

TERMS AND CONDITIONS OF PURCHASE

- 1. Contract Terms.** This purchase order is intended as an offer to purchase the goods specified on the face hereof upon the terms and conditions stated herein, and any reference to Seller's quotation or similar for is solely for the purpose of describing the goods. This offer expressly limits acceptance to the terms and conditions stated herein, and none of the terms and conditions stated herein may be added to, modified, superseded or otherwise altered except in writing, delivered to Seller, and signed by an authorized representative of the Buyer. Each shipment received by Buyer from Seller shall be deemed to be only upon the terms and conditions stated herein, notwithstanding any terms and conditions that may appear in Seller's quotation, acknowledgment, invoice or other form, and notwithstanding Buyer's acceptance and/or payment of the goods.
- 2. Price.** If a specific price is not stated on the face hereof, the goods shall be sold at the price last quoted by Seller, or at the prevailing market price, whichever is lower. In any event, Buyer shall be entitled to any price reduction by Seller after the acceptance hereof but before delivery of the goods, and the Seller shall not change an amount in excess of the prevailing market price of the goods at the time of the acceptance hereof.
- 3. Taxes.** The price stated on the face hereof shall be deemed to include any and all taxes and other governmental charges, now imposed or hereafter becoming effective, upon the production, sale, shipment, or use of the goods and Seller shall pay and discharge all such taxes and charges without reimbursement from Buyer.
- 4. Payment Terms.** Invoices are to be submitted and shall specify the purchase order number that appears on the face hereof, the goods, the shipment date, and the method of shipment. Payment due dates and cash discounts, if any, shall be computed from the time of the receipt of the invoice or the goods, whichever occurs later. CWM's payment terms are NET 60 unless special arrangements are agreed to prior to the issuance of a purchase order.
- 5. Delivery and the Risk of Loss.** All goods are to be furnished F.O.B. Bensenville and no charges will be allowed for crafting, handling, demurrage or for any other matter relating to the delivery of the goods to Buyer. The entire risk of loss, injury or destruction of the goods, regardless of the F.O.B. point and cause therefore, shall be borne by Seller until the goods are delivered to and accepted by Buyer. All deliveries are to be tagged with the purchase order number that appears on the face hereof.
- 6. Inspection and Acceptance.** The goods shall be subject to inspection upon delivery, and the goods may be rejected for defects or faults revealed by such inspection, or by analysis, use, or further inspection at any time thereafter even though the goods may have been previously inspected and accepted. Rejected goods may be returned to Seller for full refund, including all transportation charges paid by or charged to Buyer resulting from the return of the rejected material.
- 7. Late Delivery.** Time is of the essence with respect to the delivery date specified on the face hereof, and in the event delivery is not made by such delivery date, buyer shall have the right to cancel this order without liability to the Seller, but the Seller shall remain liable to Buyer for all damages incurred by reason of Seller's failure to meet such delivery date. The foregoing provision shall apply even though events or factors beyond its control caused the Seller's failure.
- 8. Warranties.** In addition to such warranties that are ordinarily extended by Seller, or which are established by the UCC or other applicable law, or which appear on the face hereof, Seller warrants Buyer (and to those who purchase the goods from the Buyer) that the goods (i) shall, in all respects, conform to the description on the face hereof as to quality, size, dimensions, and operational performance, (ii) are fit and sufficient for the intended purpose, (iii) are merchantable, of good quality and workmanship, and free from any and all defects or faults whatsoever. In the event of a breach of warranty, Seller shall, at its expense, promptly repair or replace the goods after receipt of notice of breach, it being understood that the Buyer is purchasing for sale, and that, therefore, a breach of warranty will most likely not be discovered until after the buyer has sold the goods. In any event, Seller shall be liable to Buyer for any other damages arising out of any breach of warranty.
- 9. Patents.** Seller warrants that the purchase, use or sale of the goods by Buyer shall be free, and shall remain free, of any claim of a third person for infringement of any patent, patent rights, invention rights, trademark, trade name or similar rights, and agrees, at its expense, to defend any suit proceeding, action, claim or demand brought against Buyer, and to indemnify and save harmless Buyer against all costs, expenses, liabilities, fines, damages or losses, including reasonable attorney's fees, arising or incurred on the account of any actual or alleged infringement of any patent, patent rights, invention rights, trademark, trade name or similar rights with respect to the goods.
- 10. Compliance with Laws.** Seller further warrants that the goods will be produced, sold, priced and delivered to Buyer in full compliance with any and all applicable federal, state, municipal and local laws, rules, regulations, ordinances, and orders existing at the time of the delivery of the goods.
- 11. Indemnity.** Seller shall defend, indemnify and save Buyer, its agents, employees and representatives harmless from and against all costs, expenses, penalties, fines, damages, or losses, including reasonable attorney's fees, arising out of or resulting in any way from any actual or alleged defect or fault in the goods including, without limitation, such defects that result in personal injury, death or damage to property, and/or from any failure of the Seller to comply with any of the terms or conditions of the Agreement.
- 12. Remedies.** The remedies specified herein for breach of warranty, or other default on the part of Seller, shall be cumulative and in addition to any other or further remedy provided by the UCC or other applicable law.
- 13. No Waiver.** Any failure by Buyer to enforce or require strict performance by Seller of any terms or conditions hereof shall not constitute a waiver thereof by Buyer, and Buyer may at any time avail itself of the remedies Buyer may have for any breach of the terms and conditions hereof.
- 14. General.** This writing is intended to be complete and exclusive treatment of the terms and conditions hereof, and shall be governed by the laws of the State of Illinois. No statement or writing, which makes specific reference hereto, and which has been signed by the party against whom enforcement thereof is sought.
- 15. Contracts awarded to suppliers will be evaluated to determine whether the products or services will be provided pursuant to ISO 14001-1996, to those supplier employees who may work with products/services that could pose a significant environmental impact.**