

# CHM INDUSTRIES, INC.

## STANDARD TERMS AND CONDITIONS

The following terms and conditions apply to all equipment, goods, components, and services (hereafter “Products”) provided by CHM Industries, Inc. d/b/a Keystone Industries, Carolina High Mast, or CHM Sports Lighting (“CHM”). Acceptance of this order by CHM is expressly conditioned upon these terms and conditions and those included in the Limited Warranty, and Purchaser agrees that such terms and conditions and Limited Warranty are the basis of the bargain of the parties and the pricing of the Products. If these terms and conditions differ in any way from Purchaser’s order or if transmission of these terms and conditions to Purchaser constitutes or is construed as an acceptance of Purchaser’s order, then additional or different terms or conditions set forth in Purchaser’s purchase order or similar communication are objected to and will not be binding upon CHM unless specifically assented to in writing by an officer of CHM. In any event, Purchaser’s acceptance of the ordered Products shall constitute and manifest Purchaser’s assent to these terms and conditions.

1. **PRICES AND TERMS:** All prices by CHM are payable and due in U.S. Dollar. Prices do not include any present or future sales, excise, value-added or any taxes and, where applicable such items shall be billed separately and paid by Purchaser. Prices also do not include services relating to installation instruction or assistance, or any other services, unless separately quoted.

2. **QUOTATIONS:** Prices are subject to receipt and acceptance of order within 30 days of the price quotation by CHM.

3. **TERMS OF PAYMENT:** Unless otherwise agreed in a writing signed by CHM, Purchaser shall pay in full the amount of each invoice, within 30 days from the date of the invoice, at CHM’s principal office or such other location as CHM may specify. If payment is not made when due, Purchaser agrees to pay to CHM interest on the amount past due until paid at the rate of 1.5% per month (18% per annum) or the maximum lawful rate, whichever is less. Nothing herein shall be deemed to extend or otherwise modify Purchaser’s obligation to make payment when due.

4. **CONSTRUCTION:** Regardless of whether CHM has been provided copies of or access to plans, specifications, or other construction documents, CHM does not warrant or guarantee that its Products meet any terms of such documents. Unless specifically provided by CHM is a separate, written performance warranty, CHM does not verify, warrant, or guarantee compliance with design documents or specifications. If Purchaser wishes CHM to arrange for installation of Products, Purchaser will enter a separate construction agreement with CHM. CHM has no obligation to coordinate the manufacture, shipment, delivery, or installation of Products with any third-party providing work for constructions activities.

5. **SECURITY INTEREST:** Purchaser hereby grants CHM a purchase money security interest in the Products and any proceeds thereof to secure Purchaser's obligation to pay the full price of the Products. Such security interest shall terminate upon payment in full by Purchaser of such price. Purchaser shall execute such further documents, financing statements, and other instruments as may be requested by CHM to perfect such security interest, and Purchaser authorizes CHM to file a financing statement or a copy of these Terms and Conditions to perfect the security interest granted hereby.

6. **CREDIT HOLD, C.O.C. AND PURCHASES:** CHM reserves the right to place Purchaser on credit hold when any invoice has not been paid in full 45 days after the invoice date. The credit hold will apply to existing and pending shipments and to all affiliates of Purchaser. CHM, may in its sole discretion, require that the purchase and future purchases be made on a prepaid or C.O.D. basis.

7. **COSTS:** If CHM is required to retain an attorney to collect balances due under this sale, or is required to defend claims brought against it by Purchaser arising out of this sale, Purchaser shall indemnify and hold harmless CHM for all cost incurred in collecting balances due or defending such claims, including but not limited to the fee of any collection agency, reasonable attorney's fees, and other expenses.

8. **FREIGHT:** All sales are priced F.O.B. destination, except that anchor bolts and templates will be shipped at the expense of, with shipping invoiced to, Purchaser. Any reconsignment, redelivery, or storage expenses shall be the responsibility of Purchaser.

9. **ROUTING, HANDLING AND STORAGE:** Routing will be determined by CHM, with delivery to the common carrier delivery point nearest to destination. Handling, unloading, storage, extra labor or mechanical facilities, and movement from the shipping destination to Purchaser's job site required in connection therewith will be the responsibility of Purchaser.

10. **TITLE, RISK OF LOSS, ACCEPTANCE, PERFORMANCE:** In all cases, title to the Products (other than anchor bolts and templates) shall pass upon delivery at destination and thereafter all risk of loss or damage shall be upon Purchaser. Title to anchor bolts and templates shall pass on delivery to the carrier. Purchaser agrees to reasonably inspect the Products within 10 days of delivery. The Products shall be accepted by Purchaser by an authorized and qualified representative after inspection at the delivery point. Purchaser agrees to accept or reject the Products in accordance with these Terms and Conditions within 10 days after the delivery date. If the Products are not in conformance with these Terms and Conditions, Purchaser shall give written notice to CHM of any claim to that effect setting forth in reasonable detail the manner in which the Products do not conform. If Purchaser retains the Products after their delivery without giving CHM such notice as required within 10 days after delivery, such failure shall constitute an irrevocable acceptance of the products by Purchaser except with the respect to defects not reasonably discoverable by such inspection. Purchaser's sole remedy for any defects or nonconformance shall be in accordance with CHM's written limited warranty provided to Purchaser.

If Purchaser believes that the performance or Products of CHM are defective or do not conform to this contract or other obligations, Purchaser will promptly notify CHM in writing. CHM shall be entitled to remedy any defect or non-conformance, and Purchaser shall not be entitled to withhold payment if CHM remedies the defect or non-conformance. If any defect or non-conformance poses an imminent risk of damage to life or property, Purchaser may take reasonable steps to protect life or property and shall immediately notify CHM of the situation and request immediate corrective action.

11. **DELIVERY:** Factory shipping dates given in advance of actual shipment are estimates by CHM and shall not be deemed to represent fixed or guaranteed shipping dates. CHM shall not be liable for a delay in deliveries. In addition to any other right which CHM may have hereunder or at law, CHM may suspend shipment of any products for which CHM has not already received payment whenever Buyer is in default under this or any other contract between CHM and Buyer. CHM shall never be liable for damages caused by any delays in delivery or Products.

12. **JOB SITE VISIT TERMS:** Job site visits by CHM personnel to assist with installation must be pre-arranged with CHM a minimum of two weeks in advance, if the job site is within the continental United States, or a minimum of 30 days in advance, if the job site is outside the continental United States. Purchaser will receive a written confirmation of the scheduled visit once travel arrangements have been secured and purchased by CHM. Cost of job site visits will be separately invoiced to Purchaser. If Purchaser changes the job visitation itinerary after confirmation, any additional expenses incurred by CHM due to the change will be the responsibility of, and invoiced to, Purchaser. Job site visits pursuant to this paragraph shall not create or increase any rights of purchaser beyond those expressly set forth herein. CHM is not responsible for the means or methods of any installation of its Products nor is it responsible for site safety or coordination of work activities.

13. **CLAIM FOR SHORTAGES:** Purchaser must present any claim for shortages in Products provided by CHM (that are not confirmed by CHM's shipment records) in writing to CHM within 10 days of receipt of a shipment at the designated destination. Failure to provide such notice shall be a waiver of any right to seek recovery.

14. **RETURNED PRODUCTS:** Specific written request must be made in advance by Purchaser to obtain credit or replacement on Products returned, and return of Products will be the sole discretion of CHM and only upon prior written notice to Purchaser from an officer of CHM. On Products accepted for return, Purchaser must pre-pay return shipment and pay minimum restocking charge of 65% of the invoice price plus any charges necessary to rework products to a re-sellable condition. Custom fabricated Products are not subject to return.

15. **CANCELLATION OR POSTPONEMENT:** Written consent of CHM must be obtained prior to a cancellation of any order. Cancellation of an order with consent of CHM will subject Purchaser to a cancellation charge based upon expenses already incurred and commitments made by CHM. If Purchaser postpones the shipment of any order more than 120 days, CHM will be entitled to adjust the price for its product as a result of any costs incurred or to reflect current market prices.

16. **ASSIGNMENT:** The delegation or assignment by Purchaser of any or all of its duties or rights hereunder without the prior written consent of CHM shall be void.

17. **CHANGES AND SERVICES:** CHM reserves the right to change any feature of its published specifications without notice for any reason within CHM's discretion. Any advice, technical assistance, or recommendations regarding its Products, provided by CHM is provided without warranty or guaranty.

18. **GENERAL:** No representation, affirmation of fact, course of dealing, promise or condition in connection therewith or usage of trade not incorporated herein or in CHM's written warranty, shall be binding upon CHM. This written contract is intended as the final expression of the contract of the parties and parol or extrinsic evidence is inadmissible to explain, vary, or contradict the express terms of this contract. No waiver, alteration, or modification of any of the provisions hereof shall be binding upon CHM unless specifically assented to in writing by an officer of CHM. The contract of the sale of goods between CHM and Purchaser shall be performed in Tarrant County, Texas. The validity, performance, and all matters relating to the interpretation and effect hereof and any amendment hereto shall be governed by the laws of the State of Texas.

19. **RESOLVING DISPUTES:** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules, taking place in Tarrant County, Texas. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The parties also expressly agree that they will cooperate in the exchange of documents and lists of witnesses (including any experts) before the arbitration as well as interviewing or deposition of witnesses. The prevailing party in any arbitration shall be entitled to recovery of its reasonable expenses from the other party incurred in enforcing these Terms and Conditions, including costs for attorney's fees, expert witnesses, and the arbitrators of the American Arbitration Association. CHM shall not be joined in any arbitration between Purchaser and any third-party without CHM's consent.

20. **AUTHORITY:** The person signing on behalf of Purchaser represents and warrants to CHM that such person is an authorized agent of Purchaser, with full power and authority to enter into the agreement defined by these Terms and Conditions.

21. **WARRANTY:** The terms of the attached written warranty are material terms of the parties' contract and provide limitations on the parties' rights and obligations. No action may be brought against CHM for any breach of this agreement or other cause of action more than two years after the delivery of the Products purchased under this agreement.

22. **EFFECTIVE DATE:** These Terms and Conditions supersede any previous issues and are effective October 13, 2006.