



TKM UNITED STATES, INC. (“BUYER”)

TERMS AND CONDITIONS OF PURCHASE

1. **AGREEMENT:** This purchase order, the terms and conditions contained herein and any supplemental schedules furnished by Buyer (collectively, this “PO”) and any documents specifically incorporated herein by reference constitute the entire agreement between the parties concerning the goods or services specified to be provided by Seller unless otherwise agreed in writing by Buyer. This PO constitutes the parties’ contractual agreement and supersedes any previous oral or written offer, terms or representations including those in Seller’s quotes, acknowledgements, invoices or other correspondence.
2. **ACCEPTANCE:** Seller’s written acknowledgement of this PO within 3 days, commencement of work on the goods or services specified herein or shipment of such goods constitutes Seller’s acceptance of this PO. This PO shall be deemed accepted by Seller without any additional or different terms. Any proposal for additional or different terms or any attempt by Seller to vary in any respect any of the terms of this PO in Seller’s acceptance or acknowledgment hereof is hereby objected to and shall not be binding on Buyer. Acceptance is limited to the terms of this PO. If for any reason this PO shall be deemed an acceptance by Buyer of a prior offer made by Seller, such acceptance is expressly conditioned upon Seller’s assent to the terms contained herein. Buyer will proceed with this transaction only if Seller assents to the terms contained in this order.
3. **BUYER’S COMMITMENT:** Buyer is not committed to purchase any goods or services except in the quantity and at the price on this PO.
4. **DELIVERY SCHEDULES:** Deliveries are to be made in the quantities identified on this PO and on the date specified in this PO or in supplementary schedules furnished by Buyer. All shipments must be received by the date specified in this PO. Buyer may from time to time change delivery schedules or direct temporary suspension of scheduled shipments. Buyer shall have no liability for payment for goods delivered to Buyer that are in excess of quantities specified herein or in any supplemental schedules. In addition to Buyer’s other remedies, and without liability, Buyer reserves the right to refuse and return at Seller’s risk and expense any shipments made in excess of quantities ordered and shipments made before or after the time or times specified in this PO or any supplementary schedules furnished by Buyer.
5. **WARRANTY:** In addition to any other warranties provided by Seller, Seller expressly warrants that all the goods and services covered by this PO will: (a) conform to any and all specifications, drawings, samples or other descriptions furnished or specified by Buyer, (b) be fit and sufficient for the purposes for which they were manufactured and sold, and (c) be merchantable and of good material and workmanship and free from any

defects. These warranties shall survive Buyer's inspection, acceptance and use of the goods.

6. **INSPECTION:** All goods covered by this PO shall be received subject to Buyer's right of inspection and rejection. Payment for goods and services delivered hereunder shall not constitute acceptance hereof, and all payments are made with a reservation of rights by Buyer for defects. If upon receipt, Seller's goods are deemed defective by Buyer, Seller shall be responsible for, but not limited to, all costs associated with the return, replacement or rework of the defective material.
7. **LABELING AND SHIPPING:** Seller shall suitably pack, label and ship all goods in accordance with standards identified in this PO. Seller shall ensure that all shipping documents indicate, at the minimum, the correct ship to address, Buyer's part number, description, quantity, and Buyer's purchase order number. Seller shall pay all transportation costs.
8. **TERMINATION WITH CAUSE:** Buyer may terminate this PO in whole or in part upon any of the following events: (a) Seller's failure to provide goods or services that conform to the warranties provided herein or by law, (b) Seller's failure to make deliveries as specified in this PO, (c) Seller's failure to comply with any other terms in this PO, (d) Seller's failure upon request to provide Buyer with reasonable assurances of future performance, (e) Seller's insolvency, filing of bankruptcy or assignment for creditors, or (f) the appointment of a receiver for Seller. In the event of termination with cause, Buyer shall not be liable to Seller for any amount, and Seller shall be liable to Buyer for all damages sustained by reason of the default that gave rise to the termination. In addition to its other remedies, Buyer shall have the right to refuse to accept delivery of any and all goods covered by this PO and to recover any advance payments to Seller for undelivered or returned goods.
9. **INDEMNIFICATION:** Seller agrees to indemnify and hold harmless Buyer, its directors, officers, employees and successors from and against any and all damages, claims, liabilities, losses, costs and expenses (including, without limitation, reasonable attorney fees) arising out of, relating to or resulting from (a) any breach of the agreements contained herein, (b) any act or omission of Seller or its officers, employees or agents or subcontractors, or (c) any actual or alleged death of or injury to any person, damage to any property or any other damage or loss that results, or is claimed to result, in whole or in part, from Sellers' negligence or willful conduct or defects in the goods delivered to Buyer hereunder.
10. **TERMINATION WITHOUT CAUSE:** Buyer also may terminate this PO in whole or in part at any time for its sole convenience without reason or cause. In the event of such termination and upon notice by Buyer to Seller, Seller shall stop immediately all work, cause immediately all of its supplier's and sub-contractors to cease work and observe any instructions from Buyer as to work in progress. Seller shall be paid a reasonable termination charge consisting solely of a percentage of the order price reflecting the percentage of the work performed prior to the termination date specified. Seller shall

assume responsibility for all, but not limited to, raw material, purchased parts that are in excess of schedules furnish by Buyer. Seller shall not be paid for any work performed after the termination date specified, or for any cost incurred by Seller's suppliers or sub-contractors that Seller could reasonably have avoided. In no event shall Buyer be liable for consequential or incidental damages or loss of profits.

11. **CHANGES:** Buyer may make changes at any time in the specifications (including part number), time or place of delivery or performance, method of transportation, or other requirements. The parties will negotiate an appropriate adjustment in price and terms where Seller's direct costs are materially affected by such changes, unless such changes are necessary due to Seller's breach. Any request by Seller for an adjustment must be made within thirty days of such change.
12. **TOOLING:** If Seller's obligation under this PO includes the design, manufacture, installation and/or make ready for use tools, dies, jigs, patterns, fixtures, style masters, mold and/or other like equipment (tooling) Seller shall, upon request and completion of the design, supply construction drawings, and specifications for Buyer's prior review and comment, and Seller shall not commence manufacture of the tooling until receiving Buyer's authorization. Payment for tooling will not be made by Buyer until Seller has installed, tested and demonstrated to Buyer's satisfaction that the tooling complies with all applicable specifications, and produces goods acceptable to Buyer in compliance with the specification for the goods.
13. **LIMITATIONS ON BUYER'S LIABILITY:** In no event shall Buyer be liable to Seller for anticipated profits or for incidental or consequential damages for a claim of any kind, or for any loss or damage arising out of or in connection with this PO, or from any performance or breach, termination or expiration of this PO.
14. **REMEDIES/WAIVER:** The rights and remedies expressly provided herein to Buyer shall be cumulative and in addition to any other or further rights and remedies available at law or in equity. A waiver of a breach of any PO provisions will not constitute a waiver of any other breach of this PO.
15. **APPLICABLE LAW:** This PO between the parties shall be governed and interpreted by the Uniform Commercial Code as adopted in the Commonwealth of Kentucky, U.S.A., and not the United Nations convention for International Sale of Goods. All disputes involving this agreement shall be adjudicated in Boone County, Kentucky, U.S.A.
16. **COMPLIANCE WITH LAWS:** Seller agrees that it shall comply with all applicable laws, regulations, ordinances and rules in connection with the fulfillment of this PO.
17. **ASSIGNMENT:** Neither this PO nor any of the rights, interests or obligations hereunder shall be transferred or assigned by operation of law or otherwise by Seller without the prior written consent of Buyer. Any transfer or assignment in violation of this provision shall be void and of no force or effect.