

KAM SPECIALTIES

TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

This document defines the standard terms and conditions which govern the sale of Goods by KAM Specialties ("Seller") to the person or business buying such Goods ("Buyer"). Accordingly, each request for quote, order, acceptance of Goods and/or payment to Seller by Buyer shall be deemed an acknowledgment and acceptance by Buyer of these Terms and Conditions as then in effect.

2. ENTIRE AGREEMENT

Seller's provision of credit to Buyer, if any, acceptance of any purchase order and/or sale of any Goods to Buyer are all expressly conditioned upon Buyer's acceptance of these Terms and Conditions as then in effect. 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.

3. DELIVERY

Unless otherwise stated on the order, all goods are delivered F.O.B. (EXW) Seller's manufacturing facility. Risk of loss shall pass to Buyer upon Seller's delivery to the carrier. Seller does not guarantee any certain date of delivery and Seller shall not be liable to Buyer for any losses, costs, damages, charges or expenses incurred by Buyer or any other person or entity arising directly or indirectly out of a failure to deliver on any particular date, nor will any delay entitle Buyer to terminate or rescind its purchase order. Seller shall not be liable for delays or defaults arising from causes beyond its control, including acts of God, acts of war, fires, floods, strikes, freight embargoes and unusually severe weather.

4. CLAIMS AGAINST COMMON CARRIERS

Delivery of Goods to a common carrier shall constitute delivery to Buyer and upon such delivery to a common carrier, all risk of damage shall be borne by Buyer, and Buyer shall be responsible for obtaining insurance, if desired, on the Goods and/or Services while in transport. If Buyer discovers a shortage in Goods delivered or if the Goods have been damaged in transit, it is the responsibility of the Buyer to file claim with the carrier. If the Goods and/or Services were shipped F.O.B. destination, Buyer must make note of any damage or missing Goods on the shipping documents, prior to offloading the Goods from the carrier. Buyer must then notify Seller immediately, and Seller will file a claim with the carrier. Failure to comply with this Section 4 shall be deemed an express acceptance of the Goods and/or Services by Buyer in an "AS IS" condition with no right to credit, refund or any other remedy.

5. PRICE & OTHER CHARGES

The purchase price of any Goods shall be as stated on the applicable Seller order acknowledgement or accepted Buyer purchase order. Unless otherwise stated on the order acknowledgement, the Contract price does not include any transportation, duties, taxes or other charges (collectively "Additional Charges"). Buyer shall be responsible for all applicable Additional Charges.

6. VARIATIONS IN SIZE, WIDTH & LENGTH

All Goods shall be subject to tolerances and variations with usual trade practices regarding dimensions, straightness, section, composition and mechanical properties, as well as normal variations in surface and internal conditions. Goods shall also be subject to deviations from tolerances and variations consistent with practical testing and inspection methods. Thickness and diameter tolerances are typically subject to specification requirements.

Unless otherwise agreed to and acknowledged specifically; all Goods are subject to the following variations - as defined by KAM Standard dimensional tolerances

Sheet/Strip –

Standard thickness tolerance is + or - .005"

Standard cut width & length is + or – 1/8" (.125)

Plate –

Standard thickness tolerance is +0.100 and -0.010

Standard cut width & length is + or – 1/8" (.125)

Bar –

Standard diameter tolerance is + or – 0.020"

Standard cut length is + 1/8" (.125) and -0.0

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7. 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, and Buyer notifies Seller in writing within the applicable 10 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.

Buyer agrees that no oral or written representation, guaranty or warranty made by Seller, its employees, agents or representatives, other than as expressly set out in these Terms and Conditions, shall be binding on Seller.

8. INDEMNITY

To the fullest extent permitted by law, Buyer shall, at Buyer's sole cost and expense, indemnify, defend, release and hold harmless Seller, (and its officers, directors, agents and employees), from and against any and all claims, demands, lawsuits or proceedings of any kind brought or threatened against Seller based on any claim, in whole or in part, that the Goods as fabricated or manufactured by Seller in accordance with drawings, specifications or other information provided by Buyer fail to (i) be adequate for a particular purpose, (ii) comply with any product liability law, rule or regulation pertaining thereto and/or (iii) be adequate for any use to which the Goods are put after shipment by Seller to Buyer, and Buyer shall pay all costs, expenses, damages, liabilities and losses incurred by Seller, its officers, directors, agents and/or employees, as a result of any such actual or threatened claim, demand, lawsuit or proceeding, including, but not limited to, reasonable attorney's fees.

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. 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.

11. FAILURE TO PAY

Goods and/or Services sold by Seller to Buyer shall remain the property of Seller until Buyer has paid to Seller the agreed purchase price therefore (together with any accrued interest). 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

12. PAYMENT TERMS

Payment in full is due at time of delivery. Seller may issue credit to Buyer solely at Seller's discretion. If credit is extended standard terms are Net 30 days from date of invoice, unless alternate terms are mutually agreed upon. All payments are due in United States Dollars. No payment is received until the Seller has received cleared funds. Seller may charge interest on the outstanding balance at an annual rate of 18% (1.5% per month) or the highest rate allowed by law (whichever is less) until paid in full.

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13. EXPORT

If Buyer exports the Goods outside of the United States, Buyer agrees to comply with all relevant laws and regulations, including, but not limited to, those of the United States Department of Commerce and the United States Export Administration Act, so as to insure that the Goods are not exported in violation of any applicable law or regulation.

14. 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.

15. 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 Goods.

16. ENTIRE AGREEMENT: ASSIGNMENTS

The contract by and between the Buyer and Seller constitutes the entire agreement between the parties and can only be modified in writing and be signed by both parties. No part of any order may be assigned or subcontracted without the prior written approval of Seller

17. SEVERABILITY

If any provision of these Terms and Conditions shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms and Conditions, and the remaining Sections shall continue in full force and effect.