

## TERMS AND CONDITIONS

**1. ACKNOWLEDGEMENT:** This delivery ticket acknowledges receipt of Buyer's order and contains all of the terms and conditions of the transaction between Hood Distribution ("Seller") and Buyer. Seller does not agree to any terms appearing on any purchase order submitted by Buyer which are different or additional to the terms and conditions set forth herein. Buyer is deemed to have accepted the terms and conditions herein (a) if Buyer signs this agreement and returns same to Seller or (b) if Buyer accepts the goods delivered.

**2. PAYMENT:** Terms of payment shall be in accordance with Seller's invoice and as stated on the reverse side. All sums payable by Buyer shall be paid to Seller without deduction, set off, prior notice or demand. All past due sums shall bear interest at the maximum rate allowable by law from the due date until paid. If it becomes necessary to institute proceedings for collection, Buyer agrees to pay all cost of collection, including collection agency fees, attorney's fees, and expenses of suit such as court costs, expert witness fees, deposition transcript costs and other related expenses.

**3. TAXES AND ADDITIONAL CHARGES:** Any sales tax, use tax or similar taxes, excises or charges which have been or may be levied, imposed or charged against Seller on account of or upon the sale by Seller to Buyer of any of Seller's materials listed herein will be added to the price and shall be paid by Buyer. When making delivery of material listed herein, if unloading, job site or building conditions require extra labor or handling charges, Buyer hereby specifically agrees it will pay such extra labor or handling charges upon request of Seller.

**4. SELECTION:** Buyer hereby represents and agrees that it has not relied in any manner on Seller's skill or judgment in selecting the material purchased hereunder.

**5. SHORTAGES OR OVERAGES:** Shortages or overages must be noted on the delivery ticket when it is signed by Buyer. Seller shall have the right to increase or decrease the quantity called for on any order, provided such increase or decrease does not vary the quantity more than 10%.

**6. INSPECTION:** Buyer shall immediately inspect all material purchased hereunder. Any discrepancy in the order or claim that the material is damaged must be made and noted on the delivery ticket by Buyer. If Buyer makes no such inspection or fails to note on delivery ticket any discrepancy, Buyer shall be deemed to have accepted the material in the condition in which it was delivered and to have waived any objection thereto.

**7. WARRANTIES:** Seller hereby warrants only that the goods to be supplied hereunder will conform to the description, grade and condition of the goods indicated on the face hereof; that Seller will convey good title thereto, and that such goods will be delivered free from any lawful security interest or other lien or encumbrance unknown to Buyer. **THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER EXPRESSED OR IMPLIED WARRANTIES. SELLER DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO AGENT, EMPLOYEE OR REPRESENTATIVE OF SELLER HAS ANY AUTHORITY TO BIND SELLER TO ANY AFFIRMATION, REPRESENTATION OR WARRANTY CONCERNING THE MATERIAL PURCHASED HEREBY AND NO SUCH AFFIRMATION, REPRESENTATION OR WARRANTY SHALL BE ENFORCEABLE BY BUYER.**

**8. EXCLUSIVE REMEDY:** Buyer's exclusive and sole remedy for any claim against Seller with respect to this agreement or the goods purchased hereunder shall be the replacement or repair, at Seller's option, of those goods which Seller's examination shall disclose to its satisfaction to have been defective under normal use, or the repayment to Buyer of the purchase price of the goods. In no event shall Seller be liable for incidental or consequential damages, for injuries to persons or property, for commercial losses, including lost profits, or for any other loss or damage except as expressly set forth above. In no case shall any claim by Buyer or any liability on the part of Seller exceed the price of the materials which give rise to the claim.

**9. INDEMNITY:** Buyer assumes all risk and liability resulting from the resale or improper use of materials purchased hereunder, whether used singularly or in combination with other materials, and Buyer hereby agrees to indemnify and hold harmless Seller, its agents and employees, from and against any and all claims, losses, damages, causes of action, suits and liabilities of every kind, including all expenses, court costs and attorneys fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the materials sold by Seller hereunder. Such indemnity shall apply whether or not such injury, death or damage results in part from the negligence of Seller or any defect in the lumber.

**10. LIMITATIONS OF ACTIONS:** Any causes of action Buyer may have which arise out of or relate to this agreement are barred in any event unless Buyer commences a lawsuit on or before one year from the date Buyer's cause of action arose.

**11. DELAYS:** Seller shall not be liable for delay or failure to perform due to causes beyond Seller's reasonable control such as, but not limited to, the unavailability of goods, impediments in transportation, accidents, labor disputes or work stoppages, acts of God, sabotage, fires, or civil commotion.

**12. SECURITY INTEREST:** Seller retains title and/or a security interest in the items of material specified on the reverse side and all parts, additions, replacements, accessions and substitutions thereto, to secure payment of the purchase price and any and all other indebtedness and obligations of Buyer to Seller, due or to become due, now existing or hereafter arising. Buyer hereby irrevocably makes, constitutes and appoints Seller (and any agents designated by Seller) as Buyer's true and lawful attorney with power to sign the name of Buyer on any financial statement continuation financial statement, security agreement, notice or other similar document which in Seller's opinion must be executed and/or filed in order to perfect or continue perfection of Seller's title and/or security interest in the collateral. A carbon, photographic or other reproduction of this agreement shall be sufficient as a financing statement.

**13. MISCELLANEOUS:** The headings in this agreement are for reference purposes only and shall not affect the meaning or interpretation of this agreement. This agreement embodies the entire agreement between the parties and it may not be amended, modified or terminated except in writing signed by both parties. Should any part of this agreement become unenforceable, the remaining terms, provisions and conditions hereof shall survive and shall then constitute the full agreement between the parties.

**14. WAIVER:** Failure of either party to insist in any one or more instances upon strict performance of any of the provisions herein or failure to take advantage of any of its rights shall not operate as a continuing waiver of such right or of such provision.

**15. CHOICE OF LAW AND VENUE:** The laws of the State of Mississippi will apply to any cause of action based on, relating to or arising out of this agreement.