

KOTTLER METAL PRODUCTS
TERMS AND CONDITIONS OF SALE
Purchase Order

1. Acceptance. Acceptance of our purchase order by Seller ("Seller" or "you") is made and all agreements or purchase orders for said goods are only to be accepted on the express condition that the terms and conditions set forth herein shall apply and shall supersede and replace any provision on Seller's price quotation, delivery invoice or order form or other purchase document, as applicable, received by us as Buyer, which are at variance with, or purport to be additional or different from these terms and conditions. All such additional or varying provisions of any 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 you, assent, agree and accept all terms and conditions contained herein, regardless of any act to the contrary.

2. Prices. Prices are as stated on the purchase order with the terms so specified, and otherwise, are net, but if subject to trade or other discounts, such trade or discounts shall be applied. You must advise us, in advance, of any costs of special packaging and insurance, which, when applicable, shall be paid by Seller, unless we agree otherwise. Seller expressly acknowledges and agrees that prices are not subject to any adjustment upward at any time before delivery, without notice and our acceptance, even if anything occurs beyond your control, such as any change to the price of materials or governmental actions.

3. Payment. Unless otherwise specified on Buyer's invoice, the full amount stated on the invoice, will be paid within 30 (thirty) days from the Order date. In the event of the bankruptcy or insolvency of Seller prior to shipment, Seller will so notify Buyer and Buyer 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 Seller to meet these terms, subject to applicable law. Buyer is not subject to any late payment fees unless we agree to same, in writing.

4. Shipment. The goods shall be shipped F.O.B., Our Plant, unless otherwise specified, and Seller shall comply reasonably with any requests related to method of shipment or carrier selection. Title to the goods shall pass to Buyer upon receipt and its acceptance thereof by Buyer.

5. Time of Delivery. Quoted delivery dates must be Seller's best estimates of when the goods will be shipped and Seller shall be liable for any material losses, expenses, or any incidental, or consequential damages, whatsoever, due to any delay or failure to deliver, without advanced notice to Buyer in time to permit Buyer to make alternate arrangements.

6. DISCLAIMER SHALL NOT APPLY: SELLER MAY NOT LIMIT LIABILITY AND SHALL PROVIDE REASONABLE WARRANTY FOR ITS GOODS FOR MERCHANTABILITY AND FITNESS FOR THE PURPOSE STATED OR CUSTOMARILY DETERMINED WITH RESPECT TO THE GOODS. SELLER SHALL BE LIABLE FOR INCIDENTAL AND/OR CONSEQUENTIAL LOSSES, DAMAGES OR EXPENSES, DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING OR USE OF THE GOODS.

7. Claims- Notice of Defects. Buyer may refuse to accept delivery of the goods if 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, will be made in a reasonable period of time after receipt of shipment. In the event of any dispute related to the shipment of goods that is unresolved, Seller 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 warrants that the goods will be delivered free of rightful claim of any third party by way of infringement or the like, whatsoever. Seller will notify Buyer if making, using or selling the goods will constitute infringement of any proprietary right, and Seller shall indemnify and defend Buyer, 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 Buyer in this regard. If Buyer determines, in its sole discretion, that making, using or selling the goods, would result in the infringement of any proprietary right, Buyer reserves the right to withdraw the purchase order and to cancel this agreement, without liability on the part of Buyer, and Seller agrees to reimburse Buyer for any costs, legal fees, or expense incurred.

9. Nondelivery or Nonperformance. Seller shall be liable for any failure to deliver or otherwise perform hereunder unless: i) Seller has provided written notice to Buyer and given Buyer the opportunity to obtain the goods from another source at the same or a lower price; or ii) delivery has been made impractical by inclement weather, fire, embargo, strike, difference with employees, accidents, Acts of God, or any other circumstances beyond Seller's control, in which case, Seller will provide to Buyer immediate notice of same.

10. U.S. Currency. Prices are quoted are in U.S. currency. Invoices are payable 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 Buyer. 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 Buyer, in writing. Notice by Seller under this agreement is only valid if it is made in writing to Buyer. This agreement may not be assigned by Seller, without Buyer's express written consent.