

CASCADE MFG CO TERMS AND CONDITIONS OF SALE – EFFECTIVE 07/16/2020

1. **DEFINITIONS.** The term “Seller” shall mean Cascade Mfg Co. The term “Buyer” shall mean the entity agreeing to purchase the materials and/or services Seller has proposed to sell (the “Products”) as stated on the face of this Quote (the “Quote”) for delivery to the project stated on the Quote (the “Project”). The Seller’s sale of Products shall include in all instances these Terms and Conditions of Sale (the “Terms”) and the Seller’s Quote. All capitalized terms otherwise not defined herein shall have the meaning set forth in the latest editions of the International Building Code (“IBC”) and International Residential Code (“IRC”) as applicable, and the documents they reference, including ANSI/TPI-1, *National Design Standard for Metal Plate Connected Wood Truss Construction* (“TPI-1”), *AISI S240-15 North American Standard for Cold-Formed Steel Framing* (“S240”), and *AISI S202-15 Code of Standard Practice for Cold-Formed Steel Structural Framing* (“S202”).
2. **ACCEPTANCE.** Buyer’s verbal or written acceptance of the Quote, including the issuance of a purchase order, shall confirm an agreement of a sale of the Products in accordance with the Terms and shall become the “Agreement”. The use by Buyer of its own form of acceptance, whether by purchase order or otherwise, shall not vary, modify or add to the Terms. In no event shall Seller be deemed to accept the terms of Buyer’s purchase order or other agreement form, including where Seller has begun its work, unless the purchase order or other agreement has been signed in writing by an officer of Seller.
3. **PRICE EFFECTIVENESS OF PRODUCTS.** The purchase price for the Products (the “Purchase Price”) stated on the Quote will be maintained only for deliveries of the Products made through the date noted under General Conditions on the Quote (the “Schedule Date”). If no Schedule Date is stated or otherwise agreed upon, the Schedule Date shall be 90 days from the date of Buyer’s signing or acceptance of the Quote. Products manufactured by Seller and shipped after the Schedule Date will be invoiced at Seller’s prices in effect at time of shipment based on increases in raw material costs, unless cancelled by Buyer by notice received by Seller before manufacturing and shipment.
4. **PAYMENT.** Unless stated otherwise on the Quote, payment terms for the sale of Products shall be net 10 days from the date of invoice (the “Payment Terms”). The date of invoice shall be the date of shipment of the Products. Pay-when-paid, pay-if-paid, retention, and prompt-pay discounts are not permitted. Seller’s offer is conditioned on Seller approving in its sole and absolute discretion the credit of Buyer. If Seller’s Credit Application has not been satisfactorily completed, or if Buyer’s credit is not approved, the terms of payment shall be cash in advance of design, manufacturing and delivery, or other arrangements as determined by Seller. Buyer agrees to pay all collection costs, including reasonable attorney’s fees, incurred by Seller in connection with the collection of past due amounts owed to Seller under this Agreement. This Agreement is performable and all amounts due hereunder shall be due and payable at Seller’s office. If in the opinion of the Seller, the financial condition of the Buyer at any time during design, manufacturing or delivery does not justify continuance of Seller’s performance under this Agreement, Seller may require full or partial payment in advance, or other reasonable arrangements as determined by Seller.
5. **STORED PRODUCTS.** Any Products manufactured within the Schedule Date, where Buyer does not accept delivery within 30 days of the Schedule Date, shall be invoiced upon that 30 days and due and payable within the Payment Terms. Title and all risk of loss for such Products (the “Stored Products”) shall pass to Buyer at time of invoicing. Seller also reserves the right to charge a reasonable storage fee payable by Buyer to cover Seller’s cost of storing Stored Products. If any Stored Products remain with Seller for more than 180 days after manufacturing, all warranties shall be fully negated and the Stored Products are sold on an “AS IS, WHERE IS” basis. After this period, if Buyer has not taken shipment of the Stored Products, Seller will notify Buyer in writing that Seller either reclaims ownership of the Stored Products or intends to destroy the Stored Products.
6. **TERMINATION.** Buyer shall notify Seller in writing of Buyer’s intended termination of the Agreement. Upon termination for any reason, Buyer shall be responsible to Seller for all costs Seller has incurred in the ordering, selling, designing and manufacturing of the Products as of the time of termination. Payment of such costs shall be in accordance with the Payment Terms.
7. **SELLER’S SCOPE OF WORK AND DESIGN RESPONSIBILITIES.** Seller’s scope of work includes only the sale, design, manufacturing and delivery of those Products to be manufactured by Seller and the sale and delivery of any other Products. No contract documents, including plan notes and specifications, will be binding upon Seller unless such contract documents have been provided to and agreed upon by Seller as being within its scope of work. Additional scope of work clarifications for the following specific Products as described in the Quote are as follows:
 - a. **WOOD TRUSS COMPONENTS.** Unless otherwise stated in the Quote, the Products shall not be constructed of fire-treated materials or FSC/LEED or any other environmentally sustainable classified lumber. The grades of all lumber used in the manufacturing of the Products shall be equal to or greater than the grade noted in the Truss Design Drawings prior to cutting and Seller otherwise makes no warranty or representation as to lumber grade. Unless otherwise noted on the Quote, Seller’s design work shall be limited to preparation of individual Truss Design Drawings (sealed when required) and an unsealed Truss Placement Diagram. The Truss Design Drawings will indicate locations of Permanent Individual Truss Member Restraint. The size, connections, and anchorage of Lateral Restraint and Permanent Building Stability Bracing shall be by others. Design responsibilities, including those with respect to truss bracing, are furthermore limited to the requirements of TPI-1.
 - b. **COLD-FORMED STEEL TRUSS AND WALL PANEL COMPONENTS.** Unless otherwise stated on the Quote, Seller’s design responsibilities are limited to those defined in S240 and S202.
 - c. **ENGINEERED WOOD PRODUCTS (“EWP”) AND ALL OTHER PRODUCTS.** Any material sizing provided by Seller, including but not limited to EWP, steel beams, columns, uplift clips or truss to bearing connections, shall be considered as a schematic suggestion only. Buyer, the Building Designer, and other parties Buyer deems necessary are responsible for the sizing, verification, and approval of these items.

Where required, Seller shall prepare Product submittals for review and approval by Buyer, the Building Designer, and other parties Buyer deems necessary. Approval of the submittals should include, but not be limited to approval of design loading, lengths, profiles, pitch and depth, location and on-center spacing, overhang, and compatibility of the Products with other trades and the Building’s structural system. The design/supply of a means to transfer wind/seismic shear loads from the roof deck to the bearing is by others. Unless specifically stated in the Quote, Products shall not be collated. Seller shall not be responsible for making or verification of field measurements for any of the Products. Seller shall not be responsible for verification or inspection of installation or bracing of the Products. Jobsite visits by employees or agents of

Seller shall not be construed as an inspection of the Products or the installation or bracing of such Products. Unless otherwise stated, the Products are not designed with consideration to fall protection, including impact loads either in-plane or laterally. The design of the fall protection system, including the determination of the adequacy of the Building structural system (including Products offered by Seller) as a potential tie-off point, is the responsibility of others.

8. **OWNERSHIP AND RISK OF LOSS OF THE PRODUCTS AND BUYER RESPONSIBILITIES.** Upon delivery, ownership, title and all risk of loss and responsibility of the Products shall pass to Buyer. Buyer shall have all responsibilities delegated to "Contractor" under TPI-1, S240, and S202. Buyer and its installation subcontractors shall otherwise be responsible for: (a) unloading, handling and storing of the Products; (b) verifying the dimensions or adequacy of work done by other trades that may affect the Products; (c) installation of the Products and Temporary Installation Restraint/Bracing, Lateral Restraint, Permanent Building Stability Bracing, and installation of Permanent Individual Truss Member Restraint; (d) complying with the guidelines and recommendations set forth in the Seller Job-Site Packages; and (e) providing adequate covering and ventilation of all Products prior to installation and adequately drying out any Products before close-in.
9. **INDEMNIFICATION.** Buyer shall defend, indemnify and hold harmless Seller against all claims, losses, costs, and expenses, including but not limited to, all expenses of litigation, court costs and attorney's fees, in any way arising out of or in connection with the handling, storage, installation, erection, bracing, inspection, or use of the Products, or any action or inaction with regard to the Products, in each case after delivery thereof to the Buyer.
10. **WARRANTY.** Seller warrants to Buyer and the owner of the Project for one year from the date of manufacture that its manufactured Products shall be new and of industry standard quality. Any items not manufactured by Seller are warranted only as warranted by the manufacturer of such items, otherwise all such items are sold on an "**AS IS WHERE IS**" basis. Seller disclaims any liability for the negative effects of the emergence of mold or stain on the Products, and disclaims any duty to undertake any action to inspect, mitigate or remove mold and stain from the Products supplied by Seller. **THE FOREGOING WARRANTIES ARE EXCLUSIVE, AND ARE IN LIEU OF ALL OTHER WARRANTIES (WHETHER WRITTEN, ORAL OR IMPLIED).** Seller warranty shall exclude losses caused by improper or insufficient maintenance, normal wear and tear, and any improper operation, storing, handling, installation, and bracing. Seller's obligations and liabilities under this Warranty are expressly and exclusively limited to the repair or replacement of defective Products or, at the option of Seller, to refund of the Purchase Price. **IN NO EVENT SHALL BUYER BE ENTITLED TO RECOVER FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING LOSS OF PROFITS, OR OTHER COMMERCIAL LOSS.**
11. **NONCONFORMANCE OF THE PRODUCTS.** Buyer shall inspect the Products immediately upon delivery and shall within 5 days of delivery give written notice to Seller of any claim that the Products are in any way deficient or defective. If Buyer fails to give such notice, the Products shall be deemed to be conforming and Buyer shall be bound to accept and pay for the Products in accordance with the Payment Terms. Seller's liability and Buyer's exclusive remedy for any cause of action arising out of this Agreement and its performance shall at Seller's option be limited to the replacement of nonconforming Products or payment in an amount not to exceed the Purchase Price of the specific Products for which damages are claimed, at Seller's option. Buyer shall not be entitled to deduct from the Purchase Price invoiced to it the amount of any claim asserted against Seller without Seller's written consent. If any Product delivered shall become broken, damaged or altered, before Buyer or his installation subcontractors should cut, drill or relocate any Product, Seller shall be notified as to the need and extent of the repair and such repair shall be approved by Seller.
12. **DISPUTE RESOLUTION.** The laws of the State of Iowa shall govern all matters arising out of or relating to this Agreement and all transactions it contemplates, including, without limitation, its validity, interpretation, construction performance and enforcement. At the sole option of Seller, any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules in Des Moines, Iowa, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
13. **DELAYS.** Seller shall not be liable or responsible to Buyer under this Agreement, nor be deemed to have defaulted under or breached this Agreement, for any complete or partial failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond Seller's reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)"): (a) acts of God; (b) flood, fire, earthquake, epidemic, pandemic, contagious disease outbreak, explosion, or other similar natural disasters; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages, lockouts, or slowdowns or other industrial disturbances; (i) unavailability of materials or components, insufficient production capacity, or unavailability or shortage of fuel products; (j) shortage of adequate power facilities or transportation means; (k) failure of computer systems to operate properly, destruction or loss of records or data; and (l) other similar, unforeseen events, circumstances, or causes beyond the reasonable control of Seller. If any such event should affect Seller, Seller may, without liability, allocate or distribute the Products intended to be sold under this Agreement among other potential customers at Seller's sole discretion.

Seller shall give notice within ten (10) days of the Force Majeure Event to Buyer, stating the period of time the occurrence is expected to continue. Seller shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. Seller shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that Seller's failure or delay remains uncured for a period of 30 consecutive days following written notice given by it under this section, either party may thereafter terminate this Agreement upon ten (10) days' written notice to the non-terminating party.

14. **DELIVERY.** Absent Buyer agreeing to assume all responsibility for damages and expenses with respect to Seller's tractors, trailers and cargo, Seller's drivers reserve the right to not enter a Project for delivery if in the driver's reasonable opinion the jobsite is not suitable for safe and effective ingress and egress. Any damage occasioned by crossing of curbs, sidewalks, driveways, utility lines, streets, etc., or any cleanup required due to mud, in connection with any delivery shall be the sole responsibility of Buyer. **DELIVERY TIMES ARE APPROXIMATE AND SELLER SHALL NOT BE LIABLE FOR DAMAGE CAUSED BY DELAY IN DELIVERY.** Where required, the Buyer will receive notification as to shipping times only. The Seller will not be responsible for costs incurred by the Buyer for crane rental, loading charges, and additional costs resulting from late delivery. Unloading and distribution of material shall be the responsibility of the Buyer.