

LIMITED WARRANTY AND TERMS AND CONDITIONS FOR FURNISHING TREE GRATES, FRAMES AND OTHER LANDSCAPE ARCHITECTURAL PRODUCTS.

1. Ironsmith and the buyer agree that this sale and any other sale of products by Ironsmith shall be governed exclusively by the terms, conditions, warranty provisions and limitations set forth below. This agreement is final and exclusive statement of the agreement between the parties and supersedes all oral or exclusive statement of the agreement between the parties and supersedes all oral or written promises or agreements relating to this sale. These terms may not be amended, modified or rescinded except by a written document signed by both parties. Buyer shall be deemed to have accepted these terms and conditions of sale if buyer expressly agrees to them, accepts any shipment after or upon receiving them, or fails to object in writing to them within five (5) days after receipt of the products.

2. Ironsmith warrants that the products sold herewith will remain free from defects in material and workmanship for a period of five (5) years from the date of shipment by Ironsmith. Ironsmith does not warrant against defect caused by improper use, neglect, alteration of the products, or any defect of which Ironsmith is not promptly notified. Ironsmith does not warrant any coating and/or paint materials applied to its products. Rust is specifically declared not to be a defect in material or workmanship.

3. THE LIMITED WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES ORAL OR WRITTEN, EITHER EXPRESSED OR IMPLIED. NO WARRANTY OF MERCHANT OR FITNESS FOR A PARTICULAR PURPOSE IS GIVEN.

4. No salespersons, agents, representatives or other parties are authorized to modify this limited warranty or make additional warranties or representations with respect to these products except in writing signed by an authorized officer of Ironsmith. Ironsmith's sole obligation for any breach of warranty is limited to Ironsmith's obligation to repair or, at its sole option, to provide a reasonable replacement for any defective products or part thereof at no charge to buyer. Ironsmith's repair or replacement obligations shall be conditioned on prompt notice (see Paragraph 5 below) of the defect by buyer and delivery by buyer of the products to Ironsmith.

5. Buyer shall inspect or test the products for any defect or non-conformity promptly after receipt of the products. Buyer must give Ironsmith written notice of any defects or problems promptly, and in no event later than thirty (30) days after buyer could reasonably have discovered the defect. Any legal action by buyer alleging breach of warranty or other breach, default or tortious act by Ironsmith (or other seller) must be brought within five (5) years after the date of shipment or one (1) year after buyer could reasonably have discovered the basis for the action, whichever first occurs.

6. The laws of the State of California shall govern in all respects the validity, construction and interpretation of this warranty and the rights and obligations of the parties. This sale shall be deemed to have been made in Riverside County, California, and any lawsuit arising out of or relating to the sale may be brought only in a competent court of jurisdiction located with Riverside County, California. In any action arising out of or related to this sale, the prevailing party shall be entitled to recover legal costs and collection expenses, including reasonable attorney's fees incurred therein.

7. IN NO EVENT SHALL IRONSMITH (OR ANY SELLER OR SALES REPRESENTATIVE) BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES OF ANY TYPE OR SOURCE, WHETHER RESULTING FROM BREACH OF CONTRACT, STRICT LIABILITY, NEGLIGENCE, OR OTHER TORT, IN NO EVENT WHATSOEVER SHALL BUYERS DAMAGES RECOVERABLE AGAINST IRONSMITH (OR ANY OTHER SELLER) EXCEED BUYER'S PURCHASE PRICE.

8. Buyer has determined or will determine: (1) which products to purchase and use: (2) how and where the products are to be installed and used: (3) what safety precautions to take: and (4) what warnings to make to the public. Consequently, the buyer alone is responsible for (and buyer will fully indemnify Ironsmith against) any claims, damages or cost allegedly caused by said products (including all claimed personal injury or property damage), unless caused primarily by a defect in material or workmanship.

9. Ironsmith will use its best efforts to fill buyer's orders in a timely manner, but it is understood that lead time requirements and delivery dates will vary and that all delivery dates are, at best estimate only. Ironsmith (and any other sales representative) shall not be liable for any damages resulting from any loss due to any cause beyond its control; including without limitation, acts of God, acts of buyer or any of its agents, embargo, government act, regulation or order, fire accident, strike, slowdown, war, riot, transportation delays, etc.

10. All accounts are delinquent on the 30th day following the date of shipment. A monthly service charge of 1-1/2% shall be charged on all sums not received in full on said date.