

TERMS AND CONDITIONS OF SALE

Introduction. Kuhns Mold and Tool Co., Inc. is herein referred to as "Seller" and the customer or person or entity purchasing goods or services (hereinafter collectively referred to as "Goods") is referred to as the "Buyer". These Terms and Conditions, any price list or schedule, quotation, acknowledgment or invoice from Seller relevant to the sale of the Goods and all documents incorporated by specific reference herein or therein, constitute the complete and exclusive statement of the terms of the agreement governing the sale of Goods by Seller to Buyer. Buyer's acceptance of the Goods will manifest Buyer's assent to these terms and conditions without variation or addition. Any different or additional terms in Buyer's purchase order or other Buyer documents are hereby objected to. Seller reserves the right in its sole discretion to refuse orders.

Prices. Unless a fixed price is quoted, prices are subject to change without notice and the prices invoiced will be those in effect at the time of shipment.

Taxes. Any current or future tax or any charge of any nature imposed by any governmental or taxing authority which shall be or become payable by reason of the production, transportation, sale, storage, processing use, consumption or delivery of any of the Goods sold or licensed to Buyer, other than taxes based on Seller's net income or profit shall be for Buyer's account and if paid by or levied or assessed against Seller, shall either be added to the price of the Goods or billed to Buyer separately as Seller may elect.

Terms of Payment. Unless otherwise specified by Seller, terms are net thirty (30) days from the date of Seller's invoice in U.S. currency. Seller shall have the right, among other remedies, either to terminate this agreement or to suspend further performance under this and/or other agreements with the Buyer in the event Buyer fails to make any payment when due, which other agreements Buyer and Seller hereby accept and agree to. Seller otherwise deems itself insecure. Buyer shall be liable for all expenses, including attorney's fees, relating to the collection of past due amounts. If any payment owed to Seller is not paid when due, it shall bear interest at a rate to be determined by Seller, which shall not exceed the maximum rate permitted by law, from the date on which it is due until it is paid. Should Buyer's financial condition become unsatisfactory to Seller, cash payments or security satisfactory to Seller may be required by Seller for future deliveries and for the Goods theretofore delivered. If such cash payment or security is not provided, in addition to Seller's other rights and remedies, Seller may discontinue deliveries. Buyer hereby grants Seller a security interest in all Goods sold to Buyer by Seller, which security interest shall continue until such Goods are fully paid for in cash, and Buyer, upon Seller's demand, will execute and deliver to Seller such instruments as Seller requests to protect and perfect such security interest.

Shipment and Delivery. Unless otherwise expressly provided, shipments are made F.O.B. Seller's plant of origin. Risk of loss or damage and responsibility shall pass from Seller to Buyer upon delivery to and receipt by carriers. Any claims for shortages or damages suffered in transit are the responsibility of Buyer and shall be submitted by the Buyer directly to the carrier. Shortages or damages must be acknowledged and signed for at the time of delivery. While Seller will use all reasonable commercial efforts to maintain the delivery date(s) acknowledged or quoted by Seller, all shipping dates are approximate and not guaranteed. Seller reserves the right to make partial shipments. Seller, at its option, shall not be bound to tender delivery of any Goods for which Buyer has not provided shipping instructions. If Seller is to pay freight, Seller shall have the right to designate routing and means of transportation; and if Buyer requires a more expensive routing and/or means, Buyer will pay any extra cost involved. If the shipment of the Goods is postponed or delayed by Buyer for any reason, Buyer agrees to reimburse Seller for any and all handling and storage costs and other additional expenses resulting therefrom. All claims for shipping errors, lost shipments or any other discrepancies must be made within ninety (90) days or they will be disallowed and deemed waived.

Limited Warranty. Subject to the limitations of Sections 6, 7 and 8, Seller warrants, to its direct purchasers and no others, that the Goods purchased hereunder will be free from defects in material and workmanship under normal use and regular service and maintenance for a period of 12 months from the date the Goods are placed in service. This warranty only applies when such defect appears in Seller Goods within twelve months from the date such Goods are placed in service and which are returned to and received by Seller, within twenty months from the date of manufacture by Seller.

This warranty shall not apply to any Goods that: (i) have been repaired or altered outside Seller's factory by other than Seller in any manner so as to, in Seller's judgment, affect its serviceability or proper operation; (ii) have been subjected by persons other than Seller to improper handling, operation, maintenance, repair or alteration; or (iii) have been subjected to misuse, negligence, improper installation or accident.

Any claim made pursuant to this warranty shall be conditioned upon Seller's inspection of the Goods upon which the claim is made and Seller's determination that there was a defect covered by this warranty. Seller's obligation under this warranty, and the Buyer's exclusive remedy for the breach thereof, shall be limited to, at Seller's option, repair or replacement of any allegedly defective Goods, issuance of credit or return of the purchase price, excluding the cost of labor and any other expenses incurred in servicing the unit on which the Goods are installed. Seller requires the return of any allegedly defective Goods, in accordance with Seller's directions, before honoring any claim.

Goods replaced pursuant to this warranty shall be warranted for the unexpired portion of the warranty applying to the original Goods. Any technical advice furnished before or after delivery in regard to the use or application of Seller's products is furnished without charge and on the basis that it represents Seller's best judgment under the circumstances, but that such advice given or results obtained shall be deemed used at the recipient's sole risk.

Goods purchased by Seller from a third party for resale to Buyer, including, without limitation, all molds and tools, shall carry only the warranty extended by the original manufacturer.

SOLE WARRANTY. THE WARRANTY IN THE GOING SECTION 5 CONSTITUTES SELLER'S SOLE WARRANTY RESPONSIBILITY AND BUYER'S EXCLUSIVE REMEDY WHETHER SOUNDING IN TORT, CONTRACT, STRICT LIABILITY OR OTHERWISE, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT. SELLER MAKES NO WARRANTY OF MERCHANTABILITY AND NO WARRANTY OF FITNESS FOR ANY PARTICULAR PURPOSE, NOR DOES SELLER MAKE ANY OTHER WARRANTY, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER WITH RESPECT TO GOODS SOLD OR LICENSED BY SELLER OR THE USE THEREOF EXCEPT AS IS SPECIFICALLY SET FORTH HEREIN. EVEN THOUGH SELLER MAY HAVE BEEN NEGLIGENT, EXCEPT FOR THE REMEDY PROVIDED FOR IN SECTION 5 ABOVE, SELLER SHALL IN NO EVENT BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY CHARACTER IN CONNECTION WITH THE SALE, RESALE, LICENSE OR USE OF THE GOODS. SELLER MAKES NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, TO "CONSUMERS" AS THAT TERM IS DEFINED IN SEC. 101 OF PUBLIC LAW 93.637, THE MAGNUSON-MOSS WARRANTY FEDERAL TRADE COMMISSION IMPROVEMENT ACT.

LIMITATION OF REMEDY. THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY HEREUNDER (OTHER THAN THE WARRANTY PROVIDED UNDER SECTION 9) SHALL BE LIMITED TO REPAIR, REPLACEMENT, CREDIT OR RETURN OF PURCHASE PRICE UNDER SECTION 5.

LIMITATION OF LIABILITY. SELLER SHALL NOT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE REGARDLESS OF THE FORM OF THE CLAIM OR ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, OTHER TORT OR OTHERWISE), AND IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS BUYERS EXCEED THE PRICE PAID BY BUYER FOR THE SPECIFIC GOODS OR PORTION OF THE GOODS PROVIDED BY SELLER GIVING RISE TO THE CLAIM OR CAUSE OF ACTION, AND BUYER SHALL INDEMNIFY SELLER FOR ANY DAMAGES IN EXCESS THEREOF. BUYER AGREES THAT, WITH THE EXCEPTION OF THE REPAIR, REPLACEMENT, CREDIT OR RETURN OF THE PURCHASE PRICE REMEDY UNDER SECTION 5, IN NO EVENT SHALL SELLER'S LIABILITY TO BUYER AND/OR ITS BUYERS BE EXTENDED TO INCLUDE DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, WHICH ARE WAIVED BY BUYER AND AS TO WHICH BUYER SHALL INDEMNIFY SELLER.

The term "consequential damages" shall include, but not be limited to, loss of anticipated profits, business interruption, loss of use of revenue, cost of capital, loss or damage to property or equipment, or loss of reputation. Further, Buyer shall indemnify and hold Seller harmless from any liability to Buyer, Buyer's employees, workers, contractors or any other persons arising out of Buyer's, or any other persons', use of the Goods. It is further expected that all instructions and warnings supplied by Seller will be passed on to those persons who use the Goods. Seller's Goods are to be used in their recommended applications and all warning labels adhered to the Goods by Seller are to be left intact.

Patents and Copyrights. Subject to the limitations set forth herein and in Section 7 and 8, Seller warrants that the Goods sold, except those Goods made pursuant to Buyer's drawings or specifications or otherwise at Buyer's direction ("Custom Goods"), do not infringe any valid U.S. patent or copyright, as the case may be, in existence as of the date of shipment. This warranty is given upon the condition that Buyer promptly notify Seller of any claim or suit involving Buyer in which such infringement is alleged and that Buyer cooperate fully with Seller and permit Seller to control completely the defense, settlement or compromise of any such allegation of infringement. Seller's warranty only applies to infringements

arising solely out of the inherent operation, according to Seller's specifications and instructions, of such Goods. In the event such Goods are found to infringe such a U.S. patent or copyright in such suit, and the use of such Goods is enjoined, or in the case of a compromise or settlement by Seller, Seller shall have the right, at its option and expense, to procure for Buyer the right to continue using such Goods, or replace them with non-infringing Goods, or modify same to become non-infringing, or grant Buyer a credit for the purchase price less 20% for each year or fraction thereof since it was shipped to Buyer and the transportation and installation costs thereof upon their return to Seller. In the event of the foregoing, Seller may also, at its option, cancel this agreement as to future deliveries of such Goods, without liability to Buyer, agrees to indemnify and save Seller harmless from any and all claims for profits and damages resulting from any suit or proceedings for infringement of any patent or copyright based upon the manufacture, sale or use of any Goods or any part thereof, in combination or assembly with machinery or apparatus not furnished under this agreement. The foregoing states the entire respective liabilities of Seller and Buyer for patent or copyright infringement by said apparatus or any part thereof and for combination or assemblies employing the same.

Contingencies. Seller shall not be held responsible for or be liable for any nonperformance or any default or delay in performance if caused, directly or indirectly, by acts of God, war, fire, the elements, riot, civil commotion, strikes, lock-outs, slow downs, picketing or other labor controversies, accidents, delay or default of or failure by carriers, shortages of labor, delay in obtaining or inability to obtain materials, equipment or parts from regular sources, action, request or regulation of or by any government or governmental authority, failure of any party to perform any contract with Seller, the performance of which is required for production of the Goods, or any other happening or contingency beyond Seller's reasonable control, or without Seller's fault, whether similar or dissimilar to the foregoing. Deliveries or other performance may be suspended for an appropriate period of time or canceled by Seller upon notice to Buyer in the event of the foregoing, but the balance of this agreement shall otherwise remain unaffected.

If Seller determined that its ability to supply the total demand for the Goods, or to obtain material used directly or indirectly in the manufacture of the Goods, is hindered, limited or made impracticable due to causes set forth herein, Seller may allocate its available supply of the Goods or such material (without obligation to acquire other supplies of any such Goods or materials) among itself and its purchasers of licensees on such basis as Seller determines to be equitable without liability for any failure of performance which may result therefrom.

Cancellation. Buyer may cancel orders only upon reasonable advance written notice and upon payment to Seller of Seller's cancellation charges which include, among other things, all costs and expenses incurred to cover commitments made by the Seller and a reasonable profit. Seller's determination of such termination charges shall be conclusive.

Changes. Buyer may request changes or additions to the Goods consistent with Seller's specifications and criteria. In the event such changes or additions are accepted by Seller, Seller may revise the price(s), license fee(s) and date(s) of delivery. Seller reserves the right to change designs and specifications for standard Goods without prior notice to Buyer, but not with respect to Custom Goods being made for Buyer. Seller shall have no obligation to install or make such change in any Goods manufactured prior to the date of such change.

Assignment. Buyer shall not assign its rights or delegate its duties hereunder or any interest herein without the prior written consent of the Seller, and any such assignment, without such consent, shall be void.

Examination - Suitability - Claims. Buyer agrees to examine and test each shipment of Goods promptly on arrival, before any part of the Goods (except for reasonable test quantities) has been changed from its original condition and in no event later than thirty (30) days from the date of receipt of the Goods. Seller will not recognize any claims for any cause after the Goods have been treated, processed, or changed in any manner (except for reasonable test quantities). It is Buyer's responsibility to determine whether the Goods are suitable for their contemplated use whether or not such use is known to Seller. Buyer shall deliver to Seller within fifteen (15) days of inspection, but in no event later than thirty (30) days from the date of receipt of the Goods, written notice of any and all deficiencies, defects, variations from specifications or complaints of any kind with respect to the quantity, quality, condition, shipment, performance, price or appearance of the Goods so received by Buyer. In the event no such written notice is received by Seller, Buyer shall be deemed conclusively to have inspected and accepted all such Goods unconditionally and to have waived any and all rights and claims, including without limitation any right to reject the Goods or to claim damages in respect thereof. Buyer may not return Goods without first advising Seller of the reasons therefor, obtaining from Seller a material authorization number and observing such instructions as Seller may give in authorizing such return. Buyer, at its option, may inspect and observe the testing by Seller of the Goods for compliance with Seller's standard test procedures prior to shipment, which inspection and testing shall be conducted at Seller's plant at such reasonable time as is specified by Seller. Any alleged rejection of the Goods at Seller's plant must be made promptly by Buyer before shipment. Tests shall be deemed to be satisfactorily completed and the test fully met when the Goods meet Seller's criteria for such procedures.

Goods. The purchase of Goods from Seller confers no license, express or implied, under any patents, copyrights, know-how or technology, except in the case of wholesalers for resale to their customers and for original equipment manufacturers for use in their products.

Orders. Orders are not binding on Seller until accepted in writing by an authorized employee of Seller.

Drawings. Seller's prints and drawings (including without limitation, the underlying technology) furnished by Seller to Buyer in connection with this agreement are the property of Seller and Seller retains all rights, including, without limitation, exclusive rights of use, licensing and sale of same. Possession of such prints or drawings does not convey to Buyer any rights therein or license thereto. Upon termination of this agreement, or at any time upon Seller's request, all such prints and drawings, and any copies or duplications of same, shall be immediately returned to Seller.

Tooling. Tool, die and pattern charges, if any, are in addition to the price of the Goods and are due and payable upon completion. All such tools, dies and patterns shall be and remain the property of Seller, unless otherwise agreed to in writing by Seller. Charges for tools, dies and patterns do not constitute to Buyer title or ownership interest, or rights to possession or removal, or prevent their use by Seller for other purchasers, except as otherwise expressly provided by Seller and Buyer in writing with reference to this provision.

Documentation. Seller shall provide Buyer with that data/documentation which is specifically identified in Seller's quotation. If additional copies of data/documentation are to be provided by Seller, it shall be provided to Buyer at Seller's applicable prices then in effect.

Services. If this agreement requires Seller to perform or provide any services hereunder, Seller (including without limitation its successors, assigns, agents or any person or entity acting at Seller's direction) shall not be responsible for any damages, claims, liabilities or expenses of any nature arising out of such services.

Confidentiality. Unless otherwise agreed to in writing between Seller and Buyer, Seller (including without limitation its successors, assigns, agents or any person or entity acting at Seller's direction) shall not be responsible for keeping confidential any specifications, drawings, designs, manufacturing data or other information of any nature provided by Buyer hereunder and further, Seller shall not be liable for any damages, costs or expenses of any nature arising out of any dissemination of such documents or information.

U.S. Export Control Regulations. All Goods sold to Buyer by Seller hereunder are subject to U.S. Export Control Laws. Buyer hereby agrees not to re-sell or divert any Goods contrary to such laws.

Non-Waiver. No waiver by Seller with respect to any breach or default of any right or remedy and no course of dealing shall be deemed to constitute a continuing waiver of any other breach or default of any other right or remedy, unless such waiver be expressed in writing and signed by Seller.

Severability. Any word, phrase, clause, sentence, or other provision hereof which violates or is prohibited by any applicable law, court decree or public policy shall be ineffective to the extent of such violation or prohibition without invalidating or affecting the remaining provisions hereof.

Miscellaneous. These terms and conditions supersede all other communications, negotiations and prior oral or written statements regarding the subject matter of these terms and conditions. No change, modification, rescission, discharge, abandonment, or waiver of these terms and conditions shall be binding upon Seller unless made in writing and signed on its behalf by its duly authorized representative. No conditions, usage or trade, course of dealing or performance, understanding or agreement purporting to modify, vary, explain, or supplement these terms and conditions shall be binding unless hereafter made in writing and signed by Seller. No modification shall be affected by the Seller's receipt or acceptance of Buyer's purchase orders, shipping instruction forms, or other documentation containing terms at variance with or in addition to those set forth herein, all of which are objected to by Seller. All typographical or clerical errors made by Seller in any quotation, acknowledgment or publication are subject of correction. The validity, performance, and all other matters

relating to the interpretation and effect of this agreement shall be governed by the laws of the State of Ohio without regard to its conflict of law principles. Buyer and Seller agree that the proper venue for all actions arising in connection herewith shall be deemed exclusively proper only in state court in Montgomery County, Ohio or in the federal court for the Southern District of Ohio, Southwest Division and the parties agree to submit to such jurisdiction. Any action, regardless of form, arising out of transactions relating to this contract or any other theory of recovery shall be brought within one year of the date of tender of delivery of the applicable Goods except that any action by Seller for payment hereunder may be brought within five years of the date of delivery of the applicable Goods.