

STANDARD TERMS AND CONDITIONS OF SALE AND LIMITED WARRANTY OF CALIFORNIA LASERS INC. ("CLI")

1. By requesting that CLI provide certain services (the "Services") on the goods of the customer (the "Goods"), customer hereby agrees that these Terms and Conditions of Sale & Limited Warranty ("Terms") shall apply notwithstanding any contrary provisions contained in any document heretofore or hereafter delivered by customer to CLI, including, without limitation, any purchase order, shipping document or acknowledgment form provided by customer or its agents and even if such documents contain language mandating that the provisions contained in such documents override any contrary provisions contained in these Terms. By paying CLI's invoices for the Services, customer agrees that these Terms shall apply to the Services covered by said invoice and that no provision stated herein shall be modified by any provision in any document presented by customer at any time. Should CLI accept an offer by customer for the performance of Services, CLI's acceptance is expressly conditioned on assent by customer to these Terms.
2. Charges for the Services are due NET 30 days from date of billing without any right of set-off unless otherwise mutually agreed, in writing, and signed by customer and an authorized representative of CLI prior to the time the Services are rendered. CLI reserves the right on any past due accounts to (i) place past due accounts on C.O.D. status, (ii) suspend performance of any order for the customer and/or withhold delivery of any of the customer's Goods, (iii) exercise other remedies provided herein, by credit agreements between customer and CLI, if any, and/or as otherwise permitted by law, and/or (iv) to charge interest at the lesser of the maximum legal rate permitted by law or 18% per year until paid in full. Additionally, CLI shall be entitled to recover its costs, including reasonable attorney fees, to collect any amounts owed by the customer and for any action brought to enforce or interpret the terms hereof. All quotes by CLI are open for acceptance within one month from the date thereof.
3. **LIMITED WARRANTY.** CLI warrants that it will perform the Services in a good and workmanlike manner in accordance with the order agreed with the customer and that such Services will be free from material defect. It is the duty of the customer to inspect the Goods immediately upon their return, and all claims under these Terms must be reported prior to the earlier of (i) 90 days following the delivery of the Goods to the customer, or (ii) the time that the Goods are put to use or sold to others and before any further processing, assembling or other work has been done on said Goods ("Warranty Period"). All claims for breach of warranty must be submitted in writing to CLI within the Warranty Period. All warranties are void if (i) the Goods are misused, abused, or modified following delivery thereof to the customer, (ii) the Goods are improperly or incorrectly stored after delivery to or collection by customer, or (iii) customer has made any use of the Goods after it first discovers (or should have reasonably been able to discover) that such Goods were damaged, defective or the subject of incorrect Services. **CLI MAKES NO WARRANTY, EITHER EXPRESSED OR IMPLIED, THAT THE GOODS SERVICED BY CLI SHALL BE MERCHANTABILITY OR FIT OR SUITABLE FOR ANY PARTICULAR USE OR PURPOSE. CLI MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, EXCEPT AS IS EXPRESSLY SET FORTH HEREIN ALL SUCH OTHER WARRANTIES BEING HEREBY DISCLAIMED.**
4. CLI services is limited to the scope of work that is quoted to the customer, CLI is not responsible for any services that is not specifically outlined on a CLI approve quote. At no time the customers purchase order, specifications or services required will supersede an approved quote supplied by CLI.
5. CLI shall not be liable for any special, indirect, incidental, consequential or liquidated damages in connection with the Services to the Goods or for the breach of any of the obligations owed to customer. Customer recognizes that there are certain hazards involved in the Services performed by CLI. Accordingly, in the event legal liability of CLI is established for any cause or reason whatsoever, including, without limitation for breach of warranty, the sole and exclusive liability of CLI and the exclusive remedy of customer shall be for CLI, at its sole option, to re-perform the Services to the Goods at no charge or to provide customer with an amount equal to customer's documented direct and actual damages, provided such damages shall not exceed two times the amount of the original charges for the Services to the Goods that gave rise to the liability (first, to reimburse for the charges and secondly, as full payment for all damages sustained by customer or damaged person whether actual, general, incidental, indirect, punitive, consequential, special or otherwise). CLI also reserves the right to issue credit memos to customer for any monetary warranty or other obligations owed to customer.
6. CLI assumes no obligation to perform any type of metallurgical or laboratory testing of the Goods for material type, penetration, hardness, cracks, tensile strength, elasticity or otherwise; as all such testing is the sole responsibility and obligation of the customer unless a duly authorized representative of CLI has certified in writing that it has performed such tests separately. CLI shall have no liability for alleged shortage in weight or count unless claim therefore is presented within five working days after receipt of the Goods by customer and then only in the event such shortage in weight or count, if any, is verified by CLI. CLI shall have no liability for shrinkage, expansion, deformity or rupture of the Goods resulting from the Services, including heat treatment, or otherwise except by written agreement. In the event of suspension of work on the Goods at customer's request or as a result of the inadequacy or inaccuracy of customer's instructions, any price quoted by CLI may be increased to cover any additional costs or expenses incurred by CLI as a result thereof.
7. Customer shall be liable for all costs, charges and expenses whatsoever in connection with the opening, advising, confirmation, negotiation and operation of any letter of credit, the transfer of cash to CLI and/or the release of any shipping documents. The cost of any variation or modification to an order requested by customer after the date of the acceptance of an order shall, if such variation or modification is accepted by CLI, be borne by customer.
8. Customer shall be solely responsible for adequate packing of Goods to protect them in transit against weather conditions, impact damage and other transport risks and for the provision of suitable spillages, pallets and other containers. Customer shall use packing materials suitable for re-use by CLI where CLI is responsible for delivering the Goods to customer. No warranty whatsoever is given by CLI that packing materials, cases, cartons and pallets will be returned to customer but wherever possible these will be returned to customer with the Goods. Customer shall be responsible for all crating, freight, and other charges for round trip transportation of any Goods that become the subject of any warranty claim to the place designated by CLI for inspection and for all transportation costs to ship the same to and from CLI's facility unless otherwise agreed, in writing, by CLI. Unless otherwise agreed and stated in the quote or order, customer shall provide adequate and appropriate equipment and personnel for off-loading its Goods at CLI's facility.
9. The Goods shall remain for the account and at the sole risk of customer during transportation to and from CLI's facility, during loading and unloading, and while located at CLI's facility. CLI has no responsibility for insuring the Goods. Customer agrees that if the Goods are damaged while in transit in CLI trucks or during loading or unloading by CLI personnel and if CLI was responsible for such damage, CLI's liability to customer or to any other person or entity for the damaged Goods shall not exceed the lesser of the fair market value of the raw materials thereof or \$10,000. Customer warrants that the Goods will not represent any hazard, environmental or otherwise, to CLI's facilities or personnel. Customer further warrants that it is either the owner of the Goods or that it is authorized by the owner of the Goods to accept these Terms on the owner's behalf.
10. Customer agrees to pay any excise, sales, gross receipts, uses or occupation tax or other tax levied upon any Service, contract, shipment or delivery incident thereto and to be responsible for compliance with all applicable import/export laws of the United States or any foreign country the Goods come from when delivered to CLI's facility or that are delivered to after the Services have been completed.
11. CLI shall not be responsible for breach or delays in performance due to war, acts of God or of the public enemy, acts of government, fire, floods, strikes, labor trouble, interruption of utilities, inability to obtain supplies or fuel, sabotage, equipment problems, freight or transportation shortages or delays, and other delays or causes beyond its control.
12. The laws of the State of California shall govern the interpretation and enforcement of these Terms, exclusive of its choice of law's provisions. The parties hereby exclude the application of the UN Convention on Contracts for the International Sale of Goods (1980) and any amendments thereto. Any dispute arising out of these Terms or in relation to any Services may be brought in the federal or state courts located in Simi Valley, California, and both parties expressly consent to the personal jurisdiction of such courts and waive any objection to the jurisdiction and venue thereof.
13. No agent, employee or representative of CLI is authorized to alter, amend or waive these Terms or to assume any other obligation or liability for CLI except in writing duly approved by an authorized officer of CLI.
14. The performance of any Services covered in each order shall have been performed in compliance with the Fair Labor Standards Act of 1938, as amended to the extent applicable to CLI.
15. Each party may furnish the other party certain of its trade secrets and other confidential information (meaning such information as has been identified as confidential, was not already known to the other and is not publicly known or available unless through the fault of the other). Each party agrees to maintain the other's confidential information in confidence and not to disclose the same to any third party or use it without the prior written consent of the other. Each party shall retain ownership and all rights in and to such information disclosed. Customer acknowledges that CLI's business is primarily providing the Services to the Goods and that CLI has developed expertise and know-how over many years that may be useful in providing the Services to the Customer. Customer further acknowledges that CLI may perform Services and other services (including services the same or similar as those provided to customer and including services to the same or similar goods as those of customer) in the normal course of its business for its other customers, without restriction. If the parties, individually or jointly, develop inventions, whether patentable or not, or other confidential information, in connection with the Services to the Goods under these Terms, then the parties agree that, with respect to the Services, CLI shall be the sole owner thereof and the customer shall have no rights therein except as may be acquired by purchase of Services from CLI, and that, with respect to the Goods, that customer shall be the sole owner thereof and CLI shall have no rights therein except in the performance of Services.
16. NON DISCLOSURE AGREEMENTS (NDA), CLI reserves the right at its discretion to terminate any NDA if the customer is to be found delinquent on payments owed to CLI in excess of one year. In this event the customer is not released from its obligation to hold confidential information secret.
17. Customer shall indemnify CLI and hold CLI harmless from and against any damage, loss, expense, or cost incurred by CLI whatsoever from (i) CLI following customer's specification and processing requirements for the Services to the Goods, (ii) defects in the Goods, (iii) the Goods having different characteristics or qualities than as identified by customer, or (iv) the Goods not being in a prepared and clean condition, consisting only of the specified material, and save as expressly agreed in a specification, free from any oil, grease, dirt, chemicals or other contaminating matter when delivered to CLI for the Services. If an incident occurs while CLI is performing Services to the Goods, CLI shall be permitted to retain possession of the Goods for a reasonable period of time without any liability to customer for such delayed possession to afford CLI the opportunity to inspect the same as part of its investigation into the cause of the incident.
18. Times quoted for Services are estimates only and time shall not be of the essence in respect thereof. Times quoted for Services shall run from the latter of: (i) receipt by CLI of the Goods at the place the Services are to be performed, and (ii) receipt by CLI of all information required to complete the Services. In any event, the time for completion of any Services shall be extended by a reasonable period if completion of the Services is delayed as a result of the nature or lack of instructions from customer, or by any other cause beyond CLI's control.
19. Unless customer reasonably objects, CLI may sub-contract the whole or any part of an order, and CLI may assign all or any part of its rights or obligations under any order. Customer may not assign all or any of its rights or obligations under an order without CLI's prior written consent and customer may not terminate an accepted order without the written consent of CLI.
20. Each order shall be subject to CLI being satisfied as to customer's credit status both prior to and during the period of the order. If CLI becomes dissatisfied with customer's credit status at any time, CLI may suspend performance of the order or withhold delivery of the Goods until customer provides adequate assurances as provided by the Delaware Uniform Commercial Code as to customer's creditworthiness or gives CLI such security as CLI shall deem appropriate in its reasonable judgment.
21. Notwithstanding any termination or suspension in accordance with these Terms, customer shall pay CLI for all work done up to and including the date of such suspension or termination and shall in addition indemnify CLI against any resulting loss damage or expense incurred by CLI in connection with such suspension or termination.