



Terms and Conditions for Sale of Products of CME WIRE & CABLE, INC. ("CME")

Notice: The terms and conditions contained herein, together with any additional or different terms contained in CME's Quotation, if any, submitted to Buyer (which Quotation shall control over any conflicting terms), constitute the entire agreement (the "Agreement") between the parties with respect to the order and supersede all prior communications and agreement regarding the order. Acceptance by CME of the order, or Buyer's acceptance of CME's Quotation, is expressly limited to and conditioned upon Buyer's acceptance of these terms and conditions, payment for or acceptance of any performance by CME being acceptance. These terms and conditions may not be changed or superseded by any different or additional terms and conditions proposed by Buyer to which terms CME hereby objects. Unless otherwise specified in the Quotation, Seller's Quotation shall expire 30 days from its date and may be modified or withdrawn by Seller before receipt of Buyer's conforming acceptance.

1. DEFINITIONS.

Whenever used in this Agreement with initial capitalization, the following definition shall be applicable:

- 1.1 Agreement.** "Agreement" shall mean this document entitled "Terms and Conditions for Sale of Products of CME WIRE & CABLE, INC." between "Seller" and "Buyer", including any applicable amendments hereto and all other documents expressly incorporated herein by reference.
- 1.2 Buyer.** "Buyer" means the entity to which Seller is providing Products under this Agreement.
- 1.3 Contract.** "Contract" means either the contract agreement signed by both parties, or the purchase order signed by Buyer and accepted by Seller in writing, for the sale of Products, together with these Terms and Conditions, Seller's final quotation, the agreed scope of work, and Seller's order acknowledgment.
- 1.4 Contract Price.** "Contract Price" means the agreed amount stated in the Contract for the sale of Products, including adjustments (if any) in accordance with the Contract.
- 1.5 Products.** "Products" shall mean any products, components, equipment, parts and materials provided by Seller pursuant to a specific Purchase Order.
- 1.6 Purchase Order.** "Purchase Order" shall mean the written document issued by Buyer and accepted by Seller, specifying the Products to be provided.
- 1.7 Quotation.** "Quotation" shall mean the written document issued by Seller specifying prices of Products offered to Buyer and certain terms and conditions applicable to such quotation.
- 1.8 Seller.** "Seller" means CME Wire & Cable, Inc., which is the entity providing Products under the Contract.

2. ACCEPTANCE OF THESE TERMS AND CONDITIONS.

Buyer shall issue written Purchase Orders for the furnishing of Products hereunder. The Purchase Order shall be issued pursuant to, and incorporated by, specific reference to the terms and conditions of this Contract and Seller's Quotation. Purchase Orders or change orders thereto issued by Buyer shall not be binding unless accepted in writing by Seller. Each Purchase Order issued pursuant to this Contract and Seller's Quotation shall be the entire agreement and understanding between the parties as to the subject matter of such Purchase Order and shall supersede all prior agreements, commitments, representations, writings and discussions between them. In any event, any printed terms on the front, back, or attached to the Purchase Order or any change order thereto, unless expressly agreed upon in writing by the parties in each specific Purchase Order, shall be null and void. All other terms are hereby rejected.

3. CONTRACT DOCUMENTS AND ORDER OF PRECEDENCE.

The Contract documents shall consist of (i) Seller's Quotation, (ii) this Agreement, and (iii) Purchase Order. In the event of conflict between the contractual documents, the documents or portions thereof, precedence shall be taken in the order in which they are named above, notwithstanding the chronological order in which they are issued or executed.

4. PRICING.

Seller shall be compensated for Products furnished pursuant to a specific Purchase Order. In case Buyer requests special packaging, design and specification, Buyer shall include such special requirements in the applicable Purchase Order.

Prices are subject to metal adjustments. The escalations or de-escalations are based on Seller's average metal price one (1) week prior to shipment. In addition, prices may also adjust without notice, on raw material to conform to price in effect on the date of order shipment, and apply only to the specific Products ordered.

5. PAYMENT AND FINANCIAL CONDITION.

Buyer shall pay Seller for the Products by paying all invoiced amounts in U.S. Dollars, without set off for claims arising out of other sales by Seller, within 30 thirty days from the date of invoice unless modified at the time of quotation. If in Seller's judgment, Buyer's credit becomes impaired at any time, Seller may decline to make deliveries except for cash until such time as such credit has been reestablished to Seller's satisfaction. Seller is hereby authorized by Buyer to investigate and verify any information provided and inquire of references or others as to credit worthiness.

If any invoice is not paid when due, interest will be added to and payable on all overdue amounts at 1.5 percent monthly (18 percent annually) or the maximum percentage allowed under applicable laws, whichever is less. Buyer shall pay all costs of collection, including without limitation, reasonable attorney fees.

In addition to any other right or remedy provided by law, if the Buyer fails to pay for the products when due, the Seller may repossess and remove any such product without notice or demand or may require Buyer to assemble the collateral and make it available to allow Seller to take possession.

Any Purchase Order for Products by Buyer shall constitute a representation that Buyer is solvent. In addition, upon Seller's request, Buyer will furnish a written representation concerning its solvency at any time prior to shipment.

6. DELIVERY, TITLE TRANSFER AND RISK OF LOSS OR DAMAGE.

Unless otherwise specified by Seller, delivery will be made and title will pass EX WORKS Seller's facility or warehouse (Incoterms 2010). Except for those obligations that are consistent with Incoterms 2010 specifically stated above, Seller shall not be liable in any claim asserted by Buyer with respect to delivery. Partial deliveries will be permitted. If Products delivered do not correspond in quantity, type or price to those itemized in the invoice for the shipment, Buyer will so notify Seller within 10 days after receipt. Seller may deliver any or all Products in advance of the delivery schedule. Notwithstanding anything to the contrary in this Agreement, in all events risk of loss and damage shall pass to Buyer upon delivery. Claims of damage after delivery shall be made directly by Buyer with the common carrier.

Buyer may defer shipments of Products for a maximum of six (6) months provided a written request for deferral is received by Seller ninety (90) days prior to the scheduled date. Buyer will be assessed a 1.5% per month deferral charge, to be billed monthly and upon shipment of Products invoiced at the original Contract Price. However, if after the requested deferral period, Products cannot be shipped to or received by Buyer due to any cause not attributable to Seller, Seller will notify Buyer and then may ship Products to a storage facility, including a facility within the place of manufacture, or to an agreed freight forwarder. If Seller places Products in storage or if Products are detained at any port, the following conditions shall apply: (i) title and all risk of loss or damage shall immediately pass to Buyer if they had not already passed and delivery shall be deemed to have occurred; (ii) any amounts otherwise payable to Seller upon delivery or shipment shall be payable upon presentation of Seller's invoices; (iii) all expenses and charges incurred by Seller, such as for preparation for and placement into storage, handling, inspection, preservation, insurance, storage, demurrage, removal and any taxes shall be payable by Buyer upon submission of Seller's invoices; and (iv) when conditions permit and upon payment of all amounts due hereunder, Seller shall resume delivery of Products to the originally agreed point of delivery.

7. EXCUSABLE DELAYS.

Seller shall not be liable nor in breach or default of its obligations under this Contract to the extent performance of such obligations is delayed or prevented, directly or indirectly, due to causes beyond its reasonable control, including, but not limited to, acts of God, fire, terrorism, war (declared or undeclared), epidemics, material shortages, insurrection, acts (or omissions) of Buyer or Buyer's suppliers or agents, any act (or omission) of Buyer or Buyer's suppliers or agents, any act (or omission) by any governmental authority, strikes, labor disputes, transportation shortages, or vendor non-performance. The delivery or performance date shall be extended for a period equal to the time lost by reason of delay, plus such additional time as may be reasonably necessary to overcome the effect of the delay. If Seller is delayed by any acts (or omissions) of Buyer, or by the prerequisite work of Buyer's other contractors or suppliers, Seller shall be entitled to an equitable price and schedule adjustment.

8. QUANTITY TOLERANCE

Unless otherwise agreed to by Seller and Buyer, quantities shall be subject to standard industry shipping tolerances. The quantity stated on invoice will be final quantity shipped.

Claims for shipping shortages must be received by Seller in writing within ten (10) days from date of invoice. Otherwise, Buyer agrees to pay for quantity invoiced.

9. PAYMENT OF TAXES.

Seller shall be responsible for all corporate taxes measure by net income due to performance of or payment under this Contract ("Seller Taxes"). Buyer shall be responsible for all taxes, duties, fees, or other charges of any nature (including but not limited

to, consumption, gross receipts, import, property, sales, stamp, turnover, use, or value added taxes, and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto, imposed by any governmental authority on Buyer or Seller or its subcontractors) in relation to the Contract or the performance or payment under the Contract other than Seller Taxes ("Buyer Taxes"). The Contract Price does not include the amount of any Buyer Taxes. If Buyer deducts or withholds Buyer Taxes, Buyer shall pay additional amounts so that Seller receives the full Contract Price without reduction for Buyer Taxes. Buyer shall provide to Seller, within one month of payment, official receipts from the applicable governmental authority for deducted or withheld taxes.

10. WARRANTIES.

Seller warrants that the Products shall be free of substantial defects in material, workmanship and title and will be of the kind and quality specified in Seller's written quotation to Buyer corresponding to such Products. Except as otherwise agreed between Buyer and Seller, the foregoing warranties and any other warranty under this Agreement, and any liability of Seller under such warranties shall terminate on the first (1) anniversary of the date of shipment of the Products, on which date all such liability of Seller shall terminate without further action by either party.

If Products do not meet the above warranties, Buyer shall promptly notify Seller in writing within the warranty period. Seller shall, with reasonable speed, repair or replace the defective products. If, in Seller's reasonable judgment the product cannot be repaired or replaced, Seller shall refund or credit monies paid by Buyer for that portion of products that do not meet the above warranties. Any repair or replacement by Seller hereunder shall not extend the applicable warranty period. Seller's liability, if any, for defective products, is limited to replacement, repair or refund of the defective products, at Seller's option. Seller shall have no liability for defects that arise after the warranty period has expired.

The warranties and remedies set forth herein are conditioned upon (a) proper storage, installation, use and maintenance, and conformance with any applicable recommendations of Seller and (b) Buyer promptly notifying Seller of any defects and, if required, promptly making the product available for correction, and (c) modification or repair of Products only as authorized by Seller in writing. Seller does not warrant Products or any repaired or replacement parts against normal wear and tear or damage caused by misuse, accident, or use against the advice of Seller. Any modification or repair of any Products not authorized by Seller shall render the warranty null and void.

CME shall not be responsible for providing working access to the non conforming Products, including disassembly and re-assembly of non-CME supplied Products, or for providing transportation to or from any repair facility, all of which shall be at Buyer's risk and expense.

This Article provides the exclusive remedies Buyer will have against either Seller or the Manufacturer or provider of the Products for all claims based on failure of or defect in Products or Services, whether the failure or defect arises before, during or after the applicable warranty period and whether a claim, however described, is based on contract, warranty, indemnity, tort/extracontractual liability (including negligence), strict liability or otherwise. The warranties provided in this Article are exclusive and are in lieu of all other warranties, conditions and guarantees whether written, oral, implied or statutory. NO IMPLIED STATUTORY WARRANTY OR CONDITION OF MERCHANTABILITY, SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES.

11. INTELLECTUAL PROPERTY.

Seller shall defend and indemnify Buyer against any claim by a non-affiliated third party (a "Claim") alleging that Products furnished under this Contract infringe a patent in effect in the U.S. or any copyright or trademark registered in the U.S., provided that Buyer (a) promptly notifies Seller in writing of any such Claim; (b) makes no admission of liability and does not take any position adverse to Seller, (c) gives Seller sole authority, at Seller's expense, to direct and control all defense, settlement, and compromise negotiations; and (d) provides Seller with full disclosure and assistance that may be reasonably required to defend any such Claim.

Seller shall have no obligation or liability with respect to any Claim based upon: (a) any Products that have been altered, modified, or revised; (b) the combination, operation, or use of any Products with other products or services when such combination is part of any allegedly infringing subject matter; (c) failure of Buyer to implement any update provided by Seller that would have prevented the Claim; (d) unauthorized use of Products, including, without limitation, a breach of Contract provisions; or (e) Products made or performed to Buyer's specifications.

Should any Product, or any portion thereof, become the subject of a Claim, Seller may at its option (a) procure for Buyer the right to continue using the Product or portion thereof, (b) modify or replace it in whole or in part to make it non-infringing, or (c) failing (a) or (b), take back Products and refund any fees received by Seller attributable to the infringing Product.

This article states Seller's entire liability for indemnification for intellectual property rights infringement for Products.

Each party shall retain ownership of all Confidential Information and intellectual property it had prior to the Contract. All new intellectual property conceived, created, or provided by Seller in the performance of this Contract, whether alone or with any

contribution from Buyer or its personnel, shall be owned exclusively by Seller. Buyer agrees to deliver assignment documentation as necessary to achieve that result.

12. INDEMNITY.

Each of Buyer and Seller (as an "Indemnifying Party") shall indemnify the other party (as an "Indemnified Party") from and against claims brought by a third party on account of personal injury or damage to the third party's tangible property, to the extent caused by the negligence of the Indemnifying Party in connection with this Contract. In the event the injury or damage is caused by joint or concurrent negligence of Buyer and Seller, the loss or expense shall be borne by each party in proportion to its degree of negligence. For purposes of Seller's indemnity obligation, no part of the Products or Site is considered third party property.

13. TERMINATION AND SUSPENSION.

Buyer may terminate the Contract (or any portion thereof) for cause if Seller: (i) becomes insolvent/bankrupt, or (ii) commits a material breach of the Contract which does not otherwise have a specified contractual remedy, provided that: (a) Buyer shall first provide Seller with detailed written notice of the breach and of Buyer's intention to terminate the Contract, and (b) Seller shall have failed, within 30 days after receipt of the notice, to commence and diligently pursue cure of the breach. If Buyer terminates the Contract pursuant to the above (i) Seller shall reimburse Buyer the difference between that portion of the Contract Price allocable to the termination scope and the actual amounts reasonably incurred by Buyer to complete that scope, and (ii) Buyer shall pay to Seller the portion of the Contract Price allocable to Products completed.

Seller shall have the right to suspend or terminate the Contract (or any portion thereof) immediately for cause if: (i) Buyer becomes Insolvent/Bankrupt, or (ii) materially breaches the Contract, including but not limited to making any payment when due or fulfilling any payment conditions.

If the Contract (or any portion thereof) is terminated for any reason other than those set forth in the first paragraph of this Article, Buyer shall pay Seller for all Products completed, and lease fees incurred before the effective date of termination, plus expenses reasonably incurred by Seller in connection with the termination. In addition Buyer shall pay Seller a cancellation charge equal to 80% of the Contract Price applicable to uncompleted made-to-order Products and 15% of the Contract Price applicable to all other uncompleted Products.

Either Buyer or Seller may terminate the Contract (or a portion affected) upon twenty (20) days advance notice if there is an excusable event (as described in Article 7) lasting longer than one hundred and twenty (120) days. In such case, Buyer shall pay to Seller amounts payable under the preceding paragraph, excluding the cancellation charge for uncompleted Products.

Buyer shall pay all reasonable expenses incurred by Seller in connection with a suspension, including but not limited to, expenses for repossession, fee collection, demobilization/remobilization and costs of storage during suspension. The schedule for Seller's obligations shall be extended for a period of time reasonably necessary to overcome the effects of any suspension.

14. CHANGES.

Each party may at any time propose changes in the schedule or scope of Products. Seller is not obligated to proceed with any change until both parties agree upon such change in writing. The written change documentation will describe the changes in scope and schedule, and the resulting changes in price and other provisions, as agreed.

The scope, Contract Price, schedule, and other provisions will be equitably adjusted to reflect additional costs or obligations incurred by Seller resulting from a change, after Seller's proposal date, in Buyer's Site-specific requirements or procedures, or in industry specifications, codes, standards, applicable laws or regulations. However, no adjustment will be made on account of a general change in Seller's manufacturing or repair facilities resulting from a change in laws or regulations applicable to such facilities. Unless otherwise agreed by the parties, pricing for additional work arising from such changes shall be at Seller's time and material rates.

It shall be acceptable and not considered a change if Seller delivers a Product that bears a different, superseding or new part or version number compared to the part or version number listed in the Contract.

15. LIMITATIONS OF LIABILITY AND INDEMNITIES.

The total liability of Seller for all claims arising out of or relating to the formation, performance or breach of this Contract or any Products shall not exceed the price of the Products giving raise to the claim.

Seller shall not be liable for loss of profit or revenues, loss of use of equipment or systems, interruption of business, cost of replacement of power, cost of capital, downtime costs, increased operating costs, consequential, incidental, indirect, or punitive damages, or claims of Buyer's customers for any of the foregoing types of damages.

All Seller liability shall end upon expiration of the applicable warranty period, provided that Buyer may continue to enforce a claim

for which it has given notice prior to that date by commencing an action or arbitration, as applicable under this Contract, before expiration of any statute of limitations or other legal time limitation but in no event later than one year after expiration of such warranty period.

Seller shall not be liable for any advice or assistance that is not required for the work scope under this Contract.

If Buyer is supplying Products to a third party, or using Products at a facility owned by a third party, Buyer shall either (i) indemnify and defend Seller from and against any and all claims by, and liability to, any such third party in excess of the limitations set forth in this Article, or (ii) require that the third party agree, for the benefit of and enforceable by Seller, to be bound by all the limitations included in this Article.

For purposes of this Article, the term "Seller" means Seller, its affiliates, subcontractors and suppliers of any tier, and their respective employees. The limitations in this Article shall apply regardless of whether a claim is based in contract, warranty, indemnity, tort/extracontractual liability (including negligence), strict liability or otherwise, and shall prevail over any conflicting terms, except to the extent that such terms further restrict Seller's liability.

16. CONFIDENTIALITY.

Seller and Buyer (as to information disclosed, the "Disclosing Party") may each provide the other party (as to information received, the "Receiving Party") with Confidential Information in connection with this Contract. "Confidential Information" means (a) information that is designated in writing as "confidential" or "proprietary" by Disclosing Party at the time of written disclosure and (b) information that is orally designated as "confidential" or "proprietary" by Disclosing Party at the time of oral or visual disclosure and is confirmed to be "confidential" or "proprietary" in writing within twenty (20) days after the oral or visual disclosure. In addition, prices for Products shall be considered Seller's Confidential Information.

The obligations of this Article shall not apply as to any portion of the Confidential Information that: (i) is or becomes generally available to the public other than from disclosure by Receiving Party, its representatives or its affiliates; (ii) is or becomes available to Receiving Party or its representatives or affiliates on a non-confidential basis from a source other than Disclosing Party when the source is not, to the best of Receiving Party's knowledge, subject to a confidentiality obligation to Disclosing Party; (iii) is independently developed by Receiving Party, its representatives or affiliates, without reference to the Confidential Information; (iv) is required to be disclosed by law, a valid legal process provided that the Receiving Party intending to make disclosure in response to such requirements or process shall promptly notify the Disclosing Party in advance of such disclosure and reasonably cooperates in attempts to maintain the confidentiality of the Confidential Information.

17. INSURANCE.

During the term of the Contract, Seller shall maintain for its protection the following insurance coverage: (i) Worker's compensation, Employer's liability and other statutory insurance required by law with respect to work related injuries or disease of employees of Seller in such form(s) and amount(s) as required by applicable laws, (ii) Automobile liability insurance with a combined single limit of U.S. \$_____, and (iii) Commercial General Liability or Public Liability Insurance for bodily injury or property damage with a combined single limit of U.S. \$_____. If required in the Contract Seller shall provide a certificate of insurance reflecting such coverage.

18. INSPECTION AND FACTORY TESTS.

Seller will apply its normal quality control procedures in manufacturing Products. Seller shall attempt to accommodate requests by Buyer to witness Seller's factory tests of Products subject to appropriate access restrictions, if such witnessing can be arranged without delaying the work.

19. NOTICES.

Any notice or other communication that one party desires to give to the other under this Contract shall be in writing, and shall be deemed effectively given upon (i) personal delivery, (ii) transmission by facsimile or e-mail upon confirmation of receipt, (iii) the next business day following deposit in any United States mail box, by overnight U.S. express mail, postage prepaid, return receipt requested, addressed to the other party at the address set forth above or at such other address as a party may designate by fifteen (15) days advance notice to the other party pursuant to the provisions of this Article; or (iv) delivery by any express service which results in personal delivery to the other party.

20. ASSIGNMENT.

Buyer may not assign or transfer this Contract without prior written consent of Seller. Seller may assign or novate its rights and obligations under the Contract, in whole or in part, to any of its affiliates or may assign any of its accounts receivable under this Contract to any party without Buyer's consent. Buyer agrees to execute any documents that may be necessary to complete Seller's assignment or novation. Seller may subcontract portions of the work, so long as Seller remains responsible for it.

21. AMENDMENT.

No amendment or alteration of the terms of this Contract shall be valid unless made in writing and signed by the parties hereto. No action by Seller will be deemed an acceptance by Seller of any purchase order from Buyer with terms different than those contained in this Contract.

22. SEVERABILITY.

If any provision of this Contract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

23. WAIVER OF CONTRACTUAL RIGHT.

The failure of either party to enforce any provision of this Contract shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

24. RESALE.

If Buyer resells any of the Products, the sale terms shall limit CME'S liability to the buyer to the same extent that CME's liability to Buyer is limited hereunder.

25. ENTIRE AGREEMENT.

The Contract represents the entire agreement between the parties. No oral or written representation or warranty not contained in this Contract shall be binding on either party. Buyer's and Seller's rights, remedies and obligations arising from or related to Products sold under this Contract are limited to the rights, remedies and obligations stated in this Contract. No modification, amendment, rescission or waiver shall be binding on either party unless agreed in writing.

26. JURISDICTION AND APPLICABLE LAW.

The validity, performance, interpretation and effect of the Contract shall be governed by, construed and enforced in accordance with the laws of the State of Georgia without giving effect to any choice of law rules that would cause the application of laws of any other jurisdiction. The parties agree that venue for any action related to this Contract shall be in the courts of the State of Georgia.