

Purchase Order Terms and Conditions

The following terms and conditions are incorporated in and form part of the Purchase Order of Western Forest Products Inc. (the "Buyer"). The seller, service provider or other contracting party to the Purchase Order is hereinafter called the "Seller". Where applicable, the terms "Buyer" and "Seller" shall include the officers, directors, employees and agents of those parties.

1. Purchase and Sale. On the terms and conditions of the Purchase Order, the Seller will sell and the Purchaser will purchase all items, materials or services set out in the Purchase Order (the "Goods and/or Services") free and clear of all encumbrances. The Seller shall not make any changes to the Purchase Order without written permission from the Buyer.

2. Price and Terms of Payment. The Buyer shall pay to the Seller the purchase price as set out in the Purchase Order (the "Price") within 30 days following the later of (i) acceptance of the Goods and/or Services that comply with the Purchase Order specifications by the Buyer at the site specified in the Purchase Order (the "Site"), and (ii) the Buyer's receipt of the Seller's invoice. The Price for the Goods and/or Services shall, unless otherwise expressly stated, be in Canadian currency, exclude all taxes, duties, broker's fees and freight of any kind which either party may be required to pay with respect to the sale of the Goods or completion of the Services, but, for Goods, shall include all charges for packing and loading. Any taxes, freight and duty shall be shown as separate items on invoices.

3. Buyer May Change. The Buyer may, by written change order, make changes in specifications or drawings of, or increase or decrease the quantities of the Goods or the scope of the Services originally ordered. If any such change alters the amount due or the time of performance, then the Seller must immediately notify the Buyer in writing and an equitable adjustment shall be made.

4. Delivery and Performance. Time shall be of the essence in the Purchase Order. The Seller shall deliver the Goods and/or perform the Services in accordance with any schedules or dates specified in the Purchase Order or, if there are no schedules or specified dates, within a reasonable time. The Buyer may cancel the Purchase Order, without liability, in whole or in part, if deliveries are not made or Services are not performed in accordance with this paragraph.

5. Shipping. The Seller shall suitably pack, mark and ship materials in accordance with the Buyer's instructions and in accordance with governing laws, and, if so instructed by the Buyer, shall meet the transportation requirements of common carriers to secure the lowest transportation costs. The Seller shall be liable for any difference in freight charges or resulting damage to the Goods by reason of failure to comply with the above. The Seller shall send the Buyer, as soon as the Goods have been

forwarded, a notice of shipment number, car number if any, and a brief description of the Goods, otherwise the Seller shall be liable for any demurrage charges incurred. If the quantity ordered is sufficient, railcars and trailer units shall be loaded to their maximum legal capacity, otherwise the Seller shall pay the excess freight.

6. Plastic Control. It is the Buyer's policy to control and minimize the presence and quantities of plastic materials at all of its Sites. The Seller is obligated to ship all its components for the Goods without plastic or styrofoam packaging. Any exceptions must be requested by the Seller and agreed upon by the Buyer in writing in advance of shipment(s) being made. Any components containing plastic packaging that are shipped without the Buyer's approval may be returned unused to the Seller at the Seller's expense.

7. Inspection and Acceptance. Prior to acceptance by the Buyer, the Buyer may inspect the Goods and Services after they have been delivered or performed, respectively. Goods and/or Services may be deemed unsatisfactory in the sole discretion of the Buyer, acting reasonably, including the ability to reject the Goods and/or Services that are damaged during delivery or performance. Neither inspection or failure to make inspection nor acceptance of the Goods and/or Services releases the Seller from any of the warranties or other provisions contained in the Purchase Order nor impairs the Buyer's right to reject unsatisfactory Goods and/or Services in accordance with paragraph 8.

The Seller shall permit access to the Buyer at all reasonable times to inspect the Services. If the Buyer is unsatisfied with the Services, including where the Buyer has concerns with either the Goods used in the Services or the workmanship in providing the Services, in the Buyer's sole discretion, acting reasonably, the Buyer may provide notice to the Seller of its concerns and the Seller shall, within three business days, address the Buyer's concerns in a manner satisfactory to the Buyer, at the Seller's expense. The Seller warrants all Services, including the quality of the Goods used therein in accordance with paragraph 11, and shall, at its own expense, repair or replace, at the Buyer's discretion, any Services that are found to be unsatisfactory to the Buyer, acting reasonably, during the Warranty Period.

8. Rejection by the Buyer. If the Goods are not delivered and/or Services are not performed as set out in paragraph 4 or if the Buyer finds the Goods and/or Services to be unsatisfactory in accordance with paragraph 7, the Buyer may reject the Goods and/or Services ("Rejected Goods and/or Services") and, in its sole discretion, (i) for Goods and/or Services deemed by the Buyer as unsatisfactory, require the Seller to provide replacement of such Goods and/or Services (the "Replacement Goods and/or Services"), in which case the Seller shall promptly deliver the Replacement Goods and/or Services to the

Buyer on the original terms and conditions, except that if the price for the Replacement Goods and/or Services at the time they are ordered is less than the Price, the Buyer shall have the benefit of the lower price, or (ii) in either case, cancel the Purchase Order, in whole or in part, in which case the Buyer shall have no obligations to the Seller, other than for that part of the Price reasonably corresponding to those Goods and/or Services that were accepted by the Buyer. The Seller shall be responsible for all delivery costs, both to and from the Buyer, for Rejected Goods and/or Services. Where the Buyer pays any such delivery costs for Rejected Goods and/or Services, it may deduct such costs from any amount due to the Seller. If Services were performed, the Seller will

- (a) remove its machinery, equipment and supplies from the Site, and,
- (b) if required by the Buyer, remove or discontinue the Services performed

all within seven business days, and if not removed or dismantled, as required, the Buyer may do so, without liability.

9. Termination. If the project or program for which Goods and/or Services are ordered is cancelled, substantially modified or delayed, whether for cause or not, the Buyer may terminate the Purchase Order by written notice as to all or any part of the Goods not delivered or Services not performed prior to receipt by the Seller of said notice. As to Goods and/or Services that are standard manufactured items, the Buyer's only obligation shall be to pay for Goods delivered to or Services performed for the Buyer prior to receipt by the Seller of notice of termination. As to Goods specially manufactured for the Buyer, the Seller shall stop all work on receipt of notice of termination, unless otherwise directed by the Buyer. The Buyer shall pay reasonable costs incurred by the Seller directly connected with the Purchase Order, including costs and cancellation charges actually incurred by the Seller under subcontracts and, when necessary to avoid undue hardship, a reasonable allowance for overhead and profit on such costs incurred.

If the Seller does not ship its order on or before the agreed shipping date, or if the Seller defaults under the Purchase Order in any respect or becomes insolvent, a receiver is appointed, or if the Seller is petitioned or assigned into bankruptcy or otherwise seeks protection under the bankruptcy laws, the Buyer may, without liability, immediately terminate the Purchase Order or any undelivered part thereof. In addition to the Buyer's right of termination as provided in the Purchase Order, the Buyer's rights and remedies shall be as provided by law and shall in no event be limited by terms imposed by the Seller. If the presence of the Seller's workers, agents or employees causes or threatens to cause labour unrest or disturbance at the Buyer's premises, the Buyer may immediately cancel the Purchase Order, without liability.

10. Title, Encumbrances and Risk of Loss. The Seller represents to the Buyer that it has good and marketable title to the Goods and/or Services free and clear

of all encumbrances. Unless otherwise stated in the Purchase Order, title to the Goods and/or Services passes to the Buyer at the time they are received and accepted by the Buyer at the Site and the Seller shall bear the risk of loss or destruction of or damage to the Goods and/or Services until the Goods and/or Services are accepted by the Buyer at the Site.

11. Warranties. In addition to all other warranties available to the Buyer, the Seller warrants that the Goods and/or Services shall

- (a) comply with all specifications, quantity and quality as set out in the Purchase Order, if applicable,
- (b) conform to any sample provided to the Buyer,
- (c) are free from all defects and faults in design, manufacture, workmanship and materials,
- (d) are new and of the best quality, unless otherwise specified in writing,
- (e) are of merchantable quality,
- (f) are fit for the particular purpose of the Buyer where such purpose has been indicated in the Purchase Order,
- (g) shall perform satisfactorily under the conditions made known by the Buyer or that reasonably may be inferred,
- (h) be at least equal to nationally recognized standards or codes, and
- (i) be of the best quality, if no quality is specified.

This general warranty shall extend for a reasonable time, given the nature and life expectancy of the Goods supplied or Services performed, and in no circumstances shall the warranty be less than the greater of

- (j) one year from the date upon which the Goods and/or Services are put into use at the Site, and
- (k) 15 months from the date the Goods and/or Services were received at the Site,

(collectively, the "Warranty Period").

This general warranty is independent of and without prejudice to any specific warranty or service guarantee offered by the Seller in connection with the purpose for which the Goods and/or Services were purchased. If the Goods and/or Services or any part thereof do not conform to these warranties, or any defect develops under normal or proper operation as per the Seller's instructions, the Buyer may notify the Seller within a reasonable time after such discovery, and, subject to any other remedies that may be available to the Buyer as may be specified in the Purchase Order, the Seller shall thereupon promptly remove, repair, correct or replace and reinstall such nonconformity all at the Seller's sole cost and expense. Goods and/or Services used to correct nonconformities shall be similarly

warranted. This warranty survives any inspection, delivery or acceptance of, or payment by the Buyer for the Goods and/or Services.

12. Expediting. The Buyer or the Buyer's representatives may request that Goods and/or Services to be furnished by the Seller be expedited. The Buyer's personnel shall be allowed reasonable access to the Seller's plants and those of its suppliers, for expediting purposes. When requested by the Buyer, the Seller shall supply schedules and progress reports for the Buyer's use in expediting.

13. Indemnity-Patent. The Seller shall indemnify the Buyer from and against any claim, demand, lawsuit, proceeding or action resulting from any allegation or charge that any Goods and/or Services or the use thereof for the purpose for which the Goods and/or Services are sold, constitutes an infringement of any patent, copyright, or other intellectual property right. The Seller shall assume the defence of the Buyer at the Seller's expense against any such allegation or charges. The Buyer shall promptly notify the Seller of any allegation or charge of infringement and shall furnish the Seller, at the Seller's request and the Seller's expense, all assistance and pertinent information available to the Buyer. The Buyer shall, however, have the right to be represented in such matters by counsel of the Buyer's own selection, acting at the Buyer's own expense. The Seller shall, at any time up to 90 days after it is finally adjudicated that such infringement exists, at no expense to the Buyer, minimize the Buyer's damage of liability as much as possible by

- (a) altering the Goods and/or Services to make them non-infringing, provided that such altered nonconforming Goods and/or Services fulfill substantially the same function as they fulfilled prior to such alteration,
- (b) exchanging the Goods and/or Services with non-infringing Goods and/or Services which fulfill substantially the same function for the infringing Goods and/or Services, which infringing Goods and/or Services then become the Seller's property,
- (c) obtaining a settlement or license permitting the Buyer's use of any infringing Goods and/or Services,
- (d) removing and repurchasing the infringing Goods and/or Services at the Buyer's straight-line depreciated costs plus the costs of transportation, installation and removal, or
- (e) any of the above, or any combination thereof, at the Seller's option.

14. Indemnity-General. This indemnity shall not apply to the extent the Buyer provided the design and the Seller is not otherwise negligent. The Seller agrees to indemnify and save the Buyer harmless, from and against any liability whatsoever on account of the operations of the Seller resulting from its malperformance or nonperformance of the Purchase Order. The Seller shall hold the Buyer harmless for any loss, injury or death except to the extent that such loss injury or death was as a result of

the gross negligence of the Buyer. In no event shall the Seller be liable for consequential damages, loss of profits, loss of revenue of the facilities or cost of unscheduled shutdown, provided, however, that nothing contained herein shall in any way exclude or limit

- (a) the Seller's liability for any and all damages arising out of the Seller's intentional acts or omissions,
- (b) the Seller's liability for any and all direct damages which may fairly and reasonably be considered to arise naturally from the Seller's breach, or
- (c) the operation of any warranty of the Seller as may be provided in the Purchase Order or with respect to the Goods and/or Services supplied hereunder.

Any limitation of the Seller's obligation to indemnify the Buyer, either by provisions of the Seller's delivery slips or other instruments, shall be void.

15. Limits of the Buyer's Liability. Notwithstanding anything else in the Purchase Order, the Buyer shall not be liable to the Seller or anyone claiming through or under it, whether by way of indemnity or by reason or breach of contract or in tort, including liability for negligence and breach of statutory duty, or on any other legal or equitable basis for the Seller's

- (a) special, indirect or consequential loss or damage,
- (b) loss of present or prospective profits, overhead, expenditures, investments, or commitments made in connection with the Purchase Order or on account of any other reason or cause, or
- (c) loss of any contract or other work.

16. Performance of Services. All Services performed by the Seller shall be performed in accordance with the Purchase Order or other contracting documents entered into between the Buyer and the Seller, including written instructions from the Buyer, acting reasonably. The Seller shall ensure that all Services are performed by individuals possessing the training, skill, knowledge and expertise required to capably perform the Services. Where the Services, or any part of them, are to be performed by a person required by law to possess a license, designation or certification, the Seller shall ensure that the person performing such Services is properly so licensed, designated or certified.

17. Builders' Liens. The Seller shall not register any claim of builders' lien against the Site. If any liens are filed by anyone engaged by or through the Seller in connection with the Purchase Order against the Site, then the Seller shall remove such liens within five business days of receipt of notice to do so from the Buyer. If the Seller fails to do so, the Buyer may, in its sole discretion, (i) pay the amount of the lien into court, plus such amount as the court may order for security for costs, or (ii) negotiate and settle the lien claim with the lien claimant and pay the lien claimant directly, in which case the full amount paid into court or paid to the lien claimant, as applicable, together

with all costs of the Buyer associated therewith, are to be deducted from any amounts due to the Seller or, if such amounts exceed the amount due, then the Seller on demand shall immediately reimburse the Buyer for such payment. The Seller agrees to and shall indemnify and hold the Buyer harmless from any and all costs, claims, damages, expenses and liabilities suffered or incurred by the Buyer arising out of liens filed by anyone engaged by or through the Seller.

18. Insurance. Unless other limits are specified in the Purchase Order, prior to commencement of any Services at the Buyer's Site, the Seller shall obtain comprehensive general liability insurance with limits not less than \$3 million and the Seller shall also ensure that the policy (i) names the Buyer as an additional insured, (ii) contains a cross liability clause, (iii) expressly waives subrogation against the Buyer, (iv) states that the policy may only be cancelled or materially changed with 30 days notice to the Buyer, and (v) contains any additional provisions specified in the Purchase Order. If requested by the Buyer, the Seller shall provide to the Buyer evidence of all insurance and the Seller shall maintain the insurance until all Services are completed and approved by the Buyer and all of the Seller's materials and equipment have been removed from the Site.

19. Performance Bond. If the Buyer so requires, the Seller shall obtain a performance bond at the Seller's expense, in the amount specified in the Purchase Order within 10 business days following the Buyer's request. Such bond is to be executed by a surety company approved by the Buyer.

20. Workers' Compensation. The Seller shall, and shall require its subcontractors to, at all times, be registered and in good standing with all legislation governing workers' compensation. If requested by the Buyer, the Seller shall provide evidence of such registration and standing for itself and its subcontractors under the applicable legislation.

21. Health and Safety. The Seller shall, and shall require its subcontractors to, comply with all laws, ordinances, rules, regulations, codes and requirements relating to employment standards, occupational health and safety, hazardous materials regulations, and protection of the public as well as all of the Buyer's health and safety and security programs at the Site. The Seller shall be solely responsible for the safety of its employees, subcontractors and equipment at the Site.

22. Environmental Laws. The Seller shall, and shall require its subcontractors to, comply with all environmental laws and shall assume any environmental liabilities and perform any environmental obligations that result from the contravention of any environmental law by the Seller, including the cost of complying with any remediation order and any liability for clean-up of any pollutant resulting from any release arising from the Seller's operations in providing the Goods and/or Services. The Seller shall immediately report to the Buyer all inspections and investigations by governmental officials of

any events of non-compliance or potential non-compliance with environmental laws.

23. Independent Contractor. The Seller shall, at all times, be an independent contractor and not an employee, agent or servant of the Buyer.

24. Permits. The Seller shall, at its own cost, obtain and comply with all permits, licenses, certificates and approvals required to supply the Goods and/or Services.

25. Drawings and Manuals. The Seller agrees that prompt receipt of drawings for review, certified drawings and installation, maintenance and operating manuals by the Buyer are of primary importance to the Buyer and the Seller must submit them in strict adherence with any attached schedule or, if no schedule is attached, within a reasonable time after the date of the Purchase Order. The Buyer's review of drawings does not constitute approval and shall not relieve the Seller of responsibility for compliance with all specifications, laws, codes or regulations.

26. Condition of the Site. The Seller acknowledges that the Buyer has not provided any representation as to the condition of the Site and the Seller hereby releases the Buyer from any and all liability relating thereto.

27. Withholding. If the Purchase Order includes the requirements of the Seller to provide installation supervision, start-up, training, performance testing or any other services and if the Seller is a non-resident of Canada, then the Buyer is required to deduct a fifteen percent (15%) withholding under Regulation 105 of the *Income Tax Act* (Canada) from each payment for such services and to remit such amount(s) withheld to the Canada Customs and Revenue Agency. The Buyer shall before the end of February of the year following the year of payment, forward to the Seller Certificate T4A-NR summarizing the amounts withheld. The Buyer is not required to withhold on the reimbursement of receipted travel expenses, the purchase of equipment, or for services the Seller renders in the Seller's country of residence, therefore, these charges must be separately detailed on invoices.

28. Set-off. Should a default in the Seller's work/supply of the Goods and/or Services be discovered and should this impair the Buyer's orderly construction schedule, then the Buyer will advise the Seller in writing and request the Seller to remedy the fault. Should the Seller fail to make it good within a reasonable period of time, or by the date agreed upon, then the Buyer reserves the right to make the necessary corrections.

The Buyer shall at all times be entitled to set-off, against any amounts due or owing to the Seller under the Purchase Order, any amounts that may be due and owing by the Seller to the Buyer whether owing to the Buyer under the Purchase Order or otherwise.

29. Subsuppliers and Subcontractors. The Seller shall not, without prior written consent of the Buyer, add or change any subsupplier, subcontractor or place of origin of the Goods or any part thereof.

30. Force Majeure. Neither the Buyer nor the Seller shall be deemed in breach of the Purchase Order if its failure to perform, or its delay in performing, any obligation hereunder is due to war, insurrection, riot, fire, flood, explosion, act of God, sabotage, embargo, injunction, strike, lock-out or restraint of labour, act of government authority or compliance with governmental order or national defence requirements. A party claiming to be relieved from its obligation under this paragraph shall give prompt written notice to the other party and will, as soon as practicable, provide the other party with an estimate of when the obligations will be performed. Unless the Buyer and the Seller otherwise agree, the time for performing the obligations will be extended for a reasonable period of time, that shall not be less than the length of the delay. Both the Buyer and the Seller shall explore all reasonable alternatives to avoid or mitigate delays under this paragraph and the Buyer and the Seller shall each bear their own costs associated with such delays.

31. Entire Agreement. The Purchase Order, including these terms and conditions and any specification sheets and attachments, constitutes the sole and entire agreement between the parties relating to the purchase and sale of Goods and/or Services. The Seller's quotation is made a part of the Purchase Order only to the extent of specifying the nature and description of the Goods and/or Services ordered, and only to the extent that such terms are consistent with the Purchase Order. No other terms or conditions shall be binding upon the Buyer unless expressly accepted by it in writing. The term Goods and/or Services as used in the Purchase Order includes

- (a) products, materials, work, services, articles, equipment, supplies, drawings, data and documentation,
- (b) all other services, including design, delivery, installation, inspection, testing and expediting, and
- (c) any specific warranties, performance guarantees and other rights and related entitlements, specified in or required to perform the Purchase Order.

It is intended that these terms and conditions be read in harmony with the Purchase Order; however, if any conflict should arise, specific terms and conditions shall override general terms and conditions.

32. Severability. If any court or tribunal of competent jurisdiction holds any part of the Purchase Order invalid or unenforceable, the remainder shall continue to have full force and effect.

33. Waiver. Any waiver or exception of any of the terms and conditions of the Purchase Order by the Buyer must be made in writing to be valid and any waiver by the Buyer of any term or provision of the Purchase Order shall not prevent a subsequent enforcement of such term or any other term herein.

34. Notice. The Buyer and the Seller will deliver all notices required under the Purchase Order by facsimile or by prepaid courier to the intended party at the address or

facsimile number set out in the Purchase Order, or at such other address or facsimile number as the Buyer or the Seller may stipulate in writing to the other. Any notice delivered by prepaid courier is deemed to be received on the date of actual delivery. Any notice sent by facsimile is deemed to have been received on the business day following the day the sender receives the facsimile confirmation sheet confirming delivery to the recipient.

35. Confidentiality. The Seller shall keep all provisions of the Purchase Order confidential unless disclosure is required to comply with the Purchase Order or by law.

36. Governing Law and Attornment. The Purchase Order shall be governed by the laws of British Columbia and the laws of Canada applicable therein, except that the Buyer and the Seller agree that the 1980 United Nations Convention on Contracts for the International Sale of Goods does not apply. The parties hereby attorn to the exclusive jurisdiction of the courts of British Columbia.

37. Enurement and Assignment. The Purchase Order shall enure to the benefit of and be binding upon the Buyer and the Seller and their respective heirs, executors, administrators, successors and permitted assigns, however, the Seller shall not assign the Purchase Order without the prior written consent of the Buyer. The Seller agrees that the Buyer shall not be obligated to consent to any assignment.