

The RSS Company, LCC

Order Confirmation – Terms and Conditions

1. Definitions. These Terms and Conditions of Order Confirmation are referred to below as “these Terms or General Terms and Conditions.” “Seller” means The RSS Company, LLC and shall be for the benefit of The RSS Company, LLC and its affiliates who may also sell to Buyer (“Affiliates”). “Buyer” means the company referenced in the Order Confirmation or corresponding credit application, and its subsidiaries and affiliates ordering Goods from Buyer. These Terms and the quotation or order confirmation into which they are incorporated are referred to collectively herein as the “Order Confirmation.” The order evidenced by the Order Confirmation is the “Order.” The goods to be purchased by the Buyer under the Order are referred to 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. Acceptance.

1. These Terms and the Buyer’s accepted credit application are the only terms which govern the sale of the Goods by Seller to Buyer. Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.
2. The Order Confirmation, credit application, and accompanying invoice comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Seller’s acceptance of the Order is expressly conditioned on Buyer’s acceptance of these Terms in their entirety without any additions, deletions, modifications or exceptions. These Terms prevail over any of Buyer’s general terms and conditions of purchase regardless of whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer’s order does not constitute acceptance of any of Buyer’s terms and conditions and does not serve to modify or amend these Terms. 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. SELLER’S OBLIGATIONS ARE ALSO CONTINGENT UPON BUYER QUALIFYING FOR CREDIT APPROVAL BY SELLER AND MAINTAINING THIS CREDIT APPROVAL DURING THE LENGTH OF THE PROJECT, WHICH CREDIT APPROVAL SHALL BE MADE IN THE SELLER’S SOLE DISCRETION. BUYER AGREES TO PROVIDE ALL CREDIT INFORMATION REASONABLY REQUESTED BY SELLER.

3. **SCOPE.** Seller's obligation under the Order is limited to the delivery of Goods to the Project in the quantity and at the prices indicated in the Order, 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 Order in quantities equal to the nearest full package, according to the supplying mill's normal packaging. The total price of the Order 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.

4. **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.

5. **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 based on 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.

6. **CHANGES IN COST.** Any change in insurance premium, destination, or other shipping charges including fluctuations in ocean freight which may be established after the date of the Contract shall be for Buyer's account and at Buyer's sole cost and expense. All transportation expense, if included in the price, is as per current tariff at the date of the Contract and any changes thereafter shall be for Buyer's account and at Buyer's sole cost and expense, unless otherwise specified. In the case of C.I.F, C.F.R., C.P.T. or C.I.P sales, any import duty, tax, or tariff, or any revenue or other national, federal, state, or municipal tax or taxes now or subsequently imposed in the country of destination and at Buyer's sole cost and expense, upon the Goods and/or their containers, shall be for Buyer's account, in accordance with the

International Rules for the Interpretation of Trade Terms 2020 (Incoterms) interpretation of C.I.F., C.F.R., C.P.T. and C.I.P sales, unless specifically otherwise stipulated in the Contract.

7. TAXES. Unless otherwise agreed by Seller in writing, all prices are exclusive of applicable federal, state, local and foreign sales, use, exercise, value added and other taxes. All current or future tax or other governmental charge applicable to the sale, delivery, shipment or storage of the Goods that Seller is required to pay or permitted to collect shall be for Buyer's account and shall be added to the price and shall not be subject to any reduction.

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 Minnesota 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 Terms. The approved payment terms are set forth in the credit application unless specifically modified by the Order Confirmation. In no event shall payment to Seller be subject to any retention, "pay when paid" or "pay if paid" provisions. 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.

16. 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.

17. 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

18. INSURANCE (C.I.F., C.I.P., C.F.R., C.P.T., F.O.B., F.C.A., AND F.A.S. FOREIGN PORT SALES).

a. C.I.F. or C.I.P Terms. Marine insurance shall be effected by Seller at its expense for Buyer's account, evidenced by a policy, certificate, or letter of insurance in the amount of the contract price plus not less than 10% with a recognized company or companies for whose solvency Seller is not responsible. The price specified in the Contract shall not include war risk insurance unless specified in writing in the Contract.

b. C.F.R., C.P.T., F.O.B., F.C.A., and F.A.S. Foreign Port Terms. Marine insurance and war risk insurance shall be effected by Buyer at its expense (unless otherwise specified) for the full value of this contract, and shall include standard warehouse-to-warehouse coverage. If requested by Seller, Buyer shall furnish a binder by the insurance carrier covering shipment under the Contract, all rights under said binder to be assigned to Buyer or Seller or whomsoever may appear to be of interest.

19. 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 EXTEND 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.

20. 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.

21. 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.

22. FORCE MAJEURE. Seller is not be liable or responsible to Buyer or be deemed to have defaulted, for any failure or delay in fulfilling or performing its obligations under Order Confirmation, when and to the extent such failure or delay is caused by or results from acts beyond the Seller's control, including without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, pandemic, epidemic, or explosion; (c) war, invasion, hostilities (whether war is declared or not), piracy, terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) other similar events beyond the reasonable control of Seller. In the event of force majeure, both Buyer and Seller will attempt to overcome it and keep each other informed of progress. If a Force Majeure Event continues for 30 days, Buyer and Seller will attempt to negotiate reasonable accommodation for performance. Should the Force Majeure Event continue for 30 days or more, Seller may terminate the Order. Seller shall not be liable for any damages or penalties whatsoever, whether direct, indirect, special, liquidated, delay, consequential, contingent, exemplary, punitive or otherwise, resulting from Seller's failure to perform or delay in performing because of a Force Majeure Event

23. 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, 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.

24. 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.

25. WAIVER. Seller shall not be deemed to have waived any provision hereof, or any breach by Buyer of any provision hereof, unless such a 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.

26. 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.

27. Dispute Resolution. Except as set forth herein, any claim of any kind that arises out of or relates to the Order Confirmation, indemnity, or to the interpretation or breach of the Order Confirmation, shall be brought solely to the state of Minnesota or the state in which Seller or any Affiliate is located. Provided however, Seller may take whatever action is necessary, in any jurisdiction, to file and perfect a construction (mechanics) 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. If it becomes necessary for Seller to pursue collection of any amounts due Seller related to the Order Confirmation, Seller shall be entitled to its reasonable attorney fees, collection costs and expenses, whether 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 Terms. 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 Order Confirmation shall be governed by and in accordance with the state law of Minnesota.

28. 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.

29. MISCELLANEOUS. Seller did not prepare the design drawings 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.

30. 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 DocuSign, Adobe Sign or the equivalent 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.