

KLACKO MARINE INC. INC.
STANDARD TERMS AND CONDITIONS OF SALE

1. **PRICES AND SHIPPING TERMS.** Sale of any products covered by this proposal and/or order acknowledgment is conditioned upon the terms contained herein and also as shown on the quotation. No changes or additions to these terms shall be binding upon Seller unless expressly accepted by Seller in writing. All prices are subject to change without notice and all material offered is subject to prior sale. Prices do not include any taxes and, where applicable, such taxes shall be invoiced as a separate item and paid by the Buyer. All sales are made f.o.b. point of shipment. In all cases, title shall pass upon delivery to the carrier at point of shipment and thereafter all risk of loss or damage shall be upon Buyer. All Prices and items shown as "freight allowed" pertain to particular items and quantities. Any change after placement of order are subject to a price increase, additional freight charges and/or changes in manufacturer's terms and conditions. Seller may, at its option make partial shipments and invoice Buyer for such partial shipments. All weights and dimensions are approximate. All labor or mechanical facilities required to unload shall be provided by Buyer without any cost to Seller.

2. **DRAWINGS.** If drawings are furnished with this proposal, they are submitted only to show the general style arrangement and approximate dimensions of the products offered. No work is to be based upon proposal drawings. Assembly or product drawings certified by Seller will be furnished, when required, after final acceptance of Purchaser's order.

3. **DELIVERY.** Factory shipping dates given in advance of actual shipment are estimates and shall not be deemed to represent fixed or guaranteed shipping dates. Seller shall not be liable for failure to deliver or for delay in delivery or performance due to a cause beyond its reasonable control, an act of God, act or omission of Buyer, act or civil or military authority, governmental priority or other allocation or control, fire, inclement weather, strike or labor difficulty, riot or other civil disturbance, insolvency or other inability to perform by the manufacturer, delay in transportation or any other commercial impracticability. In the event of any such delay, the date for delivery or performance shall be extended for a period of time equal to the time lost by reason of such delay. If Buyer requests to extend the delivery or will call hold time for products which are ready for shipment, Seller reserves the right to invoice Buyer for such goods and charge warehouse and/or storage fees until shipment is made. Seller will not accept charges for loss or damage in transit but will assist Purchaser in preparing claims against shipping companies. Purchaser shall make note of apparent damage when signing freight receipts. All claims for damages in shipment must be made within five (5) days of delivery.

4. PAYMENT AND FINANCIAL CONDITION. Any order by Buyer shall constitute a representation that Buyer is solvent. If, in the judgment of Seller, the financial condition of the Buyer at the time of manufacture or shipment does not justify the terms of payment specified, Seller reserves the right to require full or partial payment from Buyer or other adequate assurance or performance before manufacture or shipment. Seller reserves the right to suspend its performance until such payment or adequate assurance of performance has been received. Seller may suspend manufacture or shipment of any goods for which Seller has not received payment if Buyer is in default under this or any other contract of sale between Seller and Buyer. Any costs incurred by Seller as a result of suspending or interrupting performance shall be paid by Buyer. All invoices from Seller are due and payable to KLACKO MARINE INC. Inc. net thirty (7) days unless otherwise expressly agreed in writing. Payment to Buyer from Buyer's customers, if any, shall not be a condition precedent to Buyer's obligation to make payment to Seller. Retention is not allowed. If payment is not made when due, Buyer agrees to pay interest on the amount past due at the rate of 1 1/2% per month (18% per annum) or the maximum amount allowed by law in the State where this order is accepted, whichever is less. Nothing herein shall be deemed to extend or otherwise modify Buyer's obligation to make payment when due. In the event of default, Buyer agrees to pay Seller's actual attorney's fees, if any, and all costs incurred by Seller in the collection of any monies due from Buyer.

5. LIMITED WARRANTIES.

(a) Products Manufactured by Seller. Seller warrants that metal fabrications by Seller will be free from defects in material and workmanship for ninety (90) days from date of shipment and that fabricated stainless steel products manufactured or processed by Seller will be free from defects in material and workmanship for 180 days from date of shipment. Seller's sole obligation and Buyer's exclusive remedy in connection with Seller's manufactured or processed products shall be limited, at Seller's option, to either replacement of products not conforming to the specifications or credit to Buyer's account for the invoiced amount of the non-conforming products.

(b) Products Manufactured by Others. Products distributed by Seller (whether sold separately or incorporated into another product) are the products of reputable manufacturers. Seller shall use its best efforts to obtain from each manufacturer, the manufacturer's warranty (copies of which will be furnished upon written request) or customary practice for the repair or replacement of products that may prove defective in material or workmanship. Seller's only obligation with respect to products manufactured by others is to present Buyer's claim to the manufacturer. Buyer agrees that the liability of Seller shall not exceed any adjustment offered or accepted by the manufacturer.

(c) Miscellaneous. Any claim under this Limited Warranty must be made by Buyer to Seller in writing within five (5) days of Buyer's discovery of the claimed defect, but in no event later than one year from the delivery date. Buyer's failure to notify Seller of such claim as required herein shall bar Buyer from recovery under this Limited Warranty. EXCEPT AS TO TITLE, THERE ARE NO OTHER WARRANTIES, EITHER WRITTEN, ORAL, IMPLIED OR STATUTORY RELATING TO THE DESCRIBED GOODS. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY.

6. CLAIMS. Within five (5) days after receipt of products. Buyer shall notify Seller in writing of any claim for non-conformity, shortages, errors in shipment or errors in charges. Failure to do so shall constitute conclusive evidence that Seller has satisfactorily performed and that Buyer has accepted the products and waived any right to reject the products. Products may be returned only upon Seller's prior written authorization. Seller's liability is limited to replacing non-conforming products or to allow credit to the extent of invoice amount of such products at Seller's option. Seller shall be given reasonable opportunity and access to investigate the merits of any claim made by Buyer.

7. LIMITATION OF LIABILITY. Seller's liability on any claim for loss or damage arising out of any contract or from performance or breach of such contract, or connected with the supplying of any goods, or their sale, resale, operation or use, whether based on contract, warranty, tort (including negligence) or other grounds, shall not exceed the price allocable to such goods or part thereof involved in the claim. Seller shall not in any event be liable, whether as a result of breach of contract, warranty, tort (including negligence), or other grounds for labor charges, "in and out" charges, special, consequential, incidental, liquidated or penal damages including, but not limited to, loss of profits or revenue, loss of use of the product or any associated product, cost of capital, cost of substitute products, facilities or services, downtime costs, delay damages or claims or Buyer's customers for such damages. If Seller furnished Buyer with advice or other assistance, which concerns any goods supplied hereunder, or any system or equipment in which any such goods may be installed, and which is not required pursuant to Seller's quotation, if any, the furnishing of such advice or assistance will not subject Seller to any liability, whether based on contract, warranty, tort (including negligence) or other grounds.

8. HAZARDOUS BUSINESS. Unless otherwise agreed in writing by an authorized representative of Seller, goods sold hereunder are not intended for use in connection with any hazardous activity or any other critical application where failure of a single component could cause substantial harm to persons or property. If so used, Seller

disclaims all liability for any damage, contamination or other injury and Buyer shall indemnify and hold Seller harmless from such liability, whether as a result of breach of contract, warranty, tort (including negligence) or other grounds.

9. IMPROPER ACT OF BUYER. Buyer shall indemnify, defend, and hold Seller harmless from any claim, liability, damages lawsuits, and costs (including attorney's fees), whether for personal injury, property damage or other, brought by or incurred by Buyer, Buyer's employees, Seller's employees, or any other person, arising out of improper selection, improper application or other misuse or products purchased from Seller, or failure to follow Seller's application, installation, or safety instructions.

10. CANCELLATION AND RETURNED GOODS. Orders placed by Buyer may not be canceled, except upon Seller's prior written consent and the payment of all cancellation charges, if any. The amount of credit, if any, allowed to Buyer for returned goods shall be at the sole discretion of Seller and may provide for a restocking charge. All special order materials and processed materials and fabricated materials are non-cancelable and non-returnable. In the event of cancellation and or return without Seller's consent, Seller shall be entitled to recover any and all damages suffered by it as the result of Buyer's cancellation.

11. ASSIGNMENT. The assignment by Buyer or any of all of its duties or rights hereunder, without the prior written consent of Seller, shall be void.

12. GENERAL. All others are subject to acceptance by an authorized representative of Seller. Any representation, affirmation of fact and course of dealings, promise or condition made in connection herewith or usage or trade not incorporated herein and shall not be binding on either party. No waiver, alteration or modification of any of the provisions hereof shall be binding upon Seller unless specifically agreed to in writing by Seller. Waiver by Seller of any breach of any provision herein shall not be considered a waiver of any other or future breach of the same or any other provision. The validity, performance, and all matters relating to the interpretation and effect of this agreement shall be governed by the laws of Ontario/Canada.