

# TERMS AND CONDITIONS

## ALL QUOTATIONS AND SALES BY KEB AMERICA, INC., THE CONTRACTING PARTY HERETO, HEREAFTER CALLED “COMPANY” OR “SELLER” ARE MADE ON THE FOLLOWING TERMS AND CONDITIONS

### 1. CONFIRMATION

An order shall be deemed accepted only when duly confirmed in writing by Company at KEB AMERICA, Inc.’s headquarters in Shakopee, Minnesota and upon such confirmation the order shall become contract binding upon the parties hereto, their successors and assigns.

### 2. PRICES

Prices are in accordance with current Company price lists, and are based on quantities specified f.o.b. KEB AMERICA, Inc. facilities in Shakopee, Minnesota unless otherwise agreed upon in writing. Prices and discounts are subject to change without notice until order is accepted. Company’s prices do not include cost of any inspection or permits required. Prices, specifications, and terms and conditions, as well as all statements appearing in the Company’s catalogs and advertisements, and made elsewhere by the Company are subject to change without notice. Changes by the customer in specifications or delivery requirements will be subject to change in price. Whenever the net price of an order amounts to less than \$200.00, a minimum charge of \$200.00 will be made.

### 3. PAYMENT TERMS

Unless otherwise agreed to by Seller in writing, payment for each shipment shall be due no later than 30 days from the date of invoice. Interest will be charged after thirty days from first billing at the rate of 1-1/2% per month on the balance due. The Seller may at any time when; in its opinion, the financial condition of the customer or prospective customer warrants it; either alter or suspend credit or discontinue deliveries and render a charge covering the value of any partially finished products which are then being manufactured for the customer. Remittance should be made payable to KEB AMERICA, Inc., 5100 Valley Industrial Blvd. South, Shakopee, Minnesota 55379. Delays in transportation shall not extend the terms of payment.

### 4. TECHNICAL SPECIFICATIONS

When dimensions of bores, hubs, voltages, torque, power ratings, etc.... or any other technical data are not clearly specified, quotations, confirmations and products delivered are based on ordinary specifications.

### 5. TAXES

If any tax is at any time levied or imposed by the federal or any state or local government, or any other taxing authority, upon the products covered hereby, or in respect of the production, processing, manufacture, storage, sale, use or consumption thereof, including freight charges thereon, the amount of such tax shall be added to the purchase price above specified and shall be borne by customer. The Company will accept a valid exemption certificate from the customer if applicable; however, if any exemption certificate previously accepted is not recognized by the taxing authority involved and the Company is required to pay the tax covered by such exemption certificate, the customer shall be required to promptly reimburse the Company for the taxes so paid.

### 6. SHIPMENTS

All shipments are f.o.b. KEB AMERICA facilities in Shakopee, Minnesota (subject to freight allowance under conditions stated in separate price schedules). When ordering, the customer’s desired method of shipment must be clearly stated. Where instructions for shipping do not appear on the order, shipment will be made according to the Company’s best judgment. Full risk of loss (including transportation delays and losses) shall pass to the customer upon delivery of the products to the f.o.b. point. Deliveries by Courier Services to a terminal are made at the customer’s risk and expense. Partial shipments shall be permitted and the Company may invoice each shipment separately.

### 7. REFUSAL OF SHIPMENT

In case of the refusal or inability of the customer to accept any shipment in accordance with the terms of the order, the customer shall be liable for freight, express, storage, extra costs of handling and all other expenses incurred by the Company as a result of such refusal or inability. The minimum restocking cost of goods refused shall be 25% of the selling cost as determined by the Company.

### 8. DELAY OR NONPERFORMANCE

The Company shall not be liable for any delay or loss of any nature or failure in performance due to or caused by fire, flood, strike, or other difference with workmen, accidents, labor, material, transportation shortages, war (declared or undeclared), insurrection, riot or by any governmental orders or regulations, legal interference or prohibitions, defaults on the part of suppliers or other causes beyond the Company’s reasonable control.

### 9. CLAIMS AND REJECTED MATERIAL

Any products, which have been altered or damaged, are not returnable except with the Company’s written consent. To reject products on inspection as defective, customer must notify the Company in writing within ten (10) days from receipt of the products. Before allowing or rejecting claim, the Company shall then have the option of reinspection at the customer’s plant or its own. Defects that do not impair service shall not be a cause of rejection. The Company shall have the right to replace, within a reasonable time, any product or products, which in its opinion do not conform to the order. No claim will be allowed for any products damaged by the customer or damaged in transit. Expenses incurred in connection with claims, for which the Company is not liable, will be charged to the customer.

### 10. LIMITED WARRANTY

Seller warrants the goods sold hereunder to be free from defects in material and workmanship under normal use and service not arising from misuse, negligence, or accident, including but not limited to the use, installation, or transportation of the goods by the Buyer, its agents servants, employees, or by carriers. Wearparts are excluded from any warranties. Seller’s obligations under this warranty are limited to remedying any deficiencies in the goods at Shakopee, Minnesota. This warranty shall pertain to any part or parts of any goods to which buyer or its assigns has, within 1 year from date of original factory invoice, given written notice of claimed defects to Seller. If the goods have been regularly used more than 8 hours per day, the 1-year period shall be reduced to 120 days. Buyer shall be required to furnish Seller with details of such defects and this warranty shall be effective as to such goods which Seller’s examination shall disclose to its satisfaction to have been defective and which at Seller’s opinion shall promptly thereafter be returned to Seller or its nominees, EXCEPT FOR THE WARRANTIES SET FORTH ABOVE, SELLER HAS MADE NO WARRANTIES, EXPRESS OR STATUTORY, AS TO THE GOODS SOLD HEREUNDER, INCLUDING, BUT NOT LIMITED TO THEIR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. ANY DESCRIPTION OR MODEL OF THE GOODS IS FOR IDENTIFICATION OR ILLUSTRATIVE PURPOSES ONLY AND SHALL NOT BE DEEMED TO CREATE AN EXPRESS WARRANTY. THE REMEDIES OF THE BUYER SET FORTH IN THIS SECTION ARE EXCLUSIVE. In no event shall the Seller be liable to the Buyer or to any other person for any loss or damage, direct or indirect, arising out of or caused by the use or operation of the goods, or for loss of profits, business, or good will, or for any incidental, special or consequential damages. Seller shall in no event be liable to any person or firm

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(including any assignee of Buyer) except Buyer and its successors. Unless specifically authorized by Seller in writing, Seller shall not become responsible for any repair work done by Buyer or any other party on any goods sold. Any costs of the return of such goods to Seller shall be borne by Buyer. Goods sold but not manufactured by the Seller are being warranted as to defects in material and workmanship consistent with the limited warranty policy of the original manufacturer of the goods and if there is not such a limited warranty policy, the warranty shall be limited to the provisions of the preceding paragraph of Article 10 herein. Standards for the operating characteristics of the Company’s products are in conformity with Seller’s tests.

### 11. SHORTAGE AND NONCONFORMITY

Any claim of shortage or that the goods do not conform with the specifications of the order or model must be made in writing within ten (10) days after delivery of the goods (as to which such claim is made) to Buyer or its nominees, but in no event shall the claim be later than the time limit provided by the carrier or insurance company, otherwise, such claim will be deemed waived. The samples, measurements, dimensions and weights contained in the Seller’s catalogs, sales manuals, photographs and drawings constitute only an approximate guide. The Seller reserves the right to make any changes, which the Seller, in its absolute discretion considers necessary. While the goods will be delivered principally according to specifications or standards or quantities agreed upon, insignificant deviations or insignificant changes in construction are permissible. The same applies to partial deliveries. In the event that Buyer has verified claim of shortage or of nonconformity of the goods to the specifications of the order or the model, and if such claim has been submitted within the required time limit as set forth above, the Seller shall, at its own expense, make up for the shortage of the goods, or replace or repair the goods, as the case may be, but in no event shall Seller be or become liable to Buyer or to any other person or persons of any loss or damage, direct or indirect, arising out of or caused by such incidents or for the loss of profits, business or good will. Shipping dates are estimates.

### 12. CANCELLATION

Placing orders on hold or cancellation of orders require Company’s written approval, and are subject to cancellation and/or restocking charges. Minimum restocking charge is 25% as put forth in Section 7.

### 13. WAIVER OF BREACH

No waiver by the Company of any breach of these provisions shall constitute a waiver of any other breach.

### 14. CONSEQUENTIAL DAMAGES

The Company shall not be liable to the customer of others claiming through the customer for special or consequential charges for any reason whatsoever.

### 15. LAWS

To the best of Company’s knowledge and belief it is in compliance with all local, state and federal laws. All orders are subject to the conditions that the Company’s obligation under such local, state and federal laws and Executive Orders, Rules and Regulations issued thereunder, whether now in force or hereafter made effective, shall be no greater as a result of this agreement and no greater than required by such laws and the Company expressly disclaims assumptions of any of the customer’s obligations under such laws.

### 16. GENERAL

Any terms and conditions of a customer’s order which are inconsistent with or additional to the terms and conditions hereof shall not be binding on the Company and shall be considered unapplicable to any sale or shipment of the Company’s products. All such terms and conditions are hereby expressly rejected. No waiver, alteration or modifications of any of the Company’s terms and conditions shall be binding on the Company unless made in writing and agreed to by a duly authorized official of the Company.

### 17. PRINTERS, STENOGRAPHIC, AND CLERICAL ERRORS

The Company is not responsible for printers’ errors made in any of its publications and other forms of printed matter or for any stenographic and clerical errors. All such errors are subject to correction.

### 18. COST OF COLLECTIONS AND LITIGATION

In cases where the Buyer (end user, OEM, or distributor) cannot or will not pay in full for services performed or products supplied by KEB AMERICA, Inc. (in instances other than those outlined in Section 10), the Company reserves the right to vigorously pursue collection. The receipt of a purchase order, with acknowledgment or confirmation of the order by the Company shall constitute a binding contract subject to the Terms and Conditions as set above. The Buyer shall assume all the costs associated with the collection of payments (lawyer’s fee, filing fees, collection fees, etc....) owed by the Buyer to the Company, in addition to those costs stated in Section 3.

### 19. QUOTATIONS

Quotations are valid for 30 days only in writing and are subject to KEB AMERICA, Inc. terms and conditions. Unit sizing and performance is based on information supplied and cannot be guaranteed by KEB AMERICA, Inc. unless specifically stated by KEB AMERICA, Inc. in writing. Blanket orders must be completely delivered within one year of order date and meet scheduled release quantity requirements.

### 20. GOVERNING LAW, VENUE AND JURISDICTION

This contract and all other agreements with respect to any and all sales by the Company to the Buyer shall be governed by Minnesota law, and the state or federal courts located in Minnesota shall have exclusive jurisdiction with respect to any disputes related thereto, which jurisdiction may be waived at the Company’s sole discretion. Buyer expressly subjects itself to the jurisdiction of the state and federal courts located in the State of Minnesota.

### 21. SUSPENSION AND PERFORMANCE

If in the Company’s judgment reasonable doubt exists as to Buyer’s financial responsibility, or if Buyer is past due in payment of any amount owing to the Company, the Company reserves the right, without liability and without prejudice to any other remedies, to suspend performance, decline to ship or to stop a material in transit, until the Company receives payment of all amounts due to the Company whether or not due, or adequate assurance of such payment.