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# Wood Products

## General Terms and Conditions of Quotation and Sale

August 2012



Canfor Wood Products Marketing  
*A Division of Canadian Forest Products Ltd.*

Canfor Wood Products Marketing Ltd.  
Canfor Japan Corporation  
Daaquam Lumber Inc.  
New South Companies, Inc.  
*All Subsidiaries of Canadian Forest Products Ltd.*

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## **General Terms and Conditions of Quotation and Sale For Wood Products**

### **INTRODUCTION**

In the belief that it is of the utmost importance to our customers that they be fairly and consistently treated, we have developed the following Terms and Conditions of Quotation and Sale which govern our sales of wood products.

In presenting these to you, our valued customer, we urge that you carefully review them and contact us for any clarification that you might require. In case you find any term or condition which does not apply to your area, please bring it to our attention.

We are convinced that the mutual understanding of a clear set of Terms and Conditions of Quotation and Sale is to the benefit of both parties and is a vital part of our relationship.

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## 1. GENERAL

- a) All orders or contracts of sale are entered with the understanding that the buyer accepts and will comply with the following terms and conditions, unless otherwise agreed in writing between the buyer and the seller. The terms and conditions of quotation and sale herein set forth shall apply in the absence of such specific written agreement.
- b) All agreements or contracts of sale, except those entered into by Canfor Japan Corporation, must be made or ratified by the seller's home office in Vancouver, British Columbia, Canada.
- c) All stock of wood products is offered subject to prior sale.
- d) Contracts of sale are not transferable or assignable by the buyer.
- e) The seller is not bound by any terms and conditions listed on the buyer's purchase order or any other document issued by the buyer without the agreement in writing of the buyer.
- f) These terms and conditions of quotation and sale, together with the terms of any contract of sale or order to which they apply and any other documents expressly incorporated therein, constitutes the entire agreement between the seller and the buyer with respect to the purchase and sale of the goods, and supersede all prior agreements, proposals and discussions between the parties.
- g) The seller may unilaterally modify the terms and conditions from time to time. The current version is posted on the seller's website at [www.canfor.com](http://www.canfor.com)
- h) The United Nations convention on Contracts for the International Sale of Goods does not apply to the purchase and sale of goods between the seller and the buyer hereunder.

## 2. Shipment

- a) Each shipment under a contract of sale shall be considered as a separate contract and default on one or more shipments shall not invalidate the balance of the contract of sale, except as herein otherwise provided.
- b) The seller shall have the right to ship the entire order at one time or any portion or portions thereof from time to time on one or more vehicles or vessels within the time of shipment and/or loading herein provided for. The buyer shall not refuse to receive any portion of the goods shipped hereunder for failure of any other portion to be shipped, or to comply with the contract unless the right to refuse is expressly reserved on the face of the contract.
- c) The seller reserves the right to determine the method of shipment.
- d) The seller shall have the option to route the shipments via any carrier or port or origin (dock) not named in the contract. In the case of offshore shipments if the buyer's choice of port is unavailable to the seller, the seller will have the right to choose an alternate port of arrival and notify the buyer of the required change. Any additional transportation costs resulting from a required port change will be the responsibility of the buyer. Any reduction in transportation costs resulting from a required port change will be credited to the buyer.

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- e) For shipments offshore where freight is included in the contract price, unless otherwise agreed in writing, the buyer undertakes to receive the goods at destination ex-ship's tackle as fast as the vessel can discharge, failing which any demurrage or other charges shall be for the buyer's account. Unless otherwise agreed in writing, all charges at destination, including lighterage, wharfage, landing charges, dues and duties, are for the buyer's account and are not included in the seller's price. **Any change of freight rate even if made subsequent to the date of sale but effective retroactively shall be for the account of the buyer.**
  - f) When delay in shipment is likely to occur, it shall be the responsibility of the seller to so notify the buyer. Shipping dates are estimates only and are not guaranteed by the seller.

### 3. PAYMENT TERMS

- a) payment terms are as indicated on the face of the invoice.
- b) Invoices are payable in the currency stipulated on the invoice at the seller's office, at lock boxes as published by the seller or by wire transfer as per instructions provided by the seller.
- c) The buyer shall be liable for all expenses (including legal fees) incurred by the seller in collecting past due amounts from the buyer.

### 4. TAXES & DUTIES

All taxes, where applicable, are extra and are to be paid by the buyer. For shipments to the United States, any applicable duties are included in the price. For shipments offshore, any applicable duties are excluded from the price.

### 5. GRADES

- a) Unless otherwise specified, the grading and dressing rules of the **National Lumber Grades Authority (NLGA)** in effect on the date of acceptance of the order shall govern the manufacture and grading of all lumber shipped on all orders.
- b) Unless otherwise specified, the manufacture and grading of plywood panels shall be governed by the following grading rules in effect on the date of acceptance of the order:
  - i. for orders to ship within Canada and the United States, **Canadian Standards Association (CSA)**.
  - ii. for orders to ship to Japan, **Japanese Agricultural Standards (JAS)**.
- c) Unless otherwise specified, the manufacture and grading of OSB panels shall be governed by the following grading rules in effect on the date of acceptance of the order:
  - i. for orders to ship within Canada and the United States, **APA – the Engineered Wood Association (APA).(PS-02)**
  - ii. for orders to ship to Japan, **Japanese Agricultural Standards (JAS)**.

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## **6. CREDIT**

If at any time the buyer's credit worthiness shall become impaired or unsatisfactory, proof satisfactory to the seller of the buyer's credit worthiness shall be furnished forthwith or satisfactory security shall be given by the buyer on demand by the seller. Failing this, payment shall be made in advance; otherwise the seller shall have the right to decline to make further shipments or deliveries. If the buyer fails to make payments in accordance with "Terms of Payment" contained in the contract, the seller may forthwith cancel all further orders and terminate the contract.

## **7. NO WARRANTIES**

The seller does not make, and hereby expressly disclaims, any and all warranties of any kind, express, implied, statutory or otherwise. In particular and without limiting the generating of the foregoing, the seller makes no warranty, express or implied, as to the suitability for any specific end use of any product. Such suitability is strictly at the discretion of the buyer.

## **8. DOMICILE**

The contract shall be governed in all respects by the laws of the place of the legal domicile of the seller.

## **9. FORCE MAJEURE**

For all purposes of contracts, the expression "Force Majeure" includes any Act of God, or any act of governmental agencies, war, mobilization, strike, lockout or other labour disturbance, drought, flood, total or partial fire, obstruction of navigation, strike at port of loading or discharge, or loss, damage or detention at sea, reduction, suspension or shutdown of operations, or any other contingency or cause beyond the control of the seller which prevents the manufacture and/or shipment and/or sea-transport of goods, or beyond the control of the buyer which prevents the receipt of goods. The buyer or the seller, as the case may be, may suspend performance under the contract (other than in the case of the buyer the obligation to pay money) citing Force Majeure, neither party being responsible to the other party for any damage resulting from such suspension. The seller may at its option and without liability hereunder cancel such portion of its contracted volume with the buyer which as a consequence of a Force Majeure situation could not be manufactured by the seller at the seller's mills and/or shipped to destination. In case the seller's stock of wood products is totally or partially destroyed, the seller is entitled at its option and without any liability hereunder to cancel such quantity (and, if applicable, such portion of its contracted volume with the buyer) which, as a consequence, cannot be delivered

The buyer or the seller, as the case may be, shall give prompt notice to the other party of any Force Majeure situation which may, according to the previous section of this clause, affect the performance under the contract, and also when such Force Majeure situation ceases, and as soon as practicable, notify to what extent it will necessitate a suspension or cancellation of volume. Shipments in transit from the seller's mill must be accepted by the buyer. When such suspension is concluded, subsequent shipments will be resumed according to the contract.

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## **10. CANCELLATIONS**

The seller shall have the right to cancel any order because of the buyer's failure to comply with contract terms in respect to any prior shipment, or on account of any transfer or change in the buyer's business, its insolvency, suit by other creditors, failure to meet financial obligations to the seller, impairment of the buyer's credit, or for unfavourable credit reports made to the seller through the usual channels of credit information, unless the buyer shall promptly furnish to the seller's satisfaction, assurance of full payment for any shipment made or to be made.

## **11. RETURN OF GOODS**

The seller's prior written approval is necessary before material may be returned for credit.

## **12. QUANTITY TOLERANCES**

Unless otherwise specifically agreed in writing, the seller shall have the right to increase or decrease the quantity shipped on any order to fit the capacity of equipment furnished for loading, or to meet minimum tariff requirements, provided such increase or decrease does not vary more than ten percent (10%) from the quantity ordered.

In the case of orders stipulating percentages of grades or dimensions, the seller need not maintain these percentages in each partial shipment but may ship the goods as produced or as convenient, but the total of all partial shipments comprising the goods delivered pursuant to the said order shall comply therein as to the said percentages.

## **13. RISK OF LOSS TRANSFER**

For shipments by land within North America, the risk of loss of the goods passes to the buyer according to the terms indicated on the seller's invoice or when a purchase order is issued for goods withdrawn from the seller's consignment inventory. For shipments by sea, the risk of loss of the goods passes to the buyer, or remains with the seller, according to the terms of sale as set out in Incoterms 2010. The quantity identified in transferring the risk of loss to the buyer is the basis for payment by the buyer and for determining whether or not the contracted quantity has been delivered to the carrier. After the risk of loss has passed to the buyer, the buyer must recover any losses from the responsible party or the insurer.

## **14. CLAIMS**

In the case of a complaint concerning grade, tally or manufacture, shipments are subject to reinspection by the agency which published the rules under which the stock is graded. Official reinspection by such agency, or any other agreeable to both the buyer and the seller, shall be taken as a basis for final settlement.

## **15. TIME LIMIT FOR DISPUTES AND CLAIMS**

The buyer shall promptly unload and properly store and cover by insurance any shipments which are the subject of a dispute. Unless otherwise agreed upon between the buyer and the seller, disputes and claims will be addressed in accordance with the re-inspection rules outlined in paragraphs 400 through 413 of the Standard Grading Rules for Canadian Lumber published by

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the NLGA. In all cases, however, the buyer shall make payment when due under the terms of the contract.

Unless otherwise agreed upon between the buyer and the seller, all lumber disputes and claims will be addressed in accordance with the re-inspection rules outlined in paragraphs 400 through 413 of the Standard Grading Rules for Canadian Lumber published by the NLGA.

Unless otherwise agreed upon between and the seller, all disputes and claims for panel shipments to Canada will be addressed in accordance with the re-inspection rules outlined in Appendix A of the CSA Standards; for plywood shipments and OSB shipments to the United States, they will be addressed in accordance with re-inspection rules outlined in Appendix A of PS 1-95 9 for plywoods) and PS 2-92 (for OSB) of the APA.

No claim made after the periods mentioned shall be recognized and good delivery shall be conclusively deemed to have been made by the seller if no claim is made within the time limits stated.

In the event of a claim, one hundred percent (100%) of the shipment must be available for re-inspection.

## **16. LIMITATION OF DAMAGES**

If the buyer makes claims for damages as outlined in clauses 16(a) and 16(b) hereof the buyer is to make full payment for the shipment in accordance with the "Terms of Payment" contained in the contract. For greater certainty, the buyer shall not be entitled to deduct from the price invoiced to it by the seller the amount of any claim asserted against the seller, unless the seller has agreed in writing.

### **(a) Defective Quality**

If the buyer rejects the goods delivered for proven defective manufactured quality, or rejection is awarded by re-inspections, the seller shall without delay replace the defective goods or issue a credit note to the buyer equal to the value of the damaged goods. If the defective quality does not result in rejection of the goods, the buyer shall pay the reduced value of the defective goods and shall not be entitled to any other compensation or damages.

### **(b) Short delivery**

If the quantity delivered is proven to be less than the contracted amount, other than as provided for in clause 12, the seller shall without delay make good the shortage unless the shortage is acceptable to the buyer. Payment shall be made only for the exact quantity delivered.

### **(c) Liability Limits**

The seller shall not be liable to the buyer for compensation or damages of any kind whatsoever because of the defect or shortage of product except as noted in clauses 16(a) and 16(b) hereof. The liability of either party shall not exceed the loss which could reasonably have been foreseen at the time of entering into the contract, nor shall it include any direct or indirect consequential or economic damages including, without limitation, loss of profits, loss of use and loss of goodwill. In no case shall the damages exceed the invoiced value of the defective goods.

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The seller's liability for personal injury and/or property damage (excluding any direct or indirect consequential or economic damages, as indicated in the preceding paragraph) arising from the purchase, processing or use of products manufactured by the seller shall be limited to such damages that are proven to have resulted from the sole gross negligence of the seller or its directors, officers, or employees. The seller shall not be liable for claims arising out of:

- any physical or chemical change in the form of the product made intentionally by the buyer or any other party, or
- repacking, unless unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instruction from the seller and then repacked in the original container, or
- demonstration, installation, servicing or repair operations except such operations performed at the seller's premises in connection with the sale of the product, or
- products which after sale by the seller have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance.

The buyer shall indemnify, defend and hold harmless the seller, its affiliates and their respective directors, officers, employees, representatives and agents, from and against any and all claims, losses, liabilities, costs and expenses (including legal fees) arising out of or resulting from the use, handling, manufacture, processing, alteration, distribution, sale or marketing of the goods, or any other action or omission with respect to the goods, after delivery thereof to the buyer.

## **17. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

## **18. ARBITRATION**

It is the intent that the buyer and the seller shall endeavour by all reasonable means to settle amicably any dispute or claim arising hereunder. If amicable settlement proves impossible, and unless otherwise provided herein, the buyer and the seller shall each appoint an arbitrator experienced in the trade and the commodity in question, and the findings of such arbitrators shall be binding upon both parties, and the expense of the arbitrators' services paid by the party found at fault. If the arbitrators cannot reach agreement, they shall appoint a single umpire to review their findings and issue the final binding decision.

