

KAM SPECIALTIES

TERMS AND CONDITIONS OF SALE

1. CONDITIONS AND LIMITATIONS-This document, including both front and back pages, is a confirmation of the order placed by the Buyer, and constitutes the contract between Buyer and Seller for the purchase of the "goods" set forth herein. It also constitutes the original invoice and contains all of the terms of the agreement between Buyer and Seller. No other statements or representations by Seller or Seller's agents shall be binding upon Seller except as set forth in this contract. Additional or different terms in Buyer's Purchase Order or any attempt by Buyer to vary in any degree any of the terms of this acceptance shall be deemed material and are objected to and rejected.
2. ERRORS-Stenographic or clerical errors on the face hereof are subject to correction.
3. PAYMENT TERMS-Standard terms are Net 30 days from date of invoice. A service charge of 1.5% per month (18% per annum) will be assessed beyond this date.
4. WARRANTY-Seller warrants, at the time of delivery, that goods sold under this contract will be free from defects in title and will conform to applicable descriptions and specifications, subject to customary tolerances and variations. THIS WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. If it appears within 10 days from the date of Buyer's receipt of the goods that they patently did not conform to the foregoing warranty at the time they were received by Buyer, or if it appears within 60 days from their receipt that the goods contained latent defects at the time they were received, and Buyer notifies Seller in writing within the applicable 10 or 60-day period and before the goods are processed or altered in any way, Seller, at its option, shall either (a) repair or make available to Buyer a replacement of any defective goods, or (b) refund to Buyer the price paid therefore. BUYER'S EXCLUSIVE REMEDY for the failure of Seller to furnish material conforming to the aforesaid warranty is expressly limited to the repair, replacement or repayment provided for above. SELLER SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, NOR FOR ANY DAMAGES, EXPENSE OR EXPENSES BEYOND THE ACTUAL COST OR REPAIR OR REPLACEMENT OF GOODS UNDER THIS WARRANTY, OR THE PRICE PAID FOR SUCH GOODS, WHICHEVER IS LESS.
5. DELIVERY-Unless otherwise stated on the face hereof, all goods are delivered F.O.B. point of shipment. In any event, risk of loss shall pass to Buyer upon Seller's delivery to the carrier. Shipping dates are estimated, and Seller is not liable for any damage as incurred by Buyer due to delay in delivery or discrepancies in delivery.
6. FAILURE TO PAY-Upon failure of the Buyer to pay the price as set forth herein, Buyer hereby grants the Seller the right to come onto the premises of the Buyer or Buyer's purchaser and to reclaim all of the goods under this agreement. Buyer hereby grants the Seller a security interest in and to said goods as security for performance of the terms of this agreement.
7. CANCELLATIONS-An order may be cancelled by Buyer only upon written request, and written authorization by Seller, and upon payment of a reasonable cancellation fee. The reasonable cancellation fee will be determined by Seller and will reflect, among other factors, the expenses already incurred and commitments made by Seller, sales and administrative overhead, and profits.
8. LEGAL FEES-In the event that legal action be instituted to enforce the terms of this agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs including costs of collection and retaking of said items.
9. TAXES-Seller's prices do not include any federal, state or local sales, use, excise or similar taxes. Consequently, in addition to the price specified herein, the amount of any present or future sales, use, excise, or other similar tax applicable to sale of the goods hereunder, or to the use of such goods by Seller or by Buyer, shall be paid by Buyer, or in lieu thereof Buyer shall provide Seller with a tax exemption certificate acceptable to the tax authorities.
10. GOVERNING LAW-This order shall be governed by and construed in accordance with the laws of the State of Florida, exclusive of the choice of law rules thereof, and shall not be governed by the provisions of the U.S. Convention on Contracts for the international Sale of Goods, 1980.
11. STATUTE OF LIMITATIONS-Any cause of action arising from this order or its breach must be commenced within one year after the cause of action has occurred.
12. ENTIRE AGREEMENT: ASSIGNMENTS-This order, together with any documents referred to on the face hereof, constitutes the entire agreement between the parties and can only be modified by a writing signed by both parties. No part of this order may be assigned or subcontracted without the prior written approval of Seller.