

## Terms & Conditions of Purchase

**Definitions.** The Terms and Conditions of Purchase (the “Terms”) outlined herein shall apply to and govern each and every Purchase Order (“Order”) and the purchase of goods or services thereunder by C & S Machine & Manufacturing Corporation (“Buyer”) to the individuals or entities to whom an Order is issued (“Seller” with the Buyer, 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 Buyer or its authorized representative whose name appears on the face of an Order (“Purchasing Representative”), these Terms shall govern the Parties’ relationship and Buyer’s purchase of goods and services from Seller as further described herein.

**Purchase Order; Acceptance.** Buyer shall issue to Seller an Order outlining details concerning Buyer’s purchase of products and/or services (the “Goods”) from Seller, including but not limited to the price, quantity and description of such Goods. Buyer reserves the right to amend an Order due to typographical or other clerical error. Acceptance of an Order by Seller is expressly limited to these Terms, and the contents of an Order are not subject to change or variation. Any differing or additional terms and conditions presented by Seller are objected to, rejected, and shall not form any part of the agreement between the Parties regardless of the wording of any purported acceptance by Seller. In the event the Parties mutually agree to modify Buyer’s Order terms, Buyer will issue a replacement Order to Seller reflecting the same. Notwithstanding Seller’s usual practices for acknowledging or accepting an Order, Seller must return to Buyer the issued Order affixed with Seller’s signature indicating Seller’s acceptance of the Order and these Terms. Buyer shall not be bound by an Order until Seller executes and returns the applicable Order signed in accordance herewith.

**Packaging and Shipping.** Seller shall pack, mark, and ship all Goods in accordance with specific requirements of an Order, and in a manner that complies with transportation regulations and good commercial practice for protection and shipment of the Goods. No separate or additional charge is payable by Buyer for containers or any other aspect of packing and shipping to Buyer’s location, Free on Board Destination, unless specifically stated in an Order. Seller shall mark the number of an Order on each container and include a packing slip with each shipment, listing the Order by reference and each line item number. Unauthorized freight shipments billed as “collect” will not be accepted. Any associated freight Invoices will be debited to Seller.

**Delivery.** Unless otherwise stated on the face of an Order, delivery shall be Free On Board Destination to Buyer’s facility and Seller shall bear the risk of any loss, deterioration, or damage to Goods during shipment and transit until the materials are accepted by Buyer. Time is of the essence in the performance of an Order, and delivery shall be in strict accordance with the schedule and quantity specified in an Order. ***Seller is on notice that delays in delivery may result in damage assessments, including price reduction under Buyer’s prime contracts; Seller shall be liable for any such assessments or price reductions.*** If delivery of the Goods included in an Order become late due to the fault, including but not limited to negligence, of Seller in their order processing/performance, the Seller will be responsible for all costs involved in expediting production and/or delivery of the Goods to Buyer. Seller shall not ship the Goods to arrive earlier than ten (10) days in advance of the specified schedule, unless authorized in writing by Buyer. Buyer may return Goods at Seller’s expense or, in the alternative, payment may be deferred until the date payment would become due, according to the specified schedule. The Due Date as listed on the Order, is the date the Goods are due on Buyer’s receiving dock, not the ship date of the Seller.

**Late Delivery.** If it appears Seller will not meet schedule, or if Seller’s deliveries fail to meet the schedule, then in addition to any other right or remedy that Buyer has under law, in these Terms, or as specified in

any Order, Buyer may require Seller to ship via expedited means at Seller's expense. If Seller's delay is due to causes beyond Seller's control and without Seller's fault or negligence, and if Seller has exercised due diligence by promptly notifying Buyer in writing of the conditions which will result in delay, then Seller shall not be liable for delay. If Seller's delay is caused by the default of a subcontractor or supplier, and such default arises out of causes beyond the control of both Seller and its subcontractor or supplier, and without the fault or negligence of either of them, and if the suppliers or services to be furnished by Seller's subcontractor or supplier are not obtained from another source in sufficient time to permit Seller to meet the required schedule, Seller shall have no liability for delay. Notification of delay pursuant to this clause shall not constitute a waiver of any of Seller's other obligations nor a waiver by Buyer of any right under an Order. Notwithstanding the foregoing, any costs, damages, or penalty incurred by or charged to Buyer on account of Seller's failure to complete or perform an Order and due to a cause within Seller's control, shall be borne by Seller. To the extent such costs, damages, or penalties are incurred by Buyer's customers, Seller will indemnify and hold Buyer harmless from and against any and all claims, demands, suits, causes of action, and liability of any nature or kind whatsoever, in any manner arising from, in connection with, or incidental to the Order and such delay. Buyer is to be the final arbiter in determining whether Seller caused any delay or disruption.

Cost associated with late and/or partial deliveries, without prior written approval from Buyer, will be the responsibility of Seller. This includes, but is not limited to, expedited freight, special packaging, additional inspection, or customer back charges.

**Invoices and Payment.** Upon Buyer's receipt of a proper invoice, it will notify Seller of any disputed invoiced amounts within thirty-five (35) days and pay all undisputed invoiced amounts, less deductions, if any, within forty-five (45) days of the date of invoice, unless otherwise agreed. Cash discounts are determined by receipt date of Goods, or of a proper Invoice, whichever is later. Payment of a particular invoice is subject to setoff of any claim of Buyer against Seller, arising from any invoice or other transaction between the Parties.

**Quality Control.** Seller shall maintain a quality management and control system consistent with its industry's standard best practices, unless a specific system of quality control or other standard of quality is specified in an Order or document incorporated by reference therein. AS-9102 (latest edition) First Article Inspection Report system is the preferred inspection process and is to be used on request, as listed in the purchasing documents. Seller shall implement and maintain a "Gage Calibration Process" that is traceable to NIST or other accredited laboratories, with an inclusion in the scope for the specific test or calibration. Records of all such quality management and control systems must be promptly furnished to Buyer on request.

**Inspection; Acceptance.** Authorized representatives of Seller shall make available to Buyer or Buyer's customers, or both, all materials, articles, work, or services performed by Seller, for inspection or test at Seller's location or that of Seller's subcontractor. No inspection or test prior to final inspection and acceptance, shall relieve Seller from responsibility for defects or other failure to meet the requirements of an Order. Seller will deliver the Goods to the exact specifications provided in the Order and will not be provided any Material Review Board authority concerning such Goods. Nonconforming Goods must be correctly processed when identified at Seller's location. All paperwork will state the product returned was nonconforming, with documentation certifying the matter was resolved. The Seller does not have the authority to ship any out-of-specification material or known defective material to Buyer. "Use as is" option and authority is NOT granted to the Seller for any reason or cause.

All materials, articles, work, or services shall be subject to final inspection and acceptance by Buyer after delivery to destination, notwithstanding prior payment. Notwithstanding Buyer or Buyer's customer's acceptance of the Goods, Seller shall not be relieved of liability with respect to latent defects, fraud, gross negligence or willful misconduct, or Seller's warranty obligations.

In the event nonconforming Goods are inadvertently shipped to Buyer, Seller must notify Buyer immediately and bear responsibility for all costs, repercussions, and adverse effects caused by the nonconforming Goods. Buyer will require corrective action be taken by Seller for nonconforming Goods received at Buyer's location and found to be defective, including but not limited to compensation to Buyer for any and all costs associated with freight, sorting, or re-working the Goods. This will be handled on a case-by-case basis, and from time to time via Buyer's "Supplier Evaluation Process."

**Indemnity.** Seller shall indemnify and hold harmless, Buyer, its shareholders, agents, officers, directors, and employees from and against any expense, claims, injury, suit, obligation, causes of action, liability, cost (including, but not limited to, reasonable attorneys' fees and court costs), damage if and to the extent such claims directly or indirectly relate to or arise out of or in connection with work conducted by Seller or any breach by Supplier of any warranty, term or covenant contained in these Terms or any Order, provided that Seller receives prompt written notice of any indemnity claim hereunder and is provided the right, but not the obligation to defend. Further, in the event any of the Goods are alleged or determined to infringe the rights of a third party, Seller shall promptly, at its sole option and expense, elect to: (a) modify the Goods so that they are non-infringing without materially disrupting Buyer's operations, (b) replace the Goods with non-infringing Goods that are functionally equivalent or superior in performance without materially disrupting Buyer's operations, (c) obtain a license for Buyer to continue to use the Goods as provided hereunder, or (d) if none of the foregoing can be achieved despite the best efforts of Seller, at Seller's expense allow Buyer to return or destroy such Goods and refund to Buyer the fees paid by Buyer for such Goods.

**Changes.** Seller may not change or revise an Order or the drawings and/or specifications therein, except with Buyer's express written consent, signed by Buyer's Purchasing Representative. Buyer may at any time by written notice and without notice to sureties, make changes in any one (1) or more of the following: (a) drawings, designs, or specifications; (b) method of packing or shipment; (c) place of inspection, acceptance or point of delivery; (d) delivery schedule; or (e) quantity. Should any such change cause an increase or decrease in the cost of or time required for performance of an Order, an equitable adjustment shall be negotiated and the Order shall be modified accordingly. If no agreement is reached, the equitable adjustment due shall be resolved pursuant to the "Disputes" clause below. Any claim by Seller for such adjustment shall be submitted to Buyer in writing within fifteen (15) days of Buyer's written notice of such change. If not submitted within fifteen (15) days, the claim is waived. Seller must proceed without unreasonable delay in performing the Order as changed, even if a "Dispute" is pending and not resolved.

**Termination for Convenience.** An Order may be terminated in whole or in part by Buyer at any time for its sole convenience upon ten (10) days' advance written notice to Seller. Buyer shall have no liability to Seller related to such termination other than payment to Seller for any works completed as of the date of termination. Upon receipt of payment by Buyer to Seller for work performed, Seller will immediately release to Buyer or, if requested, deliver to Buyer all Goods due to Buyer and in Seller's possession, custody or control, whether fully or partially completed, and any property owned by Buyer or for which Buyer has a right to possession under these Terms or an Order.

**Termination for Default.** Buyer may, by written notice to Seller, terminate an Order in whole or in part for default if Seller fails to (a) deliver Goods within the time specified; (b) make progress so as to endanger performance of an Order and fails to, within ten (10) days of written notice of such failure, cure that failure or otherwise provide adequate assurance of performance, or to (c) perform any other provision of these Terms or an Order. If Buyer terminates in whole or in part for default, Buyer may acquire under terms that Buyer considers appropriate Goods substantially similar to those to be provided in the terminated Order, and Seller shall be responsible for paying to Buyer any excess costs for such re-procurement of the Goods. At the time of termination and thereafter, Buyer may at its option also require Seller to transfer title and deliver to Buyer any completed supplies, partially completed supplies, or materials, parts, tools, dies, jigs, fixtures and the like that Seller has specifically produced or acquired for the terminated portion of the Order. Subject to Buyer's right of setoff for excess re-procurement costs or other damages, Buyer shall pay Seller the contract price for completed supplies delivered and accepted by Buyer. Buyer and Seller shall agree on the amount of payment for partially completed supplies, or materials delivered to Buyer and Buyer's specific direction. Buyer's rights and remedies in this clause are in addition to any other rights and remedies provided by law or under the Order. In the event it is later determined by a court, arbitrator, or other tribunal with jurisdiction that Seller was not in default, the termination shall be deemed to have been for the convenience of the Buyer. Seller's exclusive remedy will be for payment as provided herein.

**Disputes.** If Buyer's contract with its customer contains a "Disputes" clause or procedure, any claim or demand by Seller which derives or results in any way from an act or omission of Buyer's customer which is not resolved by agreement may, at Buyer's election, be submitted for resolution pursuant to the customer contract "Disputes" clause. In that event, Seller's sole remedy will be the "Disputes" procedure in Buyer's contract with its customer, and Seller's recovery is limited to the amount, if any, recovered from Buyer's customer on Seller's behalf. Pending resolution, Seller shall not take any other action, including but not limited to pursuit of independent litigation with respect to any claim or demand, pending final determination under Buyer's prime contract "Disputes" provision. Seller shall not be entitled to receive from Buyer any amount greater than Buyer actually receives from Buyer's customer on account of Seller's claim, less any markups and costs incurred by Buyer. All claims and disputes between Buyer and Seller not originating with acts or omissions of Buyer's customer and not settled by mutual agreement, shall be decided by arbitration conducted in Jefferson County, Kentucky in accordance with the laws of the Commonwealth of Kentucky. A single arbitrator agreed upon by the Buyer and Seller or appointed in accordance with applicable law shall conduct the arbitration proceeding. Arbitration will proceed without discovery. This agreement to arbitrate shall be specifically enforceable under prevailing arbitration law. These Terms and all documents incorporated by reference herein shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

**Assignments and Subcontracting.** Seller may not assign an Order or any portion thereof without the written consent of the Buyer. Seller agrees to obtain Buyer's written approval before subcontracting performance of an Order or any portion thereof. Buyer's approval of any such assignment or subcontracting of Seller obligations under an Order shall not relieve Seller from any obligations imposed therein or by these Terms. To the extent Buyer or Buyer's customer(s) designate a particular supplier or contractor to be used by Seller with regard to an Order, no deviation from such designation is permitted and a Certificate of Conformance must be delivered to Buyer stating the source of all components and services performed in accordance therewith.

**Seller Representations and Warranties.** Seller represents and warrants the following:

- Seller's performance of an Order shall comply with all federal, state and local laws and regulations;

- All purchased materials used in part manufacturing shall satisfy current governmental and safety constraints on restricted, toxic, and hazardous materials; as well as environmental, electrical, and electromagnetic considerations, applicable to the country of manufacture and sale;
- A current copy of any applicable Safety Data Sheets associated with the product being sent to Buyer must accompany each shipment to Buyer for all chemical and composite materials and updates performed by the Seller; and
- All government programs and requirements dealing with slave labor, child labor, controlled substances, discriminatory practices, DFARS, and the Frank Dodd Act; must be followed and conformed to by all Sellers of Buyer. This includes any federal or regulatory, as well as environmental requirements.

**Taxes.** Unless otherwise specified in writing on the face of an Order, the prices stated include all applicable state, federal and local taxes.

**Confidential Information.** The Parties agree this section governs the rights and obligations of the Parties regarding the exchange of Confidential Information (defined herein) conveyed by one party, the “Disclosing Party”, to the other party as the “Receiving Party”. Any and all information, data, costs, facts, figures and records provided to the Receiving Party by the Disclosing Party hereunder, regardless of its disclosure date, including but not limited to products, technology and software, proprietary, financial, technical, developmental, marketing, sales, operating, performance and manufacturing information, intellectual property, trade secrets and know-how, business and process information, lists of actual or potential customers or suppliers, drawings, specifications, schematics, samples, models or prototypes (or parts thereof), computer programs and programming techniques, and all record bearing media containing or disclosing any such information, that is disclosed or is otherwise made available pursuant to these Terms (including any information learned or observed in the course of a visit to or tour of the Disclosing Party’s facilities) shall be deemed “Confidential Information” subject to the following: (a) information and data provided by Buyer shall be considered Confidential Information notwithstanding the absence of any proprietary markings and regardless of the manner of its conveyance, and (b) information and data provided by Seller shall be considered Confidential Information provided that it is marked proprietary, or if disclosed orally or visually, is identified as confidential and proprietary at the time of disclosure and subsequently reduced to a writing identifying it as Confidential Information within 30 days of its disclosure to Buyer or the signing of these Terms. The Receiving Party shall: (a) use the Confidential Information in furtherance of the performances of an Order only; (b) limit the disclosure of Confidential Information to employees, contractors, consultants or agents, who have a need to know in order to perform an Order and other obligations under these Terms; (c) ensure all such employees, subcontractors, consultants or agents are bound by a confidentiality agreement including terms substantially similar to the terms of this section prior to receiving such Confidential Information; (d) except as provided in (b) above, only disclose Confidential Information to a third party for whom the Receiving Party has obtained express written consent of disclosure from the Disclosing Party; (e) use the same degree of care, but in any case no less than a reasonable degree of care, to prevent unauthorized use, dissemination or publication thereof as it uses to protect its own Confidential Information of similar nature; (f) not copy or duplicate Confidential Information except as necessary for the performance of an Order; and (g) not reverse engineer any prototype or software product embodying Confidential Information or decompile Confidential Information.

Upon written request by the Disclosing Party, the Receiving Party shall promptly return or securely destroy all tangible Confidential Information provided by the Disclosing Party, along with any and all copies

thereof, except that the Receiving Party may retain a single copy of such tangible Confidential Information in a secure file for record keeping purposes only.

Notwithstanding the prohibitions in these Terms against the disclosure of Buyer's Confidential Information, Trade Secrets and Proprietary Information, nothing in these Terms is intended to interfere with or discourage a good faith disclosure to any governmental entity related to a suspected violation of the law. Seller cannot and will not be held criminally or civilly liable under any federal or state trade secret law for disclosing otherwise protected trade secrets and/or confidential or proprietary information as long as the disclosure is made in: (a) confidence to a federal, state, or local government official, directly or indirectly, or to an attorney and solely for the purpose of reporting or investigating a suspected violation of law; or (b) a complaint or other document filed in a lawsuit or other proceeding, as long as such filing is made under seal. Buyer will not retaliate against Seller in any way for a disclosure made in accordance with the law. In the event Seller makes a disclosure permitted by law, and Seller files a lawsuit against Buyer alleging that it was retaliated because of the disclosure, Seller may disclose the relevant trade secret or confidential information to its attorney and may use the same in the court proceeding only if: (a) Seller ensures that any court filing that includes the trade secret or confidential information at issue is made under seal; and (b) Seller does not otherwise disclose the trade secret or confidential information except as required by court order.

**Ownership and Retention of Buyer's Information.** The ideas, information, designs, drawings, specifications and any other data or business and manufacturing information supplied by Buyer to Seller incident to an Order shall remain Buyer's property. Under no circumstances may such information be used or incorporated into any product or item that is manufactured for or supplied to anyone other than Buyer. Seller shall not use any Buyer part number for any purpose other than performance of this Order. All Purchase Orders, Inspection Records, Specifications, Standards, and Production Records, as well as any other record for products supplied to Buyer, must be retained for the life of the product, plus fifteen (15) years; and made available upon request. For this reason, Buyer suggests Seller utilize electronic record keeping.

**Buyer's Property.** All tools, dies, jigs, patterns, equipment, material, industrial property or other items purchased, furnished, charged to or paid for by Buyer, and any replacement thereof, shall remain the property of Buyer. Such property shall be plainly marked to evidence that it is Buyer's property and shall be stored safely apart from Seller's other property. Seller shall not substitute other property for Buyer's property and shall not use such property except to fill Buyer's orders. Seller shall hold such property at its own risk and upon Buyer's written request shall return the property to Buyer at Seller's expense in the same condition as originally received, reasonable wear and tear accepted.

**Remedies and Non-Waiver.** The remedies reserved to Buyer by these Terms are not exclusive and shall be cumulative with and in addition to any other right or remedy provided to Buyer by law or equity. No waiver of a breach, or a failure to enforce any provision of an Order or these Terms, shall constitute a waiver of any subsequent breach or of any other provision. If any provision of an Order or these Terms is void or becomes void or unenforceable, by operation of law, all other provisions shall remain in full force and effect.

**Additional Goods Guarantee.** As part of the consideration for an Order, Seller agrees that it will accept future orders for additional quantities of the same Good procured by an Order. If Seller plans to discontinue the sale of Goods purchased by this Order, Seller shall so notify Buyer no less than one (1) year prior to any such discontinuance. In the event such notice of the Goods discontinuance is not so issued, Buyer may acquire under terms that Buyer considers appropriate, Goods substantially similar to

those discontinued by Seller, and Seller shall be responsible for paying to Buyer any excess costs for such re-procurement of the Goods until the expiration of the one (1) year notice period.

**Anti-Kickback Covenant and Prohibition of Gifts and Gratuities.** Seller shall be strictly prohibited from providing or attempting to provide, or offering to provide, any money, fee, commission, credit, gift, gratuity, thing of value or compensation of any kind directly or indirectly to Buyer or any of its employees or other subcontractors, for the purpose of improperly obtaining any Order from Buyer, or for rewarding favorable treatment in connection with any Order between Buyer and Seller. Seller agrees to report promptly to Buyer's President, any solicitation or request for a kickback. Seller's breach of the foregoing prohibition or of the obligation to report shall be considered a material breach of the Order and any other order or contracts between Buyer and Seller.

**Prohibition of Gratuities to Buyer's Personnel.** This Order serves as notice to Seller that Buyer's personnel owe complete loyalty to Buyer and are forbidden to accept money or things of value from any Seller, regardless whether such acceptance would constitute an act prohibited by Anti-Kickback laws and regulations. Seller for itself and its principal owners, shareholders, and officers warrants and represents that no employee of Buyer has any financial interest in Seller except such as has been disclosed in writing to Buyer's President. Further, Seller has not and will not give anything of value to any employee of Buyer, except promotional or commemorative items having a value of less than \$25, and food and refreshments served during business meetings. Breach of the foregoing warranty and covenant shall entitle Buyer, in addition to any other rights and remedies, immediately to terminate for default any and all Orders to Seller existing at the time that Buyer learns of any such breach, and regardless of when such breach occurred.

**Equal Opportunity.** Buyer is an Equal Opportunity Employer committed to affirmative action for minorities and women under Executive Order 11246, as amended; for handicapped and disabled individuals under Section 503 of the Rehabilitation Act of 1973; and for veterans under Section 402 of the Vietnam Era Readjustment Assistance Act of 1974. We urge Seller and all of our subcontractors, vendors, suppliers, and transportation companies to reinforce their equal employment and affirmative action efforts.

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