

Control Module Inc.

STANDARD TERMS AND CONDITIONS OF SALE

These Standard Terms and Conditions of Sales (“Standard Conditions”) apply to all quotations made by, and all orders accepted by, Control Module Inc. (“CMI”) for the sale of CMI products (“Products”) to buyer (“Buyer”). In the event of any conflict between these Standard Conditions with any written agreement executed by CMI and Buyer, the provision of the written agreement shall govern. Buyer’s purchase order, together with these Standard Conditions, and if applicable, the Software License Terms, defined in paragraph 6 below, together with any additional writings signed by CMI, specifically referencing the purchase order, represent the final, complete and exclusive agreement between the parties with respect to the subject matter hereof and may not be modified in any way except in writing signed by an authorized employee of CMI. Notwithstanding the foregoing, all printed terms and conditions in any purchase order or acknowledgement form provided by Buyer shall be void and of no effect as between the parties.

CMI’s prices are predicated upon Buyer’s acceptance of these Standard Conditions, and Buyer’s acceptance of products shipped shall constitute Buyer’s acknowledgment of acceptance of these Standard Conditions.

1) **PRICE QUOTATION; ACCEPTANCE OF ORDERS:** Prices are stated on the face of CMI’s quotation, are in U.S. Dollars, and are exclusive of insurance, duties, tariffs, levies, shipping and any non-standard packaging costs. Unless otherwise specified, all quotations expire ninety (90) days after the date of the quotation. Buyer’s purchase orders shall be signed by Buyer and include a copy of these Standard Terms. All purchase orders become effective when accepted (a) in writing by CMI by its offices at Enfield, Connecticut or (b) by deemed acceptance upon CMI shipping the ordered Product. All accepted orders are non-cancellable and irrevocable.

2) **TERMS OF PAYMENT; TAXES:**

- a) Unless otherwise specified, terms to customers of satisfactory credit are net thirty (30) days from date of invoice and are F.O.B. destination, freight prepaid and invoiced to Buyer. All Product sales are invoiced upon shipment. If, at any time in the exclusive judgment of CMI, the financial condition of Buyer does not justify commencement or continuance of production or shipment on the terms specified herein, CMI may require full or partial payment in advance, suspend its performance until such payment is made, and cancel Buyer’s order if such payment is not received by CMI within the time specified by CMI.
- b) Buyer shall pay, or reimburse CMI for any and all sales, use, franchise, excise, value added, and similar taxes (hereinafter “Taxes”) of any kind on the product and services provided by CMI pursuant to these Standard Conditions, other than Taxes imposed on the net or gross income of CMI. Buyer may provide CMI with evidence satisfactory to CMI (such as a certificate of exemption) of Buyer’s exemption from the relevant taxes, provided that in all case, Buyer shall indemnify CMI from all assessments of Taxes, and interest and penalties assessed against CMI on account of or related to the sale hereunder.
- c) If shipments are delayed by Buyer, payment shall become due from date CMI is prepared to make shipment. Products held for Buyer because of such delay in delivery shall be at the risk and expense of Buyer.
- d) CMI, in its sole discretion, may invoice Buyer a late payment penalty of one and one-half percent (1.5%) per month on all undisputed amounts not received by the due date on the invoice. Buyer shall also pay on demand any costs incurred by CMI (including reasonable attorneys’ fees and legal expenses) in connection with the collection of any undisputed amounts due from Buyer to CMI which are not paid as agreed herein.

3) **DELIVERY, TITLE AND RISK OF LOSS:**

- a) Shipments of any products purchased are subject to CMI’s availability schedule. CMI shall make every reasonable effort to meet any delivery date(s) quoted or acknowledged. However, CMI shall not be liable for its failure to meet such date(s).
- b) Buyer may reschedule shipment one time upon no less than [**thirty (30) days**] advance written notice to CMI, with the rescheduled date being no later than sixty days after the original shipment date.
- c) Unless otherwise specified by CMI, delivery shall be made and title shall pass F.O.B. destination, freight prepaid and invoiced to Buyer, except that a security interest in the Products shall remain in CMI until

full payment has been made. Upon CMI's request, Buyer shall execute any financing or continuation statement or other document required to protect CMI's security interest in the Product(s). Failure by Buyer to pay any amount due hereunder shall constitute a default and in such event CMI shall, in addition to any other remedies available to it under applicable law, have all the rights of a secured party under the Uniform Commercial Code of the State of Connecticut. CMI may, at its option, repossess the same upon Buyer's default in payment and charge Buyer with any deficiency. Buyer waives its right to any judicial hearing prior to or subsequent to any such repossession.

- d) Buyer will comply with all applicable laws and shall not export any Products or information relating thereto except in accordance with all applicable U.S. laws and regulations controlling the export of technical data.
- 4) **EXCUSABLE DELAYS:** CMI shall not be liable for delays in delivery or performance, or for failure to manufacture, deliver or perform, due to (a) a cause beyond its reasonable control, or (b) an act of God, act of Buyer, act of civil or military authority, Governmental priority, strike or other labor disturbance, flood, epidemic, war, riot, delay in transportation or carriage shortage, or (c) inability on account of a cause beyond the reasonable control of CMI to obtain necessary materials, components, services or facilities, or (d) other unforeseen events. CMI will notify Buyer promptly of any material delay excused by this paragraph and will specify the revised delivery date as soon as practicable. In the event of any such delay, there shall be no termination and the targeted date of delivery or of performance shall be extended for a period equal to the time lost by reason of the delay.
- 5) **TECHNICAL DATA AND INTELLECTUAL PROPERTY:** CMI's drawings, specifications, operating instructions, and other engineering documents as well as the information they contain shall all be considered CMI Intellectual Property and shall be used only for the installation, operation and maintenance of the equipment. Unless otherwise identified in writing, no material submitted by Buyer to CMI shall be deemed confidential or proprietary information to Buyer. Except to the extent specifically and separately quoted by CMI and paid for by Buyer, Buyer shall obtain no rights in or to the Intellectual Property of CMI, even if Product incorporating such Intellectual Property is developed by CMI for sale to Buyer. "Intellectual Property" includes, without limitation, proposals, drawings, specifications, operating instructions, and other engineering and technical documents, including the information contained in the foregoing, and Product design (relating to function and/or appearance), software, firmware, Product names, and logos; whether or not subject of patents, registered trademarks, and/or registered copyrights.
- 6) **SOFTWARE:** If Product includes CMI software ("Software") or if CMI Software is included in the purchase order, the terms and conditions of the license to use the Software shall be governed by CMI's standard license terms ("Software License Terms"), which, together with these Standard Terms and the purchase order, will comprise the entire agreement of the parties.
- 7) **WARRANTY AND LIMITATION OF LIABILITY:** PRODUCTS SOLD HEREUNDER SHALL BE SUBJECT TO CMI'S STANDARD WARRANTY ATTACHED HERETO AND INCORPORATED HEREIN. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE OR PURPOSE. IN NO EVENT SHALL CMI BE LIABLE FOR ANY LOSS OR INJURY TO EARNINGS, PROFITS OR GOODWILL OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF CMI IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITH RESPECT TO ANY DISCREET COMPONENT WHICH IS NOT MANUFACTURED BY CMI, THE WARRANTY OF THE MANUFACTURER THEREOF SHALL APPLY AND BE EXCLUSIVE. THE MAXIMUM LIABILITY OF CMI FOR CLAIMS ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT SHALL BE THE FEES PAID TO CMI FOR THE TWELVE MONTH PERIOD PRECEDING THE CLAIM, EXCEPT FOR ANY CLAIMS FOR PERSONAL INJURY OR DEATH (FOR WHICH NO LIMIT APPLIES).
- 8) **GOVERNING LAW:** All rights and obligations of CMI and Buyer shall be governed for all purposes by the internal laws of the State of Connecticut, without reference to any choice of law rules, which would otherwise dictate the application of the laws of any other jurisdiction. The parties expressly disclaim the application of the United Nation Convention on Contracts for the International Sale of Goods.

Attachments: Control Module Inc. standard product warranty