

# UNIFORM TERMS OF SALE

The Wood Moulding and Millwork Producers have adopted the following terms and conditions of quotation and sale in order to establish a uniform policy between moulding and millwork producers and their customers. These uniform rules are intended to apply whenever and wherever parties agree that they should apply; either by direct consent, implied consent or by custom and practice. Copies of these rules are available to anyone upon request. Non-member manufacturers may obtain these rules at a nominal fee.

## I. Time of Contract

A binding contract is created when the producer confirms a purchase order. Confirmation is complete either when the confirmation is posted in the mails, postage prepaid, correctly addressed to the buyer, or in all other cases, when received by buyer. Prior to a binding contract, prices quoted by producer are subject to change or withdrawal without notice.

## II. Grade, Tally and Manufacturing Rules

Moulding and millwork products are sold under rules of Wood Moulding and Millwork Producers for grade, tally and manufacturing standards. Rules in effect at the time of contract shall apply.

## III. Oral agreements and Prior Agreements

Oral understands or agreements and amendments or modification to existing written agreements shall not be binding unless confirmed by written instrument within five (5) days following the oral understanding. Prior agreements, written or oral, are not void unless specifically embodied in the contract document.

## IV. Variance of Uniform Terms of Sale

Sales made under these rules may provide variances with these rules to meet special and agreed circumstances, provided such variances are embodied in the contract document.

## V. Mistakes and Mechanical Errors

Errors are subject to correction in all contracts, providing they are clearly apparent as such to the parties or persons conversant with market prices and/or industry trade practices. Buyer shall notify producer immediately upon receipt of confirmation of any other, which contains errors, and producer shall notify buyer in the same manner of mistakes when discovered. Failure of the buyer to correct error upon receipt of confirmation will constitute acceptance of the order confirmation as written.

## VI. Time of Delivery

Confirmed orders shall be filled and delivered as specified in the contract or in the normal sequence of producer's order file if not specified.

## VII. Delays

Producer shall have no liability for delays caused by floods, fire or similar acts of God, strikes, sabotage, riots, insurrection, war commandeering by government action embargos, labor shortages, transportation delays or other causes beyond producer's control. Delays in excess of thirty (30) days beyond the agreed for reasonably expected shipping date for any of the foregoing reasons shall give either party the right to cancel without liability. Provided, however, no cancellation shall be made by buyer after manufacture or shipment of any order has commenced.

## VIII. Method of Delivery and Shipments

Buyer shall have the right to specify the method of transportation. Unless otherwise specifically stated or agreed, quotations and sales are free on board (FOB) mill or free alongside ship (FAS).

Invoices for sales made FOB delivered shall constitute a guarantee by the producer of delivered costs except that taxes, state or federal levied on account of transportation charges and/or increases or decreases in freight rates made effective subsequent to the date of contract shall be the obligation of or credit to the buyer.

Producer has no liability for delays, damage, miscarriage or shortages in transit. Producer's responsibility terminates upon receipt of a signed bill of lading from the carrier.

Unless the rail delivery route is specified, producer shall select routing but shall not be responsible for switching, team tract charges or local freight. When producer guarantees freight charges, actual weights shall be used for refunds. The party requesting diverting shipment shall pay diversion charges.

## IX. Variation in Quantity Shipped

Producer shall have the right to increase or decrease the quantity stated in the contract to fit the capacity of transporting equipment or to meet minimum tariff requirements, provided such increases or decreases do not vary by more than ten percent (10%) from the contracted quantities (or fifteen percent (15%) for orders of 10,000 lineal feet or less). Piece items such as cut-to-length mouldings, jams and frames are included in the percentages of increase or decrease on a lineal foot basis.

## X. Cancellations

Producer shall have the right to cancel any contract subsequent to confirmation or shipment in the event buyer makes arbitrary deductions in the payment of previous purchases; fails to comply with contract terms of previous purchases, sells, transfers or substantially changes business operations, becomes insolvent or bankrupt or fails to meet financial obligations. Notice of such

cancellation shall be given in writing and producer shall have the right to intercept any goods in transit and return the same to producer's custody.

## XI. Re-inspection

A. Claims arising from complaints about grade, tally, manufacture or moisture content may be settled by re-inspection. The California Lumber Inspection Service (PO Box 6989, 1190 Lincoln Ave., San Jose, CA. 95125. Telephone (408) 297-8071 or 297-8031) will provide re-inspection service on shipments, which is not held intact, is presumed to have complied with all grade, tally and manufacture specifications as invoiced.

B. Whenever either party to a contract desires re-inspection, he shall notify the other contracting party and The California Lumber Inspection Service within ten (10) days of receipt of the shipment complained of, 72 hours if claim is for excess moisture content. The buyer shall unload the products from the transporting facility.

C. The party requesting re-inspection shall be responsible to The California Lumber Inspection Service for the cost thereof. The California Lumber Inspection Service may require a deposit before making the re-inspection. As between the parties, the expenses of re-inspection shall be borne by the party determined to have lost the inspection. If more than one item is re-inspected, the expense of re-inspection shall be prorated between buyer and seller upon the basis of the dollar volume of the items found to be more than 5 percent (5%) below grade to the entire volume on which complaint was registered. Any part of the disputed material, which is not held intact, is presumed to have complied with all grade, tally and manufacture specifications as invoiced.

D. Both parties must give full cooperation in making the re-inspection.

E. If the disputed material is not properly cared for and adequately protected from the elements by the party in possession, the inspector may determine the dispute against the buyer.

F. The disputed items must be held intact for examination by the inspector for thirty (30) days after re-inspection is requested. Examination of the product will be made within that time by the inspector.

G. If the settlement of a claim would require the inspection of an entire item, such as complaints on measurement and/or tally, the entire item shall be kept intact for re-inspection.

H. Claims for shortages must be entered within ten (10) days after unloading, supported by a written statement giving piece tally, number of car seals, if any, and car number. In cases where seals have been broken or changed or in case of truck shipments where indications are that the load may not have been delivered intact, a report from the transportation agent or carrier must accompany the claim.

I. Each item shall be considered in compliance with grade if ninety-five percent (95%) or more thereof is found to be on-grade or better.

J. Re-inspection shall be available for grades not described in the rules when detailed specifications accompany the request for re-inspection and only when The California Lumber Inspection Services has inspectors available for such re-inspections.

K. All products not found in compliance revert to the property of the producer. Buyer shall accept that portion of the products held to be in compliance.

## SETZER FOREST PRODUCTS INC. SUPPLEMENTAL TERMS

### I Payment and Restocking Fee

The buyer agrees to pay a delinquency charge of one and one-half percent (1-1/2%) per month on any past due account receivable balance. The buyer's account is past due when the payment is made beyond the terms listed on the face of the invoice. If for any reason the seller needs to reclaim the stock, the buyer must pay a twenty-five percent (25%) restocking fee.

### II Default

The buyer agrees to pay all attorney's fees, collection costs and court costs incurred by the seller to collect the past due account in addition to delinquency fees, the past due balance and any penalty charges assessed by the courts.

### III Choice of Law and Venue

The buyer agrees that California Law (excluding its conflict of provisions) shall apply and that any legal action shall be venued in Sacramento County, California.

### IV Insurance

Common carriers are normally required to carry adequate insurance. The buyer agrees that any desired insurance in excess of the normal common carrier insurance is the responsibility of and for the account of the buyer.

### V Security Interest

Except in the case where the customer provides a letter of credit, the buyer agrees that the seller retains a security interest in the goods shipped until payment is received pursuant to Commercial Code 2505.

### VI Remedies

The buyer agrees his sole remedy is replacement of defective goods, or refund of monies paid and the seller's liability is limited to the value of the defective portion of the shipment.