



## STANDARD TERMS AND CONDITIONS OF SALE

Goods and services sold by Stark Truss Company, Inc. ("Seller") are expressly made conditional upon Buyer's agreement to all of the following terms and conditions of sale.

1. **Different or Additional Terms:** Any additional, different or inconsistent terms proposed by Buyer must be agreed upon in writing by an authorized representative of both parties. Buyer's acceptance of shipment or performance and/or payment for the goods constitutes acceptance of these Terms and Conditions. Any additional or contradictory terms or conditions contained in any purchase order or other communication, oral or written, furnished by Buyer is hereby objected to by Seller, and shall be of no force or effect and shall not be binding on the parties.
2. **Prices/Quotes:** Published prices are subject to change without notice and shall not be binding on Seller until reduced to writing by Seller. All prices shall be as set forth in the quotation from Seller, and shall be valid for acceptance only for the time period set forth in Seller's quotation, and where no time period is specified, within thirty (30) days from the date of Seller's quotation. Seller agrees that if Seller's quotation is accepted within the thirty (30) day period, if the goods are shipped within six (6) months of the date of Seller's quotation, the prices will remain valid unless otherwise agreed in writing by the parties.
3. **Credit:** Credit Accounts will be opened only with firms or individuals approved by Seller's Credit Department. If Buyer fails to make payment for goods delivered, or in Seller's opinion, Buyer's financial condition or other circumstances do not warrant shipment, Seller at any time may, at Seller's sole option, require assurance of Buyer's ability to pay, limit or cancel Buyer's credit, require payment in cash, or cancel Buyer's order.
4. **Payment:** Payment terms are specific to each Buyer and are established by Seller's Credit Department. Payment due dates and payment terms will be printed on each Buyer's invoice. Buyer agrees to make payments in accordance with the due dates and terms printed on its invoice. Retainage of amounts due by Buyer for the purposes of assurance of completion of project is not permitted unless agreed upon in writing by an authorized representative of both parties. Buyer's invoice may indicate a prompt pay discount that is applicable ONLY if the invoice is paid on or before the due date specified on the invoice. Notification of any invoice discrepancy must be made in writing by Buyer within (10) ten days of invoice date, or Buyer thereby expressly accepts said charges as being fair and just. Seller reserves the right to correct all errors and omissions. Past due balances are subject to a monthly finance charge computed at a periodic rate (to the extent permitted by law) of one and one-half percent (1.5%) per month (18% per year) of the balance past due. If past due balances are not paid within five (5) days of due date, Seller reserves the right to postpone delivery of additional orders and file an "Affidavit of Lien". Amounts owed by Buyer shall be paid without set-off for any amounts that Buyer may claim are owed by Seller and regardless of any other controversies which may exist. Payment shall not be dependent on Buyer's receipt of payment from its customer or any other party.
5. **Taxes:** All prices quoted or accepted by Seller are exclusive of federal, state, municipal or other government excise, sales, use, occupational or like taxes. The price of the goods or services will be increased by the amount of any such taxes that Seller is required to pay or collect upon sale or delivery of goods or services, and Buyer will be responsible for these taxes. Sales tax is due in accordance with the tax laws of each state and is determined by the location of the passage of title of the goods. Sales tax is charged on all goods until Buyer provides certificate of exemption to Seller.
6. **Delivery:** Unless otherwise agreed in writing by the parties, Seller is responsible for all charges associated with delivery. Shipment date is established by mutual agreement of Buyer and Seller at the time the order is placed. Buyer shall provide delivery address and directions prior to shipment date. Delivery shall be made via truck to the delivery location or nearest passable road. Seller requires an unobstructed safe location to drop the goods at the delivery location. If conditions make delivery hazardous or could result in damage to property or Seller's vehicle, Buyer must notify Seller prior to delivery. If Buyer fails to make such notification prior to delivery, Seller reserves the right to postpone delivery. If delivery is postponed, Buyer will be responsible for all costs associated with additional delivery attempts. If Buyer fails to make such notification prior to delivery or in person upon delivery, Buyer agrees to pay all additional costs associated with the delivery, including but not limited to towing costs and any other damages. When the unusual length or design of the goods and/or when conditions at the delivery location will not allow normal delivery, Buyer will be responsible for the expense and scheduling of cranes or other necessary equipment at the delivery location. Buyer also agrees to be responsible for the unloading of such goods. Seller reserves the right to make deliveries of goods in installments within the time of shipment. Customer ordered delays in shipping are at the risk of the buyer. Any shipment date specified on the face on Seller's quotation is approximate and is not a guarantee of a particular day of delivery. Under no circumstances shall Seller be liable for damage for failure to deliver or delay in delivery occasioned in whole or part by reasons beyond the reasonable control of Seller, including any Force Majeure event or transportation delay. Under such circumstances, Seller shall have the right to extend the date of delivery for a reasonable period of time after the period of delay. Trusses and other wood untreated components are designed for immediate installation and enclosure into the building and are not guaranteed to maintain structural integrity when scheduled shipment is delayed and the materials are exposed to the weather for any extended length of time.
7. **Proof of Delivery:** Proof of delivery will be the delivery driver's signature. If Buyer requires the signature of Buyer or Buyer's representative, Buyer is responsible for scheduling the authorized signatory to be present at the delivery location on the date of delivery. This requirement by Buyer must be indicated at the time the order is placed. If then Buyer fails to have an authorized signatory at the delivery location at the time of delivery, shipment will be rescheduled for delivery and Buyer will be responsible for all additional delivery expenses.

8. **Storage of Goods:** Should shipments be held or stored by Seller beyond the delivery date at Buyer's request, Buyer agrees to pay reasonable charges for any expense incident to such storage. Shipments held in excess of the delivery date are not warranted for material and workmanship because exposure to weather conditions for long periods of time can cause problems with product integrity, including but not limited to mold, warpage, lumber distortion or deterioration, and improper plate embedment. Buyer agrees to sign a waiver of warranty at such time delivery is made.

9. **Title and Risk of Loss:** Title to, and the risk of loss of the goods covered hereby shall pass to Buyer when Buyer receives possession of the goods.

10. **Inspection/Acceptance/Rejection:** Buyer shall perform inspection immediately upon receipt of goods and shall make any claim for nonconforming goods or shortage on Seller in writing within forty-eight (48) hours of receipt of shipment. Failure to make written notification within forty-eight (48) hours shall constitute a waiver of Buyer's rights for breach of warranty and a waiver of Buyer's rights of inspection and rejection and shall constitute an irrevocable acceptance of the goods. After such acceptance, Buyer shall have no right to reject the goods for any reason or to revoke acceptance. Buyer agrees that such forty-eight (48) hour period is a reasonable amount of time for such inspection and rejection. If Buyer makes written notification of defect within forty-eight (48) hours, Seller may provide a resolution, at its sole discretion, including but not limited to repair of goods by Seller or an agent authorized by Seller, or return and replacement of defective goods. No deductions, adjustments, or back charges for any reason are permitted without the investigation and approval of Seller, including but not limited to the cost of goods stolen from the delivery location, the costs of repairs made by a repairer not authorized by Seller, and the costs of disassembly of a structure to repair goods. In no event shall Seller be liable for any claim not presented in accordance with this paragraph or for goods damaged or for any shortage on the job site, or upon or after installation.

11. **Force Majeure (unexpected or uncontrollable event):** Seller shall not be liable for delays or defaults due to acts of God, acts of governmental authority, wars, fires, floods, accidents, strikes, labor disputes, shortages (including but not limited to raw material shortages and energy shortages), transportation delays or shortages, failure of machinery, inability to obtain materials or supplies, excessive demand for products over available supply, interruption for any reason in the manufacture of products by Seller's suppliers, pandemics, epidemics, orders of the government, or other causes beyond Seller's control.

12. **Lien/Notice:** Seller reserves the right to file an "Affidavit of Lien" against Buyer in accordance with the laws of each state. Buyer agrees to provide Seller with all necessary information for lien proceedings, including but not limited to, the name and address of the owner of real estate where the goods were installed and the legal description of said property.

13. **Limited Warranty:** Seller warrants to the original Buyer only for a period of one year from delivery that the goods to be supplied hereunder will conform to the specifications agreed upon by both parties in writing; 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. Seller makes no warranty of its services. **SELLER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURCHASE OR ANY IMPLIED WARRANTY OF MERCHANTABILITY.** No employee or agent of Seller is authorized to make warranties about the goods described in this agreement. Oral or written statements by Seller's employees or agents do not constitute warranties, shall not be relied upon by Buyer, and are not part of this agreement. Buyer hereby acknowledges that it has not entered into this agreement in reliance upon any warranty or representation by any person or entity except for the warranties or representations specifically set forth herein.

14. **Limitation of Liability:** Seller's liability and Buyer's exclusive remedy is expressly limited, at Seller's option, to the repair of defective goods, or the replacement thereof with conforming goods, but in either event not in an amount which would exceed the purchase price. If Seller chooses to replace the defective goods, Buyer shall return the defective goods to Seller upon request. **UNDER NO CIRCUMSTANCES, SHALL SELLER BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, ECONOMIC, DIRECT, INDIRECT OR OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, AND ANY LIABILITY THAT MAY ARISE OUT OF ANY THIRD PARTY CLAIMS AGAINST BUYER. IN NO EVENT WILL SELLER'S LIABILITY HEREUNDER, OR OTHERWISE TO BUYER, EXCEED THE PRICE PAID FOR THE GOODS OR SERVICES SUBJECT TO THE CLAIM.** If Seller furnishes Buyer with advice or other assistance concerning any goods supplied hereunder, or any structure in which any such goods may be installed, and which is not required pursuant to this contract, including but not limited to brochures or other literature or verbal advice, the furnishing of such advice or assistance will not subject Seller to any liability, whether based on contract, warranty, tort (including negligence) or other grounds. Seller's shop drawings will indicate the location of lateral web bracing required to resist web buckling in long compression web members. All other bracing, blocking, bridging, etc., both temporary and permanent are outside Seller's scope of work. Seller will provide with the goods handling, installation and bracing guidelines produced by the Truss Plate Institute and the Wood Truss Council of America in its field packages, however, in so doing, Seller does not expand its scope of work beyond that set forth in its quotation to Buyer. Seller shall have no responsibility concerning the installation and bracing of trusses nor shall Seller have any responsibility to inspect the trusses after installation or to verify dimensions or adequacy of work done by other trades that may relate to the goods sold hereunder. Seller shall not be responsible to Buyer under this Agreement for any damage or injury resulting to or caused by any goods by reason of Buyer's improper storage, alteration, or neglect or abuse, or the use of the goods in a manner inconsistent with the specifications hereunder, including, without limitation, where damage or mold results therefrom. The parties further agree that Seller shall not be responsible for any damage or injury arising out of any goods which have been modified or integrated with goods not designed or approved in writing by Seller. Buyer acknowledges and agrees that if Buyer identifies specific applications for the use of the goods, Seller shall not be responsible for any deviations from the applications or nondisclosure of Buyer of any additional information. Buyer further acknowledges that the goods may be subject to damage and mold due to naturally occurring events, such as moisture, weather, and other occurrences, and Seller shall not be responsible or liable for any conditions related thereto due to failure to adhere to

proper storage and handling or due to delays, neglect or abuse by Buyer, or its employees, agents, contractors or other third parties.

15. **Limitation of Actions:** Any action for breach by Seller of this Agreement must be commenced within one (1) year after the delivery of the goods or services supplied hereunder.

16. **Default.** In the event that Buyer fails to pay any amount due to Seller, or otherwise breaches any obligation or covenant contained to Seller, Seller may, in its discretion, in addition to all other remedies to which Seller may be entitled without affecting an election of remedies, cancel or terminate all obligations to Buyer upon notice to Buyer, or suspend performance by Seller until Buyer pays for such charges or amounts. Furthermore, in the event of a cancellation or termination by Seller, Seller shall be entitled to any and all damages under the Uniform Commercial Code, including, without limitation, lost profits, and all other expenses and losses incurred by Seller. Furthermore, in the event of a breach or violation by Buyer of these terms, or any other agreement between the parties hereto, or in the event of any dispute or controversy hereunder, in such event, Buyer shall pay Seller for any and all attorneys' fees incurred in enforcing the terms hereof, or otherwise resolving any disputes with Buyer.

17. **Indemnification.** Buyer shall indemnify, defend, and hold Seller, its officers, employees, directors, representatives, shareholders, agents, successors and assigns harmless against any and all losses, claims, damages, judgments, liabilities, or expenses, including, without limitation, reasonable attorney fees and expenses, incurred by Seller as a result of or arising out of: (a) Buyer's breach of these Terms and Conditions, of any agreement between the parties hereto, or of any obligation to Seller; (b) the improper installation or unauthorized modification of the goods by Buyer or any other third party under Buyer's control; (c) any act or omission of Buyer or its agents, employees, representatives or subcontractors, including without limitation, any act or event of Buyer, or its employees, representatives, or agents, described above. Buyer shall promptly notify Seller of any suit filed against it or its Buyers on account of any such indemnification obligation of Buyer hereunder, and at Seller's option, Buyer may assume the sole responsibility for the defense of such action at Buyer's sole expense. Seller may be represented by their own counsel in any such suit at the expense of Buyer, however, no settlement shall be entered into on behalf of Seller without Seller's prior consent in its sole discretion.

18. **Confidentiality.** Buyer acknowledges that Seller possesses certain confidential or proprietary information of Seller including, without limitation, designs, data, ideas, drawings, specifications, trade secrets, formula, technical experience, financial data, financial information, the specifications, the goods, and other products and services of Seller, and other valuable, confidential and proprietary information, which may be disclosed to Buyer or for which Buyer may have access (hereafter "Confidential Information"). At all times thereafter, Buyer agrees not to disclose to any person, firm, or entity any Confidential Information. Furthermore, Seller retains exclusive ownership of all of its Confidential Information, and Buyer obtains no license or other rights thereto. Seller shall also have exclusive rights to any improvements, modifications, or variations of its goods or services, including, without limitation, any and all patent, copyright, trademark, trade name, or other intellectual property rights, and Buyer shall not disassemble or reverse engineer the Products or any Confidential Information. The Buyer hereby agrees that if Buyer breaches its obligations hereunder, Seller shall incur irreparable injury and harm and money damages would be an insufficient remedy, and as such, and in addition to all other remedies, Seller shall be entitled to seek injunctive relief restraining Buyer from further breach of this section.

19. **Final and Exclusive Agreement:** Verbal instructions or agreements relative to or altering this agreement in any way are not authorized and will not be recognized. The terms and conditions herein are intended by Buyer and Seller as a final expression and complete and exclusive statement of the terms and conditions of this agreement. Whenever the provisions of these terms conflict with the provisions contained in any past, present, or future contractual agreement, these provisions shall prevail and supersede such conflicting terms.

20. **Waiver:** No waiver, discharge or renunciation of any claim or right of Seller arising out of breach of these terms and conditions by Buyer shall be effective unless in writing, signed by a duly authorized officer of Seller, and supported by consideration. Any waiver by Seller of any breach by Buyer shall be a waiver of that breach only and not any subsequent breach.

21. **Collection Costs:** If it is necessary for Seller to pursue a claim against Buyer to enforce the terms of this agreement, or to recover any indebtedness or damages, Seller shall be entitled to recover from Buyer its reasonable attorney's fees, costs, and other expenses.

22. **Assignment/Delegation:** No right or interest in this agreement shall be assigned, nor any obligation delegated, by Buyer without Seller's written permission.

23. **Governing Law/Venue:** This agreement shall be governed by and construed in accordance with the laws of the State of Ohio. Any action to enforce, arising out of, or in any way connected to, any of the provisions of this agreement shall be brought and venued in Stark County, Ohio, and the parties hereto consent to the jurisdiction of said courts located in Stark County.