



## Terms and Conditions of Sale

The Terms and Conditions of Sale (the “Terms”) outlined herein shall apply to and govern the sale by C & S Machine & Manufacturing Corporation (the “Company”) of products or services to the individual(s) or entity(s) requesting the Company provide such products or services (the “Customer” with the Company, referred to individually as a “Party” or collectively as the “Parties”). In the event of inconsistency between these Terms and any other document(s), unless otherwise agreed in a writing signed by the Company, these Terms shall govern all sales by Company of products and services to Customer.

**Quote; Acceptance.** Each sales quotation (a “Quote”) constitutes the Company’s offer to the Customer to sell the products and services identified therein (the “Goods”). The Quote shall be the complete and exclusive statement of each offer and agreement. The issuance by Customer of a verbal or written acceptance, payment of any portion of the purchase price provided therein, or Customer’s acknowledgement that Company will begin work, constitutes an acceptance of the Quote and these Terms.

**Prices.** The Company reserves the right to modify the price provided in the Quote anytime after sixty (60) days from the date thereof. Prices quoted for the Goods shall not include: (a) shipping, handling, transportation, storage, or packaging expenses; (b) federal, state, local, sales, excise or other taxes assessed on the sale of any Goods; or (c) any import, export, or customs duties or expenses of any kind. In the event of a price increase of raw materials or other change to the value added cost of certain components (e.g. heat treating, coating, plating, etc.) that is beyond the reasonable control of Company, the Parties agree the Company may, upon providing written notice, increase the price of such Goods in the amount of such applicable change.

**Payment.** Customer agrees to pay a deposit or down payment as required by Company. In the event Customer disputes any of the invoiced amounts, it shall within fifteen (15) days from receipt of such invoice, provide written notice and explanation of such disputes to Company. After fifteen (15) days from receipt of each invoice, Customer shall be deemed to accept the invoiced amounts as complete and accurate. Customer agrees to pay all undisputed amounts to Company net 30 days from the date of invoice. Company will apply a two percent (2%) discount to the invoiced amount upon request when accompanied by such discounted payment in full within ten (10) days of the date of invoice. Payment shall be made by ACH Transfer only unless otherwise provided in the Credit Application. All invoices shall include ACH Instructions. If paying with a Credit Card, a four percent (4%) convenience fee will be applied to the total amount owed. INTEREST WILL BE CHARGED AT THE RATE OF ONE AND ONE-HALF PERCENT (1.5%) PER MONTH AFTER 30 DAYS FROM THE DATE OF INVOICE. No Goods will be sold on consignment or conditional sales basis. Payment for the Goods delivered hereunder will constitute acceptance thereof.

**Order Acknowledgment.** All orders will be acknowledged promptly by Company (each an “Order Acknowledgment”), showing how the order was entered, the approximate shipping time and other pertinent information related to the Goods. Customer has the obligation to examine the Order Acknowledgment carefully and notify Company within two (2) days of any discrepancies. Customer’s failure to examine the Order Acknowledgment and provide written notice to Company of the particular discrepancy within two (2) days shall be deemed an acceptance by Customer of the terms thereof and shall relieve Company from any liability related thereto. Acknowledged shipping dates are contingent

upon the force majeure conditions contained in these Terms.

**Delivery.** Customer agrees that the risk of loss for the Goods shall pass from the Company to Customer upon shipment from Company's location or delivery of the Goods to the courier designated by Customer. To minimize material waste, C & S may ship up to 5% over the ordered quantity. Customer agrees to accept and pay for such quantities at the agreed unit price. All costs for transportation shall be borne by Customer. Customer shall have thirty (30) days from the receipt of any Goods delivered hereunder to provide written notice to Company reporting any product defect or variation from the specifications agreed in the Quote, Order Acknowledge, or other signed writing, whichever is dated last. Customer's failure to inspect the product and provide written notice to Company of the particular defect or variation within the thirty (30) day period shall be deemed an acceptance by Customer and shall relieve Company from any liability related thereto. Notwithstanding the foregoing, Company may, in its sole discretion, ship any or all of the Goods prior to the anticipated or agreed shipping date.

**Disclaimer of Warranties.** Company warrants that the Goods and its obligations hereunder shall be carried out in a professional, workmanlike manner, and of materials and in compliance with the plans, specifications, prints, designs and samples supplied by Customer and agreed upon by Company. Unless as specifically set forth in these Terms, **THIS WARRANTY IS IN LIEU OF ALL OTHER WRITTEN OR UNWRITTEN, EXPRESSED OR IMPLIED WARRANTIES. COMPANY EXPRESSLY DISCLAIMS AND CUSTOMER HEREBY WAIVES ANY OTHER EXPRESS OR IMPLIED WARRANTY, MARKETABILITY OF THE GOODS, OR FITNESS OF THE GOODS FOR A PARTICULAR PURPOSE.**

**End Use.** Determination of the suitability of the Goods purchased by Customer for a particular use is the sole responsibility of Customer, and Company shall assume no responsibility therefor. There will be no refund given by Company for returned items that are within the specifications provided by the Customer.

**Design.** Company is not responsible for the design, specification or engineering of the products and will not, under any circumstances, provide any warranty, indemnification or other liability or obligation with respect to products to the extent relating to or arising out of the design, specifications or engineering of the products.

**Indemnification.** Customer agrees to defend and indemnify Company and its respective officers, directors, employees and agents from and against all claims, actions, damages, losses, third party claims, and/or expenses (including without limitation, reasonable attorneys' fees and costs of litigation), arising from or related to the Goods or work performed by Company, its employees, agents, and/or subcontractors, specifically including, but not limited to claims, suits, actions, damages, losses, and/or expenses that include allegations of contributory or sole negligence, strict liability, intellectual property infringement due to Customer's designs or specifications, or other wrongdoing of Company, its employees, agents, and/or subcontractors.

**Limitation of Liability.** Company shall not under any circumstances be liable to Customer or any third party for special, indirect, incidental, punitive or consequential damages, including, without limitation, loss of profits or revenues, losses caused by business interruption, loss or damage to other property or equipment, cost of capital or of purchased or replacement Goods, or expense, delay or inconvenience caused by or arising from the purchase, sale, use, repair or inability to use the Goods or by any performance or non-performance under, or breach of, these Terms. Company's sole liability for any defective Goods shall be its repair or its replacement pursuant to the express warranties set forth above,

or if amended, as applicable at the time of manufacture, or repair of the Goods. Any action resulting from any breach on the part of Company as to the Goods delivered hereunder must be commenced within one (1) year after the earlier of (a) the alleged wrongdoing, or (b) Customer receipt of the Goods complained of.

**Attorneys' Fees.** Customer shall be responsible for and shall pay all expenses and costs in connection with the enforcement by Company of these Terms and the costs of collection including, but not limited to, fees of any collection agencies to whom Customer's account may be referred and reasonable attorneys' fees.

**Cancellation.** All requests for cancellation must be made in writing to Company and may be accepted or denied in the Company's sole discretion. If Customer's request for cancellation is accepted, costs for Material, Workholding, Tooling and/or labor charges incurred by Company in the process of fulfilling the order until such date of cancellation shall be paid to Company by the Customer. If cancellation is accepted, Tooling is deemed Non-Returnable.

**Amendment; Assignment.** These Terms and the Quote may not be amended or modified in any way unless in a writing signed by the Company. The Goods provided by Company are provided for the sole benefit of Customer, and are not for the benefit of any third parties, including the customers of Customer. Neither the Quote nor any interest, right, or liability therefore may be assigned by Customer except with the prior written consent of Company.

**Order Changes.** All requests for changes to an order must be made in writing and are subject to Company's approval, which may be withheld in its sole discretion. If accepted, additional administrative and/or labor charges may be incurred by Customer depending upon the production stage of the order. Any changes will be treated as a change order or a new order, in the sole discretion of Company.

**Remedies.** The remedies herein reserved shall be cumulative, and in addition to any and all other remedies provided in law or equity. No waiver by Company of the terms provided in these Terms or a breach thereof shall constitute waiver of any other breach of such provision or any other provision hereof.

**Insolvency.** Company may forthwith cancel any order in the event of the happening of any of the following or any other comparable event of Customer: insolvency, the filing of a voluntary petition in bankruptcy, the filing of any involuntary petition to have Customer declared bankrupt provided it is not vacated within thirty (30) days from the date of filing, the appointment of a receiver or trustee for Customer provided such appointment is not vacated within thirty (30) days from the date of such appointment, or the execution by Customer of any assignment for the benefit of creditors.

**Security Agreement.** Customer shall grant Company a security interest in Goods sold pursuant to any credit that Company extends to Customer for the purchase thereof. No Customer authorization is required for Company to perfect, protect, or enforce its security interest in the Goods.

**Governing Law.** All disputes between the Parties, whether or not arising out of these Terms, will be governed by the laws of the Commonwealth of Kentucky. Customer agrees to submit to the jurisdiction of and agrees all lawsuits relating to any dispute between Customer and Company will be brought only in the courts located in Jefferson County, Kentucky. CUSTOMER HEREBY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM, OR COUNTERCLAIM WHETHER IN CONTRACT OR TORT, AT LAW OR IN EQUITY, ARISING OUT OF OR RELATING IN ANY WAY TO THESE TERMS AND ALL OTHER DISPUTES BETWEEN THE PARTIES.

**Mitigation.** If Company repossesses the Goods before receiving payment by Customer of all amounts due hereunder, Company may sell the goods, AS IS, WHERE IS, free and clear of all rights of Customer at either public or private sale, and apply the net proceeds (after deducting expenses of repossession and sale, including attorneys' fees) to the obligation of Customer hereunder. Customer shall remain liable for any deficiency, including any attorneys' fees. COMPANY MAY DISPOSE OF THE GOODS IN ANY COMMERCIALY REASONABLE PLACE AND MANNER AND CUSTOMER WAIVES ANY NOTICE OF TIME, PLACE AND MANNER OF SALE.

**Integration.** These Terms, along with any order for Goods, Credit Application, Quote, Order Acknowledgment, and Purchase Order (and any exhibits, addenda or amendments thereto) of which may be a part, constitutes the sole and complete agreement between Company and Customer with respect to the purchase of the Goods.

**Service and Replacement Parts.** Unless otherwise expressly stated in writing, Company shall have no obligation or liability to Customer for service or replacement parts.

**Force Majeure.** Company shall not be liable for any failure to fulfill its obligations or delays in the production or delivery of the Goods, if such failure, delay, or inability is due to causes beyond Company's reasonable control, including but not limited to events of natural disasters, acts of God, strikes, lockouts, labor troubles, inability to procure materials, casualties, failure of power, restrictive governmental laws or regulations, riots, insurrection, acts of terrorism, pandemics, war, or other force majeure of a like nature. For clarity, if a failure to fulfill Company's obligations or delay in production or delivery are caused by Company's suppliers, supply chain relationships, or another third party, the same shall be considered a force majeure event, and Customer's sole recourse for damages related thereto shall be against such party. In such events the Company shall be excused for the period of the delay to Company's performance and the period for the performance shall be extended for a period equivalent to the period of such delay.

**Confidentiality.** Customer agrees these Terms between Company and Customer, and the terms and conditions of all documents referenced herein are strictly confidential.