

# TERMS AND CONDITIONS OF SALE

## 1. Definitions

- "The Company" means Arbor Forest Products Ltd.  
"The Customer" means the Corporate Entity, firm or person seeking to purchase goods or services from the Company  
"The Goods" means the goods which the Company is to supply in accordance with these Conditions of Sale. Any reference to the Goods shall where appropriate include a reference to part of them.  
"The Services" means the services which the Company are to supply.

## 2. Application

- (i) These conditions shall apply without modification and to the exclusion of all and any other conditions including any appearing in any quotation, form of acceptance, delivery form or other document or letter emanating from the Customer to the Company unless otherwise agreed by the Company Chairman or Secretary in writing.  
(ii) No other terms or conditions express, statutory, implied or otherwise than those incorporated in this contract shall form part of this contract except where the Customer deals as a Consumer as defined by section 12 of the Unfair Contract Terms Act 1977 when the terms set out in sections 13, 14 and 15 of the Sale of Goods Act 1979 and subsequent legislation thereto are implied into this contract.

## 3. Official Orders

All orders are placed and accepted by the Company only under these terms and conditions and where credit is given to the Customer by the Company such orders are then additionally subject to satisfactory references.

## 4. Prices

- (i) Prices are quoted on a day to day basis and are subject to variation without notice.  
(ii) The Company's prices for Goods or works are based on the cost to the Company of Goods or materials, labour and transport (including the cost of conforming to obligations imposed by Statute or Government Order) on the day when such prices were quoted in the absence of a quotation when such prices were agreed. Should the cost to the Company of obtaining or delivering the goods or materials or executing the work in question increase by reason of any subsequent fluctuation in such costs or due to changes in currency exchange rates, alteration in tariffs and import charges or taxes or changed, delayed or incomplete Customer instructions the Company reserves the right to make a corresponding increase in their prices.  
(iii) Errors and omissions by the Company arising from a bonafide mistake however arising in importing the agreed terms into the written quotation shall entitle the Company either to submit to the Customer a revised quotation including if applicable a quotation for any works or materials not in contemplation when preparing the preceding quotation and this preceding quotation shall have no effect or to proceed with the existing quotation at the Company's sole option.  
(iv) Published prices and/or quotations are merely invitations to treat and do not constitute offers. Published prices and/or quotations are given only as indications made in good faith and are subject to variation or withdrawal without notice.  
(v) All prices quoted are exclusive of Value Added Tax unless stated by the Company as being to the contrary.

## 5. Assignment

The Company has the right to sub-contract any order or any part or parts of any order.

## 6. Payment

- (i) Payment for Goods or Services shall be made on or before the date fixed and agreed between the Company and the Customer for the operation of the account between them and unless otherwise agreed payment shall be made by the Customer nett monthly.  
(ii) If payment has not been made in accordance with clause 6(i) the Company shall be entitled to recover from the Customer interest, payable at, the County Court rate applicable at the time of the contract, on any outstanding balance until the actual date of payment, together with any associated costs and expenses incurred by the Company in recovering the debt. This right shall exist without prejudice to any other right of the Company.  
(iii) The Company reserves the right at any time at its discretion to demand security for or vary the terms and method of payment, for continuing with or delivering Goods or Services in satisfaction of the order, notwithstanding any subsisting agreement to provide credit to the Customer. The Company shall notify the Customer in writing of such variations.  
(iv) Should the Customer fail to make any payment on the due date then the Company shall be entitled to cancel any subsisting supply contract with or suspend any further deliveries to or collections by the Customer and also appropriate any payments made by the Customer for such other Goods, Services or materials or goods, services or materials supplied to the Customer under any contract as the Company may think fit notwithstanding any purported appropriation by the Customer. The Company shall not incur any liability to the Customer in respect of such cancellation or suspension and this right shall exist without prejudice to any other right of the Company.

## 7. Right of set-off

- (i) Permitted Set-off  
The Company may at any time without notice to the Customer set off any liability of the Customer to the Company, and/or any liability to the Company of any Associated, Subsidiary or Parent Company of the Customer and/or of any Partner, Agent, Licensee or Employee of the Customer and/or of any person, body or corporation authorised by the Customer to obtain goods and/or services from the Company, against any liability of the Company to the Customer whether any such liability is present or future, liquidated or unliquidated, arises under this agreement or not, and irrespective of the currency of its denomination. In the event that the liabilities to be set off are expressed in different currencies, the Company may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Company of its rights under this clause shall be without prejudice to any other rights or remedies available to it under this agreement or otherwise.  
(ii) Excluded Set-off  
All amounts due under this agreement shall be paid by the Customer to the Company in full without any deduction or withholding (other than any deduction or withholding of tax as required by law). The Customer shall not be entitled to claim set-off or to counterclaim against the Company in relation to the payment of the whole or part of any such amount.

## 8. Cancellation

- (i) If the Customer being a company has a petition presented for its winding up or any administration or passes a resolution for voluntary winding up otherwise than for the purpose of bona fide amalgamation or reconstruction or enters a scheme of arrangement or Voluntary Arrangement of compound or makes any proposals to or enters into any arrangement with his creditors or has a Receiver or Manager or Administrative Receiver appointed over all or any part of its asset or if the Customer being an individual or Firm has a petition presented for his or its bankruptcy or becomes bankrupt or insolvent or enters into any arrangement with his or its creditors or makes or has made an application for interim order in connection with a proposal to creditors or voluntary arrangement or commits in either case a serious breach of this Agreement, such breaches to include breach of the Company's assigned credit limit for the Customer, receipt of an adverse credit status report of the Customer by the Company, withdrawal of the Company's credit insurance cover for the Customer, then the Company shall be entitled to treat the Contract as being at an end or suspend any further deliveries under the contract. If the Goods have been delivered but not paid for the price shall become due immediately regardless of any previous agreement to the contrary.  
(ii) The Customer shall not be entitled to cancel the Contract without the written agreement of the Company signed by a Director. In the event of such agreed cancellation the Customer shall indemnify the Company fully against all expenses, losses, claims and demands incurred up to the time of such cancellation including payment for such amount as the Company will be required to make to sub-contractors and other third parties as necessary.

## 9. Delivery

- (i) Any statements made by the Company as to the time or date for delivery of Goods, materials or Services for completion of any work are an approximate estimate based on the current trading conditions.  
(ii) The Company is not liable for any delay in the delivery of the Goods nor is it liable if it is prevented from delivering Goods, materials or Services or executing work for any causes beyond its control, such causes may include Act of God, force majeure, war or hostilities, legislation, Government Order or direction, and strike, lock-out, labour disturbance, civil commotion, fire, accident, breakdown of machinery, or any lack or shortage of labour or materials, or reduction, or delay or stoppage of the output at the works or makers of any Goods or materials required and in any such case the Company are to be released from any obligation to complete the contract with the Customer by a particular time. This right exists without prejudice to the Company's right to recover payment for Goods or materials already delivered or work already done. Time of delivery is not of the essence of the contract.  
(iii) Unless otherwise expressly agreed by the Company in writing all deliveries, made or work done at the Customer's request on Public Holidays and outside the Company's normal working hours will be subject to extra charges. Notification of such charges may be obtained by the Customer at his request from a Director or General Manager of the Company.  
(iv) Delivery will be deemed to have been effected when the Goods leave the Company's premises or the premises of the Company's supplier in circumstances where the Goods are delivered direct from such suppliers.  
(v) The Company reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment. Each delivery shall constitute a separate contract.  
(vi) If agreed between the parties the Goods may be collected by the Customer. Collection of the Goods must take place within fourteen days from the agreed collection date or the dates notified by the Company as available for collection or the date of this contract whichever is later. Thereafter the Customer will incur storage charges at the rate currently applied by the Company. Details of such storage charges may be obtained by the Customer at his request from a Director or General Manager of the Company.  
(vii) Upon collection of the Goods the Customer shall be solely responsible for the size, weight and positioning of any load on his vehicle and shall fully indemnify the Company for any claims or action arising therefrom.  
(viii) Where the Company agreed to deliver the Goods delivery shall be to the nearest hard metalled road surface. The Customer shall be entirely responsible for the prompt unloading of the Goods and the provision of suitable labour and equipment.  
(ix) The Customer shall take delivery or accept the Goods within the time limit provided in the contract. If the Customer fails to accept the Goods or to give the Company adequate delivery instructions the Company will store the Goods until actual delivery to the Customer or until the Goods are disposed of. The Customer shall be liable for the costs of such storage and insurance of the Goods. Alternatively the Company may sell the Goods at the best price readily obtainable and the Customer shall be liable to pay the costs of the sale. If the Goods are sold for less than the price payable by the Customer the Customer shall be liable to pay the Company the difference in price.  
(x) Notwithstanding delivery title in the property of the Goods shall not pass unless it is in accordance with clause 13.

## 10. Performance

- (i) Unless otherwise agreed in writing by the Company the Customer must, free of charge:  
(a) erect, maintain, dismantle and move all scaffolding and plant required for the Company's works, and  
(b) provide any water supply, artificial lighting and electric power required for the Company's works, and  
(c) unload goods, plant and material immediately on arrival at the prescribed destination and provide secure and dry storage. And all reasonable facilities for execution thereof.  
(ii) All joinery supplied should be kept by the Customer in a dry place, well stored, and if supplied in white should be primed or stained immediately on receipt. Any subsequent cut surface must be primed or stained before fixing in position. Further decoration must be completed as soon as possible by the Customer using a reputable system in accordance with the manufacturer's recommendations.  
(iii) The Company shall carry out work on a continuous basis during normal working hours and the Company's price is fixed

accordingly. If special visits have to be made to the site or work has to be carried out in an uneconomical manner if time is lost or additional expenditure incurred due to the Company's operative being denied access to or waiting on site or having to return to the site to commence or continue work. The Company reserves the right to make an extra charge to cover such cost. The Company's prices are subject to public transport being attainable to within reasonable distance of the site of the work and suitable lodgings being available at current substance allowance rates.  
The Company reserves the right to make an extra charge should these conditions not be fulfilled. Notification of such charges may be obtained by the Customer at his request from the Company.  
(iv) All safety, health and welfare facilities and arrangements where applicable are required to comply with all health and safety regulations and legislation for the time being in force and are to be provided by the Customer free of cost to the Company.

## 11. Responsibility

- (i) The Company's workmen are instructed to exercise due care and skill in doing their work and the Company will not accept responsibility for damage to the fabric or the contents of the buildings or the work of other trades however caused. The Customer shall have no claim in respect of any damage or loss to the personal property of the Customer or any other persons, except in respect of death or personal injury, caused by theft, fire, explosion, flooding or any other materials whether caused by accident or negligence arising from any other apparatus or materials required for the purpose of the Company's work. All safety, health and welfare facilities and arrangements where applicable are required to comply with the Building (safety, health and welfare) Regulations 1948 and any other like regulations for the time being in force are to be provided by the Customer free of cost to the Company.

## 12. Inspection & Testing

- (i) The Customer must carefully examine the Goods and materials immediately upon their delivery and in relation to those Goods and materials which are of the Company's manufacture must notify the Company in writing within 3 days of delivery of any short delivery, variance between the Goods and materials delivered and the delivery note or defects or damage reasonably discoverable on careful examination. In the absence of notification the Company excludes all liabilities in respect of any short delivery, defect or variance which should reasonably have been discovered on careful examination. Additionally the Company will make good any variance, defect or damage which was not reasonably discoverable by careful inspection upon delivery if notified of such within 6 months of the date of supply of the Goods and materials. This shall be the limit to the Company's obligation and under no circumstance will the Company be liable for any direct, indirect or consequential loss or damage resulting to the Customer or any other person whatsoever or howsoever arising from any such shortage, variance, damage or defect.  
(ii) The Company shall be under no liability where damage, shortage or variation in the terms of the delivery note or defects are complained of by the Customer unless it is given reasonable opportunity by the Customer to inspect the consignment in which the Goods complained of were contained and all or any strapping, batons or packaging provided by the Company.  
(iii) In respect of materials supplied which are not the Company's manufacture no guarantees are given nor liability accepted by the Company beyond such guarantee or liability as given or accepted by the actual manufacturers.  
(iv) The Company will not be liable for any fixing charges incurred by the Customer arising from any Goods or materials or work done proved to be defective or delayed and shall not be responsible for any additional overheads, administrative expenses, contractual penalties or other cost, claims and demands arising from the Customer's obligations to any third party and due indirectly or directly to any defects or delays in the Goods or materials supplied or work done by the Company. The Customer accepts that it is their responsibility to insure against these risks.  
(v) Any alleged shortage, delay, damage or defect shall not constitute valid grounds for a Customer to delay payment in respect of the Goods delivered and for the avoidance of doubt the Customer shall be required to pay for all Goods and materials supplied in respect of which there is an alleged claim for damage, delay, defect or variation from the terms of the delivery note or other default in accordance with the provision of the agreement.  
(vi) All special tests and inspections reasonably required by the Customer or his agents shall be carried out at a location determined at the Company's discretion and shall be at the Customer's expense.

## 13. Passing of Property & Risk

- (i) Ownership of the Goods remains with the Company and will not pass to the Customer until either the Company is paid for all the Goods and no other amounts are owed by the Customer to the Company in respect of other Goods supplied or the Customer sells the Goods in accordance with this agreement in which case ownership of the Goods shall pass to the Customer immediately before the Goods are delivered to the Customer's purchaser.  
(ii) The Customer must store the Goods separately from any other goods until they become the Customer's property or they are delivered to a purchaser by the Customer. At all times the Goods are to be kept in good and substantial repair and condition and the Customer will not allow any interference with any identification marks or serial numbers on the Goods.  
(iii) If the Customer is overdue in paying for the Goods or any goods supplied the Company may still the owner of the Goods recover and resell them. The Company may enter the Customer's premises for this purpose and this right does not prejudice any other right of the Company.  
(iv) Until the Customer has paid the Company for the Goods and all other goods supplied to him by the Company the Customer holds the Goods on trust for sale. If the Customer sells the Goods the Customer shall hold the proceeds of sale on trust for sale for the Company in a separate bank account. Further the Company may trace into any bank or other account which the Customer maintains. If the Customer sells the Goods the Company may by written demand require the Customer to assign to the Company the Customer's rights to recover the price from a subsequent purchaser.  
(v) The Customer must not assign to any other person any rights arising from the sale of the Goods without the written consent of the Company's Chairman or Secretary. Where such consent is given it is conditional upon the assignee accepting the conditions between the Customer and the Company.  
(vi) The Customer must insure the Goods against all insurable risks for the price due to the Company for the Goods.  
(vii) If the Goods are destroyed by an insured risk before the Customer has paid for them the Customer shall hold the proceeds as the Company's trustee.

## 14. Quality

- (i) Where samples are submitted these are drawn from bulk and are representative of the whole and no guarantee can be given that every item will be the same in all material respects as the sample.  
(ii) The Goods or materials supplied are on the basis that they conform to the written descriptions contained on the order or conformation where supplied. No warranty can be given that the Goods or materials supplied conform to the sketch plans or drawings provided to the Company by the Customer or to illustrations or descriptions in catalogue or trade literature.  
(iii) In the event that the Company provides estimates of quantities or measurements on the basis of drawings and/or Bills of Quantities and/or specifications submitted by the Customer the Company shall exercise reasonable care in providing such but the Company accepts no liability for inaccuracies in the estimates or calculations.  
(iv) Any Goods manufactured to the design or specification of the Customer or its experts or detail taken off plans supplied by the Customer are produced without warranty of any kind except their compliance with the design or specification. The Customer will unconditionally fully and effectively indemnify the Company in respect of any claim cost or expenses, losses or demands resulting therefrom including the infringement of patent, copyright, design, trademark or any industrial or intellectual property rights resulting from the Company's use of the said design or specifications.  
(v) When estimates are provided by the Company on the basis of plans and specifications supplied by the Customer then the Customer shall check the specification and quantities quoted and shall be deemed to have accepted the specifications and quantities specified when placing the order unless written notice of any variations are given to the Company.  
(vi) Design and advisory services (including the preparation of drawings, specifications, contract particulars and the like) shall be provided by the Company with reasonable skill and care but no other representations or undertakings are made or are to be implied in connection with any such services nor shall the Company be under any liability whatsoever in respect of these services if erection is carried out before any necessary approval, commissions and consents of third parties are obtained.  
(vii) If the Company arranges processing of Goods and materials on behalf of the Customer by a third party such processing will be carried out under the standard terms and conditions of the third party and entirely and at the customers own risk. No undertakings or warranties either expressed or implied are given in respect of any processed goods. The Customer shall be entitled to copies of third party standard terms and conditions as appropriate on written request. The Company's liability in respect of loss or damage to processed goods shall be limited to the costs and expenses of such processing operation and shall not be determined by the inherent value of the goods or materials thereby processed.  
(viii) The Customer is deemed to be fully conversant with the nature and performance of the goods and materials supplied to it including any harmful, hazardous or dangerous effects resulting from their usage or misuse and shall not be reliant in any way upon the advice, skill or judgement of the Company or its servants, agents or employees who are not authorised to make any representations concerning the goods whatsoever other than those confirmed by the Chairman or Director of the Company in writing.  
(ix) To the extent that any third party goods or services supplied to the Company validly excludes, restricts or limits its liability to the Company in respect of goods or materials supplied or any loss or damage arising in connection therewith then the liability of the Company to the Customer in respect of such goods and materials shall be correspondingly excluded, restricted or limited. The Customer shall be entitled to receive details of any such exclusion, restriction or limitation upon request to the Company.  
(x) If the materials are supplied to the Customer of a specified grade no warranty is given that the grade will be suitable for the purposes required by the Customer.

## 15. Indemnity

- (i) Should the Company incur any liability whether by court proceedings or by bonafide out of court settlement or by Arbitration under clause 17 or as a result of a claim against the Company in respect of an alleged defect or defects in the Goods or materials supplied or Services provided or any other claim then the Customer must indemnify the Company against the liability.  
(ii) In no circumstances shall the Company's liability in contract, tort or otherwise to the Customer arising out of or in connection with this Contract or the Goods or materials supplied hereunder exceed the invoice price of the particular Goods or materials concerned.

## 16. Enforceability

Should any provisions of these terms and conditions be held by a competent authority to be invalid or unenforceable in whole or in part then the validity of the remaining provisions shall not thereby be affected.

## 17. Arbitration

The Company or the Customer may give written notice to the other of any question, dispute or difference which may arise between them in relation to, or in connection with the contract, and they shall have the right to arrange a meeting between each other to discuss such matters. In the event that such a meeting is not arranged the same shall be referred to the arbitration of a person mutually agreed upon or failing agreement within one calendar month of some person appointed by the President for the time being of the Institute of Arbitrators. The submission shall be deemed to be a submission within the meaning of the Arbitration Act 1950 or any other statutory modification or re-enactment thereof.

## 18. Jurisdiction

This contract shall in all respects be construed and operate as an English contract and in conformity with English Law and the Company and Customer agree to submit to the jurisdiction of the English courts.