

PIXLEY LUMBER COMPANY

Terms and Conditions of Sale

The term "Seller" used herein shall mean Pixley Lumber Company and its successors and assigns.

An order is deemed by Seller to be an offer to purchase, which Seller may accept or reject. Seller's acceptance of an offer to purchase is binding on Seller only if made by written instrument or, if not by written instrument, by shipment or conveyance of the products ordered. Seller accepts orders from its customers ("Buyer" or "Buyers") subject to the Terms and Conditions contained herein and in accordance with verbal or written instructions provided at the time orders are placed. Orders confirm verbal or written instructions and shall be deemed accepted as specified. Modification of orders by Buyers may be made subject to written acceptance by Seller. Orders represent the final culmination of all prior oral discussions.

General

The Terms and Conditions of Sale at the date of order and the customer named on the face of any order shall be deemed included in and a part of that order. Modification of Seller's Terms and Conditions of Sale are objected to and are disallowed, except as may be made in writing signed by the Seller's authorized agent. Any terms listed on a purchase order from Buyer that are not consistent with Seller's Terms and Conditions of Sale will not be accepted unless approved in writing by the Seller.

The law of the State of Oklahoma shall apply in the construction of any sales agreement and the rights and obligations of the parties thereto. Typographical errors are subject to correction.

Price

Prices are subject to change without notice. Rebates or refunds for goods previously delivered in case of a price decline cannot be allowed, nor will goods be rebilled at a higher price in the case of price increases. Product will not be shipped on consignment or on a guaranteed sale basis.

General Freight Terms

For orders shipped via Seller's vehicles, shipments are F.O.B. delivered, in which case title shall pass to Buyer upon tender of the goods or materials at the place of delivery with or without the presence of Buyer or Buyer's employees or agents to inspect or accept delivery and with or without a signature of acceptance by Buyer or Buyer's employees or agents.

For orders shipped via a third party, shipments are F.O.B. shipping point, freight prepaid and added. When orders are shipped via a third party carrier, claims for shortages or damages in transit are the responsibility of the Buyer and should be filed directly against the carrier. Shortages and damages must be acknowledged and signed for at the time of delivery, with the delivery receipt furnished with the claim form.

Credit and General Payment Terms

Seller accepts cash, checks, money orders, Visa, MasterCard, and Discover. All non-cash payments may be subject to third party approval. For customers with established credit, acceptance of any order sold "on account" is subject to final credit approval. Seller reserves the right to cancel any order if Seller deems Buyer unable to pay either for the products it sells or the services it renders. Buyer shall be liable for any costs incurred by Seller to collect dishonored payments.

See Credit Agreement for full explanation of credit terms.

Sales Tax

Buyer is responsible for all applicable taxes or for providing a valid sales tax exemption document.

Guarantees and Warranties

With respect to materials or products purchased by Buyer, Seller makes no warranty, express or implied. Seller does not extend or service a manufacturer's warranty, if any, for materials or products sold. All manufacturers' warranty work is solely and exclusively provided by the manufacturers. Manufacturer's warranty, if any, will be made available upon request, or as part of manufacturer's documentation accompanying the materials or products. Seller disclaims any liability for incidental and consequential damages for breach of any express or implied warranty. Implied warranties of merchantability or fitness for particular purpose are expressly excluded.

Authority of Seller's Agents

No agent, employee, or representative of Seller has any authority to bind Seller to any affirmation, representation, or warranty concerning the goods sold under any sales agreement unless an affirmation, representation, or warranty made by an agent, employee, or representative is specifically included within a written contract. Otherwise such affirmation, representation, or warranty is not a part of any bargain and shall not in any way be enforceable.

Unavoidable Delays

The Seller shall not be liable for delays caused by strikes, labor disturbances, lockouts, riots, fires, acts of God or the public enemy, delays in transportation, shortage of trucks or railcars, or any other cause, whether like or unlike the foregoing, if beyond the reasonable efforts of the Seller to control.

Claims and Reinspections

Claims for shortages, defects, nonconforming goods, or errors in shipment must be reported within two days of receipt of shipment. Buyers must furnish to Seller in writing detailed proofs of claim, including all material facts upon which such claims may be made. All claims for damage or shortage must be supported by proper documentation in writing and the same information must be acknowledged to be received by Seller.

In the event that Buyer's claim shall be based upon the grade or quality of such goods, or any portion thereof, Buyer will accept delivery of and pay for in accordance with the terms of this agreement that portion of the goods in respect to which no claim is made and will hold intact and properly protected for a period of thirty days for inspection by Seller or its authorized agent that portion of the goods in respect to which claim is made hereunder. Any reinspection of goods subject to manufacture according to rules and standards of an association that are sold by Seller shall be subject to the rules and standards of said association. It is agreed that the finding of said association shall be binding upon the parties in the event of litigation or adjustment. The expenses of said inspection and survey shall be borne by Seller if the item subject to complaint is found to be more than 5% below grade. If 5% or less, the expense shall be borne by the Buyer.

Returned Goods

No item may be returned for credit without prior consent of Seller. If materials which are returned subsequent to consent are, in the opinion of Seller, in saleable condition, credit will be issued at the original invoice price. If materials which are returned subsequent to consent are, in the opinion of Seller, not in saleable condition, credit will not be issued and such materials may be destroyed or discarded by Seller without notice to Buyer. Statements to the contrary notwithstanding, certain special order goods may be returnable subject to Seller's ability to return those goods to third party providers and may be subject to restocking, handling, and outbound freight charges. "Special material" or "modified material," as defined by Seller, will not be considered eligible for return.

Limitation of Liability

No claim by Buyer of any kind, including claims for indemnification, whether as to quality or amount of products delivered or for non-delivery of products, shall be greater in amount than the purchase price of the products in respect of which damages are claimed. In no event shall Seller be liable to Buyer for any special, indirect, incidental, reliance, exemplary, or consequential damages or cover, or loss of profit, revenue or use, in connection with, arising out of, or as a result of, the sale, delivery, servicing, use, or loss of the products sold, or for any liability of buyer to any third party with respect thereto.

Cancellation

If Buyer cancels an order prior to the delivery of the goods subject to a sales agreement, Buyer shall pay the costs incurred by Seller up to the date of cancellation including, but not limited to, the costs to manufacture products or the costs to return or cancel any product ordered from a third party on the Buyer's behalf. In other cases of cancellation, the agreed price remains due and payable to the Seller.

Governmental Law and Regulations

Seller's and Buyer's obligations hereunder shall be subject to applicable governmental laws, rules, regulations, executive orders, priorities, ordinances and restrictions now or hereafter in force, including but not limited to (a) the Fair Labor Standards Act of 1938, as amended; (b) Title VII of the Civil Rights Act of 1964, as amended; (c) the Age Discrimination in Employment Act of 1967, as amended; and (d) the rules, regulations, and executive orders pertaining thereto.

Miscellaneous

No waiver by Seller of any of these Seller's Terms and Conditions of Sale or any breach hereof, shall constitute or be deemed to be a waiver of any such terms or of any breach, in any other case, whether prior or subsequent thereto. No waiver shall be deemed to occur as a result of the failure of any party to enforce any term or condition of these Seller's Terms and Conditions of Sale.

Any provision contained in Seller's Terms and Conditions of Sale which is prohibited or unenforceable in any jurisdiction shall as to such jurisdiction be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

The paragraph headings contained herein are for convenience only and shall not be used in interpreting or construing these Seller's Terms and Conditions of Sale.

Buyer shall have no right of setoff, and no deduction of amounts due to Seller from Buyer shall be made without Seller's express written approval.

These Seller's Terms and Conditions of Sale are subject to change without notice.