

Bridgewell Building Materials LLC

Terms and Conditions of Sale

1. **DEFINITIONS.** Bridgewell Building Materials LLC is referred to below as “**Seller**”. The party ordering goods from Seller is referred to below as “**Buyer**”. “**Contract**” shall mean a purchase order, sale order, bid or comparable agreement for the purchase and sale of building materials that has been agreed to in writing by Buyer and Seller (an “**Order**”), as supplemented by these “**General Terms and Conditions**”. The building materials to be purchased by Buyer under the Contract are referred to below as the “**Goods**”. The structure or structures where the Goods are to be delivered and/or incorporated are referred to below as the “**Project**”.
2. **ENTIRE CONTRACT.** The Contract shall constitute the entire agreement between Seller and Buyer. No alleged oral promises or conditions not explicitly set forth herein are binding upon Seller or Buyer, and any prior negotiations between the parties are merged herein. The Contract may only be modified in writing with the agreement of the parties. If Buyer’s Order contains provisions inconsistent with the provisions hereof, these terms and conditions shall supersede and control in all respects. Buyer’s acceptance of delivery of or payment for any Goods provided hereunder shall constitute Buyer’s acceptance of these General Terms and Conditions.
3. **ACCEPTANCE.** The Contract is contingent upon Buyer’s receipt from Seller of a fully executed copy of the Contract and Buyer’s maintaining its outstanding account balance within terms and the credit limits established by Seller, as determined by Seller in its sole discretion. SELLER’S OBLIGATIONS ARE ALSO CONTINGENT UPON BUYER AND THE PROJECT QUALIFYING FOR CREDIT APPROVAL BY SELLER AND MAINTAINING THIS CREDIT APPROVAL DURING THE LENGTH OF THE PROJECT, WHICH CREDIT APPROVAL SHALL BE MADE IN SELLER’S SOLE DISCRETION. BUYER AGREES TO PROVIDE ALL CREDIT INFORMATION REASONABLY REQUESTED BY SELLER.
4. **SCOPE.** Seller’s obligation under the Contract is limited to the delivery of Goods to the Project in the quantity and at the prices indicated in the Contract, and in accordance with these General Terms and Conditions. Buyer acknowledges and agrees that the quantity of Goods committed to be purchased by Buyer in the Order may not necessarily be the amount of Goods required for the Project, and Buyer bears the risk of any shortfall. Seller has the right to ship all Goods included in the Contract in quantities equal to the nearest full package, according to the supplying mill’s normal packaging. The total price of the Contract will vary, depending on actual quantities delivered. Buyer is responsible to unload the Goods at the Project and agrees to have personnel available and equipment necessary to unload the Goods at the Project at time of delivery.
5. **PROJECT SPECIFIC PURCHASE.** Buyer acknowledges that the Goods will be used exclusively for the Project specified in the Order and that Buyer will not buy similar materials for the Project from another supplier unless Seller is in breach of the Contract. For the avoidance of doubt, Buyer acknowledges and agrees that Buyer does not have the right to cause the Goods to be shipped to or utilized at, another location. If Buyer breaches the terms of this paragraph, Seller shall have the right to cancel the Contract.

6. **GRADING AND ASSOCIATION RULES.** Buyer acknowledges that all grades and species in the Goods are those requested by Buyer; any substitutions of materials are made at Buyer's instruction and risk; and Seller makes no representation or warranty regarding any grades, species or substitutions. Unless stated otherwise in the Contract, the Goods will be graded on the basis of official grading rules issued by the manufacturer's association covering the items sold when the parties executed the Contract. If no grading rules are designated, Seller will select an appropriate association if Buyer provides any notice of claim. In the event of a dispute over grade, quality, tally, size, specification or manufacture, the reinspection and shipping provisions issued by the manufacturer's association covering the item sold will constitute part of the Contract between Buyer and Seller.
7. **TAXES.** The Goods sold under the Contract are taxable. Seller will add sales tax to all invoices for the Contract, at the rate effective when the Goods are invoiced. Sales tax is subject to change and Seller will collect from Buyer and remit the appropriate tax according to the jurisdiction for the Project.
8. **DELIVERY.** Deliveries under the Contract will begin no earlier than the Start Delivery Date (as such term is defined in the Order) and end no later than the End Delivery Date (as such term is defined in the Order). The period between the Start Delivery Date and the End Delivery Date is hereinafter referred to as the "**Delivery Window**". Seller shall deliver Goods periodically through the Delivery Window based on Buyer's actual need as determined in good faith by both parties, it being agreed that Buyer does not have the right to "stockpile" Goods and in particular Goods that are in high demand or for which there is a shortage of supply. In no event will Seller be required to accelerate the delivery of any remaining undelivered Goods if the timing of Buyer's need extends beyond the End Delivery Date or the Project is otherwise behind schedule. In the event that the timing of Buyer's need for Goods will extend beyond the End Delivery Date, Seller shall have the right to (i) extend the Delivery Window beyond the End Delivery Date, in which case Seller may charge Buyer additional costs incurred to store the Goods or to extend shipment of the Goods, and Seller may re-price the remaining unshipped quantities based on then existing market conditions or (ii) terminate the Contract. The parties acknowledge and agree that the market price for the Goods may fluctuate materially and rapidly, and therefore, pricing under the Contract is contingent upon Buyer taking delivery in accordance with the Schedule. Seller is not required to deliver Goods if Buyer has not paid the additional costs assessed under this paragraph or if Buyer's account is otherwise not current. Seller agrees to pay truckers' waiting charges for the first hour after the truck arrives at the jobsite. Any waiting charges after the first hour will be billed to Buyer.
9. **TITLE AND RISK OF LOSS.** Buyer's signature on, or electronic acknowledgment of, the bill of lading shall constitute acceptance of the Goods, transfer of title and risk of loss.
10. **TRADE TERMS.** Except to the extent that these terms and conditions expressly provide for a different interpretation, trade terms shall be interpreted as follows: (a) for Goods to be shipped to a destination within the United States, trade terms shall be interpreted in accordance with the Oregon Uniform Commercial Code; (b) for Goods to be shipped to a destination outside the United States, trade terms shall be interpreted in accordance with the Incoterms as amended and published by the International Chamber of Commerce and in effect as of the date of the Contract.

11. **REJECTION.** A rejection of the Goods or claim of shortages and/or damaged material by Buyer shall not be effective unless it is made and written notice with photographic evidence thereof is given to Seller within five (5) days after the Goods are delivered to the Project. If such written notice of rejection of the Goods or claim of shortages and/or damaged Goods is not received within such five (5) day period, and before the Goods have been installed in the Project, Buyer shall be deemed to have waived any right to reject such Goods or to claim shortages and/or damaged Goods. Due to insurance requirements, all claims for shortages and/or damaged Goods must be supported by written exceptions by Buyer or Buyer's representative on the delivery documents at the time of delivery or pick-up and provided to Seller within five (5) days thereof. Failure to take exceptions against the carrier for short delivery and/or damages shall constitute a waiver by Buyer of such claim.
12. **PAYMENT.** Buyer shall pay all amounts due for Goods purchased hereunder within thirty (30) days from the date of delivery. If Seller deems Buyer's financial status unsatisfactory or Buyer is in default of any obligation, Seller may require that Buyer deliver adequate assurances that it can perform in the form of a letter of credit or cash deposit, and in the event Buyer fails to do so, Seller may cancel the Contract (without prejudice to any other rights or remedies it may have). Buyer agrees that any amounts overdue shall be subject to a finance charge of 18% per annum (if this rate exceeds the legal limit in the jurisdiction for this sale, then the legal maximum of that jurisdiction will be applied instead). Buyer agrees to be responsible for all costs to collect unpaid amounts, including reasonable attorney's fees, court costs, and any other expenses reasonably incurred by Buyer to collect such amounts.
13. **SELLER'S LIEN.** Until the unpaid contract price and any other amounts payable by Buyer to Seller under the Contract are paid in full, Seller shall have a lien on the Goods for the unpaid amounts. Buyer grants to Seller a security interest in the Goods to secure payment of such amounts.
14. **CHANGES.** The price for any additional Goods required by Buyer in excess of those specified in the Contract shall not be based upon prices quoted herein but, instead shall be based on current market prices as determined by Seller in effect at the time of any additional orders.
15. **RETURNS.** Any returns will be accepted at Seller's sole discretion, and Seller reserves the right to refuse returns. Buyer agrees to pay a restocking charge for any returns Seller accepts, plus storage, handling, interest and freight. The amount of restocking charge will depend on the condition of the Goods and its market value. The restocking charge will be negotiated between Buyer and Seller when the Goods are returned, but in no event will it be less than 15%. Custom-ordered materials and non-commodity items are not returnable.
16. **LIMITATION OF WARRANTY.** SELLER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, THAT EXTEND BEYOND THE DESCRIPTION OF THE GOODS IN THE CONTRACT, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. Seller warrants only that the Goods delivered shall conform to the grade and quantity specified in the Contract. If the sale is based upon a sample, the sample shown by Seller to Buyer was for demonstration purposes only, and Seller makes no warranty that the Goods delivered shall conform to the sample; conformity of the Goods to the sample is not a part of the basis of the bargain between Seller and Buyer. Seller shall have no obligation or liability with respect to any warranty claim based upon: (a) any Goods that have been altered, modified, or revised; (b) the combination, operation, or use of any Goods with other products or services; (c) failure of Buyer to implement any update provided by Seller that would

have prevented the claim; (d) unauthorized use of Goods, including, without limitation, a breach of the provisions of the Contract; or (e) Goods made or performed to Buyer's specifications

17. **LIMITATION OF LIABILITY.** SELLER'S LIABILITY SHALL BE LIMITED TO THE COST OF REPLACING DULY REJECTED GOODS WITHIN A REASONABLE PERIOD OF TIME FOLLOWING PROPER AND TIMELY REJECTION BY BUYER. UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR INJURIES TO PERSONS OR PROPERTY, INDIRECT CONSEQUENTIAL OR INCIDENTAL DAMAGES, COMMERCIAL LOSSES, OR OTHER LOSS OR DAMAGE OF ANY NATURE WHATSOEVER, ARISING FROM NONCONFORMITY OF GOODS OR DELAY IN SHIPMENT, OR ANY OTHER BREACH BY SELLER. THE ABOVE IS BUYER'S SOLE AND EXCLUSIVE REMEDY WHETHER IN CONTRACT, TORT, OR OTHERWISE. TO THE FULLEST EXTENT PERMITTED BY LAW, BUYER AGREES TO DEFEND, INDEMNIFY AND HOLD SELLER HARMLESS FROM AND AGAINST ANY CLAIMS, DEMANDS, LOSSES AND LIABILITIES TO OR BY THIRD PARTIES RESULTING FROM OR CONNECTED WITH THE GOODS.
18. **ASSUMPTION OF LIABILITY.** It is understood and agreed that Buyer assumes all risks and liabilities resulting from the use of the Goods. Seller neither assumes nor authorizes any person to assume for Seller any of the liability in connection with the sale or use of the Goods.
19. **MOLD WARNING.** Mold can occur naturally on lumber from a variety of sources including airborne spores which feed on sugars and starches in wood. SELLER MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH REGARD TO THE EXISTENCE OR NON-EXISTENCE OF MOLD ON THE GOODS. Buyer is encouraged to examine the Goods and take such precautions as Buyer deems necessary and prudent. Buyer may contact the Western Wood Products Association for information on steps that can be taken to remove any mold that may be present on the wood.
20. **FORCE MAJEURE.** Seller shall not be liable for any delay or failure in shipment arising from strikes, lockouts, labor troubles of any kind, accidents, perils of the sea, fire, earthquake, civil commotion, war or consequences of war, government acts, restrictions or requisitions, failure of manufacturers or suppliers to deliver, pandemics or epidemics, bankruptcy or insolvency of manufacturers or suppliers, suspension of shipping facilities, act or default of carrier or any other contingency of manufacturers or supplies, suspension of shipping facilities, act of default of carrier or any other contingency of whatsoever nature beyond Seller's control affecting production, transportation or boarding point, loading, forwarding or unloading at destination of the Goods covered by the Contract, including disturbances existing at the time the Contract was made, or any other commercial impracticality. In such situation, if shipment or delivery is not made during the period(s) specified in the Contract, Buyer shall accept delivery under the Contract when shipment is made; provided, however, Buyer shall not accept delivery if shipment is not made within a reasonable time after the cessation of the aforementioned impediments or causes.
21. **CANCELLATION.** Except as otherwise expressly provided in these General Terms and Conditions, this Contract can be cancelled only by mutual written consent of the parties, which consent may be withheld at either party's sole discretion. In the event of U.S. or foreign government intervention, trade restrictions, and/or quotas, which may delay or prevent delivery of the Goods or any part thereof, Seller, at Seller's option, may cancel the unshipped balance of the Goods without liability. In the event any of the Goods shall become subject to any governmental fees or duties not presently in effect or to any increase in any existing fee or duty, including any antidumping duty or countervailing

duty, Seller shall have the right to cancel the unshipped balance of the Goods without liability. If this Contract is cancelled by Seller pursuant to paragraphs 5, 9, 13, or 28, in addition to any and all other remedies that may be available to Seller at law or equity, Seller may recover from Buyer all damages suffered by Seller, including (i) lost profits on undelivered Goods, (ii) any cost incurred by Seller to store, insure and/or otherwise protect any Goods held related to this Contract and (iii) other incidental costs and expenses incurred by Seller.

22. **INDEMNIFICATION.** Buyer agrees to indemnify, hold harmless and defend Supplier (and its employees, subsidiaries, affiliates, successors and agents) from and against any and all claims, judgments, liabilities, damages, losses, expenses and costs (including, but not limited to, court costs and attorneys' fees) incurred or suffered by Seller which relate to or arise out of Buyer's purchase, use, handling, sale or distribution of the Goods sold hereunder.
23. **WAIVER.** Seller shall not be deemed to have waived any provision hereof, or any breach by Buyer of any provision hereof, unless such waiver is specifically set forth in writing and executed by an authorized officer of Seller. No waiver by Seller of any provision hereof or any breach by Buyer hereunder shall constitute a waiver of such provision on any other occasion or a waiver of any other breach by the Buyer.
24. **SEVERABILITY.** The invalidity or unenforceability, in whole or in part, of any provision, term or condition hereof shall not affect the validity and enforceability of the remainder of such provision, term or condition or of any other provision, term or condition, and, to the extent possible, such invalid or unenforceable provision shall be replaced by a provision most nearly reflecting the fundamental objectives of the original provision.
25. **DISPUTE RESOLUTION.** Except as set forth herein, any claim of any kind that arises out of or relates to the Contract, or to the interpretation or breach thereof, shall be brought solely in the state court sitting within Washington County, Oregon. Notwithstanding this provision, Seller may take whatever action is necessary, in any jurisdiction, to file and perfect a construction (mechanic's) lien claim, a public works bond claim, or similar claim, and may bring an action to foreclose or enforce such lien claim, bond claim, or similar claim, in such jurisdiction and this provision shall not serve to stay or bar any such action or proceeding. Additionally, Seller, in its sole discretion, may require and compel that any claim brought by, or dispute between, Buyer and/or Seller, including, but not limited to, any claim filed in court, and any construction lien foreclosure action, be resolved by arbitration administered by the Arbitration Service of Portland, Inc. ("ASP"), under the then effective arbitration rules of ASP, which are incorporated herein by reference. Pursuant to the ASP Rules, the parties shall be entitled to assert all claims and defenses allowed by law, shall be entitled to discovery as allowed under the Oregon Rules of Civil Procedure, and the arbitrator shall be impartial and be required to disclose any relationship to the parties. Such arbitration shall be conducted before a single, neutral arbitrator in Portland, Oregon, and shall be subject to the Oregon Uniform Arbitration Act, ORS 36.600, et seq. If it becomes necessary for Seller to pursue collection of any amounts due Seller related to the Contract, Seller shall be entitled to its reasonable attorney's fees, collection costs and expenses, whether or not an action is commenced. No action taken by Seller with respect to any lien claim, bond claim, or similar claim, or security interest, or any other action or inaction of Seller, shall be deemed a waiver of any provision of these General Terms and Conditions. Except with respect to a lien foreclosure action, bond claim, or similar claim, which shall be governed by the law of the state where the action is filed,

all claims and disputes arising out of or related to the Contract shall be governed by and in accordance with Oregon law.

26. **DEFAULT.** If Buyer breaches or is otherwise in default under the Contract or any other contract between the parties hereto, Seller at its option, in addition to any and all other remedies that may be available to Seller at law or equity, may defer delivery of the Goods until the default is cured, or treat the default as a repudiation by Buyer of the Contract in its entirety and cancel the Contract. Buyer's insolvency shall be a default under the Contract.
27. **MISCELLANEOUS.** Seller did not prepare the design drawings or specifications for the Project, and it takes no responsibility for their completeness or accuracy, including accuracy of tallies. Buyer's provision of the drawings, specifications and tallies, which have been prepared by others, in no way makes Seller liable for any errors or omissions contained therein. Seller has not reviewed any plans or specifications related to the Project. Any takeoff prepared for or by Seller for Buyer, was prepared at Buyer's request or for Buyer's convenience, based on drawing or plans created by others. The takeoff list and any summary of materials for the Project is an estimate based on assumptions and information provided to Seller by the Buyer or its professional architects or engineers. Seller makes no representation or warranty about the quantity or suitability of the Goods for the project. Seller does not perform any labor or installation services.
28. **SIGNATURES.** Each of the parties executing the Contract covenants and warrants that it is duly authorized to execute the Contract, and that such party has duly authorized the execution of the Contract. The parties agree that the Contract may be electronically signed and that the electronic signatures appearing on the Contract are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility. This Agreement may be executed by affixing an electronic signature by electronic signature and digital transaction management service. All parties also agree that the electronic transmission of signed documents will be relied upon as signed originals, and that signatures on separate originals will have the same force and effect as if all signatures were made on single original of this or any other agreement pertaining to the Project.