

**WARRANTY  
TERMS**  
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# WARRANTY

**APPLICABILITY.** These Warranty Terms (these “Terms”) apply to all purchases made by the buyer (“Buyer”) from Ore Designs, Inc. (“Ore Designs”). To the extent that these Terms conflict with or are different from those contained in any purchase order or other procurement document (other than the Ore Designs, Inc. Purchase Agreement entered into by the parties (the “Purchase Agreement”), these Terms will control and any additional or inconsistent terms are rejected by Ore Designs. Fulfillment of Buyer’s purchase order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the products covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms. Buyer’s acceptance of or payment for products will conclusively confirm Buyer’s assent to these Terms.

**RELATIONSHIP OF THE PARTIES.** Ore Designs is a supplier of products only and is not a subcontractor of Buyer for any construction, installation, landscaping or other services. The products covered by these Terms (the “Products”) are identified on the estimate, sales order, or invoice previously provided by Ore Designs to Buyer (the “Sales Order”).

**LIMITED WARRANTY.** Both Ore Designs Powder Coated Aluminum and Natural Rust Steel Products have a 5 year limited warranty on their structure. The finish on the Powder Coated Aluminum Products has a 3 year limited warranty. There is no warranty on the finishes of Steel Powder Coated Products, Oxidized Zinc Products or Natural Rust Steel Products. There is also no warranty for any glass, wood, or granite/stone Products. In the event of a warranty claim, Buyer will be required to provide proof of purchase and a sales receipt verifying the date of purchase. Ore Designs may, at its option, repair or replace the defective Products to good working condition by using new or refurbished components. If repair is not possible, Ore Designs will replace or provide Buyer with a refund for the defective Products as applicable.

Ore Designs reserves the right to inspect the Products prior to replacement or repair of any Product.

**THIRD-PARTY PRODUCTS.** The Products provided by Ore Designs may include, constitute, contain, be contained in, incorporated into, attached to or packaged together with, products or components provided by third parties (“Third-Party Products”). Third-Party Products are not covered by the limited warranty set forth above. Instead, some of the Third-Party Products may be covered by warranties provided by their manufacturers and Buyer’s sole remedy is under such third-party warranties. For the avoidance of doubt, ORE DESIGNS MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

**EXCLUSIONS.** The warranty set forth above covers defects in manufacturing discovered while using the Products as recommended by Ore Designs. The warranty does not cover loss or theft, nor does coverage extend to any damage caused by misuse, abuse, unauthorized modification, accidental damages, scuffs or scratches, improper installation, negligence or damage caused by improper maintenance or cleaning, custom paint colors, improper storage conditions, products stored outdoors in their packaged materials, lightening, or natural disasters.

The warranty does not cover parts that are subject to normal wear and tear. Damage caused by impurities or acts beyond Ore Designs control are not covered. Any Product or part that has been repaired or altered in any manner other than by Ore Designs, unless previously authorized in writing by Ore Designs, will void the warranty.

EXCEPT FOR THE LIMITED WARRANTIES SET FORTH ABOVE, ORE DESIGNS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. ORE DESIGNS DOES NOT WARRANT THE ADEQUACY OF BUYER’S DESIGN OR SPECIFICATIONS OR THE INSPECTION PROTOCOL.

**LIMITATION OF LIABILITY.** SHOULD ANY OF THE PRODUCTS FAIL, BUYER’S SOLE RECOURSE SHALL BE THE REPAIR OR REPLACEMENT OF THE FAILED PRODUCTS AS PROVIDED IN THE ABOVE WARRANTY. IN NO EVENT SHALL ORE DESIGNS BE LIABLE FOR ANY LOST PROFITS OR REVENUES, LOSS OF USE, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT ORE DESIGNS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ORE DESIGNS CUMULATIVE LIABILITY FOR DAMAGES UNDER THESE TERMS, FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, IS LIMITED TO THE AMOUNT PAID BY BUYER FOR THE PRODUCTS, EXCLUDING SHIPPING AND HANDLING CHARGES, DUTIES AND TAXES.

**INSURANCE.** Ore Designs maintains the following insurance: (i) commercial general liability insurance with coverage of at least \$1 million dollars per occurrence and \$2 million dollars in the annual aggregate; and (b) umbrella liability insurance with a minimum limit of \$10 million dollars each occurrence and minimum aggregate amount of \$10 million dollars, with financially sound and reputable insurers. Upon Buyer’s request, Ore Designs shall provide Buyer with a certificate of insurance evidencing the insurance coverage specified in these Terms and naming Buyer as an additional insured.

**DISPUTE RESOLUTION.** These Terms and the Purchase Agreement shall be exclusively governed by the internal laws of the State of Utah, without regard to its conflicts of laws rules. Legal action may be brought only in the state and federal courts located in Salt Lake City, Utah, and Buyer consents to the jurisdiction of and venue in such courts.

#### CONTACT US.

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