



## TERMS AND CONDITIONS OF SALE

Unless otherwise set forth in a quotation or agreed to by Cortland Company, Inc. ("Cortland") in writing, the following terms and conditions ("Terms") apply to all sales of Cortland products and services (collectively, "Products"). By placing an order for Products, you and/or your affiliates (collectively, "Buyer") accept and agree to be bound to these Terms.

- 1. OFFER/COUNTEROFFER.** These Terms constitute an offer or counter offer by Cortland to sell Products to Buyer. No additional or different provisions in Buyer's purchase order shall be binding upon Cortland unless specifically agreed to by Cortland in writing. Cortland objects to and rejects any additional or different terms or conditions in any form tendered by Buyer, including expressly rejecting any provisions that dictate that Buyer's terms control or any additional or different provisions in Buyer's electronic business portal. Cortland's failure to object to any provisions or terms from Buyer shall not be a waiver or amendment of any of these Terms.
- 2. PRODUCT DEFINITIONS.** When used in these Terms, (a) "Products" includes Standard Products and Special Products, (b) "Standard Products" includes all standard products which are generally available for purchase from Cortland, and (c) "Special Products" includes all modified Standard Products, custom made products, and configured Standard Products.
- 3. ORDERS.** All orders are subject to acceptance by Cortland. Each accepted order shall constitute a separate legally binding contract between Cortland and Buyer. Cortland's acceptance of an order shall be indicated by (a) written confirmation, (b) fulfillment and shipment of the order, or (c) commencement of any work or procurement of any materials to supply the order.
- 4. QUOTATIONS.** Cortland quotations are valid for thirty (30) days, unless otherwise stated in the quotation, and may be withdrawn by Cortland at any time and for any reason.
- 5. PRICES, TAXES AND FEES.** Unless otherwise set forth in a quotation or agreed to by Cortland in writing, all prices for Products ("Prices") are subject to change without notice and all orders shall be invoiced at the Prices in effect on the dates the orders were accepted by Cortland. Prices do not include sales, use, excise, value-added (VAT) or similar taxes, shipping, insurance while in transit, customs duties, import/export fees, or any other fees related to the sale, use and/or delivery of Products (collectively, "Taxes and Fees"). Payment of Taxes and Fees is the sole responsibility of Buyer. The quantities set forth in a quotation may affect Prices. Cortland reserves the right to adjust Prices if Buyer changes the quantities proposed in a quotation or to reflect any increase in cost to Cortland beyond its control.
- 6. DELIVERY.** Unless otherwise set forth in a quotation or agreed to by Cortland in writing, all Products will be delivered FOB Cortland's facility (INCOTERMS 2010). Cortland will make every reasonable effort to fill orders within the stated shipment schedule, but stated delivery dates are approximate only, time is not of the essence, and Cortland reserves the right to readjust shipment schedules without liability to Buyer or any third party. If shipment for Special Products is delayed or suspended by Buyer without the prior written consent of Cortland, payments shall become due from the date on which Cortland was prepared to make delivery and storage shall be at Buyer's sole risk and expense.
- 7. CREDIT AND PAYMENTS.** All payments shall be made in the currency and time period noted on the applicable invoice, or if not noted, within thirty (30) days of the invoice date. Cortland reserves the right to withdraw credit at any time and for any reason. Buyer shall have no right to set off for any amounts due or allegedly due from Cortland and/or its affiliates to Buyer and/or its affiliates.
- 8. OVERDUE ACCOUNTS.** Timely payment for all invoices is of the essence. To be timely, payment must be actually received by Cortland within terms; for example, mailing or initialing ACH payment on the last day of the payment is not timely. Cortland reserves the right to charge Buyer a late penalty of 1.5% per month applied against overdue amounts, or the maximum rate permitted by law. If Buyer fails to make payment in accordance with the applicable payment terms, Cortland may, without any liability to Buyer, at its option, (a) defer shipments until payment is made in full, (b) cancel all or any part of the unshipped order, and/or (c) setoff and deduct from any credit balance owed to Buyer and/or its affiliates, the amount owed from Buyer.
- 9. PRODUCT RETURNS.** Cortland Products are nonreturnable. In the event that Cortland in its sole discretion, consents to the return of any order or Standard Products only, or cancels any order for Products due to Buyer's insolvency or breach of these Terms, in addition to any restocking fees that may apply, Buyer shall be liable for the payment of a cancellation charge. Such cancellation charge shall equal all costs and expenses incurred by Cortland in its performance under such order up to the date of cancellation, plus Cortland's anticipated profit margin.
- 10. TITLE AND RISK OF LOSS.** Unless otherwise set forth in a quotation or agreed to by Cortland in writing, title to and risk of loss for each shipment shall pass from Cortland to Buyer upon Cortland's tender of the shipment to the initial carrier. Loss or damage that occurs during shipping shall be Buyer's sole responsibility. Where permitted by law, in the event that Buyer does not make payment in full, Cortland reserves the right to reclaim all Products for which payment has not been received.
- 11. CANCELLED ORDERS.** Cortland reserves the right to cancel any order at any time if Buyer becomes insolvent or is in breach of these Terms. In the event that Cortland, cancels any order for Products due to Buyer's insolvency or breach of these Terms, then Buyer shall be liable for the payment of a cancellation charge. Such cancellation charge shall equal all costs and expenses incurred by Cortland in its performance under such order up to the date of cancellation, plus Cortland's anticipated profit margin.
- 12. SPECIFICATIONS.** All weights, measurements, drawings, capacities and other specifications of Products provided by Cortland ("Cortland Specifications"), whether contained in photographs, schematics, catalogs, or otherwise, are only approximate and are provided solely for reference. Cortland Specifications are not part of these Terms and deviations from or subsequent changes to any Cortland Specifications do not constitute a breach of these Terms. Buyer represents and warrants that any drawing, design, instruction or specifications given to Cortland by or on its behalf ("Buyer Specifications") shall not infringe on any intellectual property rights of any third party. Buyer shall be responsible for ensuring the accuracy of all Buyer Specifications. If requested by Cortland, the design and specifications for Special Products must be approved in writing by Buyer prior to Cortland procuring materials for and/or beginning the manufacture of such Special Products.
- 13. CHANGE ORDERS.** In the event that Buyer requests changes to the Specifications ("Change Order") of any Products after Cortland has accepted the order, such changes shall become part of the order only upon Cortland's acceptance of the Change Order. If any Change Order causes an increase in the cost of and/or in the time required for Cortland's performance under the Change Order, and/or if the Change Order results in rework or obsolescence charges, (a) Cortland shall be compensated for all costs incurred in connection with the Change Order, (b) delivery dates shall be extended, and (c) Prices shall be adjusted to maintain Cortland's anticipated profit margin.
- 14. INTELLECTUAL PROPERTY RIGHTS.** All rights, title, and interests in the intellectual property (including, without limitation, all patents, copyrights, trade secrets, and trademarks) and written materials developed, designed or generated by Cortland in the supply of Products, belong solely and exclusively to Cortland. Buyer and/or Buyer's customers are only granted a limited, revocable license to use such intellectual property and written materials solely to facilitate their sale and/or use of the Products, as applicable.
- 15. CORRECTIONS.** Cortland reserves the right to cancel orders arising from pricing, typographical, and/or other errors in any offer, price list, catalog, web page or quotation.
- 16. EXCUSED DELAYS.** Cortland shall not be liable for any loss, damage or delay resulting from causes beyond its reasonable control, including, without limitation, strikes, acts, omissions or delays of Buyer, fires, natural disasters, breakdowns of essential machinery, accidents, material shortages, delays in transportation, or lack of production capacity.
- 17. PRODUCT IMPROVEMENTS.** Cortland reserves the right to make changes in design and improvements to Products without liability to install such improvements in any Products manufactured prior to the date of such improvements.

**18. GOVERNMENT CONTRACTS.** If Buyer sells Products to any government, or to a government prime contractor or subcontractor, Buyer shall be solely and exclusively liable for compliance with all government acquisition statutes and regulations.

**19. LEGAL COMPLIANCE.** Buyer shall comply with all applicable laws and regulations that may be in effect during Buyer's purchase, sale and/or use, as applicable, of Products, including without limitation, all restrictions on the sale or other transfer of Products to prohibited parties, countries, end-users, or for a prohibited end-use. In addition, Buyer shall not directly or indirectly make any offer or promise to improperly influence any agent, government official, political party or candidate for office in order to obtain or retain business or gain inappropriate advantage.

**20. GOVERNING LAW.** These Terms and any claim, dispute or controversy arising from or relating to Buyer's purchase and/or use of Products ("Dispute"), shall be governed by and construed in accordance with the laws of Wisconsin (United States). The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable.

**21. DISPUTES.** The parties shall first try in good faith to settle any Dispute by mediation, which shall be conducted in English and held in Milwaukee, Wisconsin. If mediation is unsuccessful, the parties shall submit such Dispute to binding arbitration, which shall be conducted by one arbitrator in English and held in Milwaukee, Wisconsin pursuant to the rules of the American Arbitration Association. The arbitrator shall have no authority to award any damages excluded in these Terms and the prevailing party shall be entitled to recover its costs including reasonable attorneys' fees.

**22. LIMITED WARRANTY.** Subject to the exclusions described below, all Products are warranted for a period of twelve (12) months from its delivery date, to be free from defects in materials and workmanship under normal use and service. This warranty is not transferable beyond the first using purchaser and is limited to new Products sold through Cortland authorized representatives and channels.

**23. EXCLUSIVE REMEDY.** In the event that Cortland determines that a Product contains a defect in materials or workmanship, then Cortland, in its sole discretion, will (a) repair the Product, (b) replace the Product, or (c) refund the purchase price of the Product. THIS LIMITED WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE REMEDY OF REPAIR, REPLACEMENT OR REFUND IS BUYER'S SOLE AND EXCLUSIVE REMEDY UNDER THIS WARRANTY. IN NO EVENT SHALL CORTLAND'S LIABILITY UNDER THIS WARRANTY EXCEED THE PURCHASE PRICE OF THE PRODUCT GIVING RISE TO THE WARRANTY CLAIM. All Products which are repaired or replaced shall be warranted only for the unexpired portion of the original warranty period.

**24. EXCLUSIONS.** This warranty does not cover (a) any failures which are not attributable to defects in materials or workmanship, including without limitation, failures caused by accidents, inadequate maintenance, misuse, unauthorized modifications or repairs, improper storage, and normal wear and tear, (b) any consumable parts or accessories.

**25. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY (I) IN NO EVENT SHALL CORTLAND BE LIABLE FOR ANY INCIDENTAL DAMAGES, CONSEQUENTIAL DAMAGES, SPECIAL DAMAGES, INDIRECT DAMAGES, LOSS OF PROFITS, PUNITIVE DAMAGES LOSS OF REVENUES, OR LOSS OF USE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES; AND (II) UNDER NO CIRCUMSTANCES SHALL CORTLAND (INCLUDING ITS AFFILIATES) OR ANY OF ITS EMPLOYEES, DIRECTORS, OFFICERS OR AGENTS BE LIABLE FOR OR INDEMNIFY ANY PERSON, COMPANY OR PARTY (COLLECTIVELY THE "INDEMNIFIED PARTY") FOR DAMAGES OF ANY KIND TO THE EXTENT ARISING OUT OF THE NEGLIGENCE, FAULT OR MISCONDUCT OF THAT INDEMNIFIED PARTY. CORTLAND'S LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO ANY ORDER IS LIMITED TO THE ORDER PRICE FOR THE SPECIFIC PRODUCT THAT GIVES RISE TO THE CLAIM. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS SHALL APPLY REGARDLESS OF WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BY OPERATION OR LAW, OR OTHERWISE.

**27. INDEMNITY.** Buyer represents and warrants that it shall indemnify and defend Cortland and its affiliates against any and all damages, expenses (including reasonable attorneys' fees), losses, suits, claims, demands and liabilities arising out of any breach of these Terms by Buyer and/or any act, omission, misrepresentation, or negligence of Buyer, and/or its affiliates and agents, relating to the sale and/or use of any Products, including without limitation, any use of the Products which is contrary to their operating instructions and/or the purpose for which they were designed.

**28. ASSIGNMENT.** Cortland may assign or delegate its rights and obligations, in whole or in part, under these Terms and any order to any Cortland affiliate or subsidiary.

**29. TRADEMARKS.** Neither party shall use the name of the other on any publicity releases without securing the prior written approval of the other. Neither party acquires any right, title or interest in any of the trademarks or trade names of the other by virtue of these Terms. Neither party shall use or refer to the other's trademarks or trade names.

**30. EXPORT.** Buyer shall be responsible for complying with any applicable laws and regulations governing the importation of the Products.

**31. ENTIRE AGREEMENT.** These Terms, together with any quotation or written schedule of exceptions to these Terms which is signed by an authorized representative of Cortland, whether physically attached or incorporated by reference, constitute the entire agreement between Cortland and Buyer with respect to Cortland's supply of Products. Cortland reserves the right to update these Terms at any time; however, Buyer's rights and obligations shall be as provided in the version of these Terms provided to or made available to Buyer at the time of Cortland's acceptance of Buyer's order for Products. Translated versions of these Terms are available for Buyer's reference, however, in the event of a conflict in the interpretation of these Terms, the English language version of these Terms shall control. If any part of these Terms is for any reason found to be unenforceable, all other provisions of these Terms shall remain in full force and effect.