

# OWENS CORNING BUILDER ADVANTAGE PROGRAM TERMS & CONDITIONS

**Background Statement:** To promote the benefits of certain Owens Corning® Roofing, Insulation and Doors Products ("Products"), each of Owens Corning Roofing and Asphalt, LLC, Owens Corning Insulating Systems, LLC and Masonite Corporation (collectively, "Owens Corning") have developed this Builder Advantage Program ("Program"). The homebuilder ("Homebuilder") desires to participate in the Program, and Owens Corning is willing to allow Homebuilder to so participate subject to the terms and conditions set forth below. For good and valuable consideration, the parties agree as follows:

**1. Homebuilder Qualification:** Entry into the Program is at the discretion of Owens Corning. Owens Corning will evaluate Homebuilder using the screening criteria as established by Owens Corning in its sole discretion. Only those homebuilders operating in the United States in the construction of single-family and multi-family residences will be eligible for inclusion in the Program. Product purchases for commercial or industrial properties, or non-United States properties, will not be eligible for Program benefits.

**2. Homebuilder's Obligations:** As long as Homebuilder is a participant in the Program, Homebuilder shall, at its sole expense:

- A.** Represent Products accurately in conjunction with Owens Corning's representation of these Products in literature, samples, and [www.owenscorning.com](http://www.owenscorning.com);
- B.** Comply with all federal, state and local regulations and permitting requirements governing the operation of Homebuilder's business and install (or cause to be installed) Products in accordance with the installation instructions, all applicable building codes, and in a professional and workmanlike manner consistent with the highest industry standards;
- C.** Abide by such reasonable policies and procedures as may be implemented by Owens Corning from time to time that relate to the Program;
- D.** Conduct business in an ethical manner. Sell Products without misrepresentation or making any false or misleading statements;
- E.** Continuously maintain a permanent place of business (e.g., no P. O. boxes) and telephone number, and keep Owens Corning apprised of any changes to such address and telephone number.
- F.** Not engage in any conduct which has or may reasonably be expected to have an adverse impact on or impair the goodwill associated with the Program, Owens Corning, or any of its affiliates and shall cause its employees, agents and contractors to do the same.

**3. Owens Corning's Obligations:** For any Homebuilder participating in the Program, Owens Corning shall provide the services and benefits offered by Owens Corning from time to time under the Program, which may be changed from time to time by Owens Corning at its sole discretion.

Owens Corning does not guarantee that any Homebuilder participating in the Program will receive a certain amount of business or sales as a result of such participation.

This Agreement does not create an exclusive arrangement or relationship between Owens Corning and any participating Homebuilder.

**4. Term/Termination:** Either party may, at any time, for any reason, terminate this Agreement immediately upon providing written notice of termination to the other party. Should Homebuilder's participation in the Program terminate for any reason, Homebuilder understands and agrees to forfeit all accumulated rewards. Homebuilder further waives and releases Owens Corning from any and all damages that Homebuilder may claim in the event that Homebuilder's participation in the Program terminates or is terminated by any party, for any reason.

**5. Indemnity:** Homebuilder shall indemnify, defend and hold Owens Corning, its affiliated entities, and each of their officers, directors, employees, Homebuilders and agents harmless from and against any claims, liabilities, costs, expenses and damages based upon any allegation that:

- A.** Homebuilder is an agent or employee of Owens Corning or any of its affiliates;
- B.** Homebuilder or its employees, agents, contractors or sub-contractors were negligent in performing work for their customers;
- C.** Homebuilder or its employees, agents contractors or sub-contractors breached a contract with its customers;
- D.** The acts or omissions of Homebuilder or its employees, agents, contractors or sub-contractors caused damage to the property of others or resulted in personal injury (including death at any time therefrom);
- E.** Homebuilder or any of its contractors or subcontractors failed to comply with the terms of this Agreement or with applicable building codes, regulations or rules;
- F.** Homebuilder performed any illegal act(s); or
- G.** Homebuilder made any misrepresentation about the Program or any Products to any of its customers.

The obligations of this paragraph shall survive termination of this Agreement.

**6. Trademarks:** No license is granted or implied by this Agreement under, or for the use of, any trademarks or trade names owned or controlled by Owens Corning or any of its affiliated entities or in which Owens Corning or any of its affiliated entities has any rights except as otherwise expressly provided by Owens Corning in connection with the Program. If Owens Corning does permit Homebuilder use of any marks related to the Program and Homebuilder decides to utilize such Program marks, in doing so, Homebuilder hereby explicitly agrees to any terms and conditions provided by Owens Corning related to their use. The current Trademark Requirements follow these Terms and Conditions and are incorporated by reference herein.

**7. Relationship of Parties:** Homebuilder is an independent contractor, and this Agreement does not create, in any manner or for any purpose whatsoever, a principal-agent or fiduciary relationship. Homebuilder shall neither have the authority to create or assume any obligation on behalf of Owens Corning or any of its affiliated entities nor shall Homebuilder have authority to modify any warranty which may be offered by Owens Corning.

**8. Disclosure of Certain Information to Third Parties:** Homebuilder acknowledges and agrees that Owens Corning or any of its affiliated entities shall have the right during the Term of this Agreement to permit certain third parties with whom Owens Corning or any of its affiliated entities has a contractual or other business relationship to contact Homebuilder in order to promote their goods or services. Notwithstanding the foregoing, Homebuilder understands that Owens Corning does not endorse, represent, or warrant the accuracy of the content of any such forms of communications with Homebuilder. In the event that Homebuilder does not wish to permit any such third parties to contact Homebuilder, Homebuilder shall deliver written notice to Owens Corning addressed to the attention of Homebuilder Services Leader. Homebuilder releases and waives any and all claims against Owens Corning and each of its affiliated entities arising from any communications from third parties.

**9. Non-Assignment; Successors:** This Agreement shall be binding upon and shall inure to the benefit of each of the parties and its respective successors and permitted assigns. Homebuilder may not assign its rights or delegate its obligations hereunder.

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- 10. Severability:** If any provision of this Agreement is deemed invalid and unenforceable by any court of competent jurisdiction or under any statute, regulation, ordinance, executive agreement or other rule of law, such provision shall be deleted or modified, but only to the extent necessary to comply with such ruling, statute, regulation, ordinance, agreement or rule, and the remaining provisions of this Agreement shall remain in full force and effect.
- 11. Choice of Law:** This Agreement shall be construed according to the laws of the State of Ohio without regard to its conflict of laws, provisions or any other provision of Ohio law that would require or permit the application of the substantive law of any other jurisdiction to govern this Agreement.
- 12. Arbitration:** Any dispute or controversy between the parties arising out of or relating to this Agreement, including without limitation, a dispute or controversy relating to the construction of any provision or the validity or enforceability of any term or condition (including this paragraph) or of the entire Agreement, or any claim that all or any part of this Agreement (including this provision) is void or voidable, shall be submitted to arbitration before a single arbitrator in accordance with the Commercial Rules of Arbitration of the American Arbitration Association then in effect and at a location in Toledo, Ohio. Each party shall bear his or its own costs in any such proceeding. The decision of the arbitrator shall be final and binding upon the parties and may be enforced in any court of competent jurisdiction. To the fullest extent permitted by law, the parties irrevocably submit to the jurisdiction of such forum and waive any objection he or it may have to either the jurisdiction or venue of such forum.
- 13. Miscellaneous:** This Agreement together with any Program documents provided to Homebuilder by Owens Corning sets forth the entire understanding of the parties hereto and constitutes the entire agreement between the parties with respect to the matters contained herein and supersedes all prior oral or written representations, proposals, correspondence, discussions, negotiations and agreements. No change, modification, waiver, agreement or understanding, oral or written, in any way purporting to waive or modify the terms hereof shall be binding Owens Corning unless contained in a written document expressly described as an amendment to, waiver of or extension of this Agreement and unless such document is executed by an authorized representative of Owens Corning. A waiver by either party of any breach or failure to enforce any term or condition of this Agreement shall not in any way affect, limit or waive such party's right at any time to enforce strict compliance with that or any other term or condition of this Agreement.
- 14. SMS Text Messaging:** Owens Corning offers complimentary SMS text messaging services to help you stay informed with important account or product related topics that need your attention. You might receive account updates or product information. Owens Corning offers this service at no extra charge. Message frequency may vary. Standard message and data rates may apply. Your consent to receive these marketing text messages is not required as a condition of purchasing any goods or services from Owens Corning. Texts may be sent using an automatic telephone dialing system.

Participating Carriers: The service is available on AT&T, Sprint, T-Mobile, Verizon Wireless, Boost, Cricket, MetroPCS, U.S. Cellular, Virgin Mobile, ACS Wireless, Appalachian Wireless, Bluegrass Cellular, Carolina West Wireless, Cellcom, C-Spire Wireless (formerly CellSouth), Cellular One of East Central Illinois, Cincinnati Bell Wireless, Cross (dba Sprocket), Duet IP, Element Mobile, EpicTouch, GCI Communications, Golden State, Hawkeye (Chat Mobility), Hawkeye (NW Missouri Cellular), Illinois Valley Cellular, Immix (Keystone Wireless/PC Management), Inland Cellular, iWireless, Mobi PCS (Coral Wireless LLC), Mosaic, MTPCS/ Cellular One (Cellone Nation), Nex-Tech Wireless, nTelos, Panhandle Telecommunications, Peoples Wireless, Pioneer, Plateau, Revol Wireless, Rina - Custer, Rina - All West, Rina - Cambridge Telecom Coop, Rina - Eagle Valley Comm, Rina - Farmers Mutual Telephone Co, Rina - Nucla Nutria Telephone Co, Rina - Silver Star, Rina - South Central Comm, Rina - Syringa, Rina - UBET, Rina - Manti, South Canaan/CellularOne of NEPA, Thumb Cellular, Union Wireless, United, Viaero Wireless, West Central Wireless, Leaco, Nemont/ Sagebrush. T-Mobile is not liable for delayed or undelivered messages.

If you have questions about SMS text services or need help, call 1-866-PRO-DESK or email [ProDesk@owenscorning.com](mailto:ProDesk@owenscorning.com). To opt out of this service, please text STOP to 98691.

For more information, you can view a copy of our [Privacy Policy](#).