

COLONIAL LABEL SYSTEMS, INC

50 L Corbin Avenue
Bay Shore, NY 11706
631-254-0111

STANDARD TERMS AND CONDITIONS OF SALE

This document sets forth the terms and conditions for the sale by Colonial Label Systems, Inc., 50 L Corbin Ave., Bay Shore, NY 11706 ("CLS") of Products or Services to Customer.

I. Offer and Acceptance.

- A. CLS's quotation constitutes an offer for the sale of Products or Services (the "Offer"). Unless otherwise specified in the Offer, or some other document signed by CLS, the terms and conditions of sale set forth in this document ("CLS's Terms") apply to all Products and Services sold or provided by CLS.
- B. Any purchase order or other form of acceptance issued by Customer shall result in a contract for the purchase of the Products or Services at the price quoted in the Offer. Customer shall be deemed to have accepted any of CLS's Terms to which Customer has not specifically objected. Customer's issuance of a purchase order which purports to reject some or all of CLS's Terms by virtue of standard form language shall not be sufficient objection. Customer shall be required to set forth each objection to CLS's Terms in a separate writing signed and dated by Customer and delivered to CLS prior to or contemporaneous with Customer's purchase order or other form of acceptance. CLS's failure to object to provisions in any purchase order, or other communication from Customer (including, without limitation, penalty clauses of any kind), shall not be a waiver of CLS's Terms, nor an acceptance by CLS of any such provisions. Any terms in Customer's purchase order or any other document of acceptance which are different from or additional to CLS's Terms are hereby rejected unless specifically accepted by CLS in a separate document signed by both Customer and CLS, regardless of whether such other terms would materially alter the terms of this document. No course of dealing, custom or usage, which is contrary to CLS's Terms shall apply.
- C. CLS reserves the right to correct any typographical or clerical errors in prices, specifications, quotations, or acknowledgments.

II. Financial Condition.

At CLS's request, Customer will furnish sufficient information to enable CLS to assess Customer's creditworthiness. CLS may, in its discretion, require full or partial payment in advance.

III. Prices.

- A. Prices are subject to change without prior notification, are collect from point of shipment, and do not include freight, delivery charges, taxes (sales, excise, use, ad valorem, etc.) or any export or import duties. Those charges may be prepaid by CLS and added to Customer's invoice.
- B. CLS will charge Customer CLS's current rates for tooling, plates, proofs, alterations, digital and soft proofs, etc. ("tooling").

IV. Shipment, Delivery, and Inspection.

- A. CLS shall select the method and carrier for delivery of all Products. Risk of loss or damage to the Products shall pass from CLS to Customer upon delivery to a carrier at point of shipment.
- B. Any shipment, delivery, or performance date stated in the Offer or other contract document is approximate only and does not constitute any guarantee of shipment, delivery, or performance on any particular date. Customer may request expedited handling or shipment, but will be charged CLS's then current expedite fee.
- C. Time shall not be of the essence of this Agreement.
- D. Customer shall inspect and accept or reject Products delivered by or for CLS within 96 hours after delivery to Customer's facility. All products delivered shall be conclusively deemed accepted and to conform to contract requirements unless rejection is made or specific objection or notice of non-conformity is given in writing within such 96 hour period.
- E. Prior to returning any Products to CLS, Customer must obtain a valid RMA number from CLS. CLS shall have no obligation with respect to any Products returned without a valid RMA number. CLS may refuse any Products returned without a valid RMA number or discard them.

V. Payments, Title, and Security Interests.

- A. All payments shall be without deductions for back-charges, other accounts between CLS and Customer, and the like, which shall be settled independently of the payment of the invoice. Payment shall not prejudice claims for omissions or shortages in shipment, but no such claim will be allowed unless made in writing within 96 hours after receipt of the applicable shipment by Customer.
- B. Payments shall be due 30 days from the date of CLS's invoice, unless alternate terms have been agreed upon in writing. CLS may charge interest on any balance due beyond 30 days (or alternative agreed upon terms as stated above) at the rate of one and one-half (1½%) percent per month. Any discounts for early payment that may be offered by CLS are valid only if payment is received by CLS within the specified and agreed upon time for early payment.
- C. Notwithstanding that risk of loss passes to Customer upon shipment, title shall not pass to Customer and CLS shall have a security interest in all Products until CLS receives payment in full. At the request of CLS, Customer shall sign all financing statements and other documents required to protect CLS's security interest.

- E. Upon termination or expiration of the parties' business relationship, or the contract to which CLS's Terms apply, whichever is sooner, Customer shall purchase from CLS all goods in CLS's inventory that have been produced or acquired exclusively for Customer's use.

VI. Delays.

- A. CLS shall not be liable for loss, damages, or non - performance resulting from delays in receipt of final specifications or instructions from Customer, changes in specifications, force majeure, including but not limited to strikes, labor disturbances, material shortages, nonmanufacturing conditions, delays or failures of carriers or communication, epidemics, fire, flood, storms, accident, riot, war and invasion, governmental requisition or priorities, acts of God, or other causes beyond CLS's reasonable control.
- B. In the event of such delay, the delivery date shall be extended for a period equal to the time lost by reason of the delay. CLS shall undertake to notify the Customer promptly of any significant delay and will specify the revised delivery date as soon as practical. IN NO EVENT SHALL CLS BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES ARISING OUT OF A DELAY OR FAILURE TO DELIVER.
- C. If shipment is delayed or extended by Customer, Customer shall arrange for and notify CLS of the place or places to which CLS shall ship the Products covered by the order for warehousing or storage at Customer's expense and all risk of loss or damage to the Products shall be borne by Customer. If Customer is unwilling or unable to promptly arrange for warehousing or storage facility, CLS may do so at Customer's expense. Customer agrees to pay any and all storage charges so incurred, and CLS's invoice which shall issue upon shipment of Products to the place of storage.

VII. Cancellation.

Customer may cancel an order only with CLS's consent and upon payment to CLS of all costs incurred after acceptance of the order including the cost of tooling and plates, work in process, finished goods, inventory and any expedite fees associated with the cancelled order.

VIII. Product Design.

CLS reserves the right to make changes and improvements in the design and specifications of its Products without notice or obligation to Customer.

IX. Warranty; Disclaimers and Limitation of Liability.

- A. CLS warrants Products to be free from defects in material and workmanship under normal use and operation for a period of one hundred eighty days after date of shipment or delivery to Customer. CLS warrants that any services provided pursuant to this Agreement shall conform to industry standards. CLS's warranties do not apply to damage resulting from unauthorized installation, accident, casualty, alteration, or misuse. CLS's warranties will be void if the Products have been altered or modified by other than CLS or if the Products have not been properly stored, installed and maintained within the limits specified by CLS. Entire Warranty: CLS MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND CLS EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES ARE EXPRESSLY EXCLUDED.

- B. Customer's sole and exclusive remedy for breach of the foregoing warranties shall be the repair or replacement of defective Products or re-performance of defective Services, or, at CLS's option, to refund the purchase price; provided that Customer promptly sends to CLS notice of defect and satisfactory proof thereof, and in the event of repair or replacement, returns the product to CLS, freight prepaid. Defective Products replaced by CLS shall become the property of CLS. Repaired or replacement Products will be shipped to Customer FOB point of shipment.
- C. If the Product sold is not manufactured by CLS, CLS will extend to the Customer the same warranty protection CLS receives from the original manufacturer.
- D. CLS is not responsible for any charges relating to warranty work that have not been authorized by CLS in writing.
- E. If CLS, without separate compensation therefore, furnishes Customer with advice or other assistance concerning any product supplied hereunder or any system or equipment in which any such product may be installed which is not required hereunder, the furnishing of such advice or assistance will not subject CLS to any liability whether in contract, tort (including negligence and strict liability) or otherwise.
- F. **UNDER NO CIRCUMSTANCES SHALL CLS BE LIABLE TO CUSTOMER FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOSS OF USE ARISING DIRECTLY OR INDIRECTLY FROM ANY BREACH OF WARRANTY, BREACH OF CONTRACT, MATERIAL OR OTHERWISE, OR FROM ANY ACTS OR OMISSIONS OF CLS'S EMPLOYEES OR AGENTS, TORTIOUS OR OTHERWISE. IN NO EVENT WILL CLS BE LIABLE TO CUSTOMER, REGARDLESS OF THE NATURE OF THE CLAIM, FOR ANY AMOUNT THAT EXCEEDS THE AMOUNT PAID BY CUSTOMER TO CLS DURING THE TWELVE MONTH PERIOD PRECEDING THE DATE OF THE CLAIM.**

X. Disclosure of Information.

Any information, suggestions or ideas given by the Customer to CLS in connection with CLS's performance hereunder are not secret or submitted in confidence except as may be otherwise provided in writing, signed by CLS.

XI. Assignment.

No right accruing to the Customer by virtue of the manufacturer/purchaser relationship between CLS and the Customer nor any duty of CLS resulting from that relationship shall be assignable without CLS's prior written consent.

XII. Severability.

Invalidity of any provision of CLS's Terms shall not affect the validity of any other provision hereof and any invalid provision shall be severed from the valid provisions.

XIII. Non-Waiver.

No failure by CLS to exercise any right accruing to it by virtue of the manufacturer/purchaser relationship or under any contract of sale entered into with Customer shall operate as a waiver thereof or preclude the exercise of any other right or privilege by CLS.

XIV. Notice.

All notices and demands to CLS shall be in writing and shall be sent via: (a) registered mail, return receipt requested; (b) electronic transmission with delivery confirmation; or (c) overnight express courier service which provides a delivery receipt, and shall be deemed complete upon receipt. Notice to CLS shall be sent to the following address:

Colonial Label Systems, Inc.
50 L Corbin Avenue
Bay Shore, NY 11706
Attn: Legal Dept
Phone 631-254-0111

CLS may give notice to Customer in any means reasonably designed to reach Customer in the normal course of business.

XV. Entire Agreement and Amendments.

There are no other Terms and Conditions applicable to the purchase and sale of CLS's Products or Services other than those contained in the Offer (including any specifications or other documents incorporated by reference in the Offer or invoice). No modification, amendment, waiver or other change of any provision of CLS's Terms shall be binding on CLS without CLS's written consent.

XVI. Limitation of Actions.

Any action for a breach of contract arising out of CLS's acceptance of Customer's order or arising out of Customer's acceptance of Product supplied must be commenced within one year after the cause of action has accrued.

XVII. Governing Law; Remedies.

- A. The rights and obligations of the Customer and CLS, and the construction and effect of any contract formed between them shall be governed by the laws of the State of New York. All disputes arising under this Agreement or out of the relationship between CLS and Customer shall be resolved in state or federal court located in Suffolk County, New York. CLS shall be entitled to recover all fees and costs it incurs in any litigation between the parties, provided that CLS is the prevailing party in the litigation.
- B. If Customer fails to fulfill its terms of payment of any invoice or if the financial or business condition or responsibility of the Customer shall become impaired or unsatisfactory to CLS, CLS may suspend its performance, without prejudice to any other legal or equitable remedy, until past due payments are made and satisfactory assurance of payment is received.

XVIII. Operating Directions.

- A. Customer shall comply with and require its agents and employees to comply with all directions, safety notices, warnings, and other instructions furnished by CLS, and shall use and require its agents and employees to use reasonable care in the use of the Products.

- B.** CLS shall have no obligation or liability for any failure of Customer to observe the provisions of this section, or for any injury or damage caused, in whole or in part, by Customer's **failure to comply with applicable federal, state, or local safety requirements.**