

Purchase Order Terms and Conditions

KELLER NORTH AMERICA, INC. STANDARD PURCHASE ORDER TERMS AND CONDITIONS

1. **COMPLETE AGREEMENT:** The terms and conditions of this Purchase Order (also referred to as "Order") set forth the entire agreement between Keller North America, Inc. ("Buyer") and Seller and supersede all other communications, offers, proposals, representations, or agreements between the parties, whether oral or written. This Order hereby expressly limits its acceptance to the terms and conditions stated herein. The stated terms and conditions shall not be modified, added to, or deleted by Seller's acknowledgment or acceptance of this Order, whether contemporaneous or subsequent, or by operation of any applicable law or code.
2. **GOODS SPECIFIED:** All supplemental sheets, schedules, exhibits, specifications, drawings, data, or riders that may be attached hereto or referenced herein are made part of this Purchase Order. Seller agrees by acceptance that all such information has been made available to it and that such information will enable Seller to provide the goods called for in completion of Order requirements.
3. **COMPLIANCE:** Seller shall comply with industry standards and all applicable federal, state, and local laws, orders, regulations, and ordinances in performance of this Purchase Order. Seller covenants and agrees to save and hold Buyer harmless from and reimburse Buyer for any and all costs, damages, and expenses, including reasonable attorney's fees, suffered or occasioned to Buyer through any failure of Seller to comply with such industry standards, laws, orders, regulations, and ordinances, or with any terms and conditions of this Order. Seller shall, at the request of Buyer, defend any such claim, action, or lawsuit at Seller's expense.
4. **SUBCONTRACTING:** Seller agrees that it will not enter into a subcontract or purchase order for the procurement of the goods covered by this Purchase Order in completed or substantially completed form without first securing the written approval of Buyer.
5. **WARRANTY:** Seller expressly warrants that all goods ordered to specifications, drawings, or other descriptions furnished by Buyer, or obtained by Seller related to the referenced project, will conform thereto, that all goods will be of good quality, workmanship, and free of defects, that all goods will be free of any liens or other encumbrances, and that all deliveries will contain the quantities ordered. It is the sole responsibility of Seller to ensure that all deliveries or services include all necessary items, and that all contents and components are within compliance of all project specifications, details, drawings, lists, or other project requirements, including, but not limited to, material certifications, previous and current test results, or any other information, documentation, tests, or items as required by Buyer.
6. **QUALITY SYSTEM:** Seller and/or its supplier shall maintain a Quality System acceptable to Buyer. The Quality System, all materials, and workmanship shall, at Buyer's discretion, be subject to survey, source inspection, and test by Buyer at all reasonable times in Seller's facility or Seller's supplier's facility. All goods shall also be subject to final inspection at Buyer's delivery point for conformance. Any non-conforming goods shall be removed at expense of Seller, including freight costs (both ways). Seller shall bear all risk of loss or damage to rejected goods. In addition to Buyer's right of rejection, and without limitation to any other remedy, Buyer may require the prompt repair or replacement of rejected goods or may elect to retain them and remedy any defects. The costs of effecting such remedy shall be deducted from the amount due Seller.
7. **CONFIDENTIALITY:** Seller agrees to hold in confidence all information, materials, and property, including, but not limited to, methods, processes, techniques, shop practices, equipment, marketing and sales information, customer lists, data, designs, inventions, drawings, specifications, plans, and all other know-how and trade secrets (hereinafter referred to as "Information/Material/Property" or "I/M/P"), that are owned by Buyer, in Buyer's possession and disclosed to Seller, or obtained by Seller as a result of this Purchase Order. Until such I/M/P has been published or disclosed to the general public, Seller agrees not to use any such I/M/P for itself or others, or to disclose such I/M/P to others, and then only at Buyer's direction. All I/M/P shall remain Buyer's property and shall be held in confidence by Seller, regardless of whether it is identified as confidential or proprietary. Except in the performance of this Order, such I/M/P shall not be reproduced, used, or disclosed to others by Seller, including to any government, person, or firm without Buyer's prior written consent. If Seller receives a valid subpoena or otherwise becomes legally compelled to disclose any I/M/P, Seller agrees to first notify Buyer so that Buyer has an opportunity to execute any and all legal remedies. Upon Buyer's request, and in any event upon the completion, termination, or cancellation of this Order, Seller shall return all such I/M/P to Buyer or make such other disposition thereof as is directed by Buyer. Seller shall not sell or dispose of (as scrap or otherwise) any completed, partially completed or defective I/M/P before receiving written authorization from Buyer and before rendering such I/M/P unsuitable for use. In all lower tier subcontracts and purchase orders issued by Seller and involving subcontractor receipt of such I/M/P, Seller shall provide to Buyer the same rights and protection as contained in this clause.
8. **CHANGES:** Seller acknowledges that Buyer may at any time, by written amendment, make changes in the drawings, specifications, or other descriptions furnished, quantity of product ordered, delivery schedule, or any other order element of this Purchase Order. Seller further acknowledges that certain changes in delivery schedule are normal and anticipated in the course of performance of this Order and that the costs of such changes are included in the firm fixed prices established herein. Accordingly, Seller shall not be entitled to a price adjustment hereunder for any change to the delivery schedule when deliveries are rescheduled within 12 months of the original delivery date. Except for delivery schedule changes within the foregoing parameters, if any changes cause an increase or decrease in the Order amount, or in the time required for performance, an equitable adjustment may be made and, if so, then this Order shall be modified in writing. Seller must submit any such claim for adjustment in writing within seven (7) calendar days from the date the change is ordered. Seller's failure to assert a claim accordingly will operate as a waiver. Buyer and Seller shall establish through negotiation whether or not

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any Buyer directed change is one which in fact requires equitable adjustment under this clause, and if so, the nature of such adjustment. Failure to agree with respect to any such negotiations shall be a dispute and either party may pursue its remedies as provided herein. Pending resolution of such a dispute, Seller agrees to diligently pursue performance of this Order as changed. No favorable adjustment of any kind shall be afforded to Seller with respect to changes made necessary by reason of defects or potential defects in any item for which Seller would be liable under the terms of this Order. No modification of this Order shall be binding on Buyer unless made by a written change order signed by both Seller and either an officer of Buyer or a project manager of Buyer. No other employees or agents of Buyer have the authority to modify the terms and conditions of this Order.

9. **RESPONSIBILITY:** Seller, while in possession of property of Buyer, or Buyer's customer, shall be liable for all loss or damage to such property, except for reasonable wear and tear or normal manufacturing losses. Seller shall maintain such property in good condition and dispose of same as instructed by Buyer at the completion of this Purchase Order.
10. **TOOLING:** All tools, dies, jigs, and fixtures (hereinafter referred to collectively as "tools") that are specifically manufactured or produced by Seller for the performance of this Purchase Order, whether to the design of Seller, Buyer, or a third party, shall become the property of Buyer, and the cost of same is included in the total price of this Order. Such tools shall be kept in good condition, including necessary replacement, without expense to Buyer except that Buyer shall pay for the cost of charges due to Buyer's change of design or specifications. However, tools made or acquired by Seller for the manufacture of standard commercial goods generally and normally sold to parties other than Buyer shall remain the property of Seller.
11. **TITLE AND RISK OF LOSS:** Seller shall bear the risk and responsibility for loss or damage of the items purchased hereunder until they are delivered in conformity to the requirements of this Order at the F.O.B. point specified on the Order. Upon such delivery, title shall pass to Buyer and Seller's responsibility for loss or damage shall cease, except for loss or damage resulting from Seller's negligence or failure to comply with this Order. Passing of title upon such delivery shall not constitute acceptance of the items by Buyer.
12. **DISPUTES AND GOVERNING LAW:** Except as otherwise provided in this Purchase Order, Buyer and Seller may litigate any dispute arising hereunder in a court of competent jurisdiction in the State where the goods are delivered. Pending resolution, settlement, or final judgment, Seller shall proceed diligently with the performance of this Order in accordance with the decision and instructions of Buyer. Regardless of the place of its execution or performance, this Order is to be governed by and construed according to the laws of the State where the goods are delivered. Seller agrees to be a party to any administrative action or alternate dispute resolution (including but not limited to arbitration) that Buyer is a party to.
13. **INSURANCE:** Seller agrees to purchase and maintain, at no cost to Buyer, insurance capable of covering potential disputes and claims, as indicated herein. This insurance shall include: (i) General Liability Insurance with minimum limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate, along with completed operations coverage, no Scope of Work exclusions, and blanket contractual coverage; (ii) Automobile Liability Insurance with a minimum of \$1,000,000 Bodily Injury and Property Damage limits per occurrence; (iii) Statutory Workmen's Compensation coverage, with a \$1,000,000 Employer's Liability limit each accident for Bodily Injury; (iv) Professional Liability coverage, with a \$1,000,000 minimum limit, if applicable; and (v) Cargo (or related) insurance with limits sufficient to cover the total value of the goods being transported, if applicable. All coverages, where allowable by law, will include the following endorsements in favor of Buyer: a Waiver of Subrogation endorsement, a 30 Day Notice of Cancellation endorsement, and an endorsement indicating that coverage obtained by Seller is primary to any insurance held by Buyer. The General Liability and Automobile Liability policies shall be endorsed to add Buyer, its parents, subsidiaries, employees, agents, and assigns as additional insureds for ongoing and completed operations for all claims arising out of Seller's operations. Such additional insured coverage and any claims coverage shall not be limited in any way by the limits specified herein if the policy affording such coverage has limits higher than those indicated herein.
14. **INDEMNIFICATION:** To the fullest extent permitted by law, Seller shall defend, indemnify, insure, and hold harmless Buyer, General Contractor, Owner, and others as required by the prime contract, and all of their subcontractors, agents, consultants, parents, subsidiaries, affiliates, officers, directors, members, and employees, from and against any and all (i) claims for bodily injury, sickness, disease, or death, (ii) claims for damage or destruction to property, or (iii) claims of any other type arising from or in connection with Seller's performance of this Purchase Order, or that of Seller's subcontractors, agents, and employees, regardless of whether such claims are due in whole or in part to the negligence of a party indemnified hereunder.
15. **DELIVERY:** Seller agrees to coordinate delivery of materials and/or services to the location and at the time specified by Buyer's project manager, whom Buyer will specify. Items received from Seller without such coordination are subject to rejection and Seller shall be responsible for all freight and restocking expense, if any. Unless Seller's time and material ticket(s) or delivery ticket(s) is/are signed by Buyer's project manager or an officer of Buyer, the signature shall only mean that Buyer is acknowledging receipt of the time and material ticket(s) or delivery ticket(s). Such signature(s) shall not be construed in and of itself/themselves as an admission or acknowledgment that Buyer is accepting any such time or cost as compensable extra work or that the cost associated with such time, services, or materials is otherwise due to Seller. Moreover, Buyer and Seller agree that absent a signed writing to the contrary, the terms and conditions, if any, of Seller's time and material ticket(s) or delivery ticket(s) shall not in any way change, modify, supplement, or add to the terms and conditions of this Purchase Order.

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16. **INVOICES:** Seller shall provide a separate invoice for each Purchase Order. All items on the invoice must conform to item numbers shown on this Order. Invoices must show Buyer's Order number. If the name of Seller on the invoice is other than that shown on the face of this Order, Seller must indicate both names on the invoice. Failure to do this could result in delayed payment. The terms and conditions of this Order shall govern payment. Buyer and Seller agree that absent a signed writing to the contrary, the terms and conditions on Seller's invoice(s) and/or statement(s) shall not in any way change, modify, supplement, or add to the terms and conditions of this Order. MAIL INVOICE(S) AND STATEMENT(S) TO the Buyer's address listed above.
17. **PAYMENTS:** The term of any payment provided for in this Purchase Order, and all discounts related thereto, shall be calculated from (i) the date items are received, (ii) the date items are schedule to be received, or (iii) the date an acceptable invoice is received, whichever is later. Retention terms and percentage are tied to the same requirements as stated in Buyer's subcontract with the General Contractor or its contract with the Owner for the project. To the fullest extent permitted by law, receipt of payment by Buyer from the General Contractor or Owner is an express condition precedent to payment by Buyer to Seller, and Seller expressly agrees that Buyer has no obligation to pay Seller unless and until Buyer has received such payment from the General Contractor or Owner. Buyer may withhold payments from Seller as Buyer may deem necessary to guarantee satisfactory performance of or compliance with any provision of this Order. Buyer may withhold amounts otherwise due under this Order to cover or offset Buyer's reasonable estimate of any costs, damages, or liabilities, including liquidated damages, that Buyer has incurred or may incur for which Seller may be responsible.
18. **INTEREST:** Seller agrees to waive all interest charges referenced on any invoice.
19. **TERMINATION – CAUSE:** Buyer reserves the right to terminate this Purchase Order, or any part thereof, at any time and at no cost to Buyer, if Seller does not maintain acceptable quality, quantities, timely progress, and/or delivery schedule.
20. **TERMINATION – CONVENIENCE:** Buyer may terminate this Purchase Order in whole or from time to time in part, effective as of the date specified by Buyer.
21. **NON-WAIVER BY BUYER:** The failure of Buyer to insist, in any one or more instances, upon strict conformance to any of the Terms and Conditions or Supplemental Clauses of this Purchase Order, will not waive or relinquish to any extent Buyer's right to assert and enforce such Terms and Conditions or Supplemental Clauses in whole or in part on any future occasion.
22. **CAPTIONS:** All captions in these Terms and Conditions are for ease of reference only and are not to be used in interpreting the text.
23. **SURVIVAL:** The expiration or earlier termination of this Purchase Order (howsoever so caused) shall not affect any of the terms, provisions, representations, or warranties hereof which are expressed to continue after such expiration or termination, notwithstanding delivery, acceptance of, and/or payment for goods ordered hereunder, nor shall any such expiration or termination affect the rights or obligations of either party hereto in respect of any antecedent breach of this Order. All confidentiality and indemnification obligations shall survive the expiration or earlier termination of this Order.
24. **SEVERABILITY:** If, at any time, any provision of this Purchase Order is or becomes invalid, illegal, or unenforceable in any respect under any applicable law, or is so held by an arbitral tribunal or court with competent jurisdiction, the validity, legality, and enforceability of the remaining provisions of this Order shall not in any way be affected or impaired thereby and shall remain in effect.
25. **RIGHTS OF PARTIES ARE CUMULATIVE:** The parties' rights hereunder are cumulative and may be exercised singly or concurrently. No exercise or enforcement of any right or remedy hereunder shall preclude the exercise or enforcement of any other right or remedy hereunder or to which either party is entitled by law.
26. **Equal Employment Opportunity:** Keller North America, Inc., its subsidiaries, and affiliates are committed to nondiscrimination in the workplace and our employment practices. It is our policy to comply with all applicable Federal/State laws, regulations, and rulings. All qualified applicants who apply will be provided an equal employment opportunity without regard to their race, color, religion, ancestry, medical condition, genetic information, family or marital status, national or ethnic origin, age, sex, gender, gender identity, or expression, sexual orientation, veteran or military status, physical or mental disability, pardon convictions, creed, citizenship status or any other basis prohibited by law.