

## **C&U AMERICAS LLC GENERAL TERMS AND CONDITIONS OF SALE**

- 1) These C&U Americas LLC Terms and Conditions (as may be amended from time to time as set forth herein, the "Terms") govern all offers to sell, quotations to sell, and sales of products (the "Products") by Seller to Buyer regardless of whether Buyer seeks to purchase or purchases the Products through the medium of written or electronic requests for quotation, purchase orders, EDI, or by telephone order confirmed in writing by Seller (in each case, the "Purchase Order").
- 2) All sales of Products by Seller to Buyer must be made pursuant, and are expressly conditioned on Buyer's assent, to the exact terms and conditions that appear in these Terms. Any proposal for or submission of additional or different terms or conditions or any attempt by Buyer to vary any of these Terms (through the submission of a Purchase Order or otherwise) shall be deemed a material alteration of these Terms and is hereby objected to and rejected by Seller; provided, however, that any such proposal or attempted variance shall not operate as a rejection of these Terms by Buyer, and these Terms shall be deemed accepted by Buyer without the additional or different terms. If these Terms are deemed an acceptance of a prior offer by Buyer, the acceptance is expressly made conditional on Buyer's assent to the additional and different terms as they appear in these Terms and such acceptance is limited to the express terms set forth in these Terms. Without limiting the generality of any other provision of this paragraph, Seller agrees that Buyer may use its own form of Purchase Order to order Seller's Products, but none of the terms and conditions contained in such Purchase Order shall apply to the transaction between Buyer and Seller other than the quantity and part number(s) specified in such Purchase Order.
- 3) These Terms are the complete and final agreement between Seller and Buyer and supersede all prior negotiations, proposals, representations, commitments, understandings, sales quotations, offers to sell, or agreements between Seller and Buyer, either written or oral, on this subject. Any other representations or warranties made by any person, including employees or other agents of Seller that are inconsistent with these Terms are not binding upon Seller.
- 4) Each Purchase Order shall be subject to approval and acceptance by Seller in the form of a written order acknowledgement, order acceptance, by commencement of performance by Seller, or by shipment of conforming goods. Once accepted by Seller, a Purchase Order constitutes a firm commitment of Buyer and Buyer may not terminate, alter, cancel or reschedule such Purchase Order without the prior written consent of Seller. Prior to acceptance, Seller reserves the right at any time after receipt of a Purchase Order to decline such Purchase Order for any reason or to condition its acceptance of such Purchase Order upon its receipt of additional information from Buyer.
- 5) Except for quantities to which Seller has committed to supply to Buyer pursuant to a firm commitment, Seller, without incurring any obligation or liability whatsoever, may at any time (i) discontinue the manufacturing and/or sale of any Product and/or (ii) make design or engineering changes in any Product and in any of Seller's processes and methods of manufacturing.
- 6) All price quotations from Seller are based on the price prevailing at the time such quotation is submitted. When samples are submitted, the quotation will be based on the samples. Price quotations are indicative only and cannot be made binding by submission of a Purchase Order.

Seller reserves the right to increase prices after the issuance of a quotation (e.g., to reflect any increase in costs to Seller and/or any change in delivery dates, quantities, or Product specifications). All Purchase Orders will be billed by Seller at prices prevailing at the time of shipment. SELLER WILL, IN GOOD FAITH, ESTABLISH THE PRICE FOR EACH SHIPMENT OF PRODUCTS HEREUNDER IN ACCORDANCE WITH ITS PRICE LIST AS APPLICABLE AT THE DATE OF SHIPMENT, PROVIDED, HOWEVER, THAT SELLER MAY SURCHARGE BUYER ABOVE THE LIST PRICE IN THE EVENT OF UNANTICIPATED INCREASES IN SELLER'S COSTS. BUYER WILL PAY THE PRICE SO ESTABLISHED FOR EACH SHIPMENT. Stenographic and clerical errors are subject to correction by Seller. Unless otherwise agreed upon by the parties, the amount of any applicable present or future tax and/or other federal, and/or state, and/or municipal charge upon the production, sale, shipment or use of Products supplied by Seller shall be added to prices quoted and charged and shall be paid by Buyer.

- 7) ANY DELIVERY OR SHIPMENT DATES PROVIDED TO BUYER ARE ESTIMATED DATES ONLY, AND SUCH ESTIMATED DATES MAY BE MODIFIED FROM TIME TO TIME AT THE DISCRETION OF SELLER. Seller shall not be liable or responsible for delay or failure to perform any of Seller's obligations under these Terms to make delivery of the Products occasioned by (i) any cause beyond its reasonable control, including, but not limited to, a labor dispute, industry disturbance, fires, unusually severe weather conditions, earthquakes, floods, declared or undeclared war, epidemics, pandemics, computer malfunctions, civil unrest, riots, lack of supplies, delay in transportation, governmental, regulatory or legal action, act of God, or (ii) by acts or omissions of Buyer, including, but not limited to, Buyer's failure to promptly comply with the terms of payment under any invoice (collectively, the "Excusable Delays"). The date of delivery shall be extended for a period equal to the time lost by reason of any of the Excusable Delays.
- 8) Each shipment in partial fulfillment of a Purchase Order shall be deemed to be a separate and independent contract as to the Products sold. Buyer may not refuse to accept any lot or portion of the Products shipped hereunder on the ground that there has been a failure to deliver any other lot or that Products in any other lot were nonconforming.
- 9) Buyer hereby agrees to the terms of payment contained in each invoice sent by Seller to Buyer or otherwise provided in writing by Seller to Buyer. Any such terms of payment are effective from the actual date of invoice. If Buyer fails to fulfill the terms of payment of any invoice or if the financial responsibility of the Buyer becomes impaired or unsatisfactory to Seller, Seller reserves the right to charge any or additional interest or late fees, change the terms of payment and/or defer or discontinue further shipments, without prejudice to any other lawful remedy, until past due payments are made and satisfactory assurances of Buyer's credit standing are received. Buyer expressly agrees to waive any pre-bankruptcy petition claim of preferential payments Buyer may have as an additional consideration for the payment terms extended under this or any prior or subsequent agreement.
- 10) All Products delivered by Seller shall be inspected upon tender to Buyer. Buyer's failure to make a written claim for shortages or defective Products on or before the day that is ten (10) days from and including the day on which Seller tenders such Products to Buyer shall constitute a waiver of Buyer's right to inspect such Products and shall constitute Buyer's acceptance of such Products and agreement that such Products constitute "conforming goods" (as such term is defined in the Uniform Commercial Code as enacted in the State of Michigan

(the "Code")) and are otherwise in conformity with these Terms. In no event may Product be returned to Seller without Seller's prior written consent.

- 11) If Buyer accepts Products under these Terms, Buyer's acceptance shall be final and irrevocable. If Buyer wrongfully revokes or rejects acceptance of Products tendered under these Terms, or fails to make a payment due on or before delivery, or repudiates these Terms, Seller shall have the right, in addition to all other rights and remedies that may be available to Seller, to recover any and all damages and losses incurred by Seller in connection with any of the foregoing including, but not limited to, the greater of (i) the purchase price for such Products as stated in the applicable invoice and (ii) Seller's then prevailing price for such Products, plus any incidental damages as defined by Code Section 2-710 or any successor statute thereto and any and all other damages and losses incurred by Seller or to which Seller may be entitled.
- 12) Unless otherwise agreed to in writing by Seller and Buyer, all Products are sold F.O.B. Seller's shipping point, with Seller reserving the right to select the mode of transportation and routing. All Products will be packaged as Seller deems proper for protection against normal handling, and extra charges may be made for special conditions.
- 13) THE RISK OF LOSS UNDER THESE TERMS WILL PASS TO THE BUYER IMMEDIATELY UPON TENDER BY SELLER AT THE POINT OF SHIPMENT, DEFINED AS SELLER'S DOCK. If the Products covered by these Terms are destroyed prior to the time risk of loss passes to Buyer, Seller shall be excused from performing its obligations hereunder. This provision shall apply whether or not the Products are destroyed through the negligence of Seller.
- 14) SELLER WARRANTS THAT THE PRODUCTS WILL MEET THE SPECIFICATIONS. THE FOREGOING NOTWITHSTANDING, SELLER IS NOT LIABLE FOR CUSTOMARY VARIATIONS FROM SPECIFICATIONS. OTHER THAN AS EXPRESSLY STATED ABOVE, SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND (WHETHER ARISING BY IMPLICATION OR BY OPERATION OF LAW) WITH RESPECT TO THE PRODUCTS, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER MATTER. BUYER'S SOLE AND EXCLUSIVE REMEDY, AND SELLER'S SOLE AND EXCLUSIVE OBLIGATION OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, FOR NEGLIGENCE), WITH RESPECT TO THE PRODUCTS IS EXPRESSLY LIMITED TO REPAIR OR REPLACEMENT, AT SELLER'S OPTION, OF PRODUCTS, PROVIDED SELLER IS NOTIFIED IN WRITING OF ANY CLAIMS OF DEFECTS IN MATERIAL OR WORKMANSHIP WITHIN ONE (1) YEAR FROM THE DATE OF DELIVERY. ALL ACTIONS FOR A CLAIMED BREACH OF THIS WARRANTY MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE DATE THE CAUSE OF ACTION ACCRUES. NOTWITHSTANDING ANYTHING ELSE IN THESE TERMS, SELLER WILL NOT BE OBLIGATED IN ANY EVENT UNDER THIS WARRANTY (I) FOR ALLEGED DEFECTS DUE TO MISUSE, NEGLIGENCE OR IMPROPER STORAGE, HANDLING OR MAINTENANCE OF THE PRODUCTS, (II) FOR ALLEGED DEFECTS THAT ARE NOT SOLELY THE RESULT OF A DEFECT IN MATERIAL OR WORKMANSHIP, (III) IN ANY CASE WHERE PRODUCTS ARE DISASSEMBLED OR MODIFIED IN ANY MANNER, (IV) FOR ALLEGED DEFECTS RELATING TO ANY SPECIFICATIONS OR

INSTRUCTIONS PROVIDED BY OR ON BEHALF OF BUYER, (V) FOR ALLEGED DEFECTS OTHERWISE CAUSED BY BUYER OR ANY THIRD PARTY, (VI) FOR ALLEGED DEFECTS WHICH SHOULD HAVE BEEN DISCOVERED BY BUYER IN BUYER'S INSPECTION AND ARE NOT REPORTED WITHIN TEN (10) DAYS OF DELIVERY OF THE PRODUCT OR (VII) RESULTING FROM DAMAGES OCCURRING AFTER TENDER OF THE PRODUCT BY SELLER. THIS SECTION SURVIVES THE TERMINATION OR CANCELLATION OF THESE TERMS.

- 15) IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CLAIM (WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) OR OTHERWISE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR OTHER DAMAGES, WHETHER KNOWN OR UNKNOWN (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR INJURY TO PERSONS OR PROPERTY, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, OR OTHER PECUNIARY LOSS), ARISING OUT OF THESE TERMS OR THE PRODUCTS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING ELSE IN THESE TERMS, IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE PURCHASE PRICE RECEIVED BY SELLER FROM BUYER FOR THE PRODUCT UPON WHICH SUCH LIABILITY IS BASED OR, IF SUCH LIABILITY IS NOT BASED UPON A PARTICULAR PRODUCT, THE AGGREGATE AMOUNT PAID BY BUYER TO SELLER IN CONNECTION WITH THE APPLICABLE PURCHASE ORDER(S). THIS SECTION SURVIVES THE TERMINATION OR CANCELLATION OF THESE TERMS.
- 16) If Buyer requests that Seller manufacture Products subject to Buyer's specifications or designated design, Buyer guarantees that no patent, trademark or other intellectual or industrial property right has been or will be infringed by the manufacture, sale or use of such Products.
- 17) If either party has independently made an invention, device or creation without (a) a basis on any idea or creative expression provided by the other party in connection with the transactions between the parties, or (b) advice, assistance or cooperation from the other party for the materialization of any idea or creative expression, any patent, trademark, copyright or trade dress rights regarding such invention, device or creation shall be vested in the party making such invention, device or creation. To the maximum extent allowed by law, Buyer shall defend, indemnify and hold harmless Seller and its employees and agents against all sums, costs, liabilities, losses, obligations, suits, actions, damages, penalties, fines, interest and other expenses (including investigation expenses and attorneys' fees) that any such indemnity may incur or be obligated to pay as a result of (i) Buyer's negligence, use, ownership, maintenance, transfer, transportation, sale or disposal of the Products; (ii) any infringement or alleged infringement of the patent, trademark or other intellectual industrial and intellectual property rights of others arising from Buyer's plans or specifications (including Buyer's trademarks and brand names) or the production, sale or use of the Products ordered by Buyer; (iii) Buyer's violation or alleged violation of any federal, state, county, or local laws or regulations, including, without limitation, the laws and regulations governing product safety, labeling, packaging and labor practices; and (iv) Buyer's breach of these Terms or the terms of any invoice. This section survives the termination or cancellation of these Terms.

- 18) Seller reserves the right to call any Purchase Order for standard parts complete if the final shipment is within one (1%) percent of the total due. If Seller overships on standard parts, Buyer is not required to accept the overage. On Products that are of a special size or require special materials or tooling, Seller reserves the right to call any Purchase Order complete if the final shipment is within plus or minus two (2%) percent of the total order.
- 19) Buyer may call a Purchase Order complete at its discretion. Seller, however, reserves the right to impose cancellation charges if the quantities cancelled are beyond Seller's normal production for the Products involved. If such Purchase Order calls for special materials, special tools or sizes, or is for non-standard Products, then Buyer shall be responsible for Seller's costs incurred in connection with Buyer's cancellation of all, or part, of its original Purchase Order.
- 20) Seller may and reserves the right to modify these Terms at any time in Seller's sole and absolute discretion; provided, however, that, subject to the other terms and conditions contained herein, no such modification shall affect any outstanding Purchase Orders placed by Buyer and accepted by Seller prior to the effective date of such modification. Buyer's submission of Purchase Orders to Seller following modification of these Terms shall operate as acceptance by Buyer of such modifications. In addition, Seller may and reserves the right to cancel or terminate these Terms and any outstanding Purchase Orders placed by Buyer prior to the effective date of such termination upon (i) Buyer's breach of any provision of these Terms; (ii) Buyer's failure to pay for Products in accordance with the terms of the applicable invoice; (iii) Buyer's credit becoming unsatisfactory to Seller or (iv) any request by law enforcement or other government agencies. Seller shall not be liable to Buyer or to any third party for any termination of these Terms. Upon the termination of any outstanding Purchase Order as permitted above, Buyer shall be responsible for and shall pay all costs of Seller for Products or parts or materials thereof or relating thereto (including, but not limited to, raw materials) that are produced, ordered or received by Seller for such Purchase Order prior to any such termination.
- 21) Unless Buyer and Seller have executed Seller's standard form of Non-Disclosure Agreement or its equivalent, both parties shall be presumed not to have exchanged any information that is regarded as confidential, or that the recipient may not disclose or utilize in the conduct of its own business.
- 22) Nothing in these Terms shall prohibit or be deemed to prohibit Seller from manufacturing or selling any Products (even if such Products are specially ordered by Buyer or manufactured by Seller using specifications provided by Buyer) to any third party.
- 23) These Terms bind and inure to the benefit of Buyer and Seller and their respective permitted successors and permitted assigns. Buyer shall neither assign any interest in, nor delegate any obligation under, these Terms without Seller's prior written consent. Seller may assign its interests and/or obligations under these Terms to any person or entity that is an affiliate of the Seller or that is owned or controlled, directly or indirectly, by a person or entity that owns or controls Seller.
- 24) Waiver by Seller of any breach of any of the terms and conditions set forth herein shall not be construed as a waiver of any other breach, and the failure of Seller to exercise any right arising from any default of Buyer hereunder shall not be deemed to be a waiver of such right, which may be exercised at any subsequent time.



- 25) In case any of the terms contained herein shall be held invalid, illegal, and/or unenforceable, in whole or in part, neither the validity of the remaining part of such term, nor the validity of any other term hereof shall be affected thereby.
- 26) The validity, construction and performance of these Terms shall be governed by, and construed in accordance with, the laws of the State of Michigan, without regard to its choice of law provisions. The U.N. Convention on Contracts for the International Sales of Goods does not apply to these Terms and any term contained herein must be construed in accordance with the Code. Buyer irrevocably submits and agrees to the jurisdiction of the state and federal courts of the State of Michigan, County of Wayne in any action, suit or proceeding related to, or in connection with, any dispute between the parties. Buyer and Seller agree that any disputes relating to these Terms or the transactions contemplated or entered into hereunder shall be first submitted to non-binding mediation for resolution before any suit may be brought, except that mediation is not required where either party would suffer immediate and irreparable harm arising from delay in obtaining relief.
- 27) The Products are subject to U.S. export control laws including, but not limited to, the Office of Foreign Assets Control regulations and the U.S. Export Administration regulations which prohibit or restrict export of the products to specific countries. If Buyer exports the Products from the U.S. or other foreign country, Buyer assumes responsibility for complying with any and all applicable laws and regulations and for obtaining export and import authorizations and licenses.
- 28) Buyer represents and warrants as follows: (i) it shall not be debarred, suspended, excluded, or disqualified from doing business with the United States Government, or listed on the Excluded Parties List System maintained by the General Services Administration of the United States Government (found at [www.epls.gov](http://www.epls.gov)); (ii) Buyer and each person or entity owning an interest in Buyer shall not be at any time, and has never been, a Person with which U.S. Persons are prohibited from transacting business of the type contemplated by the Agreement or with which U.S. Persons must either limit their interactions to types approved by the Office of Foreign Assets Control, Department of the Treasury (“OFAC”), whether by Law, executive order, trade embargo, economic sanction, lists published by OFAC, or otherwise (such Persons are “Specially Designated Nationals and Blocked Persons”); (iii) none of the funds or other assets of Buyer constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person; (iv) no Embargoed Person has any interest of any nature, direct or indirect, in Buyer; (v) none of the funds of Buyer have been derived from any unlawful activity with the result that either business with Buyer is prohibited by Law or the Agreement is in violation of Law; (vi) Buyer has implemented procedures, and will consistently apply those procedures, to ensure the foregoing representations and warranties remain true and correct at all times; (vii) Buyer will not use funds from any “Prohibited Person” (as such term is defined in the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) to make any payment due to Seller, and take such measures as are necessary to ensure that any funds used to pay amounts due to Seller hereunder are derived (A) from transactions that do not violate United States Law nor, to the extent such funds originate outside the United States, do not violate the Laws of the jurisdiction in which they originated, and (B) from permissible sources under United

States Law and, to the extent such funds originate outside the United States, under the Laws of the jurisdiction in which they originated; and (viii) Buyer: (A) is not under investigation by any governmental authority for, nor has it been charged with, or convicted of, money laundering, drug trafficking, terrorist-related activities, any crimes which in the United States would be predicate crimes to money laundering, or any violation of any Anti-Money Laundering law; (B) has not been assessed civil or criminal penalties under any Anti-Money Laundering laws; or (C) has not had any of its funds seized or forfeited in any action under any Anti Money Laundering laws. Buyer agrees to immediately notify Seller in writing in the event Buyer breaches, or has reason to believe that it will become in breach of, any of the preceding representations and warranties. Breach of any representation or warranty under this Section shall be deemed a Default under the Agreement for which Seller may immediately terminate the Agreement without being required to provide notice or permit Buyer to cure such Default.

- 29) Any proceeding by Buyer against Seller arising from or in connection with the Agreement or Goods cannot be filed nor maintained unless: (i) it is commenced within one year after the cause for action has accrued; (ii) Buyer has given timely written notice to Seller of its claim as provided herein; and (iii) Buyer deposits the unpaid portion of the purchase price with the tribunal pending final adjudication. An action shall accrue no later than shipment of the Goods to Buyer.

ANNARBOR 50426-2 206033v1