

## TERMS AND CONDITIONS

**FORCE MAJEURE** Seller shall not be responsible for any delay or failure to make shipment hereunder due to act of God, war, riot, fire, strike, lockout, injunction, embargo, breakdown, delay of subcontractors, carriers or suppliers, shortage of materials, labor, power, fuel or transportation equipment, governmental action, or any other cause, whether of a similar or dissimilar nature, beyond its reasonable control, and may, in event of inability to perform fully, allocate shipments in any manner it deems fair and reasonable.

**PRICE** Products included in this order shall be billed at prices in effect at the time of shipment.

**WARRANTY** The Seller makes no warranty of any kind express or implied. Our products are warranted by the manufacturer, which warranty is passed onto the buyer.

**LIMIT OF LIABILITY** All claims for defects discoverable by inspection shall be deemed waived unless made in writing and received by Seller within 5 days after Buyer learns of the alleged defect, but in no event later than 30 days after Buyer's receipt of the goods. All claims for shortage must be noted on the freight receipt at the time of delivery. In no event shall Seller be liable for incidental or consequential damages, or for any personal injury or property damage resulting from the handling, possession or use of the goods. All advice given and structural specifications supplied by Seller's representatives shall be used at the sole risk of those receiving the same and Seller assumes no responsibility for the design or construction of any structure in which its products are used. Any review or inspection of plans, buildings or product applications by Seller's representatives is not to be construed as approval thereof by Seller.

**TITLE AND RISK OF LOSS** Title to the products sold hereunder and risk of loss thereto shall pass to Buyer upon delivery of said products. Any shortages or discrepancies must be in writing within 48 hours of delivery or order is deemed accepted in full.

**ADDITIONAL TERMS AND CONDITIONS** This order is subject to any outstanding written agreement between the parties hereto, and any printed portion hereof which is inconsistent with such agreement shall not apply. This order is also subject to such additional terms and conditions as may be contained in price lists, merchandising plans or other printed materials published by Seller which by the express terms thereof are applicable to particular transactions, products or accounts, provided such terms and conditions are not inconsistent with any written contract between the parties hereto. Copies of such printed materials will be furnished upon request. Any inconsistencies between the terms and conditions herein and any terms and conditions set forth in any purchase order or form of buyer, shall be resolved in favor of these terms and conditions.

**CREDIT TERMS** Our regular billing date is the 25th day of each month. Accounts are due in full by the 20th day of each month. Accounts not paid within these terms will be subject to a service charge of 1 1/2 per cent per month at an ANNUAL PERCENTAGE RATE of 18 per cent. If legal action is taken by Smith-Phillips Lumber Company to collect a debt the purchaser agrees to pay reasonable attorney fees.

Paying by check authorizes Smith-Phillips to send the information from your check electronically to your bank for payment. Your account will be debited in the amount of your check and the transaction will appear on your bank statement. Your original check will be destroyed once processed, and you will not receive your cancelled check back. If we cannot post the transaction electronically, you authorize us to present an image copy of your check for payment. If you have further questions regarding this process, please call (336) 722-8167 ext. 137.

**RETURNED GOODS POLICY** In an effort to be accommodating to all customers, wherever possible, on the acceptance of the return of merchandise purchased from us we have established the following "Returned Goods" policy;

We will accept for return an item we carry in stock, when it is returned by you to the yard in saleable condition, if you bring in the original sales ticket or give us the number of the ticket. There will be a 15% restocking charge on these items.

If we have to pickup the item with our truck from the job or home, there will be a flat \$5.00 pickup charge, in addition to the 15% restocking charge.

We cannot accept for return any packaged products, such as hardware, etc., once the package has been opened or used. We cannot take back for credit any items that have been special ordered, prestained, set up, or otherwise not ordinarily carried in our inventory.

Our drivers are not authorized to make any pickup for return unless it has been cleared through the office first and he has a pickup order. He will then only pickup those items which are in resaleable condition.

The purchaser is responsible for adequate access to delivery locations and assumes liability and agrees to hold Smith-Phillips Lumber Company harmless for injuries or damages to persons, equipment or property when trucks are required to leave public streets or highways.

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Invoices are due by the 10<sup>th</sup> of the month following purchases to receive 1% discount on balance (excluding sales tax).

All invoices not paid by 20<sup>th</sup> of month following purchase are considered PAST DUE and will be charged a Finance Charge of 1.5 per month (18% APR).

The Minimum Monthly Finance Charge is (see Term 5) \$.50.

The Returned Check Charge is (see Term 13) \$25.00.

1. **AGREEMENT TERMS.** The word "Account" means your Business Charge Account. The words "you", "your", and "yours" mean you, the Applicant, and any person or persons who are contractually liable under this Agreement.

2. **ACCOUNT.** Upon credit approval, a Business Charge Account will be opened in the Applicant's name with your acknowledgement that each use of the Account to charge purchases constitutes a loan for business purposes to you by the Creditor.

3. **ACCEPTANCE OF AGREEMENT.** The use of your Account by you or anyone whom you authorize or permit to use the Account means you accept this agreement.

4. **PROMISE TO PAY.** You agree to pay in U.S. Dollars for all purchase and/or services, including applicable finance charges and other late fees, incurred by you or anyone you authorize or permit to use the Account, even if you do not notify us that others are using the Account. All checks must be drawn on funds deposited in the U.S. We can accept late payments or partial payments or checks and money orders marked "payment in full" without losing any of our rights under this Agreement.

5. **FINANCE CHARGE.** When there is a balance subject to a FINANCE CHARGE on your Account, you will be assessed a FINANCE CHARGE on the part of that balance that is overdue at the periodic rate listed above. THE MINIMUM FINANCE CHARGE, listed above, will be assessed for any billing period in which the FINANCE CHARGE due is less than the MINIMUM FINANCE CHARGE.

6. **BALANCE SUBJECT TO FINANCE CHARGE.** The FINANCE CHARGE is computed by applying the monthly periodic rate shown above to the past due balance on your Account, subtracting any payments or credits and the unpaid FINANCE CHARGES, and adding any new purchases as of the closing date. You will not incur a FINANCE CHARGE on your new purchases, if you pay the total new balance due shown on each billing statement by the Payment Due Date.

7. **MONTHLY STATEMENT.** We will send you a statement of your account after each monthly billing cycle in which you have a debit in excess of \$1.00. The statement will show all purchases, finance charges and other late fees or other charges and all payments and other credits posted to your account during the billing cycle. It will show your New Balance, Minimum Payment Due and Payment Due Date.

8. All payments will be applied in the following order: Finance Charges and other charges or late fees and purchases in the order made.

9. **LINE OF CREDIT.** We will advise you of your line of credit. We may increase or decrease your line of credit from time to time. If you exceed your line of credit, you will be in default.

10. **NON PAYMENT.** You understand that all Account purchases will require authorization. If your Account balance is delinquent or in default, we may not authorize a purchase and we, at our discretion, may cancel your Account.

11. **DEFAULT COLLECTION COSTS.** You are in default if you fail to comply with the terms of this Agreement, including failing to make a required payment when due or exceeding your line of credit. If you are in default, we may charge you reasonable attorney's fees and court or other collection costs as permitted by law and as actually incurred by us.

12. **RETURNED CHECK CHARGE.** To the extent provided by law, you will pay us a Returned Check Charge, as listed above, for each check that is returned.

13. **CREDIT INVESTIGATION AND REPORTING.** We may investigate your credit and verify your credit references. We may also report to credit reporting agencies and other creditors the status and payment history of your Account including any negative credit information.

14. **ASSIGNMENT.** You understand that we may sell, assign, or transfer our rights to your Account balance or any portion thereof without written notice. You may not sell, assign or transfer your rights under this Agreement without prior written consent.

15. **CANCELLATION.** You may cancel the Account upon 30 days written notice to us. You understand that you will be responsible for all outstanding balances and for all purchases and other applicable charges made up to and including the date of cancellation.

16. **CHANGE OF TERMS.** We may change any term or part of the Agreement, including finance charge rate, fee or method of computing any balance upon which the finance charge rate is assessed, by sending you a written notice at least 30 days before the change is to become effective. We may apply such change to the outstanding balance of your Account on the effective date of the change and to any new charges made after that date. If you do not agree to the change, you must notify us in writing within 25 days after the effective date of the change at the address provided in the notice of change, in which case your Account will be closed and you must pay us the balance that you owe us under the existing terms of the unchanged Agreement. Otherwise, you will have agreed to the changes in the notice. Use of the Account after the effective date of the change shall be deemed acceptance of the new terms, even if the 25 days have not yet expired.

17. **CHANGE OF ADDRESS.** If you change your address, you must notify us of your new address within 15 days.

18. **GOVERNING LAW.** This Agreement will be governed by the laws of the State of North Carolina.

19. **NOTICE TO YOU. DO NOT SIGN THIS BUSINESS ACCOUNT AGREEMENT BEFORE YOU READ IT.** You agree to be bound by the terms and conditions of this Agreement for a Business Charge Account. You authorize us or our agents to investigate your credit and financial records, including balances in any checking or savings account. You certify that the information contained in this Application is true and correct as of this date and you understand that you may be asked to submit additional or updated financial information. You agree that any person signing this Application on your behalf is authorized to enter this Account Agreement. The Account Agreement shall not be binding or enforceable upon us until after approval of your credit and acceptance by us.