

**CLEVELAND MOTION CONTROLS INC.  
PURCHASE ORDER TERMS AND CONDITIONS**

- 1. AGREEMENT AND ACCEPTANCE** – The entire agreement (“Agreement”) between Cleveland Motion Controls Inc. (“CMC”), and the vendor, contractor or service provider to whom CMC has addressed this purchase order (“Seller”) consists of: (i) the Purchase Order terms on the front of this document (“Order”), (ii) these Purchase Orders Terms and Conditions, (iii) CMC’s US Government Contract Terms and Conditions Supplement (FM-C0310300801), if applicable, and (iv) any plans or specifications provided by CMC to Seller (“Plans”). The Agreement shall become binding when accepted by Seller either by acknowledgement or performance. All conditions and specifications pertaining to the Purchase Order, including drawings, specifications, or other requirements specified shall be the responsibility of the Seller and responsibility of the Seller to pass on responsibility to any of the Seller’s sub-tier contractors. Any terms and conditions proposed by the Seller, which is in addition to, or inconsistent with the terms and conditions contained in this Agreement shall be void unless specifically agreed to by CMC in writing, signed by its duly authorized representative. The price shall not exceed that shown on this Order. If the price is not shown on the Order, Seller agrees that the price shall not, without the prior written consent of CMC, exceed the last price paid by CMC for this particular item or class of material. Seller agrees that any price reduction made by Seller with respect to items or services covered by this Order subsequently to the date of the Order but or to shipment shall be applicable to this Order.
- 2. RIGHT OF ACCESS CLAUSE** – All work performed under the agreement is subject to surveillance at seller’s plant. Representatives of CMC and its customers shall have the right to conduct surveillance of the seller’s facilities, systems, data, equipment and personnel, to determine and verify the quality or work and materials, at each production stage, of all articles, materials and/or goods manufactured for incorporation into CMC products. Sales shall maintain, for a minimal of seven years, or per specific purchase order terms, the appropriate records to show the items was manufactured to the specifications as per the purchase order and or drawing. The records shall be stored by either manually or electronically and shall be protected from common disaster, such as fire or flood.
- 3. DESTINATION OF SHIPMENTS** – All shipments of materials, articles and/or goods (individually, a “Good”, and collectively, “Goods”) ordered hereunder shall be forwarded to CMC’s plant, Orchard Park, New York, unless otherwise specified in the Order. Seller shall, at Seller’s expense, deliver all Goods to CMC at CMC’s place of business, and Seller shall bear the risk of any loss, deterioration, or damage until the Goods are delivered and accepted as provided herein.
- 4. DELIVERY: NOTICE OF LABOR DISPUTES** – Time is of the essence hereunder, and all deliveries shall be made strictly in accordance with the time schedule set out in the Order. Seller shall not, however, be liable for delay due to causes beyond Seller’s reasonable control and without its fault or negligence, provided that Seller exercises reasonable diligence in notifying CMC of the conditions which are causing the delay, and the estimated period of delay. Items shipped to CMC prior to the time schedule in the Order or in excess of the quantity ordered may be returned to Seller at Seller’s expense. Seller shall notify CMC at once of any actual or potential labor dispute or any other reason, which is delaying or threatens to delay performance under the Order.
- 5. TRANSPORTATION CHARGES** – If purchase terms are f.o.b. shipping point and Seller prepays the transportation charges, such charges must be supported by a copy of the carrier’s bill or other evidence satisfactory to CMC. Failure to submit such proof at the time CMC is billed for the Goods or within thirty (30) days after such evidence is requested by CMC shall constitute a waiver by the Seller of such charges.
- 6. WARRANTIES** – Seller warrants that all Goods shipped and work performance hereunder will conform with any Plans and with applicable drawings, specifications, samples and/or other descriptions given to CMC by Seller, and will be free from defects in materials, workmanship and design. Without limitation of any rights which CMC may have at law by reason of any breach of warranty, goods which are not as warranted may be returned at Seller’s expense for either credit or replacement, as CMC may direct. The warranty shall survive inspection and payment. Seller shall indemnify CMC and hold CMC harmless from and against any and all liability, loss, damages, costs, claims and expenses (including, without limitation, reasonable attorney’s fees and expenses) that may be made against CMC or that CMC may incur, either directly or indirectly, by reason of or arising from the goods or services furnished hereunder.
- 7. INSPECTION** – Payment for Goods delivered under this Order shall not be deemed to constitute an acceptance thereof. All Goods shall be received and subject to CMC’s inspection. Any Good which does not comply with the warranties in Paragraph 6 above may be returned to Seller at Seller’s expense or may be held for Seller’s instruction at Seller’s risk, with Seller to pay such storage costs as are reasonably determined by CMC.
- 8. CHANGES** – CMC reserves the right to make changes to the Order at any time by written notice to Seller (“Change Notice”). If any Change Notice requires a substantial variation in the cost of furnishing any Good covered hereby, the price of such Good shall be varied in the same ratio. Any claim for an increase in purchase price pursuant to this Section 8 must be delivered in writing to CMC within ten (10) days after the date of the Change Notice.
- 9. MATERIAL, EQUIPMENT AND INSURANCE** – Unless otherwise specified in the Agreement, Seller shall supply all material and equipment required to execute the Order. Any materials, which CMC may furnish, on other than a charge basis shall be on consignment, and Seller shall pay for, such material spoiled or not otherwise used in or incorporated into Goods delivered to CMC hereunder by Seller, or for which Seller has not otherwise satisfactorily accounted. Any tools, dies, molds, jigs, fixtures, blueprints, designs, specifications, drawings, art work, copy layout, consigned materials for production or repair, or any other materials furnished or leased by CMC to Seller or which are specifically paid for by CMC, and any replacements thereof or attachments thereto, shall remain the personal property of CMC. Seller shall maintain insurance under insurance policies acceptable to CMC, insuring all of the foregoing items against loss or damage, and upon request by CMC, provide to CMC evidence of such insurance. Any of the foregoing items, which are or will remain in the Seller’s possession shall be kept in good repair or replaced, without charge, by Seller.  
  
**SUBCONTRACTORS** - Ship quantity ordered only. Adhere to shipping schedule(s) unless otherwise advised. Acknowledge receipt of material shipped direct to you from CMC’s vendors. Excess material shall be returned. Certification is required upon delivery of material for all material purchased by you.
- 10. FEDERAL, STATE AND LOCAL TAXES** – Unless otherwise provided in the Order, prices shall include any and all Federal, state, local and other taxes applicable to the manufacture, sale or distribution of the completed Goods and the subsidiary items incorporated therein.
- 11. PATENTS, TRADEMARKS, ETC.** – Seller warrants that neither the Goods furnished under the Order nor the sale or use thereof will infringe on any existing patent, trademark, or copyright. Seller agrees to indemnify, defend and hold harmless CMC, its directors, officers, agents, and customers (collectively “CMC”) from and against all suits, claims, or demands alleging patent, trademark or copyright infringement or misappropriation of any trade secret arising out of or in connection with the Order. If CMC so requests, Seller shall defend or settle at Seller’s expense each suit or proceeding against CMC alleging such infringement or misappropriation. CMC may assume its own defense or join in the defense of any action in which it is made a party, in which event the foregoing indemnity and agreement to hold CMC harmless shall extend to all of CMC’s costs therein, including attorney’s fees and litigation costs. All royalties for patents or charges for the use of patents, which may be involved in the performance of the Order, shall be included in the cost of performance.
- 12. ASSIGNMENT** – Seller shall not assign the Order, this Agreement, or any moneys due hereunder, without the prior written consent of CMC. Any assignment or attempted assignment made without such consent of CMC shall be void as to CMC.

**CLEVELAND MOTION CONTROLS INC.  
PURCHASE ORDER TERMS AND CONDITIONS**

- 13. TERMINATION FOR CONVENIENCE** – CMC may, at any time upon written notice to Seller, terminate the Order in whole or in part, whether or not Seller is in default hereunder. Such written notice shall state the extent and the effective date of termination. Upon receipt of such notice, Seller shall take all necessary steps to mitigate any losses Seller might incur on account of such termination. Upon such termination, CMC's obligation to Seller shall be limited solely to payment for (a) Goods already shipped to CMC, (b) Goods produced pursuant to specifications unique to CMC that are completed as of the time of receipt of notice by Seller of such termination and not yet shipped to CMC, (c) the actual costs incurred by Seller that are properly allocable under recognized commercial accounting practices to the terminated portion of the Order, including Seller's obligations to subcontractors that are also so allocable, but excluding any charge of any nature that may be diverted to other orders, and (d) a reasonable profit on the work performed by Seller before receipt of the termination notice. The total payments CMC is obligated to make hereunder shall not exceed the price of Goods to which such termination applies. Seller shall comply with CMC's instructions concerning Goods Seller already has furnished or partly furnished to CMC.

CMC shall not be responsible to pay for finished Goods in production or materials fabricated or procured by Seller for producing such Goods when such material was fabricated or procured by Seller unnecessarily in advance or in excess of CMC's delivery schedule.

Termination by CMC hereunder shall be without prejudice to any claims CMC may have against Seller. The payment provided under this provision shall constitute CMC's only liability in the event the Order is terminated as provided herein. The foregoing shall not apply to any termination by CMC on account of Seller's default or under any of the provisions in the "Termination for Default" clause.

To the extent the Order covers Goods normally carried in inventory by Seller, as distinguished from Goods specially made to CMC's specifications, CMC shall have no liability for any termination hereof prior to actual shipment.

- 14. TERMINATION FOR DEFAULT** – Each of the following events shall constitute a default by Seller for purposes of this section (a) the insolvency of Seller; (b) an assignment for the benefit of creditors of Seller; (c) the voluntary or involuntary filing of a petition order or other decree in bankruptcy by or against Seller; (d) the commencement of any proceeding, under court supervision or otherwise, for liquidation of, reorganization of, or the composition, extension, arrangement or readjustment of the obligations of Seller; (e) failure by Seller to comply with CMC's reasonable instructions and Change Notices; (f) failure by Seller to comply with any of the provisions of the Agreement; (g) failure of the Goods to conform to Seller's warranties contained herein or other warranties made by Seller; (h) failure of Seller to make deliveries as scheduled, and; (i) any representations of Seller contained in the Agreement were false when made. CMC shall have the right to terminate the Order, in whole or in part, upon any default by Seller. In the event of any such termination, CMC, in addition to any other rights it may have under applicable law or other terms of the Order, shall have the right (i) to refuse to accept further delivery of Goods; (ii) to return to Seller at Seller's expense any Goods already delivered and to recover from Seller all payments made therefor and all expenses of CMC incident thereto, (iii) to recover any advance payments to Seller for undelivered, unperformed or returned Goods; and (iv) to purchase substitute Goods elsewhere and charge Seller with any additional costs resulting therefrom. CMC's right to return Goods shall not be affected by any assignment by Seller of moneys due or become due hereunder.

- 15. WAIVER** – No delay or omission in exercising any right or remedy shall operate as a waiver thereof or of any other right or remedy, and no single or partial exercise thereof shall preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights, powers, elections and remedies of the parties hereunder are cumulative and in addition to those which the parties have at law or in equity. CMC's failure to object to any provision contained in any communication from Seller shall not be deemed an acceptance of such provision or a waiver of any provision of the Agreement.

**16. COMPLIANCE WITH LAWS**

Seller agrees that in the performance of this contract it shall comply with all applicable laws, statutes, rules regulations and orders of the United States Government and any other state or political subdivision thereof. These include, but are not limited to: The Federal Acquisition Regulation (FAR) clause 52.222-50 Combating Trafficking in Persons which is incorporated herein by reference, with the same force and effect as if it was given in full text and is applicable, including any notes following the clause citation, when the items and/or services furnished are for use in connection with a U.S. Government prime contract or subcontract.

- 17. FAIR LABOR STANDARDS ACT** – Seller represents and warrants that all Goods herein specified will be manufactured or furnished by Seller in accordance with the requirements of the Fair Labor Standards Act of 1938 (52 Stat. 1060), as amended, and agrees, additionally to include on each invoice rendered hereunder a certificate reading substantially as follows:

"Seller hereby certifies that these goods were produced in compliance with all applicable requirements of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the United States Department of Labor issued pursuant to Section 14 thereof. Seller is an Equal Opportunity Employer."

Seller further agrees to indemnify and hold harmless CMC from all costs and damages suffered by CMC as a result of Seller's failure to comply with said Act.

- 18. CLASS I OZONE SUBSTANCES** - Components supplied to CMC shall be free of Class I Ozone Depleting Substances in either manufacturing or cleaning.
- 19. INFORMATION DISCLOSED, ETC.** – Seller shall not, without CMC's prior written consent, disclose any information relative to the Agreement, except as may be necessary to enforce its right hereunder. Seller, however, agrees that any knowledge or information which Seller shall have disclosed or may hereafter disclose to CMC in connection with the purchase of the Goods or services covered by this Order, shall not, unless otherwise specifically agreed in writing by CMC, be deemed to be confidential or proprietary information, and shall be acquired free from any restrictions (other than a claim for patent infringement) as part of the consideration for the Order.
- 20. CONSTRUCTION** – The validity, construction, and interpretation of the Order, the Agreement, and other documents relating to the sale of the Goods specified herein, and the rights and duties of the parties to said sale, shall be governed by the laws of the State of New York.
- 21. JURISDICTION AND VENUE** – Seller consents to the jurisdiction of the state of New York and its courts for the purpose of resolving any and all controversies and claims between seller and CMC arising out of or relating to this agreement or the underlying transactions. Any controversy or claim arising out of or relating to the order, this agreement or the underlying transactions shall be resolved in the New York State Supreme Court, County of Erie, or in the United States District Court for the Western District of New York.
- 22. LEGAL EXPENSES** – If any legal action is instituted by or against CMC with respect to the Order, the Agreement, or the underlying transactions, and should CMC prevail in such legal action, Seller will indemnify CMC for any and all legal expenses, including attorney's fees, incurred by CMC in such legal action.

**CLEVELAND MOTION CONTROLS INC.  
PURCHASE ORDER TERMS AND CONDITIONS**

**23. MODIFICATION** – No terms and conditions other than those stated in the Agreement, and no agreement or understanding, oral or written, in any way purporting to modify these terms and conditions, whether contained in the Agreement, or elsewhere, shall be binding upon CMC unless made in writing and signed by its authorized representative.

**24. ETHICAL STANDARDS OF CONDUCT**

(a) CMC Inc. is committed to conducting its business fairly, impartially, and in an ethical and proper manner. As a subsidiary of ITT Corporation (“ITT”), CMC Inc. is bound by the ITT “Code of Conduct” available online at <http://www.itt.com/codeofconduct>. CMC’s expectation is that Seller also will conduct its business fairly, impartially, and in an ethical and proper manner. CMC’s further expectation is that Seller will have (or will develop) and adhere to a code of ethical standards. If Seller has cause to believe that CMC or any employee or agent of CMC has behaved improperly or unethically under this contract, Seller shall report such behavior to appropriate ITT Points of Contact (POCs) which may be found in the ITT Code of Conduct. Seller’s employees are required to conduct company business with integrity and maintain a high standard of conduct in all business-related activities. Seller shall not participate in any personal business, or investment activity that may be defined as a conflict of interest, whether real or perceived.

(b) SELLER COMPLIANCE: In performing its obligations under this Order, Seller will not use child labor as defined by local law, will not use forced or compulsory labor, will not physically abuse labor and will respect employees’ rights to choose whether to be represented by third parties and to bargain collectively in accordance with local law. In addition, in all wage and benefit, working hours and overtime and health, safety and environmental matters, Seller will comply with all applicable laws and regulations.

Seller further agrees that, if requested by CMC, it shall demonstrate, to the satisfaction of CMC, compliance with all requirements in this paragraph. CMC shall have the right to inspect any site of Seller involved in work for CMC, and failure to comply with the obligations in this paragraph shall be cause for immediate termination without penalty or further liability to CMC.

**25. COMPLIANCE WITH THE U.S. FOREIGN CORRUPT PRACTICES ACT**

Seller warrants and represents that it is familiar with and will strictly comply with the requirements of the U.S. Foreign Corrupt Practices Act of 1977, as amended. The seller will not offer, pay or promise, give, or authorize payment of any money or anything else of value to any government or public official (including political parties, officials or candidates for political office) for the purpose of influencing any act or decision of such official in his official capacity, including failure to perform his official function. Seller agrees that no expenditures for other than lawful purposes will be made with respect to the performance of this Order.

**26. GRATUITIES/KICKBACKS**

No gratuities (in the form of entertainment, gifts, travel, or anything of value) or kickbacks shall be offered or given by Seller or by any agent or representative of Seller to any officer or employee of CMC’s customer or ITT. CMC may, by written notice to Seller, immediately terminate the right of Seller to proceed under this Order if it is found that gratuities (in the form of entertainment, gifts, travel or anything of value) or kickbacks were offered or given by Seller, or by an agent or representative of Seller, to any officer or employee of CMC’s customer or CMC.

**27. EXPORT COMPLIANCE**

The Seller represents that it will comply with all applicable import/ export laws including the Export Administration Act, as amended (the “EAA”), (50 U.S.C. App. § 2401-2420), including the anti-boycott and embargo regulations and guidelines issued under the EAA; the International Emergency Economic Powers Act, as amended (50 U.S.C. §§ 1701-1706); the Export Administrative Regulations, as amended (15 C.F.R. Parts 730-744); the Arms Export Control Act, as amended (22 U.S.C. § 2751-2799aa-1); the International Traffic in Arms Regulations, as amended (22 C.F.R. Parts 120 - 130); the regulations of the Department of the Treasury, Office of Foreign Assets Control; and regulations, procedures and policies of the United States and any countries having jurisdiction over this Purchase Order. The Seller shall not export, disclose, furnish or otherwise provide any article, technical data, technology, defense service, or technical assistance provided by the Buyer to any foreign person or entity, whether within the U.S. or abroad, without obtaining, in advance, (a) appropriate U.S. government export authorization.

**28. GOVERNMENT FURNISHED PROPERTY**

The Government Property Clause contained in the FAR/DFAR Supplemental to these terms and conditions shall apply in lieu of the requirements outlined in Article 9 above with respect to Government furnished property, or property to which the Government may take title under this Contract.

**29. OFFSET**

This Contract has been entered into in direct support of CMC’s international offset programs. All offset benefit credits resulting from this Contract are the sole property of CMC to be applied to the offset program of its choice. Seller agrees to assist CMC in securing appropriate offset credits from the respective country government authorities.

**30. COUNTERFEIT WORK**

For purposes of this clause, Work consists of those parts delivered under this Contract that are the lowest level of separately identifiable items (e.g., articles, components, goods, and assemblies). "Counterfeit Work" means Work that is or contains items misrepresented as having been designed and/or produced under an approved system or other acceptable method. The term also includes approved Work that has reached a design life limit or has been damaged beyond possible repair, but is altered and misrepresented as acceptable.

Seller agrees and shall ensure that (a) Counterfeit Work is not delivered to CMC. (b) Seller shall only purchase products to be delivered or incorporated as Work to CMC directly from the Original Component Manufacturer (OCM)/Original Equipment Manufacturer (OEM), or through an OCM/OEM authorized distributor chain; unless authorized by CMC, (c) Seller shall immediately notify CMC with the pertinent facts if Seller becomes aware or suspects that it has furnished Counterfeit Work, (d) If requested by CMC, Seller shall provide OCM/OEM documentation that authenticates traceability of the affected items to the applicable OCM/OEM.

In the event that Work delivered under this Contract constitutes or includes Counterfeit Work, Seller shall, at its expense, promptly replace such Counterfeit Work with genuine Work conforming to the requirements of this Contract. Notwithstanding any other provision in this Contract, Seller shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation CMC’s costs of removing Counterfeit Work, of reinserting replacement Work and of any testing necessitated by the reinstallation of Work after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any remedies CMC may have at law, equity or under other provisions of this Contract.

This clause applies in addition to any quality provision, specification, statement of work or other provision included in this Contract addressing the authenticity of Work. To the extent such provisions conflict with this clause, this clause prevails.



**CLEVELAND MOTION CONTROLS INC.  
PURCHASE ORDER TERMS AND CONDITIONS**

Seller shall include this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Work to CMC

**31. QUALITY CONTROL SYSTEM**

Seller shall provide and maintain a quality control system to an industry recognized Quality Standard and in compliance with any other specific quality requirements identified in this Contract.

Seller shall keep complete records of all quality control inspection and test work and make them available to CMC and its customers upon request.

**32. INDEPENDENT CONTRACTOR RELATIONSHIP**

Seller is an independent contractor in all its operations and activities hereunder. The employees used by Seller to perform Work under this Contract shall be Seller's employees exclusively without any relation whatsoever to Buyer.

**33. GOVERNMENT CONTRACTS SUPPLEMENT**

If purchase order is issued in furtherance of a Government Contract, Seller will read the Purchase Order Terms and Conditions "Government Contracts Supplement" – CMC Form Number ***FM-C0310300801***. The Seller's Agreement with Government Contracts Supplement shall become binding when accepted by Seller either by acknowledgement or performance.