



## CWalla Building Materials Co.

2800 E. Main Avenue • PO Box 3949 • Spokane, WA 99220-3949

**Main:**

**Phone:** 509.343.9000

**Fax:** 509.343.9060

**Web:** www.CWalla.com

**Credit Department:**

**Phone:** 509.343.9049

**Fax:** 509.343.9007

**E-mail:** Credit@CWalla.com

### ACCOUNT CREDIT APPLICATION

This form must be fully completed prior to the consideration of open account privileges and must be signed by an authorized corporate officer, a partner, or the proprietor. Completion of the application is not a guarantee of open credit account terms. **Include a copy of current financial statement or a copy of most recent federal income tax return.**

|                                       |                       |
|---------------------------------------|-----------------------|
| <b>CWalla District Sales Manager:</b> | <b>CWalla Branch:</b> |
|---------------------------------------|-----------------------|

|                             |                |                  |
|-----------------------------|----------------|------------------|
| <b>Legal Business Name:</b> | <b>d/b/a:</b>  | <b>Phone:</b>    |
| Mailing Address:            | City:          | State: Zip: Fax: |
| Billing Address:            | City:          | State: Zip: Fax: |
| E-mail:                     | Website / URL: |                  |

Individual ☐ Partnership ☐ Limited Liability Company ☐ Corporation ☐ Disadvantaged Business Enterprise ☐

|                         |                    |                                |
|-------------------------|--------------------|--------------------------------|
| Type of Business:       | Years in Business: | Amount of Credit Requested: \$ |
| Contractor's License #: | Federal Tax ID #:  | State Licensed/Registered In:  |

**Will your purchases be taxable?** Yes ☐ No ☐ **If no, a copy of your Resale Certificate is required with application** (excludes OR, MT, AK)

Have you or any related entity had an account with **CWalla** before? Yes ☐ No ☐ If yes, under what name? \_\_\_\_\_

Have you ever filed bankruptcy? Yes ☐ No ☐ If Yes, filed under what name? \_\_\_\_\_ Filing Number? \_\_\_\_\_

#### Accounts Payable Contact Information:

|                                                                                            |        |        |         |
|--------------------------------------------------------------------------------------------|--------|--------|---------|
| Name:                                                                                      | Title: | Phone: | E-mail: |
| Purchase order numbers requiress? Yes <input type="checkbox"/> No <input type="checkbox"/> |        | Fax:   |         |

**As applicable, list name(s) and title(s) of Corporate Officers, Partners, or Owners. Equal LLC & partnership members must be listed.**

|          |        |             |
|----------|--------|-------------|
| Name:    | Title: | SS#:        |
| Address: | City:  | State: Zip: |
| Name:    | Title: | SS#:        |
| Address: | City:  | State: Zip: |
| Name:    | Title: | SS#:        |
| Address: | City:  | State: Zip: |

#### TRADE/CREDIT REFERENCES

|                 |               |            |
|-----------------|---------------|------------|
| Name:           | Phone:        | Fax:       |
| E-mail Address: | Contact Name: | Account #: |
| Name:           | Phone:        | Fax:       |
| E-mail Address: | Contact Name: | Account #: |
| Name:           | Phone:        | Fax:       |
| E-mail Address: | Contact Name: | Account #: |
| Name:           | Phone:        | Fax:       |
| E-mail Address: | Contact Name: | Account #: |

#### BANK REFERENCE

|               |               |             |
|---------------|---------------|-------------|
| Bank Name:    | Phone:        | Fax:        |
| Address:      | City:         | State: Zip: |
| Account #(s): | Contact Name: |             |

**CREDIT RELEASE AUTHORIZATION:** THIS APPLICATION IS GIVEN FOR THE PURPOSE OF OBTAINING CREDIT. **CWALLA** WILL RELY ON THIS INFORMATION AND ITS VERIFICATION TO EXTEND CREDIT TO THE APPLICANT. FURTHER, APPLICANT AUTHORIZES **CWALLA** TO MAKE CREDIT INQUIRIES AND TO VERIFY ANY/ALL INFORMATION DEEMED NECESSARY TO EVALUATE THIS REQUEST, INCLUDING OBTAINING BUSINESS AND/OR PERSONAL CREDIT REPORTS AND CONTACTING APPLICANT'S BANK FOR ACCOUNT INFORMATION. THIS FORM MAY BE REPRODUCED OR PHOTOCOPIED AND A FAXED COPY SHALL BE EFFECTIVE CONSENT AS AN ORIGINAL.

|                      |                   |               |              |
|----------------------|-------------------|---------------|--------------|
| <b>Printed Name:</b> | <b>Signature:</b> | <b>Title:</b> | <b>Date:</b> |
| <b>Printed Name:</b> | <b>Signature:</b> | <b>Title:</b> | <b>Date:</b> |

## TERMS OF SALE AND CREDIT AGREEMENT

All parties hereby agree that all purchases made are subject to the following terms and conditions, and any terms and conditions stated on any warranty or invoices. For purposes of this agreement, the applicant will be referred to as "customer."

1. Customer agrees that payment for all sales of goods and services will be according to the terms stated on **CWallA's** invoice for said sale and/or the attached Terms & Conditions of Sale, and customer agrees to be bound by all the terms and conditions contained thereon/therein. No terms or conditions of a purchase order or similar document submitted to **CWallA** by the customer shall supersede those terms defined on **CWallA's** invoice and/or Terms & Conditions of Sale unless agreed to in writing by an authorized agent of **CWallA**.
2. Should customer default in any payment(s), **CWallA** shall have the right, without notice to customer, to declare all invoice amounts due and payable, and may, at its option, suspend customer's account, place account on a cash basis, and terminate unfilled orders or discontinue deliveries until all past due payments are made and adequate assurance of customer's financial ability to perform all of its obligations to **CWallA** is received. Credit and terms are granted at the sole discretion of **CWallA** and may be changed at any time without notice.
3. Customer agrees to pay to **CWallA**, upon demand, all costs and expenses, including, without limitation, all attorneys' fees and court costs incurred by **CWallA** in connection with the enforcement or collection of customer's account. All such costs and expenses shall bear interest at the rate of eighteen percent (18%) per annum. This provision shall apply whether or not a lawsuit is commenced in bankruptcy court or on appeal.
4. This agreement shall be governed by the internal laws of the State of Washington. Venue for any action or suit brought against customer by **CWallA** may be brought in any court located in Spokane County or where the customer resides, at the option of **CWallA**.
5. Customer warrants that all of the information contained in this application is true, correct and complete to the best of their knowledge and belief, and that the undersigned is an authorized representative of the customer with the authority to enter into contractual agreements.

|               |            |        |       |
|---------------|------------|--------|-------|
| Printed Name: | Signature: | Title: | Date: |
|---------------|------------|--------|-------|

## GUARANTY

In consideration for **CWallA** extending credit to customer / applicant, and as a condition precedent to the approval and acceptance of customer's/applicant's application for credit, the guarantor(s), jointly and severally, unconditionally and personally promise and guarantee the payment of any sum or balance that may accrue to **CWallA**, its successors, or its assigns.

This guaranty is absolute, unconditional, continuing, direct, and an immediate guaranty of payment, not just of collection. It is not conditioned upon or limited by or in any other way affected by (a) any attempt by **CWallA** to pursue its rights against customer/applicant; (b) any attempt by **CWallA** to pursue its rights against any of customer's/applicant's real or personal property; (c) any action taken or not taken by **CWallA**; (d) the invalidity or unenforceability of any provision of the Terms of Sale and Credit Agreement; or (e) any defense asserted or claimed by customer/applicant with respect to customer's/applicant's obligations, including, but not limited to, failure or lack of consideration, breach of warranty, fraud, payment, accord and satisfaction, statute of frauds, bankruptcy, insolvency, or statute of limitations. The obligations of the guarantor under this guaranty shall not be subject to any counterclaim, set off, reduction, or defense based upon any claim that the guarantor may have against customer/applicant or **CWallA**.

The guarantor will pay the attorneys' fees and costs, collection fees and commissions (commission amount not to exceed 50% of the amount unpaid), court costs, and any other expenses incurred (whether such fees, costs and expenses are incurred before an action or proceeding is filed, before trial, or after trial) by **CWallA** or any of its affiliates prior to, during, on appeal from, or after any action, or proceeding for the enforcement of this guaranty agreement, regardless of whether an action or proceeding is commenced. Without limiting the generality of the foregoing, guarantor will pay any attorneys' fees or costs of **CWallA** or any of its affiliates incurred in connection with any bankruptcy case or proceeding of the guarantor or customer/applicant. Each guarantor waives any and all defenses by reason of any extension of time granted for payment of the obligation by customer, or by taking or releasing any collateral of the customer/applicant.

The incurrence of any one or more of the following events shall constitute an "Event of Default" under this guaranty: (a) the failure of the guarantor to pay any of the guarantor's obligations; (b) the failure of the guarantor or customer/applicant to perform, observe, or comply with any agreement, covenant, or promises made under this guaranty, or under the terms of the Terms of Sale and Credit Agreement; (c) the appearance of any Event of Default under the Terms of Sale and Credit Agreement; (d) the determination in good faith by **CWallA** that a material adverse change has occurred in the financial condition of customer/applicant or guarantor; (e) the determination in good faith by **CWallA** that any security for customer's/applicant's obligations is inadequate; (f) the determination in good faith by **CWallA** that the prospect of payment of any guarantor's obligations is not impaired for any reason; or (g) the death of customer/applicant or any guarantor who is a natural person.

This guaranty binds and inures to the benefit of the parties and their heirs, successors, and assigns. This guaranty agreement shall be governed by the internal laws of the State of Washington, with reference to conflicts of laws.

In the event of default by customer/applicant, and at the election of **CWallA**, venue for any action or suit brought against customer/applicant by **CWallA** may be brought in any court located in Spokane County or where the customer resides, at the option of **CWallA**.

**CWallA** shall not be required to exhaust any remedy against the customer/applicant prior to proceeding against the guarantor. The guarantor waives any presentment, demand or performance, notice of nonperformance, notice of sale, delivery of goods, nonpayment at maturity, extension granted, protest, notice of protest, notice of dishonor, notice of acceptance of this guarantor and/or the notice of creation of additional indebtedness.

**CWallA** and customer/applicant hereby agree not to elect a trial by jury of any issue triable by right by jury, and waive trial by jury in any action or proceeding to which **CWallA** and customer/applicant may be parties, arising out of or in connection with or in any way pertaining to this agreement. It is understood and agreed that this waiver constitutes a waiver of trial by jury of all claims against all parties to such actions or proceedings, including claims against parties who are not parties to this agreement. **CWallA** is hereby authorized to submit this agreement to any court having jurisdiction over the subject matter of any litigation to serve as conclusive evidence of such waiver of right to trial by jury.

This guaranty imposes significant legal liability upon the guarantor. The undersigned has carefully read the foregoing continuing, absolute, and unconditional guaranty, and fully understands the content thereof.

I hereby consent to the grant of the guaranty in the above Guaranty.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, the guarantor has duly executed this guaranty as of the date set forth next to the guarantor's signature.

|                               |                            |       |
|-------------------------------|----------------------------|-------|
| Owner / Officer Printed Name: | Owner / Officer Signature: | Date: |
|-------------------------------|----------------------------|-------|



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AND OTHER QUALITY PRODUCTS

# TERMS AND CONDITIONS

## GENERAL CONDITIONS

THESE TERMS AND CONDITIONS GOVERN THE SALE OF PRODUCTS BY CWALLA AND/OR SCAFCO (MAY COLLECTIVELY BE REFERRED TO HEREIN AS "CWALLA"). WHOEVER SIGNS FOR THE ORDER ON BEHALF OF THE CUSTOMER REPRESENTS AND WARRANTS TO CWALLA HE/SHE IS AUTHORIZED TO DO SO AND THAT THESE TERMS ARE BINDING TO THE CUSTOMER. THESE TERMS AND CONDITIONS, AND ANY TERMS AND CONDITIONS SPECIFIED ON QUOTES, ORDER CONFIRMATIONS AND/OR INVOICES, AS WELL AS THE CREDIT AGREEMENT BETWEEN CWALLA AND THE CUSTOMER, IF APPLICABLE, REPRESENT THE FINAL AND COMPLETE AGREEMENT OF CWALLA AND THE CUSTOMER AS TO THE SALE AND PURCHASE OF PRODUCTS AND NO OTHER TERMS OR CONDITIONS ADDING TO OR MODIFYING THE SAME SHALL BE BINDING UPON CWALLA UNLESS AGREED TO IN WRITING BY AN AUTHORIZED REPRESENTATIVE OF CWALLA.

## I. PRODUCTION CHARGES:

- \$100.00 SET-UP CHARGE WILL APPLY FOR ORDERS LESS THAN 1,000 LF OF NON-STANDARD PROFILES OR LENGTHS.
- SETUP CHARGES WILL NOT APPLY FOR ANY PROFILE ORDER WHERE LENGTHS COMBINED EXCEED 1,000 LF; COMBINED PROFILES MUST BE IDENTICAL WITH EXCEPTION TO LENGTHS. SEPARATE PRODUCTION CHARGES OUTLINED BELOW MAY STILL APPLY.
- ORDERS UNDER 200 LF OF NON-STANDARD STUDS MAY BE MANUFACTURED UN-PUNCHED.
- \$1.00 PER PIECE SHORT LENGTH CHARGE FOR ORDERS WITH PIECES BETWEEN 30" AND 6' IN LENGTH.
- \$2.50 PER PIECE CHARGE FOR ORDERS WITH ANY MATERIAL LESS THAN 30" IN LENGTH. STUDS WILL BE MANUFACTURED UNPUNCHED.
- PRESS BRAKE PROFILES AND CUSTOM SHAPES ARE AVAILABLE UP TO A MAXIMUM OF 24-FOOT LENGTHS. SOME RESTRICTIONS APPLY BASED ON ABILITY TO MANUFACTURE SPECIFIC CUSTOM PROFILES. ANY MATERIAL MANUFACTURED ON THE PRESS BRAKE WILL BE CHARGED ACCORDINGLY.
- CUT CHARGES: \$2.50 CHARGE PER SINGLE CUT OR HOLE WILL APPLY PER PIECE FOR ANY HAND CUTTING OR DRILLING OF MATERIAL.
- SPECIALTY TOOLING IS AVAILABLE FOR CUSTOM PARTS. CWALLA WILL INVOICE CUSTOMER FOR COSTS TO MANUFACTURE TOOLING. TOOLING WILL REMAIN THE PROPERTY OF CWALLA. ALL TOOLING IS SUBJECT TO MAINTENANCE, REPAIR AND REPLACEMENT COSTS, TO BE INVOICED AS REQUIRED.
- PRODUCTION CHARGES FOR MOCK UP ORDERS MAY BE WAIVED FOR THE INITIAL MOCK UP ORDER UPON APPROVAL. CWALLA RESERVES THE RIGHT TO CHARGE PRODUCTION CHARGES WHERE CWALLA DEEMS THE MOCK UP ORDER(S) EXCESSIVE.

## II. PAYMENT TERMS

- A. CASH AT POINT OF SALE; SPECIAL ORDER PRODUCTS MAY REQUIRE PAYMENT IN FULL BEFORE MANUFACTURING WILL COMMENCE (UNLESS CREDIT TERMS HAVE BEEN PRE-APPROVED BY CWALLA).
- B. FOR APPROVED CREDIT ACCOUNTS: NET 30 DAYS FROM DATE OF INVOICE.
  - ANY CREDIT CARD PAYMENT MADE ON CWALLA CREDIT ACCOUNT IS SUBJECT TO A 3% SERVICE FEE BILLED ON CUSTOMER INVOICE.
- C. LATE PAYMENTS ARE SUBJECT TO LATE PAYMENT CHARGES OF 2% PER MONTH ON THE UNPAID BALANCE AND WILL BE SUBJECT TO A MINIMUM CHARGE OF \$1.00.
- D. ALL PRICES ARE BASED ON PRODUCT SHIP DATE, DATE OF WILL CALL OR DATE OF DELIVERY, **NOT** ORDER DATE.

## III. RETURN/EXCHANGE POLICY

CUSTOMER SHALL HAVE THE RIGHT TO INSPECT THE GOODS UPON RECEIPT. CUSTOMER'S INSPECTION RIGHTS SHALL EXPIRE 24 HOURS AFTER THE RECEIPT OF THE GOODS. A FAILURE TO MAKE INSPECTION WITHIN THAT TIME SHALL WAIVE NOTICE OF ANY DEFECT WHICH REASONABLE INSPECTION WOULD HAVE REVEALED. A REJECTION OF THE GOODS BY CUSTOMER SHALL NOT BE EFFECTIVE UNLESS WRITTEN NOTICE OF THE REJECTION IS MADE TO CWALLA WITHIN THREE (3) CALENDAR DAYS OF DELIVERY. RETURNED MATERIAL PICKED UP BY CWALLA WILL INCUR ADDITIONAL CHARGES. SPECIAL ORDER/CUSTOM MADE PRODUCTS ARE NON-CANCELABLE/NON-RETURNABLE.

NO ALLOWANCES WILL BE MADE FOR LABOR, REPAIRS, OR ALTERATIONS PERFORMED BY THE CUSTOMER WITHOUT CWALLA'S WRITTEN CONSENT. CWALLA WILL ACCEPT RETURNS/EXCHANGES WITHIN 30 DAYS OF PURCHASE ON STANDARD STOCK PRODUCT ONLY. RETURNED MATERIAL IS SUBJECT TO A 25% RESTOCKING FEE (30% ON ALL STOCK CEILING PRODUCTS). ALL MERCHANDISE WILL NEED TO BE ACCOMPANIED BY THE ORIGINAL PACKAGING, SALES RECEIPT OR PROPER IDENTIFICATION. CWALLA SHALL NOT BE LIABLE FOR ANY DAMAGES ATTRIBUTABLE TO PRODUCT ABUSE, MISUSE, NEGLIGENCE OR ANY OTHER CAUSE, WHICH IS NOT THE FAULT OF CWALLA. SPECIAL ORDER/NON-STOCK PRODUCT WILL NOT BE REFUNDED OR EXCHANGED.

### A. SCAFCO STEEL PRODUCTS

CUSTOM BRAKE SHAPES AND RADIUS PRODUCTS ARE NON-CANCELABLE/NON-RETURNABLE – NO CREDIT FOR OVERAGES IN LENGTH FOR RADIUS PRODUCTS. MATERIAL CUT OR ALTERED BY CUSTOMER IS NON-RETURNABLE. CUSTOM LENGTH ACCESSORY ITEMS AND TRACK ARE NONCANCELABLE/NON-RETURNABLE. NON-STANDARD STEEL PRODUCTS AND NON-STANDARD LENGTHS ARE NON-CANCELABLE/NON-RETURNABLE.

**RETURNS:** RETURN OF STANDARD STOCK STEEL PRODUCT IS SUBJECT TO CWALLA'S PRIOR WRITTEN APPROVAL AND SUBJECT TO A RESTOCKING CHARGE EQUAL TO 25% OF THE NET ORDER VALUE OR \$25, WHICHEVER IS GREATER. RETURNS OF PRODUCTS WITH A VALUE LESS THAN \$25 (AFTER APPLYING THE RESTOCKING CHARGE) WILL NOT BE CREDITED. SAME DAY RETURNS ARE SUBJECT TO A 15% RESTOCKING CHARGE.

### B. NON-STEEL FRAMING PRODUCTS

CUSTOM BRAKE SHAPES AND RADIUS PRODUCTS ARE NON-CANCELABLE/NON-RETURNABLE – NO CREDIT FOR OVERAGES IN LENGTH FOR RADIUS PRODUCTS. MATERIAL CUT OR ALTERED BY CUSTOMER IS NON-RETURNABLE. CUSTOM LENGTH ACCESSORY ITEMS AND TRACK ARE NONCANCELABLE/NON-RETURNABLE. NON-STANDARD STEEL PRODUCTS AND NON-STANDARD LENGTHS ARE NON-CANCELABLE/NON-RETURNABLE.

**RETURNS:** PRODUCTS OTHER THAN SCAFCO STEEL FRAMING PRODUCTS **ARE NON-RETURNABLE**. SPECIAL ORDER PRODUCTS ARE NON-CANCELABLE. NON-RETURNABLE PRODUCTS INCLUDE BUT ARE NOT LIMITED TO GYPSUM, MUDS, FASTENER PRODUCTS, TOOL PRODUCTS, ACOUSTICAL CEILING PRODUCTS, PERISHABLE PRODUCTS, AND ANY OTHER NON-SCAFCO MANUFACTURED PRODUCTS.



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# TERMS AND CONDITIONS

#### IV. CUSTOM HANDLING CHARGES

- A. CUSTOM PACKAGING, BUNDLING, MATERIAL SORTING, HANDLING OR ADDITIONAL LABOR: \$100 PER BUNDLE/KIT OR QUOTED PER PROJECT.
- B. SPECIAL PACKAGING FOR HANDLING & SHIPMENT OF CUSTOM LENGTH FLAT STOCK (OTHER THAN 10' OR 100' ROLLS) OR OTHER PRODUCT AS REQUIRED: TO BE DETERMINED AT TIME OF ORDER; MINIMUM \$200 CHARGE.

#### V. SHIPPING TERMS FROM MANUFACTURER

PRICES UNLESS OTHERWISE QUOTED OR STATED IN WRITING ARE FOB SHIPPING POINT. FREIGHT CHARGES WILL BE DETERMINED AT TIME OF ORDER(S). SHIPPING AND DELIVERY DATES ARE APPROXIMATE AND PROVIDED IN GOOD FAITH. IF DELIVERY IS DELAYED BY CUSTOMER, CWallA RESERVES THE RIGHT TO INVOICE AND STORE MATERIAL AT CUSTOMERS' EXPENSE. FREIGHT CHARGES, INCLUDING 3RD PARTY SERVICES, ARE BASED ON REASONABLE ACCESS DELIVERIES, CUSTOMER UNLOAD AND MAXIMUM 30 MINUTE UNLOAD TIMES; ADDITIONAL UNFORSEEN CHARGES FROM SHIPPERS WILL BE PASSED ON AND INVOICED TO CUSTOMER.

#### VI. STOCKING/DELIVERY CHARGES FROM DELIVERING CWallA BRANCH LOCATION

PLEASE CONTACT YOUR DELIVERING BRANCH FOR PRICES AND TERMS.

- MATERIAL STOCKING, IF REQUESTED BY CUSTOMER, WILL BE QUOTED PER PROJECT.
- SERVICES DO NOT INCLUDE PREVAILING WAGE RATES OR REQUIREMENTS UNLESS AGREED TO IN WRITING.
- DELIVERY FEE'S FOR MOCK UP ORDERS MAY BE WAIVED FOR INITIAL MOCK UP ORDER UPON APPROVAL. CWallA RESERVES THE RIGHT TO CHARGE DELIVERY FEES WHERE CWallA DEEMS MOCK UP ORDER(S) EXCESSIVE. ANY STOCKING REQUIRED OF A MOCK UP ORDER IS SUBJECT TO STANDARD CHARGES.

#### VII. MODIFICATION

CWallA'S ACKNOWLEDGEMENT AND ACCEPTANCE OF CUSTOMER'S CREDIT APPLICATION AND/OR ORDER IS EXPRESSLY CONDITIONED UPON CUSTOMER'S ACCEPTANCE OF THE TERMS AND CONDITIONS REFERRED TO HEREIN. NO TERMS OR CONDITIONS OTHER THAN THOSE STATED HEREIN, WHETHER CONTAINED IN CUSTOMER'S PURCHASE ORDER, SHIPPING RELEASE, OTHER DOCUMENTATION OR ELSEWHERE, AND NO WRITTEN OR ORAL AGREEMENT THAT PURPORTS TO MODIFY THESE TERMS AND CONDITIONS SHALL BE BINDING UPON CWallA UNLESS SUCH IS HEREAFTER SET FORTH IN WRITING WITH EXPLICIT LANGUAGE OF MODIFICATION AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF CWallA. ALL NEGOTIATIONS, PROPOSALS, AND REPRESENTATIONS ARE MERGED HEREIN, AND THIS WRITING CONSTITUTES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE TERMS AND CONDITIONS OF THE ORDER AND/OR CREDIT AGREEMENT BETWEEN CUSTOMER AND CWallA. IN THE EVENT CUSTOMER FAILS TO ACCEPT THESE TERMS AND CONDITIONS IN WRITING, CUSTOMER'S CONSENT TO THE TERMS AND CONDITIONS HEREIN SHALL BE CONCLUSIVELY PRESUMED, EITHER FROM CUSTOMER'S FAILURE TO PROVIDE WRITTEN OBJECTION WITHIN TEN (10) DAYS OF SIGNING THE CREDIT APPLICATION OR FROM CUSTOMER'S ACCEPTANCE OR USE OF THE MATERIAL DELIVERED HEREUNDER.

#### VIII. TAXES

PRICES DO NOT INCLUDE FEDERAL, STATE AND/OR LOCAL SALES, USE, EXCISE OR OTHER APPLICABLE TAXES.

SALES TAX WILL BE CHARGED UNLESS CUSTOMER PROVIDES CWallA WITH PROPERT LEGAL DOCUMENTATION PROVING TAX EXEMPTION ON PURCHASES, IN ADVANCE OF SHIPMENT, DELIVERY OR PICKUP. SALES TAX WILL NOT BE REFUNDED OR CREDITED TO CUSTOMER. SHIPMENTS/DELIVERIES MADE TO AK, DE, MT AND OR ARE SALES TAX EXEMPT. SALES TAX IS BASED ON SHIP TO LOCATION/POINT OF DELIVERY OR PICKUP.

#### IX. ORDER CANCELLATION

CANCELLED ORDERS FOR NON-STOCK, CUSTOM MANUFACTURED, OR SPECIAL-ORDER PRODUCTS ARE, AT CWallA'S SOLE DISCRETION, SUBJECT TO A CANCELLATION FEE OF 100% OF THE NET ORDER VALUE.

#### X. ORDER DELAYS AND STORAGE

STANDARD STOCK MATERIAL NOT COLLECTED WITHIN 30 DAYS OF ORDER DATE WILL BE RESTOCKED AND CHARGED A 15% LOSS OF OPPORTUNITY FEE. NONSTOCK PRODUCT ORDERED AND NOT COLLECTED WITHIN 30 DAYS OF ORDER DATE WILL BE INVOICED AT PRICES IN EFFECT AT 30 DAY MARK. MATERIAL THAT EXCEEDS 30 DAYS AND HAS BEEN INVOICED MAY BE SUBJECT TO A STORAGE FEE AT A MINIMUM OF 1% OF NET MATERIAL COST PER DAY.

#### XI. LATE SHIPMENTS; FORCE MAJEURE

CWallA ACCEPTS NO LIABILITY FOR: (I) FAILURE TO DELIVER WITHIN THE ACKNOWLEDGED SHIPMENT DATE; OR (II) DEFAULTS OR DELAYS DUE TO STRIKES, LOCKOUTS, LABOR DISPUTES, COURT ORDERS, ACTS OF GOD, INABILITY TO OBTAIN LABOR OR MATERIALS, GOVERNMENT RESTRICTIONS, NATIONAL EMERGENCY, REGULATIONS OR CONTROLS, REGIONAL EPIDEMIC OR GLOBAL PANDEMIC, HOSTILE GOVERNMENT ACTION, CIVIL COMMOTION, WAR, ACTS OF TERRORISM, FIRE OR OTHER CAUSES BEYOND ITS REASONABLE CONTROL.

CUSTOMER AGREES TO PAY ALL COSTS OF COLLECTION BY CWallA OF ANY AMOUNTS DUE HEREUNDER, INCLUDING ACTUAL ATTORNEY'S FEES. CUSTOMER FURTHER AGREES THAT, IN THE EVENT OF ANY ACTION ARISING OUT OF OR RELATED TO THE AGREEMENT BETWEEN CUSTOMER AND CWallA, AND CWallA PREVAILS, CUSTOMER WILL PAY CWallA ITS ACTUAL ATTORNEY'S FEES AND OTHER COSTS INCURRED AS A RESULT OF OR IN CONNECTION WITH SUCH ACTION. TO THE EXTENT STATE LAW LIMITS THE RECOVERABILITY OF ATTORNEY'S FEES, CWallA WILL BE ENTITLED TO RECOVER ITS FEES UP TO THE MAXIMUM ALLOWED BY STATE LAW.

CWallA WILL HAVE THE SOLE DISCRETION AND COMPLETE RIGHT TO APPLY ANY PAYMENT RECEIVED FROM CUSTOMER HEREUNDER IN ANY MANNER THAT CWallA DEEMS PROPER. UNLESS OTHERWISE SPECIFIED IN THE REMITTANCE ADVICE, CWallA MAY APPLY PAYMENTS FIRST TO LATE PAYMENT CHARGES, SERVICE CHARGES, SHIPPING CHARGES, ATTORNEY'S FEES, OR ANY OTHER APPLICABLE CHARGE, IN ANY ORDER, BEFORE APPLYING THE REMAINDER OF ANY SUCH PAYMENTS TOWARD CUSTOMER'S PRINCIPAL ACCOUNT.



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# **TERMS AND CONDITIONS**

### **XIII. WAIVER**

WAIVER BY SCAFCO OF ANY TERM OR CONDITION OF THIS AGREEMENT OR OF ANY BREACH HEREOF BY CUSTOMER, SHALL NOT BE CONSTRUED AS A WAIVER OF ANY OTHER TERM, CONDITION OR BREACH.

### **XIV. LIMITATION OF LIABILITY**

IN NO EVENT SHALL CWALLA BE LIABLE FOR, AND CUSTOMER SHALL MAKE NO CLAIM FOR, ANY AND ALL SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR LOST PROFITS, WHETHER IN CONTRACT, NEGLIGENCE, TORT, OR ON ANY OTHER BASIS OR THEORY, ARISING OUT OF OR RELATED TO THE MATERIALS, EQUIPMENT, OR SERVICES PROVIDED BY CWALLA UNDER THIS AGREEMENT, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION THEREWITH; AND CUSTOMER HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE CWALLA UPON ANY CLAIM FOR ANY AND ALL SUCH SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR LOST PROFITS, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR. IN ANY EVENT, CWALLA'S TOTAL LIABILITY FOR ANY REASON WHATSOEVER SHALL NOT EXCEED THE TOTAL PRICE PAID BY CUSTOMER TO CWALLA PURSUANT TO THIS AGREEMENT.

### **XV. INDEMNIFICATION**

CUSTOMER SHALL DEFEND, INDEMNIFY AND HOLD SCAFCO HARMLESS FROM ANY AND ALL CLAIMS, INJURIES, DAMAGES, LOSSES OR SUITS, INCLUDING REASONABLE ATTORNEY FEES, ARISING OUT OF OR RESULTING FROM THE ACTS, ERRORS OR OMISSIONS OF THE CUSTOMER ARISING OUT OF PURCHASE TRANSACTIONS UNDER THESE TERMS AND CONDITIONS OF SALE.



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# CWallA

## Missoula/Billings MT

### Delivery Terms and Conditions

### Safety and Job Site Access:

CWallA is committed to safety. All access points MUST be adequate in size, integrity and dimension to safely pass through with our personnel, product and equipment. Alternative access such as elevators, THIRD PARTY CRANES or other material moving equipment and/or support personnel such as flaggers, extra labor (etc.) will incur an additional charge and should be discussed well in advance of a delivery commitment. All deliveries are based on reasonable access and normal business hours; after hours requirements will be quoted per project/delivery. CWallA personnel are allowed to use only CWallA supplied equipment on any job site. Please notify CWallA if there are any questions regarding these restrictions. Inner city/downtown deliveries may require special parking and/or access permits which require a minimum of 5 to 7 business days to process - all charges will be considered pass through on your invoice. Over-length permit requirements will be considered pass through on your invoice; any over-length material that must be shipped direct will incur charges based on standard freight charges in effect at time of shipment.

**JOB SITE ORIENTATION, DRUG TESTING and BACKGROUND CHECKS:** Prior notification with reasonable time to acquire ALL AND EVERY requested document is required. It is advised to inform CWallA of these requirements during the initial reference to your project. If delivery personnel are required to attend or participate in any safety or job site related training or drug testing there will be a charge of \$55.00 per hour per person involved. You will be required to cover all associated costs of such testing. Additionally, if your job requires background checks of our employees this issue must be discussed well in advance and be approved by our Human Resources Department. Unless agreed to in writing by an authorized representative of CWallA, services do not include prevailing wage rates or requirements.

**DELIVERY CHARGES (STEEL FRAMING):** Local deliveries will be charged \$200.00 per delivery. Local deliveries are considered within 20 driven miles from the delivering branch. There will be a \$200.00 delivery charge plus \$6.00 per driven mile beyond 20 miles added to deliveries that meet a **minimum of \$3,000.00** in material. Deliveries beyond 20 driven miles that do not meet a minimum of \$3,000.00 in material will be charged a flat rate \$6.00 per driven mile, with a minimum charge of \$300.00. Any delivery beyond 150 driven miles from a CWallA branch must be approved by CWallA management and quoted per project. Prices reflect each truck required for the delivery – multiple vehicle requirements will be charged per vehicle. Direct shipments from any manufacturer are subject to freight charges to be determined at time of order, or per provided quote. CWallA vehicles and crews required to unload and/or stock direct shipped material are subject to the above terms and will be charged as a separate truck accordingly. **CWallA's operational hours are 4:00 AM – 3:00 PM Monday through Friday, excluding holidays.**

**STANDARD STOCK SCOPE:** Unless otherwise quoted per project, stocking services are not available. Services do not include prevailing wage rates or requirements unless agreed upon.

**RETURNED LOAD CHARGES:** If our loaded truck(s) has (have) been dispatched to your job site and is ordered to be delayed, stopped or returned to our yard we will charge a minimum of \$375.00 per truck per occurrence. If our equipment has traveled outside the local delivery area, \$5.00 per mile additional will be charged. This charge will also apply for any job site that is considered unsafe or not ready to stock upon our arrival at the job site. **CWallA reserves the right to declare a job site unsafe or not conducive to stock – RETURN LOAD CHARGES may apply in these situations.**

**DELIVERY TIME EXPECTATIONS:** CWallA reserves the right for delayed delivery due to Force Majeure circumstances such as unexpected traffic, weather/road conditions, road work or obstructions, traffic accidents or other Force Majeure circumstances outside of CWallA's control. In most circumstances, CWallA will provide reasonable communication of these issues, or reasonable communication for delivery delays that may arise. By law, CWallA employees are required to take designated breaks and lunches which may take place during a job site stock time frame. CWallA will not be responsible for short-term delays that may take place due to employee designated break times during job site stocks.