

National Lumber

Standard Terms and Conditions

1. Terms and Conditions. All sales by The National Lumber Company, a Maryland corporation, (“National Lumber”) to any buyer (“Buyer”) shall be governed exclusively by these National Lumber Standard Terms and Conditions (“this Agreement”). The provisions of all purchase orders from Buyer, except for the quantity and description of the products, shall be deemed null and void. All sales are final. No agreement between National Lumber and Buyer shall create a third-party beneficiary agreement. No general contractor or other third party may rely upon performance of this Agreement by National Lumber.
2. Price. No verbal quotations shall be binding, until or unless confirmed by National Lumber in a written quotation, confirmation, or invoice and then the provisions of this Agreement shall constitute the sole, exclusive, and entire agreement between the parties. Unless otherwise specified in writing and signed by an officer of National Lumber, a written price quote (“Quote”) is valid for a period of 30 days, unless otherwise noted at the time the quote is provided, subject to National Lumber’s right to withdraw the Quote if the price is affected by circumstances beyond National Lumber’s control. The reference number on the Quote must appear on Buyer’s Purchase Order to receive the quoted price. National Lumber will not assume the costs for items or methods not specifically indicated on the Quote. Price is subject to final review and specifications at the time of order.
3. Taxes. Prices on the products specified herein are exclusive of all taxes and other levies of taxing authorities, including, but without limitation, taxes on manufacture, sales, receipts, occupation or use. Wherever applicable as determined by National Lumber, such tax or taxes will be added to the purchase price as a charge to be paid by Buyer. Buyer is responsible to pay any taxes and any customs duties, fees, and tariffs. In the event National Lumber is required to pay any such taxes, Buyer shall immediately reimburse National Lumber.
4. Delivery. Delivery or shipping dates, if any, set forth in the Purchase Order are approximate only, non-binding and merely represent National Lumber’s best estimate of the time required to make delivery or shipment. Availability of some products may affect delivery dates at the time Buyer’s order is placed and/or released. National Lumber will not be liable for any loss or expense (consequential, liquidated or otherwise) incurred by Buyer or Buyer’s end customers as a result of any delay in shipment for any reason other than arbitrary refusal by National Lumber to perform. National Lumber shall not be liable to Buyer, nor to anyone else, for delays regardless of the cause of the delays.
5. Inspection and Acceptance. Buyer shall inspect each order of products upon receipt thereof. If Buyer determines that a product is nonconforming or defective (a “Rejected Product”) (provided that such non-conformity or defect did not result from damage caused after shipment by National Lumber), then Buyer shall deliver written notice to National Lumber within 24 hours following receipt of the product setting forth the alleged reason for the Rejected Product, date of purchase, date of receipt, and invoice number. Unless Buyer provides National Lumber with such written notice within 24 hours, then such products shall be deemed finally inspected and accepted by Buyer. If National Lumber examines such Rejected Product to its satisfaction and determines that such damage or defect exists, and was not caused by the negligence, misuse, improper storage, or other accident of Buyer or any third party, then National Lumber shall replace such Rejected Product or issue a credit for the sales price of such Rejected Product. Any claim of Buyer related to damage during shipping or delivery should be made directly to the carrier (unless delivery was made by National Lumber). National Lumber’s invoice or shipping list delivered with the products, when signed by any employee of Buyer, shall be deemed accurate and binding on Buyer, and an acceptance of the products. Special orders are not returnable unless otherwise stated and may be subject to restocking charge provided material can be returned.

6. Payment. Unless otherwise agreed in writing by National Lumber, Buyer shall submit, with each Purchase Order, payment in full of the invoice price for the Purchase Order plus anticipated shipping, sales, use, excise or similar taxes and anticipated customs duties, imposts, tariffs or other charges for such Purchase Order. All payments shall be made in U.S. Dollars. If National Lumber expressly agrees in writing to "net 30-day payment," payment for products purchased hereunder shall be net 30 days from the date of the applicable invoice. All such orders are subject to approval of National Lumber's credit department. National Lumber may, at any time, require payment in advance or satisfactory security for payment of an invoice when due. Buyer will not withhold payment or the purchase price of products or any other amount payable to National Lumber in connection with this document in the event of a dispute between Buyer and National Lumber. National Lumber may require Buyer to execute its Master Purchase Agreement (the "Purchase Agreement") for orders in excess of fifty Thousand Dollars (\$50,000.00).

7. Freight. Buyer shall specify the mode of delivery in Buyer's Purchase Order. National Lumber shall not be responsible for loss, damage, or delay caused by Buyer's use of contract or common carriers. Buyer will be responsible for filing and recovering on any and all freight damage claims. Buyer is responsible for discovering concealed freight damages. National Lumber will not be responsible for such damage. Risk of loss shall transfer to Buyer upon delivery of products to a common carrier, to Buyer's place of business, to Buyer's employees or agents, to a job site, or to any other location specified by Buyer.

8. Product Suitability. Buyer is solely responsible for determining whether a product purchased from National Lumber is suitable for Buyer's needs or application. National Lumber makes no warranties regarding suitability of product(s) for Buyer's needs. National Lumber will not, by responding to requests for or otherwise providing information or opinions, assume any responsibility for the design or suitability of the Buyer's product(s) in the proposed application. Buyer will at all times be responsible for determining the suitability of National Lumber' or National Lumber' affiliates' information, opinions, processes, products and services for use in Buyer's own applications and for identifying and performing to the Buyer's satisfaction all quality control tests and analyses necessary to assure that the Buyer's products and services will be safe, acceptable and suitable for use under end-use conditions.

9. Default by Buyer. If Buyer fails to pay the purchase price or any other sums in full when due, or if Buyer fails to observe, keep or perform any other provision of these Terms and Conditions, National Lumber shall have the right to exercise any one or more of the following remedies: (a) withhold further deliveries; (b) terminate any and all contracts with Buyer upon oral or written notice; (c) recover all sums then accrued or thereafter accruing, under the Purchase Order; (d) take possession of any or all products without demand or notice, wherever same may be located, without court order or process of law, and Buyer hereby waives any or all damage occasioned by such taking of possession; and/or (e) pursue any other remedy at law or in equity (without bonding therefor), including, but not limited to, recovering loss of profit damages and all damages resulting from the condition of the products and Buyer's breach. Buyer authorizes National Lumber to offset against any amount which National Lumber owes to Buyer, any amount which Buyer owes to National Lumber. All amounts that are not paid when due bear interest at the rate of 1.5% per month. Buyer shall be liable for all collection costs, including reasonable attorneys' fees and costs, and costs of any collection service regardless of whether suit is filed. All such remedies are cumulative, and may be exercised separately or concurrently.

10. DISCLAIMER OF WARRANTIES: NATIONAL LUMBER DOES NOT MANUFACTURE ANY PRODUCTS. ALL GOODS ARE DELIVERED "AS IS" AND "WITH ALL FAULTS". NATIONAL LUMBER MAKES NO EXPRESS OR IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO: THE MERCHANTABILITY OF THE GOODS, THEIR QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, THEIR DESIGN, CONDITION OR WORKMANSHIP, THEIR FREEDOM FROM PATENT INFRINGEMENT, THE ENFORCEABILITY OF THE MANUFACTURER'S WARRANTIES AND GUARANTEES, OR AS TO THE

TAX OR ACCOUNTING TREATMENT OF THE SALE OF THE GOODS, AND HEREBY DISCLAIMS THE SAME. NATIONAL LUMBER PASSES TO BUYER ALL WARRANTIES, IF ANY, RECEIVED BY NATIONAL LUMBER FROM MANUFACTURER.

11. LIMITATIONS ON NATIONAL LUMBER'S LIABILITY. NATIONAL LUMBER SHALL NOT, UNDER ANY CIRCUMSTANCES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, BE LIABLE TO BUYER OR BUYER'S CUSTOMER FOR INDIRECT, CONSEQUENTIAL, SPECIAL, ECONOMIC, INCIDENTAL, OR PUNITIVE DAMAGES WHETHER THE DAMAGES WERE FORESEEABLE OR ARISE OUT OF TORT, STRICT LIABILITY, PRODUCT LIABILITY, OR ANY OTHER LEGAL THEORY, EXCEPT AS PRECLUDED BY LAW. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING, NATIONAL LUMBER SHALL NOT BE LIABLE FOR: LOSS OF OR DAMAGE TO OTHER PROPERTY; LOST PROFITS OR REVENUE; DAMAGE TO REPUTATION; THE LABOR AND MATERIAL COST OF REMOVING AND REINSTALLING DEFECTIVE OR NONCONFORMING PRODUCTS; OR DAMAGES CAUSED BY DELAYS, BACK-CHARGES, OR LOSS OF USE. NATIONAL LUMBER SHALL NOT BE LIABLE FOR DAMAGE TO THE PRODUCTS DUE TO FAILURE TO PROPERLY CARE FOR AND MAINTAIN THE PRODUCTS. ALL LIMITATIONS ON NATIONAL LUMBER'S LIABILITY CONTAINED IN THIS AGREEMENT SHALL APPLY NOTWITHSTANDING THE NEGLIGENCE, OR INTENTIONAL TORT OF ANY EMPLOYEE, AGENT, OR SUBCONTRACTOR OF NATIONAL LUMBER.

12. Applicable Law and Venue. The jurisdiction and venue for any civil action shall be, solely and exclusively, the state courts in and for Baltimore City, Maryland. Each of the parties expressly waives, to the fullest extent permitted by applicable law, the right to move to dismiss or transfer any such action brought in such court on the basis of any objection to personal jurisdiction, venue, or inconvenient forum in any of such courts.

13. Indemnity. Buyer shall indemnify, defend and hold National Lumber and its affiliates, directors, officers, agents, servants, employees, successors and assigns against, and hold them harmless from any and all claims, actions, suits, procedures, costs, expenses, damages, losses and liabilities, including actual attorney's fees and costs arising out of, connected with, or resulting from any of National Lumber's products following their shipment (including, without limitation, the delivery, possession, use, storage, and sale of the products) or breach of these Terms and Conditions or any Purchase Order by Buyer.

14. Waiver. Waiver by National Lumber of any breach of any of the terms and conditions set forth herein shall not be construed as a waiver of any other breach, and the failure of National Lumber to exercise any right arising from any default of Buyer hereunder shall not be deemed to be a waiver of such right.

15. Force Majeure. National Lumber shall not be liable for any failure to perform its obligations hereunder if such failure results from any act of God, pandemic, riot, war, civil unrest, flood, earthquake, delay or interruption in shipment, compliance with import and exports regulations, or other cause beyond its reasonable control.

16. Collateral Recovery. If National Lumber seeks to recover payment from a collateral source (for example, against the owner of real property on a Mechanic's Lien claim), National Lumber shall only be required to credit against Buyer's account the net amount recovered after deducting costs and actual attorneys' fees incurred. Furthermore, in the event that National Lumber is unsuccessful in its attempt to recover from a collateral source, National Lumber's costs and attorneys' fees incurred in the unsuccessful attempt shall be chargeable to and collectible from Buyer. For purposes of proceeding against a collateral source, all unpaid invoices for purchased products by Buyer shall be deemed immediately due and payable. The Buyer hereby grants to National Lumber a security interest in the products sold to the Buyer and any proceeds therefrom (including accounts receivable), until payment in full for the products has been received by National Lumber. The Buyer shall sign and deliver to National Lumber any document to perfect this security interest that National Lumber reasonably requests.

17. Personal Guaranties. If any personal guaranty(s) has been executed as part of a Credit Application, the following constitute the terms of the Guaranty: Guarantors jointly and severally personally guarantees payment of all present

and future indebtedness of Buyer to National Lumber including all renewals and extensions of such indebtedness. Guarantors consent to National Lumber obtaining personal and business consumer credit reports on them for (a) the extension of credit to Buyer, or (b) the collection of debt from Buyer and/or Guarantor(s). Guarantor waives all notices from National Lumber and waives the right to require National Lumber to proceed against Buyer. Guarantor waives the benefit of any limitations affecting their liability hereunder or the enforcement thereof to the extent permitted by law. Guarantor agrees that Guarantor's personal guaranty shall not be deemed to be suspended, stayed, released, terminated or discharged by any of the following: any modification, substitution, settlement, supplement, extension of time, or compromise granted to Buyer; any change in the relationship between Guarantor and Buyer, including the sale of any or all of Guarantor's ownership interest in Buyer; the execution of new or additional guarantees by Guarantor or by others; any change whatsoever in the business relationship between National Lumber and Buyer, including but not limited to any change in credit terms, amount of credit, or amount of interest or service charges; any transfer of new or additional security by anyone for payment of Buyer's indebtedness to Seller; the bankruptcy of Buyer; the release or discharge of Buyer's debt to National Lumber; an automatic stay of proceedings against Buyer; National Lumber's failure to exercise diligence against Buyer or against any guarantor, including Guarantor; a failure or refusal by Buyer to execute a new or updated Credit Agreement and/or personal guaranty; or National Lumber's knowledge that Guarantor is not an officer or owner of Buyer. This is an absolute and continuing Guaranty. It shall be conclusively presumed that all sales by National Lumber to Buyer are made in reliance upon Guarantor's personal guaranty.

18. Consumer Credit Reports. Buyer consents to National Lumber obtaining consumer or business credit reports on Buyer for (a) the extension of credit, or (b) the collection of debt. All Guarantors of Buyer's obligations to National Lumber consent to National Lumber obtaining personal consumer credit reports and business consumer credit reports, on them for (a) the extension of credit to Buyer, or (b) the collection of debt from Buyer and/or Guarantors.

19. Entire Agreement. These Terms and Conditions, together with any Application for Credit furnished by National Lumber and executed by Buyer, any Purchase Order issued by National Lumber, Purchase Agreement, any Quotation issued by National Lumber, and any guaranty of Buyer's obligations to National Lumber shall collectively constitute the entire agreement between National Lumber and Buyer. These Terms and Conditions and the obligations of Buyer hereunder shall not be assigned, delegated or transferred, by operation of law or otherwise, without the prior written consent of an officer of National Lumber. National Lumber has not made any promises or representations to induce Buyer to purchase products from National Lumber pursuant to this Agreement, or any other agreement, and Buyer is not relying upon any promise or representation not contained in this Agreement or any other agreement signed by Buyer, except that the products conform to the description of quantity and kind stated on National Lumber invoices to Buyer. National Lumber's employees have no any authority to make any representations or warranties not contained in this Agreement. If National Lumber changes any provisions of this Agreement and sends the new version to Buyer and any Guarantor, by email, fax or US mail, with a subject line entitled "IMPORTANT CHANGES TO YOUR AGREEMENT", the new version shall replace this Agreement, shall be deemed incorporated into Buyer's Credit Application, and shall govern all purchases made after the transmission of the revised Agreement to Buyer and any Guarantor.