

Kordenbrock Tool and Die Terms and Conditions

Unless otherwise agreed upon to in writing and signed by the parties, the following terms and conditions shall apply in full between Kordenbrock Tool and Die (hereinafter, "KTD") and supplier with regard to all purchase orders, all releases and orders generated therefrom and/or relating thereto and other associated purchase documents ("Order").

1. **ACCEPTANCE**

- 1.1 Supplier shall be deemed to have accepted all of the terms and conditions of this Order upon either (i) signing the Order or providing any acknowledgement of the Order and delivering a copy of the same to KTD or, (ii) at KTD's option, when supplier begins any performance of the order.
- 1.2 Any acceptance of this Order is limited to acceptance of the express terms contained in these Terms and Conditions or otherwise incorporated herein by reference to ("KTD's Terms"). If any terms proposed in Suppliers acceptance of this Order add to, vary from, or conflict with KTD's Terms, such additional, different, and/or conflicting terms proposed by Supplier are deemed objected to and KTD's Terms will constitute the complete and exclusive statement of terms and conditions of the order between the parties and will be deemed accepted by the Supplier without Supplier's additional, different and /or conflicting terms. If this Order has been issued by KTD in response to an offer, any acceptance by KTD is subject to and conditional upon Suppliers acceptance of KTD's Terms (which is deemed given as stated in 1.1).
- 1.3 Supplier acknowledges that no prior or subsequent instrument used by or delivered by Supplier shall govern this Order and that KTD and Supplier are contracting solely on the basis of KTD's Terms, which may only be modified as provided herein.
- 1.4 For purposes of this Order, the term "Goods" shall be defined as the products described in the specific Order and all services, components, tooling, equipment, raw materials and supplies to be provided by Supplier.

2. **PACKING, MARKING AND SHIPPING**

- 2.1 All Goods shall be packaged, marked and prepared for shipment in the manner which is specified in the Order, provided that to the extent no specific manner is set forth in the Order, then (a) in accordance with good commercial practice, (b) acceptable to common carriers for shipment at the lowest rate for the particular Goods and in accordance with applicable Federal, state or local regulations, (c) in accordance with the current edition of KTD's packaging standards, and (d) adequate to ensure safe arrival of Goods at the named destination. Country of origin shall be documented, including code section references for U.S. Goods, and appropriate labels.
- 2.2 Any transportation charges shall be prepaid by Supplier and any such charges for which it is entitled to reimbursement shall be added to the Suppliers invoice as a separate item and the receipted freight bill shall be attached thereto. All Goods shall be shipped F.O.B. point of origin and in the manner set forth in the Order.
- 2.3 No charge shall be made by Supplier for containers, crating, boxing, bundling, dunnage, drayage, storage or insurance, except as expressly provided in the Order.
- 2.4 In the event of any improper packing, marking, shipping or routing and/or any failure to observe the conditions of this section, Supplier shall reimburse KTD for all expenses arising therefrom and shall pay any resulting additional freight, cartage or other costs incurred, directly or indirectly.
- 2.5 Except as otherwise required, all containers to be returned to Supplier shall be shipped on a no-charge basis with Suppliers name and address and demand for clearly marked thereon.
- 2.6 Each order must include Packing Slips for each shipment, bills of lading for each shipment, and invoices bearing the applicable purchase order number and the location of the plant to which supplies are shipped. All invoices shall contain the following assurance: "Supplier represents that it has complied with the Fair Labor Standards Act of 1938, as amended, in supplying or performing the services covered by this Invoice".

3. **TERMINATION AT OPTION OF KTD**

- 3.1 This order may be terminated by KTD, at its option in whole or in part, at any time or from time to time by fax, electronic mail or by delivery or mailing of a written notice of termination to Supplier. KTD shall have such rights in addition to any other rights to terminate the Order.
- 3.2 Upon termination by KTD under this section, Supplier shall immediately stop all work under the Order or portion of the Order terminated and shall cause its suppliers to stop all such work. To the extent of the terminated portion of this Order and subject to any setoff rights of KTD, KTD shall pay to Supplier the following amounts without duplication: (1) The applicable price stated in the Order for the applicable Goods which have been completed and accepted by KTD and not previously paid for, but only to the extent there is an outstanding Order and release therefore and such Goods do not exceed amounts scheduled under the Order in writing to be delivered as of the day of termination, (2) The actual costs (exclusive of profit) incurred by Supplier for work-in-process which cannot reasonably be used by Supplier in producing supplies for itself or for its other customers (but only to the extent that the work-in-process is reasonable, in KTD's judgment, in light of outstanding Orders, written releases, KTD's delivery schedule, and normal flow times, does not exceed amounts scheduled to be delivered within ten days following termination (when added to finished Goods in (1) above) and only if same is properly allocable under recognized commercial accounting practices to the terminated portion of the Order), less reasonable value thereof if actually used or sold by Supplier, and (3) the reasonable costs incurred by Supplier in protecting property in its possession in which KTD has or may acquire an interest if KTD has requested such protection in writing. The above payments shall not exceed the aggregated price specified in the applicable Order, less: (1) Payments otherwise made or to be made; (2) The price of any non-conforming, defective, damaged or destroyed Goods or Goods for which acceptance has been subsequently rejected or revoked; and (3) the price of any Goods otherwise not accepted by KTD.

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- 3.3 Any materials which Supplier has on hand as a result of any such termination, the costs of which are included in the settlement outlined above, shall be held by Supplier subject to disposal instructions from KTD.
- 3.4 Payment under this Section shall be Supplier's exclusive remedy and KTD's only liability in the event this Order is terminated under this Section. Upon such payment to Supplier, all right, title and interest in work-in-progress, Goods and materials acquired by Supplier for the performance of the Order shall immediately pass to KTD. KTD will not be liable to Supplier for any other costs, overhead, anticipated profits, damages, losses or any other amounts whatsoever upon termination other than expressly set forth above.
- 3.5 KTD's obligations under this Section shall not apply if this order is terminated by KTD pursuant to the Termination Section Below.
- 3.6 Supplier's claim for payment hereunder shall be submitted to KTD within sixty (60) days of the effective date of termination and any suit to enforce payment must be commenced within one (1) year of such termination. KTD shall have the right to audit any termination claim hereunder and shall have access to Supplier's books and records for such purpose.
- 3.7 Any termination by KTD, whether by default or otherwise, shall be without prejudice to any claims for damage or other rights of KTD against Supplier.

4. TERMINATION.

- 4.1 KTD may also terminate this Order or any part hereof by written notice to Supplier upon any breach of Supplier, which shall include, but not limited to, failure to comply with any term, condition or warranty of the Order, late deliveries, deliveries of Goods which are defective or which do not conform to KTD's order, failure to make progress so as to endanger performance of the work, failure to provide KTD, upon request, reasonable assurances of future performance, and/or in the event Supplier ceases to conduct its operations in the normal course of business, becomes insolvent or makes a general assignment for the benefit of creditors or files or has filed against it a petition of bankruptcy or for reorganization or pursues any other remedy under any other law relating to the relief for debtors or in the event a receiver is appointed for Supplier's property or business. In the event of termination under this Section, KTD shall not be liable to Supplier for any amount and Supplier shall be liable to KTD for any and all collection costs, attorney fees and expenses and all other damages, including incidental and consequential damages, sustained by reason of the Supplier's breach. In addition to all of KTD's other rights under the Order or applicable law, KTD may purchase or manufacture similar Goods and/or require Supplier to transfer title and deliver to KTD any and all property produced or procured by Supplier under any Order, and Supplier shall be liable to KTD for any excess costs to KTD.

5. AMENDMENTS/NOTICES/BULLETINS.

- 5.1 The Order contains the complete and final agreement between KTD and Supplier and no agreement or other understanding in any way purporting to modify the terms and conditions of the Order shall be binding upon KTD unless made in writing and signed by KTD's authorized representative.
- 5.2 Notwithstanding the foregoing, KTD shall have the right to amend the Order and to make changes in drawings, specifications or designs, method of shipment or packing or place of performance by faxing, e-mailing or otherwise delivering written notice thereof to Supplier or posting such amendments on its website at Kordenbrock Tool & Die.com. Any difference in price shall be equitably adjusted between KTD and Supplier in writing. Any claim by Supplier for such adjustment must be in writing and delivered to KTD within 10 days from the date of notice to Supplier of such adjustment.
- 5.3 Supplier expressly agrees that KTD shall also have the right to add to, amend or otherwise modify the Order, including these terms and conditions ("Changes") by either posting such Changes on the KTD Site or by faxing, e-mailing or otherwise delivering notice thereof to Supplier. Unless KTD notifies Supplier in writing to the contrary, Supplier acknowledges that all postings on the KTD Site shall constitute notice of all such Changes and shall be deemed to be an amendment of the Order to the extent stated on the KTD Site from the time of posting and agrees to be bound by same.
- 5.4 KTD may from time to time post Supplier Bulletins, certification requirements, non-conforming products notices, corrective actions required or demanded and other information and notices which KTD deems necessary or relevant to the performance of the Order or otherwise.
- 5.5 It is the Supplier's responsibility to regularly and continually review the KTD Site for Changes, amendments, notices and information and Supplier will be deemed to have been duly notified in the applicable item is posted on the KTD Site and agrees to be bound by all such postings.

6. NON-ASSIGNMENT.

- 6.1 Supplier shall not delegate in any manner to any other person, the manufacture or supplying of the Goods ordered hereby, it being expressly agreed that no part of this Order or any order may be assigned or subcontracted by Supplier without prior written approval of KTD in each instance.

7. TECHNICAL AND OTHER INSTRUCTION.

- 7.1 The technical and other instructions which are specified herein, in the Order or in documents approved thereto shall be part of this Order and Supplier is bound to comply with same.
- 7.2 Supplier shall be held responsible for costs and damages caused by and negligence in following such instruction.

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8. **INSPECTION, TESTING AND REJECTION.**

- 8.1 Once samples from production tooling have been accepted by KTD, no change of function, appearance, properties, material or manufacturing methods shall be made without written approval of KTD.
- 8.2 KTD's acceptance of initial samples from production tooling shall in no manner constitute acceptance of the Goods and does not limit the Supplier's warranty liability contained herein nor KTD's rights to further inspect, test, and/or reject the Goods as provided herein or under applicable law.
- 8.3 Supplier shall immediately notify KTD of any non-conformance and defects, discovered or anticipated, in Goods which have been delivered to KTD.
- 8.4 Payment for Goods delivered hereunder shall not constitute acceptance thereof. KTD shall be entitled to, but shall in no manner be deemed to be required to, make inspections, tests and other investigations at Supplier's premises, either itself or through a third party representative. Supplier shall permit such access, including access to any assistance, tools and/or equipment reasonably necessary to inspect such Goods and confirm any processes in manufacturing such Goods as may be requested by KTD. Verification by KTD shall not absolve the Supplier of the responsibility to provide acceptable Goods, nor shall it preclude subsequent rejection by KTD.
- 8.5 All Goods are subject to final inspection as determined by KTD and no such preliminary inspection shall be deemed a substitution or waiver thereof by KTD. KTD may reject any and all of said Goods which are in KTD's judgment, defective (which shall be defined as including Goods which are nonconforming) or otherwise do not meet the requirements or specifications of the Order. Goods so rejected and/or Goods supplied in excess of quantities called for herein may be returned to Supplier at its expense and risk and, in addition to KTD's other rights, Supplier shall, at KTD's option, (i) pay KTD all expenses unpacking, examining, repacking and reshipping such Goods and the cost to correct allegedly defective Goods (ii) replace such Goods at Supplier's cost; and/or (iii) pay KTD the cost of replacing such Goods, all without Supplier's approval.
- 8.6 In the event KTD receives Goods whose defects or non-conformity is not apparent on examination, KTD reserves the right to reject acceptance, require correction or replacement, obtain replacement Goods at Supplier's cost, as well as payment of damages. If KTD requires replacement or correction, Supplier's failure to replace or correct in the time specified by KTD shall be a default hereunder.
- 8.7 Nothing contained in the order shall relieve Supplier's obligation of testing, inspection and quality control.

9. **QUALITY CONTROL.**

- 9.1 This Order is subject to all quality standards and policies of KTD as are in writing and either delivered to Supplier or posted on the KTD Site, as revised or amended from time to time by KTD ("Quality Criteria"). Supplier acknowledges receipt of the Quality Criteria and accepts same. All such Quality Criteria are incorporated herein by this reference. Supplier agrees that KTD may revise or amend any quality Criteria at any time and that all such revisions and/or amendments that are on the KTD Site or otherwise made available to Supplier are binding on the Order and on Supplier.
- 9.2 Supplier shall permit a designated representative of KTD and/or KTD's customer or ultimate customer to visit Supplier's premises to observe and monitor the development and production of the Goods to verify compliance with Quality Criteria and this Order, including inspection of the manufacturing process and disclosure of the test records. Upon KTD's request Supplier shall make available to KTD all quality records including without limitation documents and any other data, which relate to specified requirements and the effectiveness of Supplier's quality system. Supplier shall retain such quality records for at least ten (10) years.
- 9.3 Supplier shall procure that all of its sub-contractors are contractually bound to comply with the terms of this Section.
- 9.4 In addition to the quality criteria stipulated above, the following specific criteria applies:
 - (i) **Confidential or Proprietary Information**

Any knowledge or information provided to the supplier by Kordenbrock Tool & Die is considered confidential and shall not be disclosed to a third party without the written consent of Kordenbrock Tool & Die. Information provided by Kordenbrock Tool & Die for the purpose of fulfilling the requirements of this purchase order can, and must be flowed down to all applicable sub tier suppliers.
 - (ii) **Order of Precedence**

In the event of a conflict in requirements between documents that provide product definition, the following order of precedence shall apply (with 1 being the highest order of precedence and 6 being the lowest):

 - 1) Documented drawing changes, the referenced drawings in these changes and the specifications cited on the drawings in these changes (these may be in the form of an email, a customer engineering change document, or directly written on the drawing with an initial and date.)
 - 2) Purchase Order
 - 3) Drawings
 - 4) Specifications cited on drawings
 - 5) KTD's Direct and Indirect Customers Terms and Conditions
 - 6) KTD's Terms and Conditions
 - (iii) **Specifications**

KTD's purchase order shall indicate the appropriate revision of parts and component drawings. If this revision changes during the performance of the order, KTD will issue an Engineering Change Notice with the appropriate version of the drawings.

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Third party specifications by organizations other than KTD's direct and indirect customer which are referenced by the applicable PO, the referenced drawings or other KTD supplier quality requirements will be the most recent version unless otherwise specified.

(iv) Quality System Requirements

Supplier shall develop, document, implement, and maintain a quality system that demonstrates a systemic process of quality management. KTD prefers registration by a third party to AS 9100, ISO 9001 or related industry specific quality standards. Organizations may also assert their quality systems comply with MILQ 9858, ISO 9001, AS 9100 or other ISO 9001 related industry specific standards. Objective evidence that such a quality system exists shall be provided for examination by Kordenbrock Tool & Die upon request.

(v) Records Retention

Supplier shall have a system for the control and retrieval of records documenting product compliance. Records shall be traceable to specific products. Records shall be maintained for a minimum of 10 years unless otherwise stated in the purchase order or referenced documents.

(vi) Measurement and Test Equipment

Supplier shall establish and maintain, and document a calibration system for all measurement and test equipment in accordance with a recognized standard (ISO 17025 or ANSI/NCSL Z540-1). Measurement and test equipment shall have a unique identifier and traceable to a calibration report. Calibration reports shall indicate the date of calibration and the standard used. Calibration standards must be NIST traceable.

(vii) Special Processes

Suppliers providing products or services that require special processes must have objective evidence on file which demonstrates that all requirements of the purchase order, drawings, and specifications are being performed and documented. The supplier must make this available to KTD upon request.

(viii) Changes to Management or Quality System

In the event of a major change to the management or quality system that may affect supplied product, such as addition of or removal of key personnel, or acquisition or loss of accreditation, the supplier shall notify Kordenbrock Tool & Die within 7 days of such change.

(ix) Suspect Product

If, after shipment to Kordenbrock Tool & Die, the supplier finds that the shipped product may be non-conforming, the supplier will notify Kordenbrock Tool & Die as soon as possible, but no later than 48 hours after the suspect product is found.

(x) Certificate of Compliance

A certificate of compliance must accompany each item of this purchase order certifying that all material and processes used in the performance of this purchase order meet all applicable requirements of the purchase order and that all inspection, process control, and test data are maintained on file and available for review by Kordenbrock Tool & Die.

(xi) Raw Material Suppliers

Suppliers of raw material must periodically verify test reports using a third party source. Records made available upon request.

9.5 Contract Deliverable Requirements

The following requirements apply only when specifically indicated on the purchase order under the heading of Order Specific Quality Requirements.

001 Inspection/Test Reports

Supplier shall submit copies of all inspection and test reports in a suitable form. The data shall be submitted with the shipment of the items.

002 100% Inspection Required

The supplier shall inspect all characteristics of each item in the order and submit all inspection results to KTD in a suitable form. The data shall be submitted with the shipment of the items.

003 Inspection/Test Procedure

The supplier shall submit a detailed inspection/test procedure to Kordenbrock Tool & Die for approval prior to the start of work.

004 First Piece Submittal

The supplier shall furnish the first deliverable product to Kordenbrock Tool & Die for approval prior to the continuation of work.

005 First Article Inspection

The supplier will complete and submit a first article inspection per AS9102 to Kordenbrock Tool & Die for approval prior to the continuation of work.

006 Customer Source Surveillance

Source surveillance, inspection or test by a representative of Kordenbrock Tool & Die, or a customer of KTD Enterprise is required prior to product shipment from your plant. Supplier will make facilities, equipment, and inspection records readily available.

007 Process Approval

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Detailed process procedures for the execution of this purchase order must be submitted to Kordenbrock Tool & Die for approval prior to the start of work.

008 NDT Process Approval

Detailed procedures for NDT processes in this purchase order must be submitted to Kordenbrock Tool & Die for approval prior to the start of work.

009 NDT Inspection/Test Reports

All NDT Inspection and test reports must be submitted with the shipment of the items.

010 Raw Material Test Reports

Supplier shall furnish with each shipment all chemical and physical analysis and laboratory tests identifiable to the raw material, and accomplished by the original material supplier.

011 Traceability

Traceability and/or serialization must be maintained for all items in this purchase order. The traceability required is for material lots and processes. Any markings or serial numbers removed during the processing of these items must be re-applied immediately after process is complete.

012 Special Process Approval

Detailed procedures of special processes used in the execution of this purchase order must be submitted to Kordenbrock Tool & Die for approval prior to the start of work.

013 Special Process Objective Evidence

Objective evidence that all special processes have been performed in accordance with all requirements of this purchase order shall be submitted with the shipment of the parts.

014 Foreign Object Damage

Supplier will take all necessary actions to prevent foreign object damage to the items in this purchase order.

015 Export Control

Seller agrees to comply with all applicable U.S. export control laws and regulations, including, the Arms Export Control Act, 22 U.S.C. 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 24012420, including the Export Administration Regulations, 15 C.F.R. 730-774; including the requirement for obtaining any export license or agreement, if applicable. Without limiting the foregoing, Seller agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by or associated with, or under contract to Seller's lower-tier suppliers, without the authority of an export license, agreement, or applicable exemption or exception.

- (i) Seller agrees to notify Buyer if any deliverable under this Order is restricted by export control laws or regulations, unless such export-controlled item originates with Buyer and is incorporated into the deliverable under this Order.
- (ii) Seller shall immediately notify the Buyer's Purchasing Representative if Seller is, or becomes, listed in any Denied Parties List or if Seller's export privileges are otherwise denied, suspended or revoked whole or in part by any U.S. Government entity or agency.
- (iii) If Seller is engaged in the business of either exporting from the United States or manufacturing within the United States (whether exporting or not) defense articles or furnishing defense services, Seller represents that it is registered with the Office of Defense Trade Controls, as required by the ITAR, and it maintains an effective export/import compliance program in accordance with the ITAR.
- (iv) Where Seller is a signatory under a Buyer export license or export agreement (e.g., Technical Assistance Agreement (TAA), Manufacturing Licensing Agreement (MLA)), Seller shall provide prompt notification to the Buyer's Purchasing Representative in the event of changed circumstances including, but not limited to, ineligibility, a known violation or potential violation of the ITAR, and the known initiation or existence of a U.S. Government investigation, that in Seller's reasonable judgment could affect the Seller's performance under the Order.
- (v) Seller agrees to provide certification to Buyer that Seller's personnel meet the definition of a U.S. Person (as defined in ITAR – 22 CFR 120.15) if required by Buyer and as necessary to comply with this clause.
- (vi) Seller shall include the terms of the clause in all lower-tier subcontracts issued when technical data is provided to the lower-tier subcontractor.

10. MANUFACTURING IN ADVANCE OF REQUIREMENTS.

- 10.1 KTD shall not be responsible for any commitments made by Supplier in advance of those specifically authorized by KTD in writing as necessary to comply with KTD's schedules as set forth in the applicable Order.

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- 10.2 Supplier shall not, without KTD's prior written consent, procure raw materials or manufacture in advance of Supplier's normal flow time or deliver in advance of schedule.

11. SPARE PARTS.

- 11.1 Supplier will sell all such Goods requested by KTD at the prices set forth in the Order to enable KTD to fulfill its obligations to its customers for parts supply.
- 11.2 Additionally, subject to receiving written orders from KTD, Supplier shall supply KTD with parts sufficient to allow KTD to provide parts to its customers for 15 years after discontinuation of production of the end product.

12. WARRANTY.

- 12.1 Supplier expressly warrants and guarantees that all Goods and services furnished hereunder shall (i) conform to all specifications, drawings, appropriate standards and other requirements of KTD and the Order; (ii) will be new; (iii) will be fit for the particular purpose intended by KTD and its customer; (iv) will be of merchantable quality and free from defects in material, workmanship; (v) and design will be fit for the particular purpose intended by KTD and its customer if the design is provided by the supplier.
- 12.2 Upon, and only upon, KTD's written request, Supplier shall promptly replace or adjust nonconforming or defective Goods free of charge or, at KTD's option, compensate KTD for the value of these Goods or the cost for correction of defects. Supplier shall pay KTD all costs, losses or damages, including all incidental or consequential damages incurred by KTD, arising out of Supplier's delivery of such nonconforming or defective Goods, including without limitation, all cost of inspection and any costs required to be paid to or on behalf of KTD's customers
- 12.3 KTD may resolve any alleged warranty claim, correct allegedly defective Goods at the Supplier's expense and/or replace such Goods at Supplier's cost, all without Supplier's approval.
- 12.4 If inspection by KTD of all delivered Goods is affected after discovery of defective goods, the Supplier shall reimburse KTD the cost of such inspection.
- 12.5 Supplier shall reimburse KTD its freight costs for the delivery of any defective Goods and, if returned to the Supplier, the return freight, including any extra costs for urgent delivery.
- 12.6 Inspection, test, acceptance or use of the Goods or services furnished hereunder shall not affect the Supplier's obligation under this warranty and such warranties shall survive inspection, testing, acceptance and use.
- 12.7 Should a hidden defect be subsequently discovered in any Goods which were delivered within the warranty period, the supplier will be responsible hereunder as though discovered and properly claimed during the warranty period.

13. INDEMNITY.

- 13.1 Supplier agrees to indemnify, defend and hold harmless KTD, its agents representatives, owners, managers, officers, directors, successors, assigns, customers, agents and employees from and against any and all damages (including incidental and consequential damages), claims, suits, judgments, demands and costs, including, but not limited to, all legal expenses and attorney fees, whatsoever arising out of or relating in any way to any real, purported or alleged; (i) defects or negligence or defect in the design, manufacture, shipping or handling of the Goods to be provided pursuant to the Order, (ii) inadequate warnings related thereto; (iii) infringement of patent or copyright or unfair trade practice with regard to the Goods or services or any component thereof; (iv) any environmental liability arising out of any violation of any environmental rule, law, or other regulation ("Environmental Law"); (v) breach of warranty or other terms of the order; (vi) strict liability claims; and/or (vii) any act or omission of Supplier, its agents, employees or subcontractors. This indemnity is in addition to any warranty obligations of Supplier.

14. DELIVERIES.

- 14.1 Time is of the essence in the Order. Deliveries are to be made strictly in accordance with delivery schedules issued by KTD. If delivery is not completed pursuant to KTD's schedule, KTD, in addition to its other rights and remedies hereunder: (i) can take such actions as it deems necessary to meet such schedules, including expedited shipping and routing, and (ii) can declare Supplier in default hereof and exercise its remedies hereunder or under applicable law. The Supplier shall immediately report any event, occurred or expected, which may reasonably affect delivery.
- 14.2 Quantities that are delivered to KTD in excess of KTD's request may be returned to Supplier at Supplier's expense. KTD accepts no liability for such goods.
- 14.3 Supplier will be liable for any extra freight costs resulting from shipping in a more expensive manner than specified herein or in the Order necessary to comply with KTD delivery schedule.
- 14.4 Supplier will be liable to KTD for losses, damages and/or costs of KTD, its direct and indirect customers, arising out of any failure to supply in the amounts and at the dates set forth in any Order, including without limitation excess scrap, shutdown costs, overtime expenses, premium freight and extra operational expenses.
- 14.5 Supplier shall not ship any Goods except as are expressly authorized to be shipped by the order. Goods which have been delivered in excess of KTD's written request can be returned, shipping charges collect, to the Supplier at its expense or, at KTD's option and at Supplier's risk and cost, held by KTD in storage until the next scheduled deliver date, with payment withheld accordingly.
- 14.6 Except to the extent this Order expressly provides for a specific quantity of Goods to be manufactured and shipped, this Order is a requirements contract and Supplier is required to supply KTD with KTD's requirements, as ordered from time to time by KTD. KTD has no obligation to purchase any amount of Goods and there is no minimum order amount or price. No projections or estimates

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given by KTD shall constitute a commitment or obligation to purchase any specified amount and KTD makes no such representation. Supplier agrees to continue to supply as set forth in KTD's Orders and releases until this Order is otherwise terminated by KTD.

15. PROPRIETARY INFORMATION.

- 15.1 Design, samples, drawings, specifications, schedules, technical data, or any other information supplied by KTD ("Confidential Information") are proprietary and confidential and shall not be disclosed to any third party and shall not be used for any purpose other than fulfillment of the order.
- 15.2 The Supplier must not, without KTD's prior written consent in each instance, advertise or in any other way publish or disclose Confidential Information or the fact that Supplier supplies or has made an agreement to supply to KTD.
- 15.3 Supplier agrees to return, after complete delivery of all Orders, or earlier immediately upon KTD's request, all Confidential Information and copies thereof. Copies of Confidential Information may only be made upon KTD's written consent in each sentence.
- 15.4 Except agreed to in writing by KTD, no information disclosed to KTD from Supplier shall be deemed to be confidential or proprietary information.

16. PAYMENT.

- 16.1 The payment term is calculated from the later date of the arrival of the invoice at KTD or the arrival of the Goods at KTD.
- 16.2 Unless otherwise stated, all prices include packing and insurance.
- 16.3 The Order issued hereunder includes and KTD retains any and all custom duty drawback rights (by substitution of otherwise) which are transferable from Supplier to KTD. Supplier shall timely inform KTD of any such rights and supply KTD with all documents required for KTD to obtain such drawback.
- 16.4 Unless the face of KTD's order form expressly states otherwise, payment terms are net 30 days, provided however that KTD may shorten the terms or require C.O.D. by written notice to Supplier.

17. INTELLECTUAL PROPERTY.

- 17.1 Supplier warrants and guarantees that the manufacture, use and/or sale of the Goods does not infringe any copyright, patent or any intellectual or proprietary rights of another nor does it constitute unfair competition resulting from similarity in design, trademark or appearance.
- 17.2 Supplier shall indemnify, protect and hold KTD, its agents, customers or other suppliers harmless against any claims, losses, profits, royalties, damages and expenses, including actual attorney fees, which may arise out of any claim of infringement or unfair competition or otherwise based on the above, including any settlement thereof. KTD may be represented and actively participate in any suit or proceeding arising out of any such claim and Supplier shall pay all costs of such representation. If the sale or use of the Goods is enjoined or KTD reasonably believes it will be, Supplier shall immediately procure a royalty-free right for KTD, its customers, successors and assigns, to continue manufacturing, selling and using the Goods, in addition to all of Supplier's other obligation hereunder.
- 17.3 Supplier grants KTD, its customers, successors and assigns, a nonexclusive, royalty-free license to repair, replace, cover, rebuild, service and relocate the Goods and to use all copyrighted or otherwise protected property of Supplier which relate to the Goods.

18. FORCE MAJEURE.

- 18.1 KTD may delay delivery acceptance under any Order occasioned by causes beyond its control, including, but not limited to, industrial disputes, strikes, lockouts, riots, acts of terrorism, mobs, fires, floods, wars, embargo, or by reason of regulations, orders or omissions of any government agency.
- 18.2 Should such delays extend beyond six months due to any of these circumstances, then KTD may cancel the respective portion of any order for deliveries so delayed and unexecuted without incurring any liability under the Order or to Supplier.

19. KTD PROPERTY.

- 19.1 KTD Property is defined herein as all tools, supplies, jigs, fixtures, forms, gauges, inspection equipment, templates and like items, together with all accessories or replacements which are (i) manufactured by KTD for the production or quality control of Goods; (ii) provided to or by KTD, directly or indirectly; (iii) paid for in part or in whole by KTD; (iv) in any other way financed or reimbursed by KTD; or (v) to be so paid, financed or reimbursed by KTD. All KTD Property is the sole property of KTD or KTD's customer, as the case may be, and is freely at the disposal of KTD and shall be held by Supplier on a bailment basis and will be marked conspicuously accordingly. KTD Property shall be kept separate and used exclusively for production in accordance with accepted Orders for KTD upon KTD's request and shall not be used for any other party other than KTD.
- 19.2 Supplier shall, at its own cost (i) bear all risk of loss and damage to all KTD Property; (ii) safeguard, store and maintain the KTD Property in first class condition; (iii) replace worn KTD Property to extent necessary to produce acceptable parts, in KTD's sole judgment, and (iv) maintain and provide KTD with proof of insurance on the KTD Property and any replacements or modifications thereof in an amount equal to its replacement cause, with KTD or its designee as additional insured and the sole loss payee.
- 19.3 KTD Property must not be improved, repaired, altered or scrapped, shall not be commingled with Supplier's or anyone else's property and shall not be removed from Supplier's physical possession without KTD's prior written approval. KTD shall have the right to enter Supplier's property at all reasonable times to inspect and audit KTD Property and all records regarding them. All replacements of, modifications or attachments to, KTD Property shall belong to KTD.

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- 19.4 All KTD Property shall be deemed personally and shall be kept free and clear of all claims, liens, mechanics liens or any other rights or interests of Supplier or any third party.
- 19.5 Immediately upon completion of the Order, or upon 24 hours written notice by KTD, Supplier shall properly label and ready KTD Property for shipment and, at KTD's option, deliver it to any location requested by KTD. F.O.B. Supplier's plant or permit KTD on its premises to recover same.
- 19.6 In no event shall Supplier's obligation to return KTD Property to KTD or as directed by KTD be subject to any set off or counterclaim whatsoever.
- 19.7 KTD is granted the option to take possession of any property of Supplier that is used for the special production of the Goods upon payment to Supplier of the net book value thereof, less amounts KTD has paid for or has been allocated to the value thereof.

20. SET OFF

- 20.1 In addition to any rights of KTD under law or the Order, all claims for money due or to become due from KTD shall be subject to deduction or set off by KTD by reason of counterclaim arising out of this or any other transaction with Supplier or any affiliate of Supplier. All amounts due from KTD to Supplier or any affiliate of Supplier shall be net of any amounts due from KTD to Supplier or any affiliate of Supplier.

21. SEVERABILITY

- 21.1 In the event any clause or provision hereof should, under applicable local law, be held to be illegal and/or void such clause or provision shall be considered severable and the remaining portion of these conditions shall continue in full force and effect. In such case, the parties hereto shall make every effort to make an agreement in lieu of the ineffective provision which will ensure the same or approximate an effect as the one which has become ineffective.

22. GOVERNING LAW

- 22.1 The Order shall be governed by the law of the State Ohio (without regard to principles of conflict of laws), including the application of any applicable statutes of limitation. All claims brought by any party with respect to, or to enforce any of the terms of, the Order shall be brought exclusively in the courts of the State of Ohio located in Butler County, Ohio or in the United States District Court for the Southern District of Ohio, Western Division. All parties irrevocably stipulate to submit to the personal jurisdiction therein, waive all challenges to the personal jurisdiction thereof and agree not to assert any claim of forum non conveniens relating thereto.

23. ARBITRATION

- 23.1 Any controversy, dispute, or claim arising out of or relating to this Order, obligations reflected in this Order, or the breach thereof, shall be resolved through binding arbitration in the greater metropolitan Cincinnati area in accordance with the rules then in effect of the American Arbitration Association, and judgment on the award rendered may be entered in any court having jurisdiction thereof. Supplier acknowledges that by agreeing to arbitration, Supplier is relinquishing its right to bring an action in court and to a jury trial.

24. OTHER COMPLIANCE

- 24.1 Supplier agrees that (1) in the manufacture and sale of Goods to KTD, Supplier shall comply with all applicable federal, state, and local laws, Executive Orders, and regulations hereunder, including without limitation, all orders and implementing rules relating to equal employment opportunity, veterans rights and job listing provisions, affirmative action, and the federal Occupational Safety and Health Act, (2) the Goods sold by Supplier to KTD shall conform to the requirements of such laws, orders and regulations and (3) the Order shall be deemed to incorporate by reference all the clauses required by the provisions of said laws, orders and regulations.
- 24.2 All materials used in manufacture shall satisfy current government and safety constraints on restricted, toxic and hazardous materials, as well as environmental, electrical and electromagnetic considerations applicable to the country of manufacture and sale.
- 24.3 Supplier shall have a process to assure that governmental and safety constraints on restricted, toxic and hazardous substance are complied with relative to the Goods and the manufacturing process.
- 24.4 All on-site work of Supplier shall be conducted in a manner which is protective of the environment. All Environmental Laws must be complied with. All waste materials must be properly disposed of. Any potential environmental impact must be fully disclosed to KTD in writing prior to the commencement of work and all methods that can provide proper protection and prevent violations or accidents must be incorporated with Supplier's work. Supplier must submit all records relating to all environmental impacts and compliance with all Environmental laws as required by regulation, Environmental Law or by KTD.
- 24.5 Supplier warrants that the Goods will be made in compliance with the Fair Labor Standards Act, as amended.
- 24.6 Seller Warrants and is held accountable that no counterfeit materials were provided as a deliverable under the terms of the purchase order issued by KTD. Furthermore any suspicious materials will be cause for rejection.

25. PASS THROUGH REQUIREMENTS

- 25.1 KTD Industries direct and indirect customers often have terms and conditions that pass through to KTD and through KTD to its suppliers. These requirements are included by reference in the PO and apply throughout the supply chain. On request, KTD will identify where referenced specifications can be obtained. KTD will not provide third-party specifications to its suppliers, or their suppliers anywhere in the supply chain.

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26. GRATUITIES AND KICKBACKS.

26.1 Supplier agrees that neither it nor any of its personnel, agents, or representatives have offered or given, or will offer or give, any gratuities or kickbacks to KTD's personnel agents, or representatives for the purpose of securing this Order or securing favorable treatment under this order.

27. ADDITIONAL MODIFICATIONS.

27.1 Supplier, upon KTD's request will enter into amendments to this Order to incorporate additional provisions herein or to change the provisions as KTD may deem reasonably necessary in order for KTD to comply with the provisions of its prime contract, or with the provisions of amendments to its prime contract. If any such amendment causes an increase or decrease in the price hereof, or the time required for the performance of this Order, and equitable adjustment will be made to such price or delivery schedule by KTD.

28. INCONSISTENT AGREEMENTS.

28.1 In the event of any conflict between the terms of another agreement or order, then the terms of this Order shall govern to the extent that such inconsistency cannot be reasonably construed as consistent.