

LIMITED WARRANTY AND REMEDY MATERIAL & WORKMANSHIP

This is to certify that Kawneer Company, Inc., or its applicable affiliate or subsidiary selling the Product ("Seller") warrants to its Customers and all subsequent purchasers and owners of the project incorporating Seller products (hereinafter "Customer(s)"), subject to every term, condition and limitation stated herein, that the products supplied by Seller on the project as identified in the Project Warranty Cover Sheet, shall be free from material defect in materials and workmanship for a period of two (2) years (unless otherwise stated in the Project Warranty Cover Sheet) from the date of substantial completion of the project, provided however, that the limited warranty period shall begin in no event later than six (6) months from the date of shipment by Seller for the start of the warranty hereunder.

This limited warranty ("Limited Warranty") applies only if Seller's products are installed and maintained according to Seller's recommended practices and installation instructions, and only to defects appearing within two (2) years from substantial completion of the project (unless otherwise stated in the Project Warranty Cover Sheet) and only if Seller is notified in writing within sixty (60) days after such defect either (i) appears or (ii) should have been discovered after the exercise of reasonable diligence. Failure of the claiming party to notify Seller within such period shall automatically relieve Seller of any and all responsibility and/or liability under this Limited Warranty.

THE WARRANTIES SET FORTH IN THIS LIMITED WARRANTY AND REMEDY ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES OR OTHER AGREEMENTS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WHICH ARE HEREBY DISCLAIMED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

In addition to Seller's standard Limited Warranty and Remedy, and applying solely and exclusively to Kawneer doors with welded corner construction, the corner construction joinery of these doors shall be free from material defects in workmanship and material for the normal, useful life of the door.

In addition to Seller's standard Limited Warranty and Remedy, and applying solely and exclusively to Kawneer Flushline doors, the corner construction joinery, core and laminate shall be free from material defects in workmanship and material for the normal, useful life of the door.

This Limited Warranty does not cover, and Seller hereby disclaims all liability for, the installation of Seller's products, any particular application or selection of the product for any particular project or design, any parts, gaskets, glazing materials, components or sealants directly purchased by Customer from other manufacturers used with Seller products, or any lack of performance of Seller products attributable to such items. This Limited Warranty covers components sold by Seller but manufactured by others only to the extent Seller's warranty with the manufacturer is in effect at the time Seller is notified of Customer's warranty claim. **SELLER PRODUCTS ARE PRODUCED FOR COMMERCIAL APPLICATIONS. THIS LIMITED WARRANTY DOES NOT COVER, AND SELLER HEREBY DISCLAIMS ALL LIABILITY FOR, ANY PRODUCTS USED IN RESIDENTIAL INDIVIDUAL DETACHED SINGLE FAMILY DWELLINGS, ANY PRODUCTS WHICH HAVE BEEN SUBJECT TO ABUSE, ALTERATION, NEGLIGENCE, MISUSE, ABNORMAL USE, ACCIDENT, FIRE, WAR, FLOOD, EARTHQUAKES, ACTS OF GOD, OR TO WHICH PARTS, NOT SUPPLIED BY SELLER HAVE BEEN ADDED, OR TO DEFECTS CAUSED BY DEPRECIATION OR NORMAL WEAR.** All decisions regarding the existence of defects in material and workmanship and the occurrence of any of the matters described in the preceding paragraphs or affecting this Limited Warranty shall be made by Seller and shall be final and binding upon all parties.



The sole and exclusive remedy with respect to this Limited Warranty or with respect to any other claim relating to defect or any other condition or use of the products supplied by Seller, however caused, and whether such claim is based upon breach of representation, warranty, condition, contract (fundamental or otherwise), tort (including negligence), strict liability or any other theory is limited to, at Seller's option, repair or replacement of such products or repayment by Seller of the purchase price paid for it. The remedy with respect to claims made relating to Seller Doors excludes the replacement of glass, gaskets, hardware, immediate framing, temporary enclosures or any related labor or installation costs. In no event does Seller's warranty cover the cost of labor or sundry materials required to remove and/or replace any defective product.

The products repaired, replaced or otherwise restored shall be warranted to the same extent and to the expiration date from the original date of shipment, and this Limited Warranty shall not be deemed to have been extended from the date of such warranty work. At no time does this Limited Warranty confer upon the claiming party or any other party the right to proceed with repair, replacement or restoration, without the written notice and agreement by a duly authorized officer of Seller. Any such work undertaken by the claiming party or any other party shall be for the claiming party's own account and shall result in this Limited Warranty becoming null and void.

SELLER'S AGGREGATE TOTAL CUMULATIVE LIABILITY UNDER THIS LIMITED WARRANTY IS LIMITED TO THE DOLLAR AMOUNT OF THE PURCHASER'S ORIGINAL PAYMENT MADE TO SELLER FOR PRODUCT FURNISHED BY SELLER. IN CONSIDERATION OF THIS LIMITED WARRANTY, SELLER SHALL NOT BE LIABLE FOR SPECIAL, DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFITS OR GOODWILL, DAMAGES FOR NEGLIGENCE IN THE MANUFACTURE, DESIGN OR INSTALLATION OF THE PRODUCT, OR OTHER COMMERCIAL LOSS OR INJURY.

This is the only warranty made in connection with the sale and distribution of Seller's products. No representative or any other person is authorized to make or makes any warranty, representation or promise with respect to Seller's products. No terms or conditions other than those stated herein, and no agreement or understanding, oral or written, in any way purporting to modify this warranty shall be binding on Seller unless made in writing and signed by a duly authorized officer of Seller.

Laws and building and safety codes governing the design and use of Kawneer products, such as glazed entrance, window and curtain wall products vary widely. Kawneer does not control the selection of product configurations, operating hardware or glazing materials, and assumes no responsibility therefor.

All notices given under or pursuant to this Limited Warranty shall be in writing and sent by registered mail, postage paid, return receipt requested, to the party to whom such notices is to be given, as follows:

All such notices as set forth above shall be considered served when received.

Customer's agreement to and acceptance of this warranty shall be indicated by signing and returning a copy of the Project Warranty Cover Sheet, which is incorporated herein by reference.

These Sales Terms and Conditions shall be the sole terms and conditions governing the sale of goods by Kawneer Company, Inc. or any of its subsidiaries and affiliates (“Seller”) selling Products to a purchaser (“Customer”). The identity of Customer, the identity of the goods being purchased (“Products”), the quantity of Products being purchased, the destination for delivery of the Products, and other material information concerning Customer’s order shall be set forth in Customer’s purchase order (“Purchase Order”) and provided to Seller. These Terms and Conditions are hereby incorporated into and made a part of each such Purchase Order.

All orders are subject to approval and acceptance by a duly authorized representative of Seller. Upon the earlier of Seller’s written acceptance of the Purchase Order or acceptance by Customer of Products furnished by Seller in response to such Purchase Order, the Purchase Order, the written acceptance, if any, and these Terms and Conditions shall be the complete and final agreement (the “Agreement”) between Seller and Customer with respect to the purchase and sale of Products identified in the Purchase Order, provided, however, that any pre-printed or form language appearing in Customer’s Purchase Order shall not become a part of the Agreement. SELLER’S ACCEPTANCE OF ANY CUSTOMER PURCHASE ORDER IS EXPRESSLY MADE CONDITIONAL UPON CUSTOMER’S ACCEPTANCE OF THESE TERMS AND CONDITIONS, AND SELLER OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS, WHETHER CONTAINED IN CUSTOMER’S PURCHASE ORDER OR OTHERWISE. SELLER WILL NOT BE DEEMED TO HAVE WAIVED THESE TERMS AND CONDITIONS OF SALE IF SELLER FAILS TO OBJECT TO PROVISIONS CONTAINED IN CUSTOMER’S PURCHASE ORDER, OTHER FORMS OR OTHERWISE. It is Customer’s obligation to sign this sales agreement but Customer’s acceptance of Product will constitute Agreement to these terms whether Customer has sign sales Agreement or not.

DETERMINATION OF PRICE. Prices given herein are list prices, unless otherwise specified, and are subject to discounts prevailing at the time the order is received. Prices shown do not include Provincial Sales Tax or Goods & Services Tax or any other tax or government charge upon the production, sale or shipment of material which is effective within the life of the sales contract, all of which will be paid by the Customer. All prices are subject to change without notice, and are not guaranteed against change. Inventory adjustments will not be made. Stenographic and clerical errors made by Seller on an acknowledgement or invoice shall be subject to correction.

NOTE: In the event that a discrepancy arises between the index and the body of the price catalog, the information contained in the body of the catalog will take precedence.

PRICE PROTECTION. In the event of a price decrease, unshipped orders, with the exception of special sales contracts covered by a lot or job estimates, will be invoiced at the new and lower prices. In the event of a price increase, orders on hand will be invoiced at the prices in effect when the orders were received, provided, however, those shipments are made at Seller’s convenience thereafter. Seller quotations on specific jobs made in writing by Seller are valid (or firm) for thirty (30) days.

ACCEPTANCE OF ORDERS. The acceptance of orders constitutes a complete and binding contract which cannot be modified or canceled without written consent of Seller, except that all orders are accepted subject to delays caused by strikes, fires or any other causes (including those set out in the section “Force Majeure” below) beyond the control of Seller. All orders are accepted subject to governmental regulation on material usage, whenever applicable.

MINIMUM ORDER SIZE. Orders of less than \$100.00 list price will be billed at list price with no discount. All painted orders will be invoiced at a minimum of \$500.00 net per paint color.

PAYMENT. Seller stated payment terms are Net 30 day from date of invoice, unless otherwise approved in writing by a duly authorized representative of Seller. Early payment discounts are available. Please contact the Seller Credit Department for additional information. Receipt of payment by the purchaser is not a condition of payment to Seller. Purchaser's unsatisfactory credit status shall be cause for cessation of deliveries. It is the Customer's responsibility to ensure full and effective payment for goods is received by Seller in accordance with its instructions. Seller accepts no responsibility for improperly directed payments, whether due to fraud, deception, or any other cause or by electronic or any other means.

CREDIT CARD PAYMENT (U.S. Customers Only). Seller will accept credit card payments. Credit Card invoices are paid immediately upon shipment. No early payment discounts are available with credit card payments. Please contact the Seller Credit Department for additional information.

FREIGHT CHARGES AND RISK OF LOSS. Unless stated otherwise, all items are shipped CPT (Incoterms 2020) Buyer's facility. Title to the products transfers with risk of loss.

CLAIMS. No claims due to errors, shortages or rejection because of defects or defective materials ascertainable on visual inspection will be considered unless reported to Seller within ten (10) days after receipt of shipment. Claims for damages resulting from delays or use of defective materials will not be honored.

DELIVERY. Orders should include complete shipping instructions. Seller reserves the right to ship as it deems advisable unless specific instructions are given. Seller will use reasonable efforts to meet delivery dates but such dates are deemed approximate and Seller shall be allowed a reasonable variance from all such dates. In no event is Seller subject to any charges, penalties, liquidated damages, back charges, penalties or liability of any kind for delayed delivery. Seller shall not be liable for damages caused by delays in delivery by carriers. Customer will file claims with carrier for all shortages, damages or delays delivered by common carriers.

FORCE MAJEURE. Seller shall not be liable for delays or inability to perform due to strikes, labor disputes, lockouts, fire, flood, war, declared or undeclared, insurrections, riots, outbreaks of infectious disease, epidemics, pandemics, acts of God, embargoes by foreign nations, inability to obtain or unusual delay in obtaining materials, shortages of power needed to operate Seller facilities, governmental regulations or priorities, or any other cause beyond the control of Seller. In case of any delays in receipt or shortages of materials or shortages of power needed to operate Seller facilities, Seller reserves the right in its sole discretion to determine the assignment of materials, and the order of priority in filling orders. Seller also reserves the right in its sole discretion to cancel order by written notice in the event Seller believes that by reason of the foregoing it will not be able to meet the scheduled completion date.

INDEMNIFICATION. Customer is solely responsible for proper selection and installation of Seller products as well as the incorporation of Seller products into other products (if this is applicable). Customer agrees that it will use Seller products only for their intended uses and according to specifications and limitations established by Seller from time to time. Customer acknowledges and agrees that Seller Products are to be used for commercial applications and not intended for individual single family homes. Customer shall indemnify, defend and hold Seller harmless from and against any and all damages arising out of or relating to use of product in individual single family residences, and improper product selection, application, use, misuse, neglect, abuse of products, improper installation or incorporation of products or transportation of products.

NO LIABILITY FOR LOCAL LAWS OR CODES. Laws and building and safety codes governing the design and use of glazed entrance, window and curtain wall products vary widely. Seller does not control the selection of product configurations, operating hardware or gazing materials, and assumes no responsibility therefore.

It is the responsibility of the Customer to determine at the time of order entry or revision, whether Seller material and products meet any federal, state, provincial and /or local law interpretation and regulations, including those relating to building construction, safety and to the Americans with Disabilities Act of 1990 and any other similar federal, state, provincial or local statutes.

ORDER CANCELLATION AND CHANGE CHARGES. In the event a Customer changes an order or cancels or partially cancels an order that has already been accepted by Seller, Seller may assess a charge to the Customer for costs incurred in performance of that portion of the order that has been changed or cancelled up to and until the time Seller receives notice of the change or cancellation. Customer orders for special materials (those not described in the effective price book), or for products fabricated specifically to Customer's dimensions or other specifications, or where special materials or services are procured by Seller for use on Customer's order, or where drafting or take-off services have been performed, will be subject to charges for cancellation or change for those costs incurred in performance of that portion of the order that has been cancelled or changed up to and until the time Seller receives notice of the change or cancellation.

SECURED CREDIT TERMS. No cash discount is allowed on merchandise delivered by truck, C.O.D. (including Parcel Post and Rail Express), and sight draft bill of lading on a net basis.

BALANCE DUE MATERIALS. Any portion of an order not included in an original shipment because of shortage of stock or other cause beyond Seller's control will be invoiced at the same price and on the same terms as if included in the original shipment. If the balance due shipment weighs 100 pounds or more, the transportation charge will be based on the combined weight of the original and balance due shipments. If the balance due shipment weighs less than 100 pounds, Seller will prepay and absorb the freight on that portion of the order.

RETURNED MATERIAL. Seller will not accept any material returned for credit unless such return has been previously authorized in writing by Seller. Returns must be requested by Customer within thirty (30) days of receipt of material. Customer must return material within thirty (30) days of receipt of written authorization from Seller. Material returned under such an authorization will be subject to regular inspection by Seller. If found saleable without requiring reconditioning or further work, credit will be issued in the amount invoiced less a handling charge of 15% returned material charge or \$100.00 net, whichever is greater. No credit will be issued for goods produced to order, not meeting inspection requirements or for goods received more than thirty (30) days after authorization to return. All shipping charges for returns are the responsibility of the Customer.

INSTALLATION. Seller hereby disclaims all liability for, and is not responsible or liable for, any damages or costs that may result from improper installation of its products. It is the responsibility of the Customer purchasing a Seller product to ensure that the Seller product is installed properly and in accordance with Seller's printed instructions. This responsibility is retained by Customer even though the product may be resold for installation by a third party. Seller will not be liable for damages and costs that result from improper installation of Seller products, regardless of who actually performs the installation.

RESIDENTIAL USE. Seller hereby disclaims all liability for, and is not responsible or liable for, any damages or costs that may result herein from use of its products in individual single family dwellings.

INTELLECTUAL PROPERTY/CONFIDENTIALITY. Intellectual/industrial property rights inherent in the documents provided, manufacturing processes, methods, inventions, tooling, as well as know how acquired prior to or during the course of performance hereunder shall remain the exclusive property of Seller. These rights may only be transferred to Customer under a written agreement is signed by both parties and which includes financial consideration. Unless otherwise agreed to in a non-disclosure agreement executed by the parties, (i) Seller will not be bound by any obligations of confidentiality or non-disclosure and (ii) all information disclosed by Seller to Customer is confidential information and Customer agrees to protect such information and not to disclose it or use it for a period of two years following Sellers's last shipment of goods or provision of services to Customer. Seller does not grant to Customer, and nothing contained herein will obligate or be construed to obligate Seller to grant to Customer, any license under any patents, trademarks, copyrights, trade secrets or other intellectual property owned by Seller. Further, as a condition of sale of Products, without Seller's express, written consent, Customer shall not: (a) use Seller's trademarks in any attempt to resell Products; and/or (b) compare, in a public forum, document, or website, any Products to any other goods made, used, offered for sale, and/or sold by Seller. Except for data that Seller has agreed to provide as a deliverable, or data customarily provided by Seller for quality control purposes (which Customer must keep confidential and use solely for such purposes), Seller shall not be required to deliver any data concerning its manufacturing processes.

ENTIRE AGREEMENT. The Limited Warranty and Remedy and Other Terms and Conditions set forth the entire agreement between Customer and Seller relating to the sale of Seller's Products to Customer. Any additional or different terms in Customer's forms are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given.

GOVERNING LAW AND VENUE. The sale of Seller products hereunder with shipping addresses located in the United States shall be governed by the laws of the State of Delaware, excluding its laws related to choice or conflicts of law. The sale of Seller products hereunder with shipping addresses located in Canada shall be governed by the laws of Ontario and the federal laws of Canada applicable therein. The United Nations Convention on Contracts for the International Sale of Goods is expressly disclaimed and does not apply to the sale of Seller products. Any and all disputes between the parties that may arise pursuant to this order will be heard and determined before an appropriate arbitrator, federal, or state court located in Wilmington, Delaware. Customer hereto acknowledges that such court has the jurisdiction to interpret and enforce the provisions herein and/or an arbitrator's judgment, and Customer waives any and all objections that they may have as to personal jurisdiction or venue in any of the above courts.

ATTORNEY'S FEES. If any action or proceeding is commenced to enforce or interpret any of the provisions of this agreement, and Seller is the prevailing party in any such action or proceeding, then Seller shall be entitled to recover its reasonable attorneys' fees, expert witness fees, costs of suit and expenses, in addition to any other relief to which Seller may be entitled. As used herein, Seller is a "prevailing party" when, including but without limitation, a party dismisses an action against Seller for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached, or consideration substantially equal to the relief sought in the action brought by such party.

MISCELLANEOUS. (a) Headings used herein are for convenience only and shall not be used for interpretive purpose. (b) A party's failure to act with respect to another party's breach of any provision contained herein does not constitute a waiver. (c) If any provision herein is held to be invalid or unenforceable, such provision shall be narrowly construed, if possible, or otherwise deemed ineffective and the remaining provisions shall not be affected. (d) These terms and conditions will survive the fulfillment of any purchase order.

TOOLS AND DIES – Charges made for dies and tools do not convey to Customer title or the right to remove them from the Seller facility.

SAMPLES – Standard samples are available at cost (net). Standard samples are shipped from the SELLER Marketing Communications Department in Norcross, Georgia. Custom samples are not available through the Marketing Communications Department and must be ordered on a standard order form.

SPECIAL LENGTH CHARGES:

For special length painted material requirements, consult with a Seller Customer Service Coordinator for pricing.

For special length anodized material requirements, the following charges apply:

1-25 stock lengths: Use part number 036426,
\$200.00 net set up charge per shape.

More than 25 stock lengths: No set up charge.

CUT-TO-SIZE ORDERS – Orders for materials cut-to-size will be billed at Customer's CMP price per foot. In addition, a \$35 net price per cut piece charge will be applied to the invoice under part number 036425 and cut offs will not be shipped.

SHOP DRAWINGS – Seller products may be detailed by Seller to confirm specifications. In such cases, drawings will be submitted to Customer for approval. Seller will fabricate in accordance with dimensions and specifications shown on Customer approved drawings but will take no responsibility for failure of Customer to check drawings against job site conditions or for any other purpose. Special entrances cannot be scheduled for production until the approved detail, with Customer's signature, has been received, and all special hardware is in Seller's possession. Changes made to any drawing after approval of details by Customer may involve additional charges on the order.

DOUBLE BOX CHARGE – Seller offers a double box option for additional protection of your material during shipment. Use part number 036598 at \$20.00 list. The charge will be applied per box.

ILLUSTRATIONS – The illustrations within catalogs are for part identification only, and do not indicate size or proportions by comparison.

PUBLICITY – Customer agrees to permit Seller to use Customer's name and/or mark in Seller's publicity, advertising, marketing, social-media, or product-related literature ("Publicity"). The form and placement of Customer's name and/or mark on Seller's Publicity will be subject to Customer's prior review and approval, such approval not to be unreasonably withheld, conditioned or delayed.