

IKO TERMS AND CONDITIONS OF SALE (U.S.)

These Terms and Conditions of Sale bind IKO Manufacturing Inc. and IKO Industries, Inc. and all of their US affiliates selling Goods in the US ("IKO") and its customer ("Buyer") regarding the sale by and purchase from IKO of products ("Goods") in the United States of America and its territories ("US"). **By accepting delivery of Goods from IKO, Buyer agrees to be bound by these Terms and Conditions of Sale.**

1. **TERMS AND CONDITIONS TO GOVERN.** These Terms and Conditions of Sale supersede all prior agreements, proposals and discussions between the parties with respect to the purchase and sale of Goods. Any additional, inconsistent or different terms or conditions contained in Buyer's purchase order or other documents submitted to IKO by or on behalf of Buyer at any time, whether before or after the date hereof, shall be deemed a material alteration and not a rejection of these Terms and Conditions of Sale, and are hereby expressly rejected by IKO. These Terms and Conditions of Sale shall be deemed accepted by Buyer without any such additional, inconsistent or different terms and conditions. Unless otherwise specified, these Terms and Conditions of Sale shall continue in effect until the expiration of the applicable statute of limitations.

Unless otherwise expressly set forth in these Terms and Conditions, only the corporate officers of IKO shall have the legal authority to modify or amend any provision of these Terms and Conditions or any IKO warranty. No such modification or amendment will be valid or binding upon IKO unless agreed to in writing and signed by an authorized corporate officer of IKO. An employee of IKO who is not an authorized corporate officer of IKO has no actual, apparent, or implied authority to legally bind IKO in any manner whatsoever.

2. **PRICES.** Unless otherwise specified in writing by an authorized corporate officer or a Director of Sales of IKO, all prices shall be as set forth in the price lists ("Price Lists") issued from time to time by IKO on a regional or other basis, which price lists are subject to change without notice to Buyer. Upon a change to the prices set forth on any Price List, all unshipped orders will be billed at the price in effect at the time of shipment. All prices are exclusive of taxes, customs, duties, transportation and insurance, and any and all current or future tax or governmental charges (including, without limitation, sales or use tax) applicable to the sale, delivery, shipment, storage or use of the Goods that IKO is required to pay or collect, shall be for Buyer's account and shall be added to the price and not subject to reduction.

3. **PAYMENT TERMS.** Unless otherwise specified in writing by an authorized corporate officer or a Director of Sales of IKO, the payment terms shall be as identified in the Price Lists. Buyer shall be liable for all expenses attendant to collection of past due amounts, including attorneys' fees and costs. IKO shall have the right to set-off any amounts owing from Buyer against any amounts payable to Buyer. In the event that IKO determines, at any time in its sole and absolute discretion, that it does not want to sell Goods to the Buyer, including if it determines in its sole discretion that the credit of Buyer or of any person or entity providing credit support for Buyer's obligations to IKO is or becomes impaired, or there is any reason to doubt the enforceability or sufficiency of any agreement, instrument or document supporting Buyer's obligations to IKO, IKO shall have the right, among any other rights provided by applicable law, to declare immediately due and payable any and all amounts owed by Buyer to IKO, whether under these Terms and Conditions of Sale or otherwise, and to suspend and/or terminate further production, shipment and delivery of Goods to Buyer under any order, whether under these Terms and Conditions of Sale or otherwise, until IKO determines, in its sole discretion, that IKO will sell Goods to the Buyer and that credit arrangements satisfactory to IKO in its sole discretion have been established. If Buyer desires credit from IKO, or if any such credit is provided to Buyer, or performance assurance is required by IKO of Buyer, Buyer will provide to IKO the financial information requested.

4. **SHIPMENT; TITLE; RISK OF LOSS.** IKO reserves the right to accept or refuse any order for Goods received at its sole discretion. All shipping dates are approximate and not guaranteed. No delivery delay will entitle Buyer to a charge back, set off or claim for direct, indirect, incidental or consequential or other damages of any kind. Title and risk of loss shall pass from IKO to Buyer once the Goods are loaded on the first carrier at IKO's facility, and all claims for loss or damage from that point in time and on, including in transit, must be filed against the carrier by Buyer. Buyer shall pay freight, unless prepaid, and shall unload shipments promptly. Any increase in freight rates for shipments, whether prepaid or not, and all demurrage shall be borne by Buyer. Restrictions on delivery and any delivery discounts or surcharges shall be on terms set forth in the Price Lists.

5. **EXCUSE OF PERFORMANCE.** IKO will be excused from performance hereunder or otherwise if performance is prevented or delayed due to acts of God, war, terrorism, riot, fire, labor trouble (including strikes, lockouts and labor shortages), failure of computer or telecommunications systems to operate properly, destruction or loss of electronic records or data, plant shutdowns, unavailability of materials or components, unavailability of or delays in transportation, insufficient production capacity, unavailability or shortage of fuel products, explosion,

accident, compliance with governmental requests, laws, regulations, orders or actions, or other unforeseen circumstances or other causes beyond IKO's reasonable control. In any such event, IKO may, without liability, allocate and distribute the Goods among its customers in such proportions, including to the exclusion of some customers such as Buyer, as IKO, in its sole discretion, determines.

6. **SECURITY INTEREST.** IKO reserves and Buyer grants to IKO a purchase money security interest in all Goods sold and any receivables or cash from resale thereof to secure the full payment and performance by Buyer of its liabilities and obligations to IKO. Buyer shall be in default under these Terms and Conditions of Sale, and the security interest created hereunder shall become enforceable if: (a) Buyer fails to pay the balance of the invoice value when due or fails to remedy any other default within ten (10) days after being notified of such default by IKO; (b) Buyer threatens, appears to or ceases to carry on its business or substantially changes the nature of its business, all as determined by IKO in its sole discretion; (c) Buyer becomes or acknowledges being insolvent, becomes bankrupt or generally takes measures to arrive at a compromise, an arrangement or an agreement with its creditors, or arrives at the liquidation of its assets or its bankruptcy; (d) proceedings are instituted against Buyer in order to liquidate its assets or declare it bankrupt, which are not diligently contested by Buyer and are not dismissed or cancelled within twenty-one (21) days from the day on which they are instituted; (e) a prior notice is given by a creditor purporting to hold or holding a prior claim of its intention to exercise its purported or prior claim or any other security interest, or if such right or security interest is exercised or if a secured creditor takes possession or appoints a receiver with respect to any part of the Goods sold; or (f) an order of execution is filed against the Buyer or a seizure is brought against the Goods sold and should it not be quashed within ten (10) days thereafter. Buyer acknowledges that this document may be filed with the appropriate authorities as a financing statement and agrees to execute and deliver such documents as IKO may request in order to perfect its security interest.

7. **WARRANTY. UNLESS THE GOODS ARE SUBJECT TO AN EXPRESS LIMITED WARRANTY OR OTHER WARRANTY PROVIDED BY IKO AS SET FORTH ON IKO'S WEBSITE (www.IKO.com/warranties), THE GOODS ARE SOLD "AS IS, WITH ALL FAULTS", WITHOUT RECOURSE, AND IKO DOES NOT MAKE, AND HEREBY EXPRESSLY DISCLAIMS, ANY AND ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY CONDITIONS OR WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PRIVATE LABEL GOODS, GOODS DESCRIBED AS "SECONDS", "ECONOMY", "DAMAGED", "OFF-GRADE", AND OTHER SIMILAR DESIGNATIONS ARE DEEMED TO BE SOLD "AS IS, WITH ALL FAULTS".**

8. **LIMITATION OF REMEDY AND LIABILITY. IF THE GOODS ARE SUBJECT TO A LIMITED WARRANTY OR OTHER WARRANTY PROVIDED BY IKO AS SET FORTH ON IKO'S WEBSITE (www.IKO.com/warranties), THE SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF ANY NATURE ARISING FROM THE FAILURE OF THE GOODS TO CONFORM TO THE APPLICABLE WARRANTY SHALL BE LIMITED TO THE REMEDY SPECIFIED IN THE APPLICABLE WARRANTY. UNLESS OTHERWISE EXPLICITLY SET FORTH IN AN APPLICABLE LIMITED WARRANTY OR OTHER WARRANTY, IN NO EVENT, REGARDLESS OF THE FORM OF THE CLAIM OR CAUSE OF ACTION (WHETHER BASED IN CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY, TORT OR OTHERWISE), SHALL IKO'S CUMULATIVE LIABILITY EXCEED THE PURCHASE PRICE FOR THE SPECIFIC GOODS GIVING RISE TO THE CLAIM OR CAUSE OF ACTION. IKO SHALL NOT IN ANY EVENT BE LIABLE FOR DAMAGES CAUSED BY DELAY IN PERFORMANCE. BUYER AGREES THAT IN NO EVENT SHALL IKO'S LIABILITY TO BUYER INCLUDE INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES. THE TERM "CONSEQUENTIAL DAMAGES" SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, COST FOR LABOR, LOSS OF ANTICIPATED PROFITS, LOSS OF USE, LOSS OF REVENUE, AND COST OF CAPITAL.**

9. **REJECTION OF NON-CONFORMING GOODS.** Unless otherwise set forth in an express limited warranty or other warranty provided by IKO for the applicable Goods, as set forth on IKO's website (www.IKO.com/warranties), rejection of non-conforming Goods must be made by Buyer in writing within ten (10) days of receipt, and all defects ascertainable at the time of giving notice shall be stated with particularity or deemed waived. In the event of any complaint, shipment shall be held intact, and specification of objections, accompanied by tally of objectionable Goods, shall be submitted directly to IKO. If requested by IKO, Buyer shall provide a requested sample of the purported non-conforming Goods, at Buyer's expense. If full credit is allowed by IKO for non-conforming goods and unless otherwise set forth in a limited warranty or other warranty provided by IKO as set forth on IKO's website (www.IKO.com/warranties), the Goods must be retained intact at the delivery point, and IKO shall have 90 days from the date of such allowance to dispose of such Goods as it determines. Under no circumstances are Goods to be returned to IKO unless Buyer has written permission of IKO's Plant Manager and Director of Sales to do so. A claim that Goods are non-conforming or any other claim shall not entitle Buyer to deduct any sum from any invoice unless such claim and deduction has been allowed and acknowledged by IKO in writing. Invoices shall be paid in full in

accordance with the Price Lists, and, in the event of subsequent allowance by IKO of any claim, IKO shall promptly make payment to Buyer for the amount so allowed.

10. **RETURN OF GOODS.** Return of Goods other than pursuant to Section 9 shall require the prior written approval of IKO's Plant Manager and Director of Sales, or alternatively, IKO's Controller. In no event will returns be accepted after ninety (90) days from the delivery date. Goods pre-approved for return will be subject to restocking, reconditioning, repackaging and freight charges, all as set forth in the Price Lists.

11. **FURTHER HANDLING.** Buyer shall indemnify, defend and hold harmless IKO, its affiliates and their respective officers, directors, managers, employees, representatives and agents from and against, any and all claims, losses, liabilities, costs and expenses (including attorneys' fees) arising out of or resulting from the use, handling, manufacture, processing, alteration, distribution, sale or marketing of the Goods, or any other action or inaction with regard to the Goods, in each case after the delivery thereof to Buyer; provided however, that Buyer shall not be liable to IKO for damages directly caused by the sole negligence of IKO or by IKO's breach of IKO's applicable written limited or other warranty set forth at www.IKO.com/warranties or provided upon request.

12. **EXPORT CONTROL REGULATIONS.** All Goods sold by IKO are subject to the export control laws of the US, and Buyer agrees not to divert or resell the Goods contrary to such laws. If any license or consent of any government or other authority is required for the acquisition, carriage or use of product by Buyer, Buyer will obtain the same at its expense and provide evidence of the same to IKO on request. Failure to do so will entitle IKO to withhold or delay shipment, but failure to do so will not entitle Buyer to withhold or delay payment of the price therefor. Any expenses or charges incurred by IKO resulting from such failure will be paid for by Buyer within ten (10) days of receipt of IKO's written request.

13. **GOVERNING LAW; SEVERABILITY.** These Terms and Conditions of Sale shall be governed by the laws of the State of Delaware, US, without reference to the choice of law, conflicts of law, or principles of any other state or country which might otherwise be applied. If any provision of these Terms and Conditions of Sale is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired, and the parties shall use their best efforts to substitute a valid, legal and enforceable provision, which, insofar as practical, implements the purpose of these Terms and Conditions of Sale. Without limiting the generality of the foregoing, some states may not allow an exclusion of certain implied warranties or conditions or limitation of certain incidental, consequential or other damages. In such event, Sections 7 and 8 shall be construed to the greatest extent permissible to implement the purpose of these Terms and Conditions of Sale.

14. **MISCELLANEOUS.** These Terms and Conditions of Sale shall be binding on and inure to the benefit of the respective successors and permitted assigns of the parties. Buyer shall not assign its rights or obligations under these Terms and Conditions of Sale without IKO's prior written consent, which may be withheld for any reason in IKO's sole discretion. Any assignment by Buyer except as permitted herein shall be null and void. Unless otherwise explicitly set forth in the applicable warranty, no warranty shall be assignable under any circumstances. No waiver of any provision of these Terms and Conditions of Sale by an authorized corporate officer of IKO will be valid unless the same is in writing and signed by such officer. IKO reserves the right to unilaterally modify or amend any portion of these Terms and Conditions of Sale at any time without prior notice effective immediately upon posting at the IKO website (www.IKO.com). The current version of these Terms and Conditions of Sale and any modifications or amendments supersede all prior versions of these Terms and Conditions of Sale. The most current version of these Terms and Conditions of Sale may be found at the IKO website (www.IKO.com/termsandconditions/usa) and is also available upon request.