

## | GENERAL CONDITIONS OF SALE OR LEASE |

- 1. WARRANTY.** Classifier Milling Systems Inc. (hereinafter called "CMS" and/or "Seller" ) makes the following limited warranty: CMS warrants to the **original purchaser only** (hereinafter referred to as "**Buyer**") that components/parts manufactured by CMS of each new and unused system purchased from (or through) CMS under these Terms and Conditions, which components/parts have not been altered, changed or repaired in any manner, will be free from defects in material and workmanship for a period of one (1) year from the date of delivery. If any such part is not as warranted, and if the Buyer notifies CMS of such defects in writing within one year of delivery, CMS will repair or replace, at its option, such defective components/part(s) provided that full information is furnished to CMS of the nature of the defect. Labor in removing and replacing parts at the installation site under this warranty and return of defective parts to CMS shall be paid for by Buyer. This warranty by CMS does not cover any part of the system manufactured by third persons whether or not such third persons are subcontractors to CMS for the Buyer's system.

If after inspection of the returned parts CMS determines that the defect is a result of misuse, mishandling, installation, abnormal conditions of operation, unauthorized repair or modification, or due to the Buyer's failure to install, maintain or operate the product in compliance with the manufacturer's written instructions, all expenses incurred by CMS in connection with the replacement or repair of the product shall be for the account of the Buyer. Any product returned to CMS for replacement shall become the property of CMS.

EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 1, ALL PRODUCTS AND SERVICES PROVIDED UNDER THESE TERMS AND CONDITIONS ARE PROVIDED "AS IS". ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED AND EXCLUDED BY CMS, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF CMS FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE, MAINTENANCE OR PERFORMANCE OF THE PRODUCTS AND SERVICES PROVIDED HEREUNDER (INCLUDING LIABILITY FOR NEGLIGENCE), OTHER THAN LIABILITY BASED UPON THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF CMS

REPLACEMENT OR REPAIR OF THE CMS PRODUCTS AS PROVIDED ABOVE IS THE BUYER'S EXCLUSIVE REMEDY AND CMS'S SOLE OBLIGATION FOR ANY BREACH OF THE FOREGOING WARRANTY.

- 2. LIMITATIONS OF LIABILITY.** CMS WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY DELAY IN FURNISHING PRODUCTS, OR BY DELAY IN ANY OTHER PERFORMANCE UNDER OR PURSUANT TO THIS AGREEMENT.

IN NO EVENT WILL CMS'S LIABILITY OF ANY KIND INCLUDE LOST PROFITS, LOST REVENUE, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF CMS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

CMS shall not be liable to the Buyer for any claims, demands, injuries, damages, actions, or causes of action whatsoever based on negligence or strict liability.

No claim or cause of action arising from, or related to, the products and services provided under these Terms and Conditions, whether based in tort, contract or otherwise, may be asserted by any party but the original purchaser.

- 3. ACCEPTANCE/AGREEMENT.** Acceptance of this Quotation is conditional to acceptance of these Terms and Conditions. These Terms and Conditions (i) constitute the entire agreement between the parties with respect to the subject matter hereof, (ii) supersede any and all other agreements between the parties related thereto, including all proposals, oral or written, and all negotiations, conversations or discussions between the parties related to this Agreement, (iii) may not be altered, amended or otherwise modified without the written agreement signed by the parties hereto.

No product or service specifications or terms and conditions that are additional to or contrary to the terms contained in this Agreement, whether included in any purchase order or other communication from Buyer or any third party will be construed as, or constitute a waiver of, these terms and conditions, or the acceptance of any such additional terms, conditions or specifications.

- 4. ORDERS.** All orders are subject to acceptance by CMS, in its sole discretion, even if such order is taken by sales representative agents of CMS.
- 5. TERMS & PAYMENT.** The written price quotation listed herein shall be payable to CMS in current funds of the United States and/or Canada. No other understanding or agreements, verbal or otherwise, with respect to the price and terms of payment shall be binding on either party, except as expressly stated herein.

Prices on the goods covered by this Quotation are firm for 30 days from the date of this Quotation. If there is a delay in the completion of shipment of the order due to any change requested by the Buyer, or as the result of any delay on the Buyer's part in furnishing information required for completion of the order, the price agreed upon at the time of acceptance of the order is subject to change. Prices are F.O.B. carrier's equipment at CMS's factory and are exclusive of all federal, state/provincial or local taxes, and any present or future sales, use, or other tax or duty that CMS may be required to collect or pay shall be added to the sales prices and paid by the Buyer.

- 6. INCREASE TO PRICE.** In the event changes by Buyer in concept to the proposed system should require additional, or modification to existing mechanical equipment hardware or software, the price to Purchaser shall be revised accordingly.
- 7. INSTALLATION/START-UP/FIELD SERVICE.** The above price does not include installation of the system, system start-up, or any field service, unless otherwise specifically provided elsewhere herein or in our contract.
- 8. INSTALLATION/STARTUP/FIELD SERVICE SUPERVISION.** Upon written request by Buyer to CMS, at any reasonable time prior to installation of the system provided by CMS, CMS agrees to supply to the installation/start-up site a supervisor(s) qualified to instruct as to the proper installation of the system. The Buyer cost for this service is charged in accordance with the then prevailing published rate schedule.

9. **DRAWINGS.** CMS will deliver drawings to Buyer for approval of system prior to ordering materials and supplies, and prior to fabrication of system by CMS. Buyer agrees to either approve or correct such drawings, in writing, within 10 days after receipt thereof and return same to CMS for further processing. CMS reserves the right to give Buyer notice of delay caused CMS by Buyer's failure to promptly sign and return said drawings as aforesaid.
10. **CANCELLATIONS, COUNTERMAND, AND RETURN OF GOODS.** Orders accepted by CMS cannot be cancelled or countermanded, or shipments deferred or goods returned except with the prior written consent from CMS, and upon terms that will indemnify CMS against all losses resulting therefrom. When CMS authorizes the return of goods, Buyer shall prepay the shipping charges on such returned goods unless otherwise expressly stated by CMS in its written return authorization.
11. **PATENTS.** CMS shall indemnify and save the Buyer harmless from any judgments for damages and costs which may be rendered against the Buyer in any suit brought against the Buyer on account of the infringement of any United States patent by any goods supplied by CMS hereunder (as such and not incorporated into any other device), provided that the Buyer promptly notifies CMS of the commencement of any such suit and authorizes CMS to settle or defend such suit as CMS may see fit, and provided further that the Buyer renders every reasonable assistance which CMS may require in defending any such suit. This provision shall not apply if Buyer has furnished CMS with the specifications for such goods, and in that event, the Buyer shall indemnify and hold CMS harmless from any claim of patent infringement. If the goods supplied by CMS are found to be infringing, CMS's liability to the Buyer shall be limited to any one of the following, at CMS's election:
- Procuring for the Buyer the right to use the goods; or
  - Modifying the goods so that such goods are non-infringing; or
  - Replacing the goods with non-infringing goods; or
  - Removing the goods and refunding the purchased price to the Buyer.

In consideration of CMS's covenants hereunder, Buyer waives all other claims or potential claims for damages against CMS for any alleged or established patent infringement, and agrees to indemnify and save CMS harmless there from.

12. **DELIVERY.** Shipping dates are approximate and are based upon current and anticipated manufacturing capabilities and upon prompt receipt of all necessary information from Buyer. Delivery shall also be contingent upon receipt of materials from subcontractors. Unless otherwise agreed in writing by CMS, delivery shall occur and risk of loss shall pass to the Buyer upon delivery of the goods to the carrier at CMS's factory. Transportation shall be at the Buyer's sole risk and expense, and any claim for loss of damage in transit shall be against the carrier only. Buyer agrees to accurately check shipment upon arrival and file claim with the common carrier for any damage or loss. Risk of damage or loss to the system from any cause shall pass from CMS to Buyer upon delivery to the common carrier, notwithstanding the fact that CMS reserves the right of possession and title in the property until the above price is paid in full, all as provided elsewhere herein.
13. **FORCE MAJEURE.** Fulfillment of this order is contingent upon the availability of materials. CMS shall not be liable for any delays in delivery, or nonperformance in whole or in part, caused by the occurrence of any contingency beyond the control of either CMS or suppliers to CMS, including but not limited to war, sabotage, acts of civil disobedience, failure or delay in transportation, acts of any government or agency or subdivision thereof, judicial actions, labor disputes, fires, accidents, explosions, epidemics, guaranties, restrictions, storms, floods, earthquakes or acts of God, shortage of labor, fuel, raw material or machinery or technical failure where CMS has exercised ordinary care in the prevention thereof. If any contingency occurs, CMS may allocate production and deliveries among its customers.
14. **TITLES & POSSESSION.** Title and right of possession of the property furnished to Buyer pursuant to the terms of the contract shall remain with CMS until full payment of the price according to the above terms has been made, notwithstanding the delivery of the property to CMS or to a common carrier for the purpose of transmission to Buyer.

The property furnished under this contract shall not become a part of any real estate by reason of being attached thereto or installed therein or thereon. If Buyer shall default in payment, CMS shall elect to exercise its lien upon said property as provided by this paragraph and the Minnesota Uniform Commercial Code and Buyer shall be responsible for all costs and expenses associated therewith. Buyer hereby grants unto CMS a license irrevocable to enter upon any real estate owned or leased by Buyer for the purpose of removing said property, and Buyer shall be responsible for the resulting damage, if any, to real and personal property to which it is affixed.

15. **BUYER INSPECTION.** Buyer shall inspect and test the goods shipped hereunder immediately upon installation thereof and shall, within 15 days of the substantial completion of installation, give notice in writing to CMS of any matter or thing by reason whereof he may allege that the system is not in accordance with this contract.

If Buyer fails to give such written notice, said system shall be deemed accepted by Buyer. Notwithstanding this right of inspection by Buyer, Buyer agrees to pay the above price according to the above terms whether or not a right of inspection and testing exists pursuant to the terms of this paragraph.

16. **APPLICABILITY OF UNITED NATIONS CONVENTION.** With regard to international sales, the United Nations Convention on Contracts for the International Sale of Goods shall not apply to the purchase and sale of products hereunder.
17. **GENERAL PROVISIONS.** The Buyer may not assign any rights to, or delegate any performance owed under this Agreement without the consent of CMS. THE VALIDITY AND PERFORMANCE IN ALL MATTERS RELATING TO THE INTERPRETATION AND EFFECT OF THIS AGREEMENT, ANY PROVISION HEREIN AND ANY AMENDMENT HERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF ONTARIO. ALL DISPUTES ARISING IN CONNECTION WITH THIS AGREEMENT SHALL BE RESOLVED, IF NOT SOONER SETTLED, BY A COURT OF COMPETENT JURISDICTION LOCATED IN THE PROVINCE OF ONTARIO, CANADA. The Buyer shall pay CMS all fees, costs and expenses reasonably incurred by CMS in exercising its right under or with respect to this Agreement, including, without limitation, reasonable attorney fees.
18. **ACCEPTANCE.** The foregoing offer is accepted and the undersigned acknowledges receipt of a true and complete copy.