

## TERMS AND CONDITIONS

The following terms and conditions apply without exception to all sales by CW Industries ("CW"):

1. **SOLE TERMS.** No term or condition on Buyer's purchase order or any other instrument, agreement or understanding (unless expressly referred to on the face of the CW quotation and/or acknowledgment) shall be binding upon CW unless agreed to in writing.
2. **PAYMENT.** Unless otherwise agreed to in writing, all payments are to be of U.S. currency and are due within thirty (30) days from date of invoice. If, in CW's judgment, the financial condition of the Buyer at the time of product shipment does not justify the terms of payment specified, payment in cash before shipment may be required.
3. **DELIVERY AND RISK OF LOSS.** Shipments shall be FOB. CW's facility, with all risk of loss or damage to goods passing to Buyer upon delivery to carrier.
4. **OVERRUNS/SHORTAGES.** Orders will be filled on the basis of Buyer accepting overruns not exceeding 5% of the quantity ordered as necessitated by varying production yields. Any claim for shortage or any other cause must be reported to CW within thirty (30) days after receipt of product.
5. **TERMINATION.** Upon cancellation of an order, Buyer shall be liable for termination charges, which shall include: (a) a price adjustment based on quantity of goods delivered; (b) all costs, direct and indirect, incurred and committed for Buyer's canceled order; and (c) reasonable allowance for prorated expenses.
6. **PATENTS.** In the event patent infringement charges are brought against Buyer as the result of use of CW product and CW determines the infringement charge to be valid, CW's indemnification obligation extends only to the following, the choice of remedy being CW's:
  - a) replacement of infringing product with non-infringing product;
  - b) rework of the product to make it non-infringing;
  - c) securing a license under the patent;
  - d) refund of the purchase price.

CW shall have no liability under this section unless Buyer: (i) gives CW prompt written notice of any claim made against Buyer; (ii) provides CW with the opportunity to take over, settle or defend any claim through counsel of CW's choice and under its sole direction; and (iii) makes available to CW all defenses against any such claim, action, suit or proceeding known to or available to Buyer.

7. **FORCE MAJEURE.** CW shall not be liable for any delay in production or delivery of goods if such is due to accident, fire, flood, labor dispute, or any other cause whatsoever beyond CW's reasonable control. If, for reasons other than the foregoing, CW should default or delay or not deliver product, Buyer's sole remedy against CW shall be an option to cancel its purchase order, through written notice to CW.
8. **WARRANTY. THE FOLLOWING IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED.**

CW warrants products of its manufacture to be free of defective materials and faulty workmanship for a period of ninety (90) days, commencing with date of shipment. CW's responsibility under this warranty is limited to replacing or repairing defective material. Buyer must notify CW of rejected shipments in writing within thirty (30) days of receipt of product. CW SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY AND/OR WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE OF THE PRODUCT SOLD.

CW HAS NO KNOWLEDGE OF AND MAKES NO REPRESENTATION WITH RESPECT TO THE USEFULNESS AND/OR MERCHANTABILITY OF ANY PRODUCT WHICH IS MADE TO BUYER'S SPECIAL ENGINEERING SPECIFICATIONS.

9. **SOLE REMEDIES.** Buyer's sole remedies are provided herein. In no event shall CW be liable for any costs of Buyer or for any indirect, special, consequential, incidental, or punitive damages of any sort, whether based on tort or breach of contract and/or warranty.
10. **COMPLIANCE WITH LAWS.** CW represents that all products and services delivered hereunder will be produced and supplied in compliance with all applicable state and federal laws and regulations, including those required by the Fair Labor Standards Act of 1938 as amended.
11. **APPLICABLE LAW.** The laws of the State of Pennsylvania will govern, excluding provisions on conflict of laws.
12. **MISCELLANEOUS.** These terms and conditions (including those stated on the face hereof) shall constitute the entire agreement of CW and Buyer, superseding the terms and conditions in Buyer's purchase order and all prior agreements or understandings, written or oral. Buyer may not assign any rights or duties hereunder without CW's written prior consent. No representation, warranty, course of dealing or trade usage not contained or referenced herein will be binding on CW. No failure by CW to enforce at any time for any period the provisions hereof shall be construed as a waiver of such provision or of the right of CW to enforce thereafter each and every provision. No Sales Representative of CW has the authority to alter, vary or waive any of the foregoing terms and conditions. It is expressly understood that any technical advice furnished by CW with reference to the use of its products is given without charge, and CW assumes no obligation or liability for advice given or results obtained, as such advice is given and accepted at Buyer's risk.