



SALES TERMS AND CONDITIONS

THESE SALES TERMS AND CONDITIONS APPLY TO ALL QUOTATIONS MADE BY FRERES LUMBER CO., INC., AN OREGON CORPORATION ("MANUFACTURER" AND/OR "FRERES"), PURCHASE ORDERS ACCEPTED BY FRERES AND ORDER ACKNOWLEDGEMENTS ISSUED BY FRERES, WHETHER OR NOT PHYSICALLY OR ELECTRONICALLY ATTACHED HERETO. THESE TERMS AND CONDITIONS CONSTITUTE AN OFFER CONDITIONED ON CUSTOMER'S ACCEPTANCE OF ALL, AND ONLY, THESE TERMS AND FRERES REJECTS ANY CONFLICTING, DIFFERENT OR ADDITIONAL TERMS IN ANY OTHER DOCUMENT, INCLUDING THOSE CONTAINED IN ANY PURCHASE ORDER OR OTHER DOCUMENT OR COMMUNICATION BETWEEN THE PARTIES. CUSTOMER'S SUBMISSION OF A PURCHASE ORDER FOR THE PRODUCT OR MAKING ANY PREPAYMENT THEREON SHALL CONCLUSIVELY CONFIRM ACCEPTANCE OF THESE TERMS. THESE TERMS AND CONDITIONS CANNOT BE CONTRADICTED, SUPPLEMENTED OR EXPLAINED BY EVIDENCE OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

1. Definitions

In these Terms and Conditions, the following words and terms shall be given the meaning set forth below:

1.1 "CNC Modifications" means Computer Numerical Control Modifications identified in the Shop Drawings.

1.2 "Coatings" means any chemical treatment applied to the Product pursuant to the Purchase Order.

1.3 "Customer" means the customer or purchaser referred to in the Purchase Order.

1.4 "Design Professionals" means any architects and/or engineers engaged to provide architectural and/or engineering services on or for the Project.

1.5 "Grade" means the design values referenced in the Engineered Wood Association ("APA") product report (PR-L325; July 3, 2018, as amended) as specified by Customer's engineer.

1.6 "Manufacturer" means Freres Lumber Co., Inc.

1.7 "Parts" means brackets, fasteners and other components as listed on the Purchase Order.

1.8 "Product" means engineered wood products under ASTM D5456-14b, D5456-13, and D5456-09 recognized by the 2018 IBC and IRC, 2015 IBC and IRC, and 2012 IBC and IRC, respectively, supplied and manufactured by Freres Lumber Co., Inc. pursuant to the Purchase Order excluding Parts and CNC Modifications.

1.9 "Project" means Customer's construction project that will incorporate the Product.

1.10 "Purchase Order" means the purchase order submitted by Customer and accepted by Freres and shall be deemed to include these terms and conditions together with invoices, estimated delivery schedules and other documents related to the purchase of the Product by Customer.

1.11 "Shop Drawings" means the most recent version of any shop drawing, indicated as final, delivered by Customer or Customer's agent

to Freres to fabricate the Product for incorporation into Customer's Project.

1.12 "Specifications" means the Grade and dimensional specifications reflected in the Shop Drawings.

2. Delivery of Shop Drawings

If Product is to have CNC Modifications, Freres will not initiate CNC Modifications of the Product until the final versions of all Shop Drawings are received by Freres from Customer and an estimated shipping schedule has been delivered to Customer.

3. Change Orders

Any changes to the Purchase Order must be approved in writing by Freres and Customer prior to manufacture of the Product.

4. Engineering, Installation & Construction Methods

Customer shall be solely responsible for all construction methods and/or the installation of the Product into Customer's Project. Customer, its Design Professionals, agents, and contractors shall be solely responsible for determining Grade, design, engineering, Specifications and CNC Modifications necessary to incorporate the Product into Customer's Project.

5. Payment Terms

Customer shall make payments in accordance with the schedule included in Quote issued by Freres. Should an invoice be issued, payment shall be due upon receipt of invoice or as indicated in Quote and/or invoice. Except as otherwise agreed in writing, the Customer agrees that there shall be no retention or holdback of the purchase price for Product. If Customer fails to pay any sum owed hereunder when due, interest shall accrue to Freres' credit on such sum at the rate of one and one-half percent (1.5%) per month (18% per annum) or the maximum rate permitted by applicable law. If Freres, in its sole discretion, finds it necessary to employ an attorney and/or collection agency to collect any past due sum owed hereunder, it may collect, in addition to any other sum owed hereunder, reasonable attorney's fees and costs.

6. Manufacturer's Lien

Until the purchase price is paid in full by Customer, Freres shall have a lien on the Products sold for all unpaid amounts. Customer hereby grants to Freres a security interest in the Products to secure payment of such amounts and Freres may notify creditors or other parties and record a financing statement to perfect such security interest. Customer agrees to assist Freres in taking all necessary steps to perfect and maintain said security interest in the Product, and until Freres is paid in full, to protect Freres' interest by adequately insuring the Product against loss or damage with Freres as named insured or co-insured.

7. Delivery; Estimated Shipping Schedule

Unless otherwise stated in the Purchase Order, all pricing and delivery is FOB Freres' plant at 40519 Cedar Mill Road, Lyons, Oregon (Incoterms 2010). Title and risk of loss pass to Customer upon transfer to the carrier at such shipping point, freight prepaid. For convenience only following delivery of the final Shop Drawings, if applicable and not as a binding representation, Freres will provide an estimated shipping schedule to Customer. Freres will make commercially reasonable efforts to meet estimated shipping schedules.

Customer acknowledges that Freres' pricing and estimated scheduling is based on the assumption that all other building components will be performed and constructed by Customer and/or its contractors to permit the timely manufacture, CNC Modifications and shipment of the Product. The Customer shall be liable to the Freres for any loss, damages, costs or expenses resulting directly or indirectly from any delay or increase in costs occasioned by the failure to perform or construct the other building components so as to allow the timely manufacture, CNC Modifications and/or shipment of the Product.

8. Storage

Upon request, Freres will store completed Product at Freres' plant for up to 20 days following completion. Additional storage is subject to availability for an additional fee at the discretion of Freres. All such storage will be outside Freres plant.

9. Design Professionals & Coordination

Customer shall be solely responsible to verify that the final Shop Drawings, if applicable, provided by the Customer or Customer's Design Professionals are accurate, satisfy all applicable building codes and do not diminish the structural integrity of the Product for its intended use. Coordination between Customer's Design Professionals, contractors, and all other trades and subcontractors is the sole responsibility of the Customer.

10. Construction Contracts

Customer acknowledges that Freres has no knowledge of the terms, conditions or scope of work of any other contracts unless expressly accepted by Freres in writing. Freres shall not be bound by the terms and conditions of any general contract or subcontract between the Customer and third parties. It is the sole responsibility of the Customer to inform Freres of any contracts and/or their schedule terms, conditions or scope of work that may reasonably impact Freres'

performance under the Purchase Order. In no event, shall Freres be responsible to Customer or any third party for any damages related to delayed manufacture, CNC Modifications, and/or shipping of the Product and Freres shall not be bound to, or liable for damages of any kind whatsoever, under any other construction contract or schedule.

11. Inspections & Acceptance of Products

The Product shall be deemed accepted by Customer upon receipt, unless within five (5) days of delivery, Customer rejects such nonconforming Product and notifies Freres in writing of the basis for such rejection. Failure to so notify Freres in writing of nonconforming Product within such period shall be deemed an unqualified acceptance.

12. Limited Warranty

THE WARRANTIES IN THIS SECTION ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE EXCLUDED FROM THIS TRANSACTION AND SHALL NOT APPLY TO THE PRODUCT, IN WHOLE OR IN PART, IN ANY MANNER. FRERES EXPRESSLY DISCLAIMS ANY IMPLIED OR EXPRESS WARRANTY THAT THE PRODUCT WILL PROHIBIT OR RETARD THE GROWTH OF MOLD OR MILDEW OR STAIN OR DISCOLOR.

Freres warrants that the Product will be free from any defects in materials or workmanship for the expected life of the structure when properly stored, used and installed, and will meet the Specifications. In the case of a defect or defects in materials or workmanship, Freres' sole responsibility shall be to repair or replace the individual Products involved or, at Freres' sole option and discretion, return to Customer the purchase price paid for any individually defective Products.

Written notice of any claim under this limited warranty must be delivered to Freres within thirty (30) days of discovery of the alleged defect, and Customer must afford Freres a reasonable opportunity to inspect the Product in unaltered condition to evaluate the claims.

There are no other warranties, either of merchantability or fitness, either expressed or implied, other than those explicitly set forth in this paragraph. If the Product is (i) not used in strict conformance with Customer's Design Professional's engineering, design or load limits; (ii) is in any way altered; (iii) is not handled and stored in accordance with Section 13, or otherwise not maintained, used or installed in accordance with the instructions and specifications of the Design Professionals; or (iv) defective or fails as a result of, in whole or in part, Customer's or Customer's Design Professional's Specifications, including CNC Modifications, engineering or design specifications, construction methods, site conditions, exposure to elements, moisture, fire or natural disaster, then all limited warranties are void and Customer shall be deemed to have waived and released Freres from any liability or claims associated with purchase and use of the Product.

The Product, whether wrapped or unwrapped, is subject to mold and staining. There shall be no offsets, holdbacks or reductions in payment as a result of any damage, mold, staining, discoloration or any other

defect of the Product that occurs after shipment or otherwise as a result of failure to protect the Product.

To reduce mold growth, the Product must be protected from moisture exposure during transit, storage, and use, including without limitation, transit to, storage at, and use on the Project.

CUSTOMER ACKNOWLEDGES THAT FRERES HAS NO CONTROL OVER INSTALLATION, ENGINEERING, CUSTOM SPECIFICATIONS INCLUDING CNC SPECIFICATIONS, CONSTRUCTION METHODS, SITE CONDITIONS OR OTHER CIRCUMSTANCES RELATED TO THE USE OF THE PRODUCT. AS A RESULT, NO OTHER WARRANTIES OR GUARANTEES, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE, ARE GIVEN.

Handling, Storage and Installation Recommendations

Upon transfer of the Product to the carrier at Freres' plant, protection and handling of the Product is the sole responsibility of Customer. Upon transfer to the carrier, all right, title and interest in the Product shall be deemed transferred to the Customer. Customer represents that it has read the Handling, Storage and Installation Recommendations included with the Shop Drawings.

13. Disclaimer of Warranty for Parts; Parts Indemnification

FRERES MAKES NO WARRANTIES OF ANY KIND OR NATURE CONCERNING ANY PARTS MANUFACTURED OR DELIVERED BY ANY THIRD PARTY. FRERES HEREBY DISCLAIMS ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE FOR ANY PARTS MANUFACTURED OR DELIVERED BY ANY THIRD PARTY. If Parts are included in the Purchase Order, Freres shall assign and transfer to Customer, without recourse or liability, any express warranties (if any) it received for those Parts from the manufacturer of any Parts. Customer shall indemnify, defend and hold harmless Freres, its subsidiaries and affiliates, and their directors, officers, employees and agents from and against any and all claims, demands, complaints or actions, including but not limited to, actions by third parties, arising from or relating to any Parts purchased by Customer in connection with the use or purchase of the Products, including claims resulting from personal injury, death, products liability, property damage or damage to the environment.

14. Limitation of Liability

SUBJECT TO NOTICE REQUIREMENTS CONCERNING LIMITED WARRANTY CLAIMS, CUSTOMER'S REMEDIES FOR ANY BREACH OF CONTRACT, PRODUCTS LIABILITY OR NEGLIGENCE, STRICT LIABILITY SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF THE PRODUCT INVOLVED OR, AT FRERES' SOLE OPTION AND DISCRETION, RETURN BY FRERES TO CUSTOMER OF THE PURCHASE PRICE PAID FOR ANY INDIVIDUALLY DEFECTIVE PRODUCTS. THESE LIMITED REMEDIES SHALL APPLY REGARDLESS OF THE CAUSE OF ACTION OR LEGAL THEORY GIVING RISE TO THE CLAIM OR LIABILITY.

IN NO EVENT WILL FRERES BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND SUSTAINED FROM ANY CAUSE OR ARISING OUT OF ANY LEGAL THEORY, WHETHER CONTRACT, NEGLIGENCE, STRICT TORT LIABILITY, OR OTHERWISE. IN NO EVENT SHALL FRERES BE LIABLE TO CUSTOMER

IN AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE PRODUCT. THESE LIMITATIONS INCLUDE ANY LIABILITY THAT MAY ARISE OUT OF THIRD-PARTY CLAIMS. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OR OF ANY LIMITED REMEDY PROVIDED HEREIN.

15. Indemnification

Customer shall defend, indemnify, and hold harmless Freres, its subsidiaries and affiliates, and their directors, officers, employees, and agents (hereinafter referred to as "Indemnitees"), from and against all actions, causes of action, liabilities, claims, suits, judgments, liens, awards, orders, and damages of any kind and nature whatsoever (the "Claims") arising out of any act or omission of Customer, or Customer's Design Professionals, contractors or agents or out of the purchase, sale, manufacture, CNC Modifications or use of the Product, or otherwise arising under the Purchase Order or Project, including Claims of third parties, and including, but not limited to, Claims arising from property damage, products liability, personal injury or death, fines, penalties, expenses, costs of litigation, and attorneys' fees and costs. Customer shall further defend, indemnify and hold Indemnitees harmless against all Claims arising out of any alleged design or engineering defect related to the Specifications provided by Customer, or its Design Professionals, agents, or contractors, including CNC specifications. Such indemnification specifically includes Indemnitees' own products liability and, to the extent permitted by applicable law, negligence whether the Claims resulted from the sole actions of Indemnitees or from the actions of Indemnitees combined with Customer, and/or Customer's Design Professionals, agents, or contractors. Customer shall further defend, indemnify and hold Indemnitees harmless against any and all Claims seeking damages or remedies in excess of the limited warranty described in Section 15 (Limitation of Liability).

16. Termination

If Customer terminates the Purchase Order for any reason after manufacturing of the Product is initiated, Customer shall pay to Freres the full purchase price payable pursuant to the Purchase Order for any wholly or partially manufactured Product, together with any damages claimed against Freres by any other supplier or subcontractor resulting from the termination of the Purchase Order. Customer shall pay such termination charges within 30 days of invoice.

17. Intellectual Property

The sale of the Product shall not constitute a license, implied or otherwise, for the use of any Intellectual Property of Freres. Freres retains all right title and interest in all Intellectual Property related to the Product, whether solely developed or invented by Freres or jointly developed or invented by Freres and Customer. "Intellectual Property" means copyrights (including the right to use, reproduce, modify, distribute, publicly display, and publicly perform the copyrighted work), trademarks (including trademark, trade names, service marks, and trade dress), patents, patents-pending, processes, or know-how of Freres (including the exclusive right to make, use and sell), trade secrets, rights of publicity, rights of privacy, moral rights, goodwill and all other intellectual property rights as may exist now and/or hereafter come into existence concerning the Product.

18. Default

Customer will be in default if (i) Customer fails to pay to Freres any amount when due as provided in any invoice or under the Purchase Order; (ii) Customer fails for a period of five (5) days after receiving written notice from Freres to fulfill or perform any provisions of the Purchase Order (other than the prior provision relating to due date of payments); (iii) Customer becomes insolvent or bankrupt, or a petition therefore is filed voluntarily or involuntarily and not dismissed within thirty (30) days from filing; or (iv) Customer makes a general assignment for the benefit of its creditors, or a receiver is appointed, or a substantial part of Customer's assets are attached or seized under legal process and not released within thirty (30) days thereafter.

Upon Customer's default, Freres may, at its option, without prejudice to any of its other rights and remedies, and without demand for payments past due, (i) make shipments subject to receipt of cash in advance; (ii) terminate the Purchase Order and declare immediately due and payable the obligations of Customer for Products previously shipped along with any wholly or partially completed Products whether or not shipped, notwithstanding any other provision in these terms and conditions; (iii) demand reclamation; and/or (iv) suspend any further manufacturing, CNC Modifications or shipments until the default is corrected, without releasing Customer from its obligations under the Purchase Order. In any event, Customer shall remain liable for all loss and damage sustained by Freres because of Customer's default, including, but not limited to, collection fees, reasonable attorneys' fees and costs, and interest at the lower of 1.5% per month (18% per annum) or the maximum rate permitted by applicable law.

19. Material Safety Data Sheet (MSDS)

Customer will familiarize itself with all information and precautions disclosed in safety and health information, including, but not limited to, any MSDS, transmitted to Customer by Freres, or any information supplied to Customer by Freres or otherwise available to Customer from Freres at any time. Customer has reviewed the MSDS on Freres' website at <https://frereslumber.com>.

20. Excused Performance

If Freres is delayed in manufacturing, CNC Modifications or shipment of the Product by reason of unavailability of energy, materials, war, terrorism, pestilence, act of God, mechanical malfunction, accident, fire, explosion, public protest, or governmental actions or legislation, then either: (a) Freres may, at its sole and non-reviewable discretion, terminate the Purchase Order in which case the Customer shall only be responsible for payment for the Product delivered; or (b) the estimated shipping schedule shall be extended by the length of such delay without penalty or consequence to Freres.

21. Headings

The headings used in this Agreement are solely for convenience of reference, are not part of this Agreement, and are not to be considered in construing or interpreting this Agreement.

22. No Third-Party Beneficiaries

Nothing in the Purchase Order, express or implied, is intended or shall be construed to confer on any person, other than the parties to the Purchase Order, any right, remedy, or claim under or with respect to the Purchase Order.

23. Notices

All notices and other communications under the Purchase Order must be in writing and shall be deemed to have been given if delivered personally, facsimile (with confirmation), mailed by certified mail, or delivered by an overnight delivery service (with confirmation) to the parties to the addresses or facsimile numbers (or at such other address or facsimile number as a party may designate by like notice to the other parties) listed in the Purchase Order. Any notice or other communication shall be deemed to be given (a) on the date of personal delivery; (b) at the expiration of the third (3rd) day after the date of deposit in the United States mail; or (c) on the date of confirmed delivery by facsimile or overnight delivery service.

24. Waiver

No waiver of any provision of the Purchase Order shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. Furthermore, any termination of the Purchase Order shall not relieve or release either party hereto from any rights, liabilities, or obligations, which it has accrued prior to the date of such termination.

25. Dispute Resolution

Each party, at such party's option, shall have the right to require that any claim, controversy, or dispute between the parties, including but not limited to those arising out of or relating to the Purchase Order, the Product and including those based on or arising from any statute, constitution, regulation, ordinance, rule or any alleged tort, be determined by arbitration in accordance with the then effective arbitration rules of Arbitration Service of Portland, Inc., and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. If litigation has been commenced in court by either party with respect to a dispute (in hope that a default judgment could be obtained): (i) the party who is the defendant or respondent in such litigation shall be deemed to have waived its option to arbitrate said dispute if such party files a general appearance in the litigation prior to filing a claim in arbitration in the manner specified above; (ii) the plaintiff or petitioner in such litigation will be deemed to have waived its right to arbitrate said dispute if such party fails to file a claim for arbitration in the manner specified above within sixty days after a general appearance in the litigation has been filed by the party who is the defendant or respondent in the litigation. This provision is intended to allow either party to commence litigation and seek an order of default without waiving their right to arbitrate in the event the default is not attainable; and (iii) if either party properly exercises its option to arbitrate, arbitration of such dispute shall be mandatory and any pending litigation shall be stayed.

26. Applicable Law and Jurisdiction

In any action or proceeding, including any arbitration, seeking to enforce any provision(s) of, or based on any right(s) arising out of, or related to or concerning the Purchase Order, the parties hereto consent to the exclusive jurisdiction of the courts of the State of Oregon and of any duly appointed arbitrator. In any such action or proceeding, venue shall lie exclusively in Linn County, Oregon, and in no other location. The parties further agree that in any such action or proceeding the parties shall appear for deposition at their own expense in Marion County, Oregon at such time as is either mutually agreed upon by the parties or ordered by the court.

27. Taxes


The price quoted in the Purchase Order does not include any duties, sales, excise, use, value added, goods and services, transfer or similar taxes, or any surcharges or escheat requirements, (collectively, the "Taxes") imposed upon any party by the laws of any jurisdiction. All Taxes shall be paid by Customer in addition to all other sums Customer may be or may become obligated to pay to Freres.

28. Assignment

The Purchase Order shall not be assignable or otherwise transferable, in whole or in part, by either Party, except that Customer may assign or transfer its rights and obligations to the Purchase Order to a company controlled by, controlling or under common control by Customer.

30. Parts Subcontracting

Customer acknowledges that all Parts identified in the Purchase Order shall be obtained from third parties.

 **WARNING:** Drilling, sawing, sanding or machining wood products can expose you to wood dust, a substance known to the State of California to cause cancer. Avoid inhaling wood dust or use a dust mask or other safeguards for personal protection. For more information go to www.P65Warnings.ca.gov/wood.

Freres Lumber Co. Inc.:

By: _____

Its: _____

Date: _____

31. Severability

In the event that any term, condition or provision of the Purchase Order shall be found to be void or unenforceable, such findings shall not be construed to render any other provision of the Purchase Order either void or unenforceable, and all other provisions shall remain in full force and effect unless the provision(s) which is/are invalid or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either Party.

32. Binding Effect

This Agreement shall be binding upon the successors and permitted assigns of the Parties.

33. Entire Agreement

These terms and conditions constitute a final and complete expression of all terms and conditions between the parties concerning the use, purchase, sale, manufacture and CNC Modifications of the Product. These terms and conditions constitute an offer conditioned on Customer's acceptance of all, and only, these terms and Freres rejects any conflicting, different or additional terms in any other document, including those contained in any Purchase Order or other document or communication between the parties. Any representations, promises, warranties, or statements that are not contained in these terms and conditions are void. Except as otherwise indicated, any modifications, amendments, addendum or other changes to these terms and conditions may only be made by written consent of Customer and Freres and such writing must reference these terms and conditions.

Customer Name: _____

By: _____

Its: _____

Date: _____