



## TERMS AND CONDITIONS OF SALE

1. **Sellers Terms and Conditions:** The terms and conditions as herein written shall supercede all previous communications, agreements or contracts, written or verbal, and no understanding, agreement, term, condition, or trade custom at variance herewith shall be binding on the Seller. No waiver or modification of the terms and conditions hereof shall be effective unless in writing and signed by both parties.
2. **Acceptance:** No purchase order shall be binding on Seller unless and until accepted in writing by an authorized employee of Seller. Any terms and conditions of Buyer's purchase order or other similar instrument, which are different from, in addition to or inconsistent with Seller's terms and conditions are expressly rejected by Seller, shall not be binding on Seller and shall not apply to this transaction, unless specifically agreed to in writing in Seller's acceptance.
3. **Terms of Payment and Interest:** Unless otherwise agreed to by Seller, terms of payment are 1 percent fifteen days, net thirty (30) days from invoice date. If Seller delivers goods to Buyer in lots, Seller may invoice Buyer for each lot. Buyer shall pay interest on all past due sums at the highest rate allowed by law. The extension of credit to Buyer notwithstanding, Seller may, in its sole discretion, require Buyer to make full payment of the purchase price prior to shipment. Seller may suspend credit and refuse shipment whenever Seller, in its sole discretion, believes Buyer's credit is unsatisfactory, unless the Buyer then makes arrangements for payment, which are satisfactory to the Seller.
4. **Taxes:** Prices do not include sales, use, excise or other similar taxes or duties. If Seller is required to pay any taxes on the goods or services furnished hereunder, then such taxes shall be paid by Buyer in addition to the prices stated.
5. **Delivery:** The Delivery date(s) is(are) Seller's best estimate(s) of the time goods will be shipped from Seller's factory. In no event shall such dates be construed as "time is of the essence." Seller disclaims liability for all loss and damage, including incidental and consequential damages, due to delays.
6. **Title and Risk of Loss or Damage:** Title and risk of loss or damage to goods furnished by Seller hereunder shall pass to Buyer F.O.B. Seller's plant.
7. **Termination:** If Buyer terminates this contract for any reason or instructs Seller to suspend performance of its obligations hereunder for a period of thirty (30) days or more, then Seller, without prejudice to any other rights available to it for breach of contract, shall be entitled to receive immediate payment of the following amounts from Buyer:
  - a. The order price for all goods or services which have been completed hereunder and not previously paid for;

- b. The actual costs of work-in-process and raw materials incurred by Seller in performing or preparing to perform its obligations hereunder;
  - c. All incidental and consequential damages sustained by Seller arising out of Buyer's termination, including lost profits
8. Inspection of Goods: Buyer may, at its sole cost and expense, inspect the goods upon delivery. The goods shall conclusively be presumed to conform to this contract unless Buyer notifies Seller in writing of any non-conformities within ten (10) days after delivery.
9. Limited Warranty: Seller warrants to Buyer and any subsequent owners that the goods covered by this contract will be free from defects in material and workmanship for a period twelve (12) months from the date of shipment from Seller's factory. This warranty does not extend to and does not cover defects caused by misuse, abuse, accident, improper installation or alteration. To make a claim under this warranty, Buyer or any subsequent owner shall promptly notify Seller's local representative or Seller within the warranty period of any defect and provide any requested substantiation. The sole and exclusive remedy of Buyer or any subsequent owner under this warranty shall be, at Seller's option, in-place repair or replacement of defective goods F.O.B. place of destination. In all cases, Seller reserves the right to fully satisfy its obligations under this limited warranty by refunding the then-current list price of the defective good.

**THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EXCEPT THAT OF TITLE, WHETHER WRITTEN, ORAL OR IMPLIED, IN FACT OR IN LAW (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE).**

**SELLER HEREBY EXCLUDES INCIDENTAL AND CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF TIME, INCONVENIENCE AND LOSS OF USE, FOR ANY BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**THE REMEDIES OF THE BUYER AND ANY SUBSEQUENT OWNER SET FORTH HEREIN ARE EXCLUSIVE AND THE LIABILITY OF SELLER WITH RESPECT TO THE GOODS SOLD HEREUNDER, WHETHER IN CONTRACT, TORT, WARRANTY, STRICT LIABILITY OR OTHER LEGAL THEORY, SHALL NOT EXCEED THE THEN-CURRENT PRICE CHARGED BY SELLER TO ITS CUSTOMERS FOR THE AFFECTED GOOD AT THE TIME THE CLAIM IS MADE.**

Inquiries regarding Seller's warranties should be sent to:

Krueger  
1401 N. Plano Rd.  
Richardson, TX 75081

10. Subcontract: Seller reserves the right to subcontract any part of this work.
  
11. Returned Goods: Buyer shall obtain Seller's written permission prior to returning any goods to Seller. Unless otherwise agreed to in writing, Buyer shall bear all shipping costs and expenses in connection with the return of goods. Seller reserves the right to charge Buyer a restocking fee plus other amounts incurred by Seller on account of reworking the goods or replacing parts.
  
12. Compliance with Laws: Seller agrees to comply with all federal, state and local laws, orders, rules, regulations and ordinances which may be applicable to Seller's performance of its obligations under this order, including the Equal Opportunity Clauses as set forth in Section 202 of Executive Order 11246 (41 CFR § 60-1.4), as amended, Section 503 (41 CFR § 60-741.4) of the Rehabilitation Act of 1973, as amended, and Section 402 (41 CFR § 60-250.4) of the Vietnam Era Veterans Readjustment Act of 1974, as amended.
  
13. Governing Law: This order shall be construed and considered as a contract made and to be performed in the State of Texas.
  
14. Severability: If any term of this contract is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such statute, regulation, ordinance, order of rule, and the remaining provisions of this contract shall remain in full force and effect.
  
14. Entire Agreement: This contract, together with the attachments, exhibits, or supplements, specifically referenced herein, if any, constitutes the entire agreement between Seller and Buyer with respect to the matter contained herein and supersedes all prior oral or written representations and agreements.