

NSK AMERICAS INC TERMS AND CONDITIONS OF SALE

- 1) These Terms and Conditions (as may be amended from time to time as set forth herein, the "Terms") govern all offers to sell, quotations to sell, and sales of products (the "Products") by Seller to Buyer regardless of whether Buyer seeks to purchase or purchases the Products through the medium of written or electronic requests for quotation, purchase orders, releases, EDI, or by telephone order confirmed in writing by Seller (in each case, the "Purchase Order"). Quotations to sell are only valid in writing and for 30 days from the date of the quotation unless otherwise agreed to by Seller in writing; provided, however, Seller may and reserves the right to change or cancel any quotations prior to Buyer's acceptance. Quotations are made subject to approval by Seller of Buyer's credit.
- 2) All sales of Products by Seller to Buyer must be made pursuant to, and are expressly conditioned on Buyer's assent, to the exact terms and conditions that appear in these Terms. Any proposal for or submission of additional or different terms or conditions or any attempt by Buyer to vary any of these Terms (through the submission of a Purchase Order or otherwise) shall be deemed a material alteration of these Terms and is hereby objected to and rejected by Seller; provided, however, that any such proposal or attempted variance shall not operate as a rejection of these Terms by Buyer, and these Terms shall be deemed accepted by Buyer without the additional or different terms. If these Terms are deemed an acceptance of a prior offer by Buyer, the acceptance is expressly made conditional on Buyer's assent to the additional and different terms as they appear in these Terms and such acceptance is limited to the express terms set forth in these Terms. Without limiting the generality of any other provision of this paragraph, Seller agrees that Buyer may use its own form of Purchase Order to order Seller's Products, but none of the terms and conditions contained in such Purchase Order shall apply to the transaction between Buyer and Seller other than the quantity and part number(s) specified in such Purchase Order.
- 3) These Terms are the complete and final agreement between Seller and Buyer and supersede all prior negotiations, proposals, representations, commitments, understandings, sales quotations, offers to sell, or agreements between Seller and Buyer, either written or oral, on this subject. Any other representations or warranties made by any person, including employees or other agents of Seller that are inconsistent with these Terms are not binding upon Seller. References herein to "including" shall be deemed to be followed by the phrase "without limitation," "but not limited to" or some similar provision.
- 4) Each Purchase Order shall be subject to approval and acceptance by Seller in the form of a written order acknowledgement or acceptance, by commencement of performance by Seller, or by shipment of conforming goods. Once accepted by Seller, a Purchase Order constitutes a firm commitment of Buyer and Buyer may not terminate, alter, cancel or reschedule such Purchase Order without the prior written consent of Seller. Prior to acceptance, Seller reserves the right at any time after receipt of a Purchase Order to decline such Purchase Order for any reason or to condition its acceptance of such Purchase Order upon its receipt of additional information from Buyer.
- 5) Except for quantities to which Seller has committed to supply to Buyer pursuant to a firm commitment, Seller, without incurring any obligation or liability whatsoever, may at any time (i) discontinue the manufacturing and/or sale of any Product and/or (ii) make design or engineering changes in any Product and in any of Seller's processes and methods of manufacturing.
- 6) All price quotations from Seller are based on the price prevailing at the time such quotation is submitted. When samples are submitted, the quotation will be based on the samples. Price quotations are indicative only and cannot be made binding by submission of a Purchase Order. Seller reserves the right to increase prices after the issuance of a quotation (including, but not limited to, to reflect any increase in costs to Seller and/or any change in delivery dates, quantities, or Product specifications). All Purchase Orders will be billed by Seller at prices prevailing at the time of shipment. SELLER WILL, IN GOOD FAITH, ESTABLISH THE PRICE FOR EACH SHIPMENT OF PRODUCTS HEREUNDER IN ACCORDANCE WITH ITS PRICE LIST AS APPLICABLE AT THE DATE OF SHIPMENT, PROVIDED, HOWEVER, THAT SELLER MAY SURCHARGE BUYER ABOVE THE LIST PRICE IN THE EVENT OF UNANTICIPATED INCREASES IN SELLER'S COSTS. BUYER WILL PAY THE PRICE SO ESTABLISHED FOR EACH SHIPMENT. Stenographic and clerical errors are subject to correction by Seller. Unless otherwise agreed upon by the parties, the amount of any applicable present or future tax and/or other foreign and/or federal, and/or state, and/or municipal charge upon the production, sale, shipment or use of Products supplied by Seller shall be added to prices quoted and charged and shall be paid by Buyer.
- 7) ANY DELIVERY OR SHIPMENT DATES PROVIDED TO BUYER ARE ESTIMATED DATES ONLY, AND SUCH ESTIMATED DATES MAY BE MODIFIED FROM TIME TO TIME AT THE DISCRETION OF SELLER. Seller shall not be liable or responsible for delay or failure to perform any of Seller's obligations under these Terms to make delivery of the Products occasioned by (i) any cause beyond its reasonable control, including, but not limited to, a labor dispute, industry disturbance, fires, unusually severe weather conditions, earthquakes, floods, declared or undeclared war, epidemics, computer malfunctions, civil unrest, riots, lack of supplies, delay in transportation, governmental, regulatory or legal action, act of God, or (ii) by acts or omissions of Buyer, including, but not limited to, Buyer's failure to promptly comply with the terms of payment under any invoice (collectively, the "Excusable Delays"). The date of delivery shall be extended for a period equal to the time lost by reason of any of the Excusable Delays.
- 8) Each shipment in partial fulfillment of a Purchase Order shall be deemed to be a separate and independent contract as to the Products sold. Buyer may not refuse to accept any lot or portion of the Products shipped hereunder on the ground that there has been a failure to deliver any other lot or that Products in any other lot were nonconforming.
- 9) Buyer hereby agrees to the terms of payment contained in each invoice sent by Seller to Buyer or otherwise provided in writing by Seller to Buyer. Any such terms of payment are effective from the actual date of invoice. If Buyer fails to fulfill the terms of payment of any invoice or if the financial responsibility of the Buyer becomes impaired or unsatisfactory to Seller, Seller reserves the right to charge any or additional interest or late fees, change the terms of payment and/or defer or discontinue further shipments until past due payments are made and satisfactory assurances of Buyer's credit standing are received, without prejudice to any other lawful remedy. Buyer expressly agrees to waive any pre-bankruptcy petition claim of preferential payments Buyer may have as an additional consideration for the payment terms extended under this or any prior or subsequent agreement. Buyer shall not have any right of set off.
- 10) All Products delivered by Seller shall be inspected upon tender to Buyer. Buyer's failure to make a written claim for shortages or defective Products on or before the day that is ten (10) days from and including the day on which Seller tenders such Products to Buyer shall constitute a waiver of Buyer's right to inspect such Products and shall constitute Buyer's acceptance of such Products and agreement that such Products constitute "conforming goods" (as such term is defined in the Uniform Commercial Code as enacted in the State of Michigan (the "Code")) and are otherwise in conformity with these Terms. In no event may Product be returned to Seller without Seller's prior written consent.
- 11) If Buyer accepts Products under these Terms, Buyer's acceptance shall be final and irrevocable. If Buyer wrongfully revokes or rejects acceptance of Products tendered under these Terms, or fails to make a payment due on or before delivery, or repudiates these Terms, Seller shall have the right, in addition to all other rights and remedies that may be available to Seller, to recover any and all damages and losses incurred by Seller in connection with any of the foregoing including, but not limited to, the greater of (i) the purchase price for such Products as stated in the applicable invoice and (ii) Seller's then prevailing price for such Products, plus any incidental damages as defined by Code Section 2-710 or any successor statute thereto and any and all other damages and losses incurred by Seller or to which Seller may be entitled.
- 12) Unless otherwise agreed to in writing by Seller and Buyer, all Products are sold F.O.B. Seller's shipping point. All Products will be packaged as Seller deems proper for protection against normal handling, and extra charges may be made for special conditions. All expenses and risks of loss or any damages incurred in the transportation of the goods, including any risks of loss in loading or unloading, shall be borne solely by Buyer. Buyer must make all claims for loss, damage, or delay against the carrier.
- 13) THE RISK OF LOSS UNDER THESE TERMS SHALL PASS TO THE BUYER IMMEDIATELY UPON TENDER BY SELLER AT THE POINT OF SHIPMENT, DEFINED AS SELLER'S DOCK. If the Products covered by these Terms are destroyed prior to the time risk of loss passes to Buyer, Seller shall be excused from performing its obligations hereunder. This provision shall apply whether or not the Products are destroyed through the negligence of Seller.
- 14) In order to secure payment in full for the purchase price of the Products and other amounts due, Buyer hereby grants to Seller a first lien on, and security interest in, Buyer's right, title and interest in and to the Products and all products, replacements and proceeds thereof together with all insurance proceeds with respect thereto (the "Collateral"). Buyer and Seller each acknowledges and agrees that Buyer's obligation has been incurred as all or part of the price of the Collateral and that the security interest of Seller shall constitute a "purchase-money" security interest. It is intended that this provision shall constitute a security agreement under the Code and Seller shall be entitled to all rights and protections afforded to a secured party under the Code. Buyer hereby grants to Seller a power of attorney with full power of substitution to execute on behalf of Buyer such UCC-1 Financing Statements or local filings as may be necessary or appropriate to perfect Seller's security interest in the Products and agrees to do any other acts necessary or appropriate to perfect and maintain such security interest. Seller agrees that its security interest hereunder shall be automatically released and discharged in full, without further action on the part of either party, upon the payment in full of the purchase price of the Products and related charges or amounts due. Any security interest retained by Seller under these Terms shall not render the Seller otherwise responsible for the Collateral. The Collateral shall be the responsibility of Buyer.
- 15) Subject to the limitations in these Terms and except as may be otherwise provided in a separate written warranty agreement signed by Seller and Buyer (a "Separate Warranty Agreement"), Seller warrants to Buyer that the Products will conform with specifications agreed to by Seller and Buyer in writing and be free from defects in material and workmanship, in each case, for a period of one year from the date of delivery. A warranty replacement or repair of a claimed defective Product shall not have the effect of extending this warranty period. The warranty is valid only if Buyer notifies Seller in writing within 30 days from discovery of any alleged nonconformity and the Products are returned to Seller for inspection and testing under a valid return authorization request. Buyer acknowledges and agrees that no salesman, officer, agent or other representative of Seller is authorized to make any representation or extend any warranty contrary or in addition to that set forth in this Section 15, and that any attempt to do so shall not be binding upon Seller. Seller is not responsible for any errors or omissions or for any loss or damage resulting from reliance on catalogues, brochures, price lists or other information provided to Buyer from Seller, including, but not limited to, descriptions, shipping specifications, technical advice, illustrations, representations as to quality or capabilities (whether oral or in writing), or any other information unless otherwise set forth in these Terms. In no event or circumstance will anyone other than the Buyer be considered to have any right, title or interest to assert any rights under this warranty. If there is a Separate Warranty Agreement between Buyer and Seller and there is any conflict between the provisions of these Terms and the Separate Warranty Agreement, the provisions of the Separate Warranty Agreement shall govern.
- 16) OTHER THAN AS EXPRESSLY STATED IN SECTION 15 ABOVE, SELLER DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND (WHETHER ARISING BY IMPLICATION OR BY OPERATION OF LAW) WITH RESPECT TO THE PRODUCTS, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY OTHER MATTER. BUYER'S SOLE AND EXCLUSIVE REMEDY, AND SELLER'S SOLE AND EXCLUSIVE OBLIGATION OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, FOR NEGLIGENCE), WITH RESPECT TO THE PRODUCTS IS EXPRESSLY LIMITED TO REPAIR OR REPLACEMENT, AT SELLER'S OPTION, OF PRODUCTS. ALL ACTIONS FOR A CLAIMED BREACH OF THIS WARRANTY MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE DATE OF DELIVERY OF THE PRODUCT. NOTWITHSTANDING ANYTHING ELSE IN THESE TERMS, SELLER WILL NOT BE OBLIGATED IN ANY EVENT UNDER THIS WARRANTY (I) FOR ALLEGED DEFECTS DUE TO MISUSE, ACCIDENT, WEAR AND TEAR, NEGLIGENCE OR IMPROPER STORAGE, HANDLING, INSTALLATION OR MAINTENANCE OF THE PRODUCTS, (II) IN ANY CASE WHERE PRODUCTS ARE DISASSEMBLED OR MODIFIED IN ANY MANNER, (III) FOR ALLEGED DEFECTS RELATING TO ANY SPECIFICATIONS OR INSTRUCTIONS PROVIDED BY OR ON BEHALF OF BUYER, (IV) FOR ALLEGED DEFECTS OTHERWISE CAUSED BY BUYER OR ANY THIRD PARTY, (V) FOR ALLEGED DEFECTS WHICH SHOULD HAVE BEEN DISCOVERED

BYBUYER IN BUYER'S INSPECTION AND ARE NOT REPORTED WITHIN TEN (10) DAYS OF DELIVERY OF THE PRODUCT. (VI) ALLEGED DEFECTS RELATING TO THE INTEGRATION, INTERACTION OR ASSEMBLY OF THE PRODUCT WITH SYSTEMS, COMPONENTS OR OTHER PRODUCTS, OR (VII) RESULTING FROM DAMAGES OCCURRING AFTER TENDER OF THE PRODUCT BY SELLER.

- 17) IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CLAIM (WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) OR OTHERWISE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR OTHER DAMAGES, WHETHER KNOWN OR UNKNOWN (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR INJURY TO PERSONS OR PROPERTY, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, OR OTHER PECUNIARY LOSS), ARISING OUT OF THESE TERMS OR THE PRODUCTS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOTWITHSTANDING ANYTHING ELSE IN THESE TERMS, IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY EXCEED THE PURCHASE PRICE RECEIVED BY SELLER FROM BUYER FOR THE PRODUCT UPON WHICH SUCH LIABILITY IS BASED OR, IF SUCH LIABILITY IS NOT BASED UPON A PARTICULAR PRODUCT, THE AGGREGATE AMOUNT PAID BY BUYER TO SELLER IN CONNECTION WITH THE APPLICABLE PURCHASE ORDER(S).
- 18) If Buyer requests that Seller manufacture Products subject to Buyer's specifications or designated design, Buyer guarantees that no patent, trademark or other intellectual or industrial property right has been or will be infringed by the manufacture, sale or use of such Products.
- 19) All intellectual and industrial property and all rights therein relating to the Products or to any services provided by Seller or otherwise contained in any item or documentation relating thereto, including, but not limited to, all drawings, designs, know-how, specifications, inventions, developments, processes, copyrights, trade secrets, trademarks, patents, service marks, engineering details and other data and information, shall remain the property of Seller. Buyer acknowledges that no license or rights of any sort are granted to Buyer hereunder in respect of any intellectual or industrial property or any rights therein, other than the limited right to use the Seller's Products purchased from Seller. If either party has independently made an invention, device or creation without (a) a basis on any idea or creative expression provided by the other party in connection with the transactions between the parties, or (b) advice, assistance or cooperation from the other party for the materialization of any idea or creative expression, any patent, trademark, copyright or trade dress rights regarding such invention, device or creation shall be vested in the party making such invention, device or creation. If an invention, device or creation is jointly developed, the parties agree that ownership of the development including, but not limited to, the intellectual property and rights therein, and the control of the use of such development shall be governed by a joint agreement to be mutually agreed upon by the parties. The parties agree to enter into a joint agreement prior to any joint development of an invention, device or creation. Absent such an agreement, the first sentence of this Section 19 shall apply and the development and the rights therein shall be and remain the property of Seller.
- 20) To the maximum extent allowed by law, Buyer shall defend, indemnify and hold harmless Seller and its employees and agents against all sums, costs, liabilities, losses, obligations, suits, actions, damages, penalties, fines, interest and other expenses (including investigation expenses and attorneys' fees) that any such indemnitee may incur or be obligated to pay as a result of or arising out of or alleged to arise out of (i) Buyer's negligence, use, ownership, maintenance, transfer, transportation, sale or disposal of the Products; (ii) any infringement or alleged infringement of the patent, trademark or other intellectual or industrial property rights of others arising from Buyer's plans or specifications (including Buyer's trademarks and brand names) or the production, sale or use of the Products ordered by Buyer; (iii) Buyer's violation or alleged violation of any federal, state, county, or local laws or regulations, including, without limitation, the laws and regulations governing product safety, labeling, packaging and labor practices; and (iv) Buyer's breach of these Terms or the terms of any invoice.
- 21) Seller reserves the right to call any Purchase Order for standard parts complete if the final shipment is within one (1%) percent of the total due. If Seller overshoots on standard parts, Buyer is not required to accept the overage. On Products that are of a special size or require special materials or tooling, Seller reserves the right to call any Purchase Order complete if the final shipment is within plus or minus two (2%) percent of the total order.
- 22) Seller may and reserves the right to modify these Terms at any time in Seller's sole and absolute discretion; provided, however, that, subject to the other terms and conditions contained herein, no such modification shall affect any outstanding Purchase Orders placed by Buyer and accepted by Seller prior to the effective date of such modification. Buyer's submission of Purchase Orders to Seller following modification of these Terms shall operate as acceptance by Buyer of such modifications. In addition, Seller may and reserves the right to cancel or terminate these Terms and any outstanding Purchase Orders placed by Buyer prior to the effective date of such termination upon (i) Buyer's breach of any provision of these Terms; (ii) Buyer's failure to pay for Products in accordance with the terms of the applicable invoice; (iii) Buyer's credit becoming unsatisfactory to Seller or (iv) any request by law

enforcement or other government agencies. Seller shall not be liable to Buyer or to any third party for any termination of these Terms. Upon the termination of any outstanding Purchase Order as permitted above, Buyer shall be responsible for and shall pay all costs of Seller for Products or parts or materials thereof or relating thereto (including, but not limited to, raw materials) that are produced, ordered or received by Seller for such Purchase Order prior to any such termination. The foregoing shall be in addition to any other remedies of Seller including, but not limited to, for all losses, damages and reimbursement of costs and expenses, including, but not limited to, lost profits, overhead and costs of research and development, engineering, capital equipment, labor, material and attorneys' fees.

- 23) Unless Buyer and Seller have executed Seller's standard form of Non-Disclosure Agreement or its equivalent, both parties shall be presumed not to have exchanged any information that is regarded as confidential, or that the recipient may not disclose or utilize in the conduct of its own business.
- 24) Nothing in these Terms shall (a) prohibit or be deemed to prohibit Seller from manufacturing or selling any Products (even if such Products are specially ordered by Buyer or manufactured by Seller using specifications provided by Buyer) to any third party or (b) limit Seller's manufacture or supply of other products or services including, but not limited to, the use of equipment utilized by Seller for the manufacture or supply of any Products for Buyer.
- 25) These Terms bind and inure to the benefit of Buyer and Seller and their respective permitted successors and permitted assigns. Buyer shall neither assign any interest in, nor delegate any obligation under, these Terms without Seller's prior written consent. Seller may assign its interests and/or obligations under these Terms to any person or entity that is an affiliate of the Seller or that is owned or controlled, directly or indirectly, by a person or entity that owns or controls Seller or otherwise in connection with the sale of substantially all of the assets or business of Seller.
- 26) All rights granted to Seller hereunder shall be cumulative and in addition to, and not in lieu of, any other rights of Seller including, but not limited to, Seller's rights arising by operation of law. Waiver by Seller of any breach of any of the terms and conditions set forth herein shall not be construed as a waiver of any other breach, and the failure of Seller to exercise any right arising from any default of Buyer hereunder shall not be deemed to be a waiver of such right, which may be exercised at any subsequent time.
- 27) In case any of the terms contained herein shall be held invalid, illegal, and/or unenforceable, in whole or in part, neither the validity of the remaining part of such term, nor the validity of any other term hereof shall be affected thereby.
- 28) The validity, construction and performance of these Terms shall be governed by, and construed in accordance with, the laws of the State of Michigan, without regard to its choice of law provisions. The U.N. Convention on Contracts for the International Sales of Goods does not apply to these Terms and any term contained herein must be construed in accordance with the Code. Buyer irrevocably submits and agrees to the jurisdiction of the state and federal courts of the State of Michigan, County of Washtenaw in any action, suit or proceeding related to, or in connection with, any dispute between the parties. Buyer and Seller agree that any disputes relating to these Terms or the transactions contemplated or entered into hereunder shall be first submitted to non-binding mediation for resolution before any suit may be brought, except that mediation is not required where either party would suffer immediate and irreparable harm arising from delay in obtaining relief.
- 29) Buyer acknowledges that the Products are subject to U.S. export control laws, and as such, Buyer agrees that it shall comply with all the applicable U.S. export control laws, including the International Emergency Economic Powers Act, as amended (50 U.S.C. §§1701-1706) ("EEPA"); the Export Administrative Regulations, as amended (15 C.F.R. Parts 730-744) ("EAR"), which are administered and enforced pursuant to the EEPA, including the anti-boycott and embargo provisions of the EAR and related guidelines issued thereunder; the Arms Export Control Act, as amended (22 U.S.C. §§2751- 2799aa-2) ("AECA"); the International Traffic in Arms Regulations (22 C.F.R. Parts 120-130) promulgated, administered, and enforced pursuant to the AECA; the regulations of the Department of Treasury, Office of Foreign Assets Control; and regulations, procedures and policies of the United States and any countries having jurisdiction over the services provided under this Agreement. The Buyer agrees that it shall not export, disclose, furnish or otherwise provide any Product or technical data related thereto to any foreign person or entity, whether within the U.S. or abroad, without obtaining, in advance (a) appropriate U.S. government export authorization, and (b) written approval from Seller.
- 30) The provisions of these Terms that by their nature are reasonably intended to survive termination, cancellation or expiration including, but not limited to, Sections 9, 14, 16, 17, 19, 20, 22, 25 -30 survive any termination, cancellation or expiration of these Terms or any Purchase Order.

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