for materials with installation made directly with residential homeowners)

Materials:

- Specifications: Customer is solely responsible to verify and confirm the correctness of the order specification(s). Sivan Windows and Doors (“Sivan”) is responsible for supplying the written specification(s) of third-party manufactured products to meet the Customer’s product(s) request, and not for the appropriateness or correctness of a specification for a particular project or particular usage. Signature on the Contract represents Customer’s express approval of all items, incl. type, size, color, material, etc., listed on the Contract.
- Suitability of Usage: Sivan is not responsible for product suitability for any purpose or compliance with government regulations. Customer is responsible for investigation into and verification of any regulatory and governing laws and regulations prior to placing an order. Disapproval of materials by any public or private regulating agency, body or entity, Home Owner's Association (“HOA”) or Condominium Owner’s Association (“COA”) does not relieve Customer of responsibility for full payment to Sivan.
- **Materials and products carry manufacturer’s warranty only; Sivan makes no warranties, either express or implied, of merchantability of products, or for fitness of products for any general or specific purpose.** Customer hereby agrees to indemnify Sivan against all claims related to material defects.
- All defects must be reported to the manufacturer within the timeframe stipulated in the applicable product warranty.
- Limitation of damages: Sivan will not be held liable for any damages or consequential damages including installation or re-installation labor cost.
- Claim Indemnification: Under the above terms, if merchandise supplied by Sivan is picked up or delivery is completed, there will be no viable claims against Sivan by any person or any entity.
- Customer acknowledges that Sivan is not a manufacturer, and windows and doors are supplied to Sivan by third-party manufacturers. Vinyl windows and doors normally are delivered to Sivan between four (4) to five (5) weeks after the order has been placed with the manufacturer. Aluminum, fiberglass and wood windows and doors can take between six (6) and eight (8) weeks to be delivered to Sivan. **Sivan is not responsible for any change in lead time or delivery time due to manufacturer delay and Customer shall indemnify Sivan for all such delay related claims by Owners or other end users.**
- Pick up or delivery delayed more than five (5) days from notice to Customer of material availability, due to no fault of Sivan, shall incur a \$75.00 per day extra storage charge.
- A change by customer from pick up to delivery will incur a \$100.00 extra charge, which will be immediately due upon delivery of material.
- “Materials only” orders are subject to all terms above and all Payment Terms set forth below.

If Installation by Sivan is also included:

- Installation performed by Sivan is warranted against installation defects for a period of two (2) years from installation completion.
- Sivan is not responsible for moving and replacing furniture and other impediments to access, Removal and replacement of window treatments/coverings, Connection and reconnection of alarm systems, Painting, Drywall Repair, Stucco Repair, any city or town associated fees, and HOA or COA approvals. Sivan will not be responsible for damage due to Customer’s failure to remove impediments to free and clear access to work areas. Customer shall indemnify and hold Sivan harmless for all such damage to the full extent of the law.
- Customer must report patent, obvious and reasonably discoverable installation defects to Sivan as soon as practicable; in Sivan’s sole discretion, an unreasonable delay in reporting may result in a waiver of the Warranty claim.
- Execution of job completion certificate listing no patent, obvious and reasonably discoverable installation defects waives all Warranty claims for installation defects.

- Damage to anything other than to the window or door installation itself must be reported to Sivan on the Job Completion Certificate or any such claims against Sivan for collateral and incidental damage are waived by Customer, and Customer shall indemnify Sivan for all such claims made by others.
- Sivan will not be held liable for consequential damages for any reason.
- A delay in installation date, due to no fault of Sivan, in excess of five (5) days from the originally scheduled date shall incur a \$75.00 per day storage charge; If customer requests advance delivery to the job site due to delayed installation (at no fault of Sivan), there will be a \$100.00 extra charge, which will be immediately due upon delivery of material.
- Materials and Installation orders are subject to all Materials terms set forth above and all Payment terms set forth below

Payment

- Payment terms: All orders require a 50% deposit prior to production. Remaining balance due, including extra charges, must be paid in full prior to or upon delivery, pick-up or Sivan installation completion.
- Order Cancellation: Written authorization is required to cancel an order; In Sivan's discretion, Order cancellations that take place prior to window and/or door ordering by Sivan, may be subject to a liquidated damages charge of 30% of the total contract price. Orders already in production are not cancellable and customer is responsible for full payment.
- If installation is performed by Sivan, once windows and/or doors are installed, if there is a bona-fide installation workmanship issue that requires service, the maximum amount Customer may withhold from final payment is 5% of the Final Payment amount. All withholding must be released to Sivan upon resolution. If withholding is made and it is subsequently found by Sivan that no bona-fide workmanship issue exists upon inspection by Sivan service personnel, the amount withheld shall bear a finance charge from the date payment was due at the maximum legal rate of 24% per annum and Customer shall pay Sivan for the service call at the rate of \$150.00 per hour, including service personnel travel time, in addition to the 5% withheld amount. Withholding from Final Payment for any other reason is not allowed.
- Credit Card payments: Additional 3% service fee will be added to all credit card payments.
- Returned Checks: a 5% service fee is added to all returned and ISF checks. All returned and ISF checks must be replaced and/or satisfied within five (5) working days of notice of the check's return to Sivan or service fee added shall increase to 20%.
- Balances unpaid after due dates for any reason shall accrue late charges calculated at the amount of 24% per annum.
- Sivan reserves the right to send preliminary lien notices, record mechanics liens and engage in any and all collection procedures allowed by law.
- Further, customer is liable for any and all collection expense incurred by Sivan, including attorney's fees.
- Assignment: Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.
- Construction Lender: If the project is financed by a lending institution, Customer shall furnish Sivan with the Lender's name, address, telephone number and contact name for Sivan's file.
- No Oral Agreement: This Contract can be modified only by a written document signed by both parties. No attempt to modify this Contract by an oral agreement shall be recognized. The Parties specifically agree that electronic signatures and acceptances are as valid and binding as if handwritten.
- No Other Agreement: This Contract constitutes the entire agreement of the parties, and no written or oral communication between Sivan or its representatives and the Customer before the time of execution of this Contract shall be considered to enlarge, modify, or explain the terms of the Contract