

Terms and Conditions



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1. ABBREVIATIONS USED:

- A. The terms "WE", "OUR", or "US" refer to CECCO TRADING INC./Timber Holdings International
- B. The terms "YOU" and "YOUR" refer to CUSTOMER as designated on any Sales Agreement or credit application.

2. PROPOSAL / ESTIMATE / QUOTATION / CONFIRMATION / PURCHASE ORDERS / SALES AGREEMENT:

- A. All orders must be confirmed in writing to US with an authorized customer signature by submitting a purchase order and by signing a quotation/confirmation provided by US. Verbal orders are not accepted unless otherwise stated by Timber Holdings Intl. management.
- B. Changes or cancellations can be made without charge, to any order within one working day (Monday – Friday) of placing the order. Changes and cancellations must be verified in writing in addition to verbal confirmation.
- C. Any change orders or cancellations thereof, not received within one working day (Monday – Friday) of placement, will be subject to a 25% restocking charge unless otherwise stated by THL management.
- D. If any document provided by US is designated as a PROPOSAL/QUOTE, then it is firm for the number of days listed but not to exceed thirty (30) days without reconfirmation. WE agree to be bound only if WE receive YOUR written acceptance of the PROPOSAL/QUOTE within the number of days listed but not to exceed thirty (30) days from the date of the PROPOSAL/QUOTE without reconfirmation. Upon such receipt YOU are bound.
- E. If any document provided by US is designated as an ESTIMATE, then WE are not bound unless YOU first provide US with YOUR acceptance and WE thereafter deliver to YOU, OUR CONFIRMATION that WE have received YOUR acceptance and that WE agree to be bound by OUR ESTIMATE.

3. ERRORS: Clerical or mathematical errors contained in OUR, PROPOSAL, QUOTE, ESTIMATE, CONFIRMATION, and SALES AGREEMENT can be corrected at any time by US.

4. RISK OF LOSS: YOU assume and shall bear the entire risk of loss and damage to the materials from any and every cause whatsoever. No loss or damage to the materials, in whole or in part, shall impair any obligation of YOU under any SALES AGREEMENT, which shall continue in full force and effect.

5. ASSIGNABILITY: YOU shall not by operation of law or otherwise, assign, pledge, transfer or hypothecate any agreement with US in any part or any interest therein. WE may assign, pledge or transfer this agreement in whole or in part and/or sublet any of the work without notice to YOU, in which event YOU shall not be relieved of any of YOUR obligations hereunder.

6. PATENTS: If any material shall be sold by US to meet YOUR specifications or requirements and is not part of OUR standard line offered by US to the trade generally in the usual course of OUR business, You agree to defend, protect and save harmless, US against all suits at law or in equity and from all damages, claims and demands for actual and alleged infringement of any United States or foreign patent and to defend any suits or actions which may be brought against US for any alleged infringement because of the sale of such material.

7. WAIVER: No waiver by the seller of any breach of any provisions hereof shall constitute a waiver of any other breach of such provision. OUR failure to object to provisions in any communications from YOU shall not be deemed an acceptance of such provisions or as a waiver of the provisions of this contract.

8. PRE-BID DATA AND INFORMATION: The data and information which is the basis of a PROPOSAL, and/or QUOTE, and/or ESTIMATE, and/or CONFIRMATION has been furnished to US from appropriate plans and from other accredited sources. If the information furnished to US as to the conditions of the contract shall vary from the conditions actually encountered during the performance of the contract, then WE reserve the right to specify different or additional procedures or materials, to modify the scope of the work by US, and YOU agree to pay US, in addition to the contract price any additional expense incurred by US as a result of such variance. YOU will pay such additional expense to US at OUR cost plus twenty percent (20%).

9. TOLERANCES: Except as otherwise specified by YOU and expressly agreed to in writing by US, the materials furnished by US are produced in accordance with standard manufacturing practices in the country of origin. All materials are subject to mill tolerances and variations consistent with normal manufacturing practice with respect to dimension, weight, straightness, section, composition, surface condition and variations in temperature and humidity. We are not responsible for any deterioration in quality with may result from processing operations or improper use or storage by YOU.

10. CUSTOMER PICK UP:

- A. All orders to be filled from Timber Holdings Intl. inventories if in stock, shall be made available within 3 to 7 working days unless otherwise negotiated and confirmed in writing. All shipments are F.O.B. OUR warehouse unless otherwise specified. Risk or Loss shall pass to YOU upon delivery to transporting carrier.
- B. YOU must advise us in writing of YOUR PICK UP requirements when YOU indicate to US YOUR acceptance of an ESTIMATE/PROPOSAL/QUOTE. On ESTIMATES, WE may confirm YOUR requirements as part of OUR CONFIRMATION. On PROPOSALS/QUOTES, WE agree to be bound only if the PICK UP requirements were specified in the PROPOSAL/QUOTES. WE will attempt to accommodate YOUR reasonable requirements.
- C. Truckers and dispatchers need to call to schedule a time of arrival to ensure availability of warehouse staff. All pick ups will be made during normal business hours. Unless otherwise noted there will be additional fees for early or late pick ups.
- D. WE will not be liable for any costs associated with YOUR failure to pick up goods in a timely manner. Unless otherwise noted YOU agree to pick up your order within FORTY EIGHT hours of release of orders from FOB location as referenced in OUR Sales Order and Yard Release. If pick up is delayed beyond FORTY EIGHT hours for any reason, you agree to accept invoicing and ownership of goods at the FOB location on the THIRD day. YOU also agree to reimburse US for any restocking or storage charges resulting from delays in pick up beyond FORTY EIGHT hours.

11. DELIVERY:

- A. All orders to be filled from Timber Holdings Intl. inventories if in stock, shall be made available within 3 to 7 working days unless otherwise negotiated and confirmed in writing. All shipments are F.O.B. OUR warehouse unless otherwise specified. Risk or Loss shall pass to YOU upon delivery to transporting carrier.
- B. Unless otherwise noted, there will be additional fees as determined by US for partial truckloads, dropped trailers, delays in unloading, demurrage and fuel surcharges.
- C. YOU must advise us in writing of YOUR delivery requirements when YOU indicate to US YOUR acceptance of an ESTIMATE/PROPOSAL/QUOTE. On ESTIMATES, WE may confirm YOUR requirements as part of OUR CONFIRMATION. On PROPOSALS/QUOTES, WE agree to be bound only if the delivery requirements were specified in the PROPOSAL/QUOTES. WE will attempt to accommodate YOUR reasonable requirements.

12. DELIVERY AND STORAGE

- A. Unless otherwise agreed in writing, YOU will unload OUR trucks without delay. YOU will reimburse US or pay to US, in addition to the contract price, our actual cost of any such delay.

B. If YOU are unable for any reason to accept delivery or fail to pick up orders as produced, We will place them in storage either at the sellers warehouse or elsewhere and YOU shall, upon OUR demand, Pay US for such materials and reimburse US for all expenses and charges which WE will incur or may reasonably impose storing, caring for, handling and disposing of them. If because of continued storage, or for any other reasons not the fault of US, it becomes necessary to clean or rework the materials, the cost of this additional cleaning or reworking shall be paid as an extra by YOU.

13. SCHEDULE AND PROCEDURE OF DELIVERY:

A. The work outlined and the scope of any sales agreement is based upon YOUR presenting to US the reasonable opportunity to perform the delivery in one continuous operation without interruptions or other delays by others or YOU, so that WE can perform the delivery in one mobilization-demobilization. Should YOU or others delay or interrupt OUR delivery so that it cannot be performed on a continuous basis, YOU will pay to US or reimburse US, all additional costs thereby created for US including charges for additional mobilization-demobilization, freight and storage as required. WE will do all within our power or which can be reasonably expected of US to perform the work as set forth in any sales agreement. WE will not be responsible or liable for interruptions or delays of failures of timely completion by US which may result from interruptions or delays caused by YOU or others. YOU will extend to US a reasonable extension of time within to complete OUR work at no additional charge to US as liquidated damages or otherwise in the event that OUR failure shall result from interruption or delays by YOU or by others beyond OUR reasonable control.

14. PARTIAL SHIPMENTS: Each shipment shall be construed as regards to deliveries and terms of settlement as separate and independent contract. If YOU do not accept and pay for any shipment, then WE may without prejudice to other lawful remedies, defer further shipments until settlement, or terminate the agreement or treat such failure as a breach and default of the entire agreement. OUR failure to exercise any right under this agreement shall not be deemed a waiver thereof.

15. INSPECTION AND CLAIMS You agree to carefully check material against shipping papers upon unloading at destination. All claims for shortages or for improper, defective or damaged materials will be deemed waived by YOU unless written notices specifying in detail the nature and extent of the shortage, defect or damage is mailed to sellers address within five (5) days from unloading or the earliest possible date the shortage, defect or damage could have been detected by YOU. We shall have no liability for work or repairs performed by YOU without OUR prior approval.

16. DELAY/FORCE MAJURE:

A. Time is not of the essence in delivery of materials not ordered from OUR Stocks.

B. On both confirmed QUOTES and accepted PURCHASE ORDERS, WE will not be responsible, nor liable, nor charged damages for OUR delay or non-performance if caused by (including but not limited to) subcontractors failure to perform, war, acts of God, fire, flood, embargos, labor strikes, changes in government policies, actions of governmental agencies, currency fluctuations, accidents for which we were not responsible, or other contingencies beyond our reasonable control.

17. VARIATION FOR BUYERS ACCOUNT All contracts between US and YOU are based on the foreign exchange rates against the U.S. dollar on the date of quotation/order confirmation. YOU agree that any variation in the exchange rate which negatively affects the U.S. dollar in excess of 2% between time or order confirmation and time of delivery or pick up will automatically trigger a price adjustment in the sell price on the quotation/order confirmation and shall be for YOUR account.

18. WARRANTY AND LIMITATION OF REMEDIES:

A. YOUR application and use of OUR products and/or designs is beyond OUR control. WE are not responsible for the performance of OUR products and/or designs once materials are repackaged, reprocessed, coated or installed.

B. OUR liability shall be limited solely to replacement, or at OUR option, to refunding the purchase price applicable to defective material or material not meeting specifications. We shall in no event be liable for any consequential or incidental damages or for loss, damages or expenses directly or indirectly arising from the use of the material including, without limitation, warehousing, labor, handling, and service charges not expressly authorized by US. This warranty is in lieu of and excludes all other warranties (except for any warranty furnished by any supplier which runs directly in favor of YOU), guarantees or representations, express or implied, by operation of law or otherwise, including any warranty of merchantability or fitness for a particular purpose. We shall have no liability arising from design or installation furnished by others or from architects errors or omissions.

C. YOU will return all defective material to US after inspection by US, or at our election, subject to inspection by OUR representative. The material returned must be returned in the same condition as when received by YOU and shall not have been exposed to weather or other elements which might effect the materials appearance or performance. Defective material so returned shall be replaced or repaired by US without an additional charge or, in lieu of such replacement or repair, We may at our option, refund the purchase price applicable to such material. We agree to pay return transportation charges to a location of our choosing not exceeding those which would apply from original destination on all defective material not meeting specification. However, WE will not be obligated for such charges when material returned proves to be free from defect and to meet specification. Material which proves to be free from defect and to meet specifications shall be held by US for shipping instructions.

19. LIQUIDATED DAMAGES: It is agreed that damages which may result from OUR breach of any contract or sales agreement may be difficult to accurately estimate and may be subject to a court of law. It is therefore agreed that the maximum claim against US for YOUR damages based upon OUR breach of the contract is five percent (5%) of the contract price not to exceed \$20,000 total, together with replacement of all defective items. YOU agree and WE agree that this represents a reasonable estimate of the maximum amount of damage to you and consequently represents the maximum liquidated value of such damage.

20. TAXES/DUTIES: YOU agree to pay in addition to the contract price any and all taxes, duties or other governmental charge upon the production, sale, and/or shipment of the items herein imposed by federal, state, local, or municipal authorities within the life of this contract. YOU will pay the tax, duties or other governmental charges directly to the taxing or charging authority or if unable to do so, then you pay that amount to US in addition to the contract price specified herein.

21. LIEN RIGHTS: WE will retain any and all rights conferred upon suppliers by the lien statutes of any governmental or municipal authority.

22. PRIOR AND FUTURE NEGOTIATION: Negotiations and information exchanged between YOU and US are superseded by these items and conditions. No statement of agreement, oral or written, made prior to the signing of any sales agreement shall vary or modify the written terms of these terms and conditions. Either party shall claim any amendment, modification, or release from any provision hereof by mutual agreement or otherwise unless such mutual agreement is in writing, signed by the other party and specifically states that it is an amendment to these terms and conditions.

23. INCORPORATION INTO SALES AGREEMENT /QUOTATIONS:

A. These terms and conditions, sections 1-27, are incorporated into and part of the terms and conditions of any Quotation/Purchase Order/Sales Agreement between US and YOU.

B. YOU agree to make these terms and conditions available to any parties internal to your firm responsible for negotiating and placing contracts.

C. These terms and conditions are noted on all quotations, appear in our promotional literature, and as such are readily available for your review.

D. It is clearly understood by US and YOU that in submitting the application for credit that you agree to all of the terms and conditions listed as they apply to any sales agreements/quotations/proposals between US and YOU regardless of the level of credit terms extended.

E. It is clearly understood by US and YOU that in submitting the application for credit or any subsequent sales agreement, that you are representing to us that you are solvent. If WE learn that YOU are insolvent or in default, WE shall be entitled to exercise OUR rights to reclaim the goods pursuant to Wisconsin State Law.

24. PAYMENT, SECURITY INTEREST, LATE CHARGES, AND COLLECTION COSTS:

A. YOU shall pay in cash the full purchase price when due as per terms of invoice in full, without offset, claim or counterclaim, at the address of US set forth on the invoice. Late charges shall bear a finance charge from the due date at the rate of 1.5% per month, until so paid. YOU shall also reimburse US any and all costs of collection, including collection agency, attorney's fees and court costs and other out of pocket costs incurred by US in collecting and delinquent payment to US. In the event YOU default in the payment of any part of the contract when due, or fail to comply with any and all provisions of this contract, WE shall have all the rights and remedies provided by this contract and the Uniform Commercial Code.

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25. DEFAULT:

A. WE shall retain a security interest in all materials supplied by US until the same has been fully paid for. If YOU shall fail to timely perform any of YOUR obligations hereunder or under any other agreement with US or if any proceeding shall be instituted by or against YOU under any bankruptcy or similar law, or if YOU become insolvent or make an assignment for the benefit of creditors, or if a judgment is rendered against you and is not dismissed within 30 days thereafter or if any levy or attachment occurs on any property of YOU or if a receiver is appointed for YOU or any of YOUR assets, or if YOU shall dissolve or YOUR existence shall be terminated, or YOU default on any contract YOU have with another party, the WE may in addition to any and all other remedies available to US hereunder at law or in equity:

1. Take possession of any of the materials, wherever located, without demand notice, court order or the process of law (and YOU agree to pay the costs of taking possession and waive any right for loss or damage occasioned by such taking and agree not to impede any such taking of possession.
2. Cease performance of any agreement or work.
3. Declare all other charges then or thereafter accrued with respect to any or all of the materials or otherwise;
4. Terminate any and all agreements as to any and all of the materials or work; and/or
5. Pursue any other remedy available to US hereunder at law or in equity. Notwithstanding any repossession or other act of US, YOU shall remain liable for the full performance of all of YOUR obligations to US hereunder. All remedies of US are cumulative and may be exercised concurrently or separately. Any default by YOU hereunder shall constitute a default by YOU under all other agreements between US and YOU.

26. INDEMNIFICATION: YOU unqualifiedly agree to hold US harmless from and against any and all claims, costs, damages, expenses, liabilities, actions and causes of action (collectively, Claims) including without limitation, court costs and attorneys fees relating to, arising out of, resulting from, incident to or in any manner connected with directly or indirectly, YOUR possession, use, maintenance, storage or control of any of the materials, or any death, injury, damage or destruction caused or allegedly caused by any of the materials and/or any actual or alleged act or failure to act of YOUR or any person or entity acting through, under or on behalf of YOU, including claims resulting in part from YOUR negligence or willful misconduct. You shall defend US against any and all claims, unless WE shall notify YOU in writing that WE will defend OURSELVES, and in either case You shall be liable for, pay and/or reimburse US for all fees, costs and expenses of such defense including, without limitation, attorneys fees and any settlement costs, judgments and/or other resolutions of any claims.

27. BINDING ARBITRATION Should any dispute arise between YOU and US both parties agree to binding arbitration.

28. MISCELLANEOUS: This Agreement (a) constitutes the entire agreement between the parties with respect to the subject matter hereof, supersedes all prior negotiations with respect thereto and may not be amended except by a writing signed by both parties. YOU waive and release any terms and conditions of any proposal, purchase order or other document submitted by YOU to US which are in addition to, inconsistent with or different from the terms and conditions hereof (b) shall be interpreted in accordance with the laws of the State of Wisconsin in any legal proceeding and (c) shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, representatives, successors and permitted assigns. If any provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, all other provisions thereof shall remain in full force and effect to the fullest extent and shall in no manner be affected, altered, impaired, or invalidated. Each of the section headings are for convenience only. Any notice required hereunder shall be in writing and shall be sent to the party for whom intended at its legal address by overnight mail or courier or by U.S. certified mail, return receipt requested, postage prepaid.

COMPANY _____

SIGNATURE _____ DATE _____

Timber Holdings International 600 East Vienna Ave. Milwaukee, WI
53212
Phone: (414) 445-8989 • Fax: (414) 445-9155 • www.ironwoods.com
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CONTRACT CLARIFICATIONS

Terms and conditions are designed to protect both Timber Holdings International and our customers. Please take the time to review our standard terms and conditions which are incorporated into any agreements between us and our customers.

- A. Any and all warranties, guarantees, discounts, Co-Op funds, etc. are void if the payment terms of the contract are not met per the agreed terms.
- B. Timber Holdings Intl. at its option will supply various multiples of specified lengths for final field trimming.
- C. Quotations are valid for 30 days from the date of issuance. Quotes and order confirmations are tied to the foreign exchange rates against the US dollar as published on the date of quotation. Any variation in the exchange rate which negatively affects the dollar in excess of 5%, before shipment, will automatically rescind the quotation/order confirmation.
- D. As per industry standard, up to 5% sub-grade or damaged material is allowable based on the volume of that shipment. Please make allowances for this possibility in your purchasing.
- E. Timber Holdings Intl. will determine the acceptability of returning unused materials. When agreed, a 25% restocking charge plus any return freight charges to our Milwaukee, WI warehouse will be applied. Only standard dimensional materials in good condition, well packed for shipment will be accepted.
- F. No claims will be accepted after 30 days from delivery. If material appears to be damaged when you receive it, you must note the specific damages on the bill of lading at that time.
- G. Failure to pay within the agreed payment terms will result in a 1.5% finance charge per month added to your account. Credit will be suspended to any account 90 days past due. Should the collection of your past due account require the service of a collection firm or lawyer those charges will be applied to your account.

COMPANY _____

SIGNATURE _____ DATE _____

PRINT NAME _____

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