

# **PATRICK LUMBER COMPANY**

## **TERMS AND CONDITIONS**

### **OF SALE**

**Effective Date: October 1, 2023**

**1. Nature of Agreement.** These Terms and Conditions of Sale (“**Terms and Conditions**”) govern all sales of wood products (“**Goods**”) from Patrick Lumber Company, an Oregon corporation (“**Patrick Lumber**”), to Buyer and constitute the entire agreement between the parties (replacing any other agreements, understandings, representations, or communications) with respect to such sales, except for (i) such details of product, price, quantity, payment, Goods description, delivery and the like as are specified on Patrick Lumber’s Sales Order for the Goods, (ii) any applicable written specifications, and (iii) any superseding terms and conditions as described below.

“**Order**” as used in these Terms and Conditions refers to Patrick Lumber’s Sales Order for the Goods. Additional written or other terms and conditions proposed by Buyer in a Purchase Order, exchange of electronic messages, or otherwise will not be effective unless specified in the Order. **Should any Order, these Terms and Conditions, or any specifications be in conflict, the Order shall prevail.**

**2. Payment; Invoicing; Set-Off; Interest.** In its discretion, Patrick Lumber may approve a Buyer, on application and underwriting, for a line of credit for one or more purchases on account, which line of credit may be cancelled or reduced at any time in Patrick Lumber’s discretion. Payment for purchases made on account is due as specified in the Order. When not purchasing on account, Buyer must pay for Goods by one of the following methods, as specified in the Order: (a) cash in full in advance of Goods loading, (b) by letter of credit drawn on a bank approved by Patrick Lumber, on terms approved by Patrick Lumber, and opened within seven days of Order issuance, or (c) by cash against documents (CAD) with a security deposit made within 7 days of Order issuance in the amount specified by Patrick Lumber with the balance due on sight. Patrick Lumber will invoice for Orders at shipment. Payment for Orders must be made in U.S. or Canadian dollars as provided in the Order.

All payments for exported Goods must be made by wire transfer. Any wire transfer or other costs for making payment are the responsibility of Buyer. Buyer will not be entitled to set-off any amount owing it by Patrick Lumber against payment of Patrick Lumber’s invoices. Any amounts not paid when due bear interest at the rate of 1½% per annum until paid.

**3. Shipping Terms; Delivery.** Unless otherwise specified in an Order, sales are CFR Incoterms 2020 using Patrick Lumber’s standard methods for shipment packing. Any delivery term specified in lieu of CFR shall be construed pursuant to Incoterms 2020. Patrick Lumber cannot guarantee any particular delivery date for Goods but will do its best to meet customer requests. Patrick Lumber has the right to make partial deliveries.

**4. Warranty; Inspection; Disclaimer.** Patrick Lumber warrants the Goods will conform to the description in the Order on delivery to the carrier. Buyer shall inspect the Goods and

notify Patrick Lumber in writing of any non-conforming Goods: (a) for damage, at time of arrival, (b) for shortages or damage from humidity, moisture or stain, 3 days from arrival, (c) for failure to meet agreed quality or specifications, 14 days from arrival. "Arrival" means arrival at Buyer's yard if shipped directly to the yard and means arrival at the Port if shipped to a Port. If no notification is given as required, Buyer has no claim against Patrick Lumber for nonconformities. The notice must sufficiently describe the nonconformity so that Patrick Lumber can act to remedy the defect and must specify the specific Goods to which it refers. **Patrick Lumber disclaims all other warranties, including the implied warranties of merchantability and fitness for a particular purpose.**

**5. Limitation of Liability.** Patrick Lumber's liability to Buyer for any losses in connection with a sale of Goods is conditioned on Buyer's having properly inspected the Goods and properly notified Patrick Lumber of any nonconformity and is limited to, at Patrick Lumber's election, (i) replacement of the nonconforming Goods, or (ii) refund of the purchase price of the nonconforming Goods. Patrick Lumber is not liable to Buyer for consequential, incidental, special, punitive, non-compensatory, or indirect damages, including loss of profits, reputation, business, or losses caused by delayed delivery. Patrick Lumber's liability shall, in any event, be limited to the total of the amounts paid and amounts accrued but not yet paid to Patrick Lumber for the Goods.

**6. Indemnity.** Buyer agrees to indemnify and hold harmless Patrick Lumber for any losses suffered by Patrick Lumber, including from claims asserted by third-parties and including Patrick Lumber's attorneys fees and other costs of defense, that are connected with any action or omission by Buyer whatsoever that is related to the sale and purchase of the Goods, including (a) breaches of these Terms and Conditions, and (b) Buyer's fault in failing to properly inspect the Goods for, or advise Patrick Lumber of, any nonconformity and including any breach of confidentiality obligations or Export Restrictions.

**7. Force Majeure.** Except for the obligation of payment and notification of non-conformity, neither party shall be in breach of its obligations for failure to perform due to force majeure, that is, forces beyond its control, including war or insurrection, civil commotion, acts of nature, pandemic, government actions or laws, strikes or lockouts, fire, rioting, terrorist acts, threats or risk to personal safety of employees, material shortages, or unforeseen business interruptions occurring through no fault of the party.

**8. Limitation of Actions.** Legal proceedings on any claim by Buyer against Patrick Lumber shall be commenced no later than one (1) year from accrual of the cause of action. Otherwise, the proceeding is barred.

**9. Security Interest.** Buyer grants Patrick Lumber a security interest in any Goods sold to secure any payment due Patrick Lumber from Buyer.

**10. Buyer's Default.** Should (i) Buyer default in performance with respect to any Order or other obligation pursuant to these Terms and Conditions, (ii) any insolvency proceedings be instituted by or against Buyer, (iii) Buyer make any assignment for the benefit of creditors or have a receiver or similar third-party appointed with respect to any of its assets, or (iv) Patrick Lumber in good faith deems itself insecure with respect to Buyer's ability to pay for any Goods when payment is due, Patrick Lumber may at its option cancel any Order between the parties

where the Goods have not yet been delivered to Buyer and be entitled to recover from Buyer any damages it may suffer as a result of such cancellation.

**11. Jurisdiction.** If Buyer is domestic, the exclusive jurisdiction for resolution of any claims between the parties shall be in any federal or state court located in the State of Oregon, provided, however, that Patrick Lumber shall nonetheless be entitled to bring suit against Buyer in such other jurisdictions where Patrick Lumber may be able to obtain jurisdiction over Buyer.

If Buyer is an individual residing in, or entity formed or located in, a country other than the United States, any claims between the parties shall be exclusively resolved by arbitration pursuant to the applicable Rules of the International Centre for Dispute Resolution. The arbitration will be conducted in English in Portland, Oregon. While this provision provides the exclusive means of dispute resolution with respect to claims between the parties, seeking injunctive relief in a court of law shall not be prohibited in connection with enforcement of Par. 17 (Confidentiality) of these Terms and Conditions nor shall seeking security pending arbitration be prohibited.

**12. Governing Law.** Any and all claims arising between the parties shall be governed by the law of the State of Oregon, without reference to its principles of conflicts of law.

**13. Attorney's Fees.** The prevailing party in any lawsuit or arbitration shall be entitled to its reasonable attorney's fees, costs, and litigation or arbitration expenses incurred, including in any proceeding in bankruptcy, whether in the trial court or on appeal.

**14. Currency Devaluation.** If any judgment or arbitration award obtained in the United States is sought to be recognized and enforced outside the United States in local currency, and the currency of the country in which the judgment or award is sought to be enforced is devalued so as to cause reduction of the value of the original judgment or award given, the party in whose favor the judgment or award was rendered shall be entitled to recover such additional amount so as to provide a recovery to that party equal to what the party would have received if the currency devaluation had not occurred.

**15. Export Restrictions.** Buyer understands that Patrick Lumber is subject to certain restrictions under U.S. and potentially other laws as respects sales of Goods to certain persons and into certain countries ("**Export Restrictions**"). Patrick Lumber shall be entitled to cancel any Order whose fulfillment would put Patrick Lumber at risk of violating Export Restrictions. Buyer shall not resell the Goods or otherwise act in a manner that would expose Patrick Lumber to a potential violation of Export Restrictions.

**16. Confidentiality.** Each party will (i) keep confidential, and not disclose, and (ii) use only in connection with sales of the Goods between the parties, all of the other party's Confidential Information that may be learned in the course of the parties' relationship. This obligation is perpetual. "**Confidential Information**" means all information that a business would normally keep to itself, and specifically includes sourcing, pricing, manufacturing processes, product descriptions, contract terms, technical data, the nature of business relationships, product know-how, identity of customers, sales and market projections, strategies, business practices, new product development, and financial information. All Confidential Information will be protected by each party with at least the same degree of care as each would use with its own proprietary information. All Confidential Information will remain the property

of the party initially possessing it and be immediately returned to the other party on request.

**17. Miscellaneous Provisions.** Any notice to be given to a party must be in writing and to one or more email or physical addresses most likely to effectively reach an appropriate party representative. If any portion of these Terms and Conditions is held invalid or unenforceable, the remainder will continue in full force and effect and the invalid or unenforceable portion will be replaced by such provision as will best effect the original intention of the parties. A party's failure to insist on performance of any part of an Order or these Terms and Conditions or failure to exercise any right thereunder on one or more occasions will not constitute a waiver of any right to demand future performance or to exercise a right in the future. All rights and remedies provided in these Terms and Conditions are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available. An Order may not be assigned by Buyer except with the consent of Patrick Lumber. Patrick Lumber may assign any Order. Assignment will not release the assigning party from its obligations under the sales contract unless that is expressly agreed to in writing by the other party. These Terms and Conditions are binding on and inure to the benefit of Patrick Lumber and Buyer and their respective permitted successors and permitted assigns.