

**KOTTLER METAL PRODUCTS
TERMS AND CONDITIONS OF SALE**

1. Offer Acceptance. All price quotations covering Seller's goods are made and all agreements or purchase orders for said goods are accepted on the express condition that the terms and conditions set forth herein shall apply and shall supersede and replace any provision on Buyer's purchase order or any other documents received by Seller which are at variance with or purport to be in addition to these terms and conditions. All such additional or varying provisions of Buyer's purchase order shall be deemed to be material deviations herefrom, are hereby rejected, and thus are of no force or effect. Rather, the terms and conditions expressed herein apply, and Buyer, through any act consistent with this quotation terms herein, whatsoever, assents, agrees and accepts all terms and conditions contained herein. All quotations are for immediate acceptance, but are subject to final approval if issued by a salesman or selling agent or Seller.

2. Prices. Prices are net and are not subject to trade or other discounts and do not include local, state, or federal taxes or costs of special packaging and insurance, which, when applicable, shall be an additional amount to be paid by Buyer. Buyer expressly acknowledges and agrees that prices are subject to adjustment upward at any time before delivery, without notice, should anything occur beyond Seller's control, such as the price of materials or governmental actions, necessitate such action.

3. Payment. Unless otherwise specified on Seller's invoice, the full amount stated on the invoice, is due and payable within 30 (thirty) days from the invoice date. If, in the judgment of Seller, the financial condition of Buyer at any time does not justify shipment on the terms of payment originally specified, Seller may require full or partial payment, in advance, or may ship by collection on delivery ("C.O.D.") and in such case, delivery is only completed in the event that Buyer pays on delivery in accord with the C.O.D. terms, and if not, Buyer is responsible for shipping costs incurred. In the event of the bankruptcy or insolvency of Buyer, Seller shall be entitled to cancel any order then outstanding and shall be entitled to reimbursement for all costs and expenses incurred, plus incidental and consequential damages resulting from the failure of Buyer to meet these terms. Any payment not received when due are delinquent and subject to interest charges at a rate of 1.5% per month (18% per annum) or the maximum rate permitted by law, whichever is less, which is assessed on a monthly basis on delinquent accounts. Buyer acknowledges that late payments are subject to interest and agrees to pay it.

4. Shipment. The goods shall be shipped F.O.B. Point of Origin and Seller shall exercise sole discretion in selecting a method of shipment unless a preferred method of shipment is specified in writing by Buyer, and Seller does not object to such method. In such case, Seller will give reasonable notice to Buyer. Title to the goods shall pass to Buyer upon delivery thereof. Shipments and deliveries shall at all times be subject to the approval of the Seller's Credit Department and payment of any outstanding amounts due, in Seller's absolute discretion.

5. Time of Delivery. Quoted delivery dates are Seller's best estimates of when the goods will be shipped. Seller assumes no liability for losses, expenses, or any incidental, or consequential damages, whatsoever, due to any delay or failure to deliver to Buyer.

6. DISCLAIMER: LIMITATION OF LIABILITY. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR OTHER WARRANTY, EXPRESS, IMPLIED OR STATUTORY, NOR ANY AFFIRMATION OF FACT OR PROMISE IS MADE BY SELLER WITH RESPECT TO THE GOODS OR SERVICES WHICH ARE SOLD PURSUANT HERETO. SELLER SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL LOSSES, DAMAGES OR EXPENSES, WHATSOEVER, DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING OR USE OF THE GOODS, OR FROM ANY OTHER CAUSE RELATING THERETO, AND SELLER'S LIABILITY HEREUNDER, AND THIS IS EXPRESSLY LIMITED TO: THE REPLACEMENT (IN THE FORM ORIGINALLY SHIPPED)

OF GOODS NOT CONFORMING TO THIS AGREEMENT; OR AT SELLER'S ELECTION, TO CREDITING BUYER WITH AN AMOUNT EQUAL TO THE PURCHASE PRICE OF SUCH GOODS, WHETHER SUCH CLAIMS ARE FOR BREACH OF WARRANTY, NEGLIGENCE OR OTHERWISE.

7. Claims- Notice of Defects. Buyer agrees to accept delivery of the goods unless they do not materially conform to the description herein, or are materially defective. Claims for rejected material on account of errors, shortages, or defective material in order, to be considered by the Seller, must be made, in writing, by the Buyer to the Seller within ten (10) calendar days after receipt of shipment. If there is a claim under this agreement and Seller and Buyer are unable to reach resolution of any claim relating to goods covered hereby, Buyer must institute legal action against Seller within one (1) year after the date of shipment. This is an agreed statute of limitations period with respect to Buyer claims. After the expiration of such period, any of Buyer's claims related to the purchase are forever barred, regardless of any statute of limitations period to the contrary. In the event of any dispute that is unresolved, Buyer expressly agrees that any legal action regarding such claim must be brought in the Court of Common Pleas of Lake County, Ohio, and further agrees that the laws of the state of Ohio shall apply, without regard to any conflict of laws provisions. The terms in this paragraph seven (7) are all deemed material terms hereunder.

8. Proprietary Rights. Seller make no warranty that the goods will be delivered free of rightful claim of any third party by way of infringement or the like, whatsoever. Buyer shall notify Seller if making, using or selling the goods will constitute infringement of any proprietary right, and Buyer shall indemnify and defend Seller, its successors and assigns, against all liabilities, expenses and damages resulting from any claim of infringement of any proprietary right, including any legal fees and costs incurred by Seller in this regard. If Seller determines, in its sole discretion, that making, using or selling the goods, would result in the infringement of any proprietary right, Seller reserves the right to withdraw the quotation and to cancel this agreement, without liability on the part of Seller, and Buyer agrees to reimburse Seller with any costs or expense incurred.

9. Change in Financial Condition of Buyer. If, in the judgment of the Seller, the financial condition of the Buyer at any time does not justify continuance of production or shipment on the terms of payment specified, the Seller may require full or partial payment in advance.

10. Nondelivery or Nonperformance. Seller shall not be liable for any failure to deliver or otherwise perform hereunder when delivery has been made impractical by inclement weather, fire, embargo, strike, difference with employees, accidents, Acts of God, inability to secure materials from usual sources of supply or any other circumstances beyond Seller's reasonable control, either of the foregoing nature or of any other nature.

11. U.S. Currency. Prices are quoted by the Seller to the Buyer in U.S. currency. Invoices are payable by the Buyer to the Seller in U.S. currency, and letters or credit must be in U.S. dollars drawn on a U.S. Bank.

12. Miscellaneous. This agreement and the terms and conditions stated herein contain the entire agreement between the parties relating to the subject matter hereof, and any representation, promise, condition, affirmation of fact, course of prior dealing and usage of trade not incorporated herein shall not be binding on Seller. Except as may be expressly provided to the contrary in writing, the provisions of this contract are for the benefit of the Buyer and Seller only, and not to any third party. Any modification to this agreement, must be acknowledged by Seller, in writing. Notice to Buyer under this agreement is only valid if it is made in writing to Buyer. This agreement may not be assigned by Buyer, without Seller's express written consent.