

KSO METALFAB INC.
THE FOLLOWING CONDITIONS GOVERN THE ACCEPTANCE OF THIS ORDER

- 1. Offer and Acceptance:** This Purchase Order, including these terms and conditions, supersedes all other agreements, oral or written and all other Communications between the parties suggesting additional or different terms, and represents the final and complete understanding of the parties. This Order expressly limits acceptance to these terms, and any proposal for additional or different terms, or any attempt by Seller to vary any of the terms hereof, is hereby objected to and rejected, this offer being expressly limited to the terms hereof. No terms of any document or forms submitted by Seller shall be effective to alter or add to the terms and conditions contained in this Order.
- 2. Shipping Instructions:** Invoices in duplicate and shipping documents for each shipment on this order must be mailed to Buyer's accounting department not later than one day following shipment. Goods received not covered by an invoice will be held at Seller's risk and expense. Shipment must contain packing list giving description of material, quantity and Purchase Order number. Buyer's count shall be accepted as final on all shipments not accompanied by packing list.
- 3. Title and Risk of Loss Passed to Buyer:** Upon delivery to Buyer at Buyer's location in Streamwood, Illinois.
- 4. Price:** Offer is valid only at stated price (or lowest prevailing market value).
- 5. Taxes:** Any applicable sales, use or Federal excise tax shall be shown separately on the invoice.
- 6. Delivery Date:** Time is of the essence and if delivery of items or rendering of services is not completed by the time promised, the Buyer reserves the right, without liability in addition to its other rights and remedies, to terminate this contract by notice effective when received by Seller, as to stated items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge the Seller with any loss incurred. Any provisions herein for delivery of articles or the rendering of services by installments shall not be construed as making the obligations of Seller severable.
- 7. Warranties:** Seller represents and warrants to Buyer that, in addition to all warranties implied by law, all products, goods and services covered by this Order: (a) conform to all of Buyer's specifications, drawings, descriptions, data and samples; (b) conform to all of the specifications, drawings, descriptions, data, and samples provided by Seller to Buyer; (c) are free from defects in design, workmanship and materials; (d) are fit for the use intended by Buyer; (e) Comply with all industry standards and guidelines identified by Buyer; (f) comply with all applicable federal, state and local laws, orders, ordinances, regulations, and standards; and (g) do not infringe or encroach upon Buyer's or any third-party's personal, contractual or proprietary rights, including, without limitation, patents, trademarks, trade names, copyrights, rights of privacy, or trade secrets. All electrical components must be UL and CSA approved.
- 8. Seller's Indemnification of Buyer:** (a) Seller agrees to indemnify, hold harmless and defend Buyer, its parent, subsidiaries and affiliated companies, employees, officers, directors, and agents and each of their predecessors, successors, and assigns, as well as the buyers, and users of its goods, against all lawsuits, damages, losses, claims, liabilities, fines, judgments, settlements or penalties, including all attorney's fees and litigation costs, for i) claims arising from, relating to, or in connection with, the infringement of patents, (whether U.S. or foreign), copyrights, trademarks, misappropriation of trade secrets and unfair competition, ii) claims for personal injury, property damage or other damage arising out of, relating to, or in connection with, the use, possession, consumption, manufacture, fabrication or sale of the goods sold by Seller to Buyer, and iii) damages or expenses arising from, relating to, or in connection with, Seller's failure to comply with all of the terms of this Order or other agreements between Buyer and Seller.
(b) Seller further agrees to indemnify, hold harmless and defend Buyer, its parent, subsidiaries and affiliated companies, employees, officers, directors and agents and each of their predecessors, successors, and assigns, against all lawsuits, damages, losses, expenses, claims, liabilities, fines, judgments, settlements or penalties, whether direct, consequential or otherwise, including all attorney's fees and litigation costs, arising from, relating to, or in connection with, Seller's breach of any of the warranties expressed herein, or any warranties implied by law.
(c) Seller agrees to obtain adequate liability insurance to cover these liabilities and to provide a certificate evidencing this insurance annually to Buyer.
- 9. Buyer Information:** BUYER MAKES NO WARRANTY WITH RESPECT TO INFORMATION PROVIDED BY BUYER TO SELLER OR WITH RESPECT TO THE ACCURACY OR COMPLETENESS THEREOF. BUYER IS PROVIDING ANY INFORMATION ON AN "AS IS" BASIS. ANY IMPLIED WARRANTIES THAT MAY EXIST WITH RESPECT TO ANY INFORMATION PROVIDED BY BUYER, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED. Seller acknowledges and agrees that any sales forecasts, quantity, purchase estimates, or similar projections received from Buyer are not purchase commitments of Buyer, but rather represent estimates for planning purposes only, and that Buyer has no obligation to purchase or otherwise compensate the Seller for any of Seller's finished products, or unfinished raw materials, not covered by an Order issued by Buyer.
- 10. Termination:** The Buyer may terminate work on this order for its own convenience in whole or in part by written notice at any time. In that event, any claim arising out of such termination shall be settled by negotiation on the basis of the Seller's costs and commitments properly incurred or made with due allowance for salvage value.
- 11. Buyer's Property:** All tools, gauges, dies, fixtures and patterns furnished by the Buyer, or which the Buyer specifically authorizes the Seller to acquire for work on this order, shall be the property of the Buyer. They shall be listed and maintained in suitable condition to do the work, by and at the expense of the Seller, and returned to the Buyer at any time upon request, F.O.B. Seller's plant. Seller shall maintain adequate insurance on the above and furnish a certificate of insurance to Buyer if Buyer so requests.
- 12. Compliance with Law:** Seller shall comply with all laws, orders, regulations, ordinances, local laws, proclamations, demands, requisitions and directives of the Federal Government or of any state, political subdivision, or any authority or representative thereof which may now or hereafter relate to manufacture, sale or delivery, or use of the items covered by this Purchase Order or dissemination of information in connection herewith.
- 13. Waiver of Compliance:** Any waiver of strict compliance with the provisions of this order shall not be deemed a waiver of the Buyer's right to insist upon strict compliance thereafter.
- 14. Assignment:** Neither this order nor any duty under it shall be delegated or assigned without the prior written consent of the Buyer. If any right arising from this order is assigned, payment to an assignee by Buyer shall be subject to set off or recoupment for any present or future claim or claims which Buyer may have against Seller. Buyer reserves the right to make direct settlements and/or adjustments in price with Seller under the terms of this order Notwithstanding any assignment of claims for monies due or to become due hereunder and without notice to the assignee.
- 15. Applicable Law and Venue:** This Order and all other aspects of the relationship between Seller and Buyer, shall be construed and governed according to the laws of the State of Illinois. Seller agrees that any litigation relating to this Order or which otherwise arises directly or indirectly out of or in connection with that business relationship or any transaction of any nature between Buyer and Seller shall only be commenced in the courts of the State of Illinois or the United States District Court for the Northern District of Illinois. Seller hereby consents to subject itself to personal jurisdiction in the State of Illinois.