



TERMS AND CONDITIONS

These Terms and Conditions supersede all previous Terms and Conditions. These Terms and Conditions apply to all sales of Goods by CMI Valve ("CMI") and supersede all purchase orders, agreements or other terms and conditions issued by Buyer.

1. **PARTIES.** Buyer is the person or entity to whom CMI has offered to sell products and goods (the "Goods"), whether or not CMI has received a purchase order or other order (an "Order") for such Goods. Buyer and CMI are each a Party and collectively the Parties.
2. **ACCEPTANCE AND INSPECTION.** Purchaser shall inspect the goods within eight (8) days of the invoice date ("Inspection Period"). Claims by Purchaser must be made promptly, in writing, within the Inspection Period, and Seller shall be given an opportunity to investigate. All Purchaser claims are deemed waived, and Purchaser shall be deemed to have accepted such goods, if objection is not made in writing within the Inspection Period. Written authorization must be obtained by Purchaser from Seller before Seller can accept returned goods.
3. **PRICES.** Prices published or announced by CMI are subject to change without prior notice. Prices, at the discretion of CMI, may be subject to a surcharge due to the volatility of raw materials and invoiced as part of the price of the material or as a separate charge.
4. **TAXES.** Buyer shall be invoiced and shall pay all sales, use, excise, transaction, or any other taxes that CMI is required by local, state or federal laws ("Applicable Laws") to pay or collect, unless CMI has been provided with a tax exemption certificate from Buyer.
5. **TERMS OF PAYMENT.** Terms of payment are net thirty (30) days from date of invoice.
6. **DELIVERY, SHIPMENT AND RISK OF LOSS.** Delivery of Goods to a common carrier shall constitute delivery thereof to Buyer, and risk of loss shall pass to Buyer at such time. Buyer shall pay all shipping and handling charges. Any claims for damage to or loss of Goods in transit shall be filed by Buyer directly with, and shall be the sole responsibility of, the carrier. Shipping schedules are estimates. CMI will use every reasonable means at its disposal to make delivery within the time specified. Shipping schedules are computed from time of entry of Order at CMI. In no event shall CMI be liable for any delay in delivery or shipment.
7. **CLAIMS.** Claims for shortages or other nonconformity must be made in writing within ten (10) calendar days after Buyer's receipt of Goods.
8. **MODIFICATIONS; OTHER PROVISIONS.** None of the terms and conditions contained herein may be added to, modified, superseded or otherwise altered, including by course of dealing, except by a written instrument specifically referencing the affected provision of this Order signed by an authorized representative of CMI Valve and an authorized representative of Customer. The failure or delay of either party in the enforcement of the rights detailed in the Order shall not constitute a waiver of the rights nor shall it be considered as a basis for estoppel either at equity or at law. Either such party may exercise its rights under the Order despite any delay or failure to enforce those rights at the time the cause of action or right or obligation arose.
9. **RETURN OF MATERIAL AND TERMINATION OF ORDERS.** Orders accepted by CMI can be canceled only with CMI's written consent. Goods may be not be returned for credit or adjustment without written consent from CMI. Cancellation, restocking and other fees may apply.
10. **CORRECTIONS.** CMI reserves the right to correct clerical and arithmetic or stenographic errors or omissions in Orders, invoices, quotations, price schedules, acknowledgments, or other documents.
11. **FORCE MAJEURE.** The time for CMI to perform shall be extended proportionately as its ability to perform is materially affected by causes beyond its reasonable control, including, but not limited to, any Act of God, or by labor disputes, whether authorized by the applicable bargaining unit or not, by embargoes, trade restrictions, governmental directives, war, riots or insurrections, fire, flood, delays in transportation or failure by suppliers to deliver equipment or supplies.
12. **DEFAULT BY BUYER.** Buyer shall be in breach of these terms and conditions if it fails to accept conforming Goods, pay any invoice when due, or breaches any other term and condition. Upon a breach, CMI shall be entitled to exercise all remedies of a secured party under the Uniform Commercial Code with respect to the Goods as well as any other remedies which CMI may be entitled to assert by law or in equity.
13. **WARRANTY.** CMI shall assign any manufacturer's warranty to Buyer and shall assist Buyer with warranty claims against manufacturers. CMI shall not be responsible for costs associated with removal, replacement or installment of the Goods.
THE REMEDIES SET FORTH IN THESE TERMS AND CONDITIONS ARE THE SOLE AND EXCLUSIVE REMEDIES AVAILABLE. OTHER THAN AS SET FORTH THEREIN, THERE ARE NO OTHER WARRANTIES, WHETHER STATUTORY, EXPRESSED OR IMPLIED. ALL OTHER WARRANTIES ARE DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
14. **COMPLIANCE WITH LAW.** Buyer shall comply with all Applicable Laws in connection with the use of the Goods, and shall not resell, distribute or export the Goods in violation of Applicable Law. Buyer shall defend, indemnify and hold CMI harmless from and against any and all claims, demands, losses, costs, or liability incurred by CMI as a result of Buyer's breach of this Section.
15. **DISCLAIMER.** In no event shall CMI be liable for damages for personal injury, property damage, or for any consequential, incidental, punitive, or exemplary damages including, without limitation, damages for loss of use, lost profits, interruption of business, other economic loss, or any other damages whatsoever in connection with any claim, regardless of whether the claim arises in warranty, contract or in tort, including, but not limited to, strict liability and negligence.
16. **CHOICE OF LAW, VENUE AND JURISDICTION.** These terms and conditions shall be governed by and construed in accordance with the laws of the State of Texas applicable to contracts made and to be performed therein, exclusive of the choice of law or conflict of law provisions thereof. Any action or proceeding seeking to enforce any provisions of, or based on any right arising out of, these terms and conditions may be brought against any of the parties in the courts of the State of Texas, County of Harris, or, if it has or can acquire jurisdiction, in the United States District Court for the Southern District of Texas, and each of the parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein.
17. **SEVERABILITY, WAIVER.** If any provision herein shall be held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
18. **ATTORNEY'S FEES.** CMI shall be entitled to recover its reasonable attorneys' fees incurred in connection with any breach of this Agreement.
19. **ENTIRETY OF AGREEMENT.** These terms and conditions, together with CMI's quote and any specifications, requisitions, drawings, and other related documents provided by CMI constitute the entire agreement between CMI and Buyer. Any change, amendment, or modification of any of these terms and conditions must be made in writing and signed by the Parties. To the extent that Buyer issues an Order, any terms and conditions of such Order or any other document is for information only and shall not change or alter any terms and conditions set forth herein.



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