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GENERAL TERMS AND CONDITIONS OF SALE – IKG USA, LLC

1. **ACCEPTANCE OF TERMS AND CONDITIONS.** The acceptance of the terms and conditions herein and/or attached hereto (these “Terms”) is an essential prerequisite to any agreement of sale made by Seller. Any offer or acceptance by Seller is made subject to these Terms and no additional or different terms offered by the buyer of products from Seller (the “Buyer”), shall become a part of the agreement of sale between Seller and Buyer unless such terms have been expressly approved in writing by an authorized representative of Seller. If this document is an offer, acceptance of this offer is expressly limited to these Terms, and Seller reserves the right to withdraw this offer at any time before its acceptance by Buyer. If this document has been issued by Seller in response to a written offer made by Buyer, Seller’s acceptance of Buyer’s offer is expressly conditioned on Buyer’s assent to the additional or different terms contained herein. If these Terms are not acceptable, Buyer shall notify Seller in writing at once. Buyer’s action in (a) accepting any products manufactured and delivered hereunder, or (b) receiving this document without disaffirmance within three (3) business days of receipt shall constitute an unqualified acceptance by Buyer of these Terms.
2. **TERMS OF PAYMENT.** Unless otherwise agreed upon by the parties and stated in Seller’s order acknowledgement issued for the products (“Order Acknowledgement”), terms of payment for shipments are net cash within thirty (30) days from the date of invoice. Failure to make timely payment of invoices entitles Seller at its option to withhold delivery of additional products ordered until such payments are made or at the Seller’s option effect cancellation of all unfilled orders and contracts without liability. In addition, if invoices or any part thereof are not paid when due, Seller may assess a late payment charge of 1% per month (or such lesser amount as may be the maximum permitted by applicable law) on such past due amount. Payment terms shall at all times be subject to the review approval of the Seller’s Credit Department. Seller reserves the right to require payment in advance and or security or payment guarantees.
3. **TAXES.** All prices are exclusive of all sales, use and excise taxes and any other similar taxes, duties and charges of any kind imposed by any governmental authority. The amount of any sales, use, or excise taxes or other taxes, duties or charges, if any, applicable to the products shall be added to the price and shall be paid by Buyer, unless Buyer provides Seller with an exemption certificate acceptable to the taxing authorities. Any taxes which Seller may be required to pay or collect under any existing or future law, upon or with respect to the sale, purchase, delivery, storage, processing, use or consumption of any of the products, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of the Buyer, who shall promptly pay the amount thereof to Seller upon demand. Buyer shall not be responsible for any taxes imposed on, or with respect to, Seller’s income, revenues, gross receipts, personnel or real or personal property or other assets.
4. **CANCELLATION.** No accepted terms stated in the Order Acknowledgement may be modified or cancelled except with the prior mutual written consent of the parties. If Buyer modifies its order, any additional charges accrued as a result of such modification, will be for Buyer’s account.
5. **TITLE AND RISK OF LOSS.** Unless otherwise agreed upon by the parties and stated in the Order Acknowledgement, title and risk of loss shall pass to Buyer at the time of Seller’s delivery of the product to the carrier for delivery to Buyer, even though the carrier may be selected by Seller.
6. **INDEMNIFICATION.** Seller shall indemnify, defend and hold Buyer harmless from any and all liability, loss, damage, cost and expense, including actual attorney’s fees, (collectively, “Losses”) incurred by Buyer as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Seller’s negligence. Seller shall have the sole authority to direct the defense of and settle any indemnified claim. Seller’s indemnification is conditioned on Buyer (a) promptly, within the warranty period, notifying Seller of any claim, and (b) providing reasonable cooperation in the defense of any claim. Buyer shall indemnify, defend and hold Seller harmless from any and all Losses incurred by Seller as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Buyer’s negligence. Buyer shall have the sole authority to direct the defense of and settle any indemnified claim. Buyer indemnification is conditioned on Seller (a) promptly, within the Warranty Period, notifying Buyer of any claim, and (b) providing reasonable cooperation in the defense of any claim. For clarity, in the event Losses are caused by the joint or concurrent negligence of Buyer and Seller, the Losses shall be borne by each party in proportion to its degree of negligence.
7. **INTELLECTUAL PROPERTY.** The Buyer agrees as part of this agreement to indemnify and hold Seller harmless from any liability, damages, actions, suits, cost, attorneys’ fees and expenses occasioned by infringement by Seller of patent or patents existing on any article or process of its manufacture, providing such article was made or such process was conducted in accordance with Buyer’s specifications and directions. Buyer will not alter any equipment or products furnished by the Seller, or do anything that will any way infringe, impeach or lessen the validity of, the patents and trademarks under which the Seller’s equipment or parts thereof or products are made or sold.
8. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL SELLER’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, INDEMNIFICATION OF ANY KIND, WARRANTY CLAIM, TORT (INCLUDING, BUT NOT LIMITED TO NEGLIGENCE AND/OR WILLFUL MISCONDUCT) OR OTHERWISE, EXCEED THE TOTAL PURCHASE AMOUNT PAID TO THE SELLER FOR THE SPECIFIC PRODUCTS GIVING RISE TO ANY SUCH CLAIM.
9. **INSURANCE.** During the performance of this agreement and for a one year period thereafter, the Buyer and Seller shall each maintain commercial general liability, automobile, umbrella, and worker’s compensation insurance coverage. Upon request of the other party, each party shall produce certificates of insurance evidencing such coverage.
10. **FORCE MAJEURE.** Neither party shall be liable for its failure to perform its obligations under this agreement when such failure results from any cause beyond such party’s reasonable control, including but not limited to fire, flood or other act of God, labor dispute, strike, labor difficulty or disagreement, accidents at Seller’s facilities, acts or requirements of government or civil authority, riot, war, embargo, truck or car shortage or other transportation delay or difficulty. In the event of such delay, the date of delivery shall be extended for a period equal to the time loss by reason of such delay. If such force majeure event continues for a period of sixty (60)



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days, either party shall be entitled to terminate this agreement upon notice to the other party. In the event of termination, Buyer shall reimburse Seller for all reasonable costs incurred to the date of the force majeure event and Buyer shall be entitled to take control of the products or any part of the product for which it has compensated Seller. Nothing in this agreement shall require any party to settle any labor dispute, strike, labor difficulty or disagreement.

11. **CONFIDENTIALITY.** Each party agrees to hold in confidence and not disclose to any third party or use for its own benefit, other than as may be approved by the disclosing party, any confidential or proprietary information (collectively, "Confidential Information") supplied to it, whether or not marked, designated or otherwise identified as "confidential" or "proprietary", by the other party. Upon the request of either party, the other shall promptly return all Confidential Information received from the requesting party. Confidential Information does not include information which (A) is within or becomes part of the public domain; (B) was already within the party's possession prior to its disclosure by the disclosing party; (C) is disclosed by a third party not under an obligation of confidentiality with respect to such information; or is independently developed without use of or reference to the disclosing party's Confidential Information.
12. **INTELLECTUAL PROPERTY RIGHTS.** All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other Confidential Information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights used to create or otherwise relating to the products (collectively, "Intellectual Property Rights") in and to all documents, work product and other materials that are delivered to Buyer pursuant to a purchase order or prepared by or on behalf of the Buyer in the course of performing under a purchase order (collectively, the "Deliverables") except for any Confidential Information of Buyer or Buyer material, shall be owned by Seller. Seller hereby grants Buyer a worldwide, non-exclusive, non-transferable, and non-sublicensable license to use the Deliverables. Any design, invention or other information developed by Seller in the performance of a purchase order shall remain the property of Seller, whether or not Seller charges for design, research, development or similar services. Any patentable features developed by Seller shall be the property of Seller.
13. **COMPLIANCE WITH LAWS.** Seller warrants that the products, to the extent based on Seller's specifications, shall comply with all Federal, State and local laws, regulations and ordinances affecting the products. Buyer warrants that its purchase and use of the products, as well as any specifications provided by Buyer to Seller for the products, shall comply with all Federal, State and local laws, regulations and ordinances affecting the products.
14. **COMPLIANCE WITH U.S. EXPORT CONTROLS AND TRADE SANCTIONS.** Buyer agrees to comply with all U.S. export controls and trade sanctions requirements. Buyer will obtain, or cause to be obtained, any authorizations required by the U.S. government for transfer outside of the U.S. Buyer agrees that the products will not be transferred, directly or indirectly, to any country subject to U.S. trade sanctions, nor to any person or entity listed on the U.S. Department of Treasury Office of Foreign Assets Control Specially Designated Nationals List (updated list available at <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).
15. **PRODUCT IMPROVEMENT LIABILITY DISCLAIMER.** Seller reserves the right to make any changes in or improvements on its products without incurring any liability or obligation whatsoever and without being required to make any corresponding changes or improvements in products previously manufactured or sold.
16. **DAMAGES.** IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE TO SELLER OR COULD HAVE BEEN REASONABLY FORESEEN BY SELLER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
17. **ASSIGNMENT.** Either party may freely assign this agreement (without further obligation for performance on the part of such party) to any successor to all or substantially all of its business, provided all rights and responsibilities are assumed by the assignee. In all other events, neither party may assign this agreement or any of its rights or obligations hereunder without the prior written consent of the other party.
18. **MODIFICATION, WAIVER, CUMULATIVE RIGHTS AND SEVERABILITY.** These Terms may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by Seller of any breach of contract shall be effective unless set forth in writing and signed by the party so waiving. No waiver by Seller shall be deemed to be a waiver of any other or subsequent breach. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof. All rights and remedies available to Seller shall be cumulative and in addition to any other rights and remedies provided herein or by law. The invalidity, illegality or unenforceability in whole or in part of any provision hereof shall not affect the validity, legality or enforceability of any other provision.
19. **COSTS AND ATTORNEYS' FEES.** Buyer shall pay, in addition to all other remedies to which Seller is entitled, all costs and reasonable attorneys' fees and expenses of Seller incurred in connection with the enforcement of these Terms, even if not recoverable by law (including, without limitation, all fees, taxes, costs and expenses incident to appellate, bankruptcy and post-judgment proceedings).
20. **GOVERNING LAW, JURISDICTION AND VENUE.** The agreement between the parties hereto shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania and shall be deemed entered into at Seller's headquarters in Cumberland County, PA. The parties agree that any controversy arising under the agreement herein shall be determined by the state and federal courts of the Commonwealth of Pennsylvania. Both parties hereby submit and consent to the jurisdiction of said courts and agree that venue for any action arising hereunder shall lie in Cumberland County, Commonwealth of Pennsylvania, if brought in state court, and the Middle District of Pennsylvania, if brought in federal court.
21. **COMPLETE AGREEMENT.** This agreement, along with the terms which are to be specified on the Order Acknowledgement, represents the entire agreement of the parties for the sale of the products by Seller to Buyer.



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EXHIBIT A
ADDITIONAL TERMS AND CONDITIONS OF SALE – IKG USA, LLC

- A. PRICES. This order is accepted with the reservation that prices are subject to adjustment at the time of shipment to reflect any increases in labor, material, and/or freight rates after the date of quotation or this date, whichever is previous. Prices are on a unit price basis only and are not to be extended into a lump sum figure without the express written consent of Seller.
B. SHIPPING. Shipping date is predicated on Seller being promptly supplied with all information and details and the approval and return to Seller of Buyer's acceptance of all drawings which have been submitted for approval to Buyer or its agents.
C. DELIVERY. Delivery terms shall be FCA Seller's Facility (Incoterms 2010). Transportation expenses will be paid by Buyer. Seller will exercise its reasonable efforts to meet the shipment dates as specified in the Order Acknowledgement. Buyer is to unload product at its own expense. Buyer shall have [five (5)] days after the date of delivery to inspect for [obvious visual] defects or shortage of products and immediately notify Seller of any such defects or shortages for Sellers review and correction as determined by such review. If Buyer fails to notify Seller of any shortage or its rejection of the products within [five (5)] days after delivery, the order will be deemed accepted.
D. CANCELLATION CHARGES. Any cancellation, termination or breach of this agreement by the Buyer or any cancellation or termination by Seller for cause will require the Buyer to pay all cancellation charges. Such charges will include but are not limited to material already fabricated, labor, overhead, administration charges, at least 10% profit on the total cancellation charge and such sales commissions that must be paid by the Seller. The Buyer is also responsible for all unfabricated material. If this unfabricated material is sold by the Seller on the open market, the Buyer is responsible to the Seller for only the difference between the amount received by the Seller and the amount paid for the material by the Seller. On material already fabricated and/or shipped Seller will have the option of either applying this method of coasting for charge to the Buyer or applying unit charges based on either this quotation of total price divided by the total weight on the order had it been completely shipped. The Seller has the option of claiming damages as now allowed by law in lieu of the foregoing methods of computing cancellation charges.
E. WARRANTY. Specifications and tolerances are in accordance with National Association of Architectural Metal Manufactures standards and galvanizing specifications and standards are in accordance with applicable ASTM A-123. Seller warrants that the products shipped hereunder will conform to the description on the face hereof, and that such products will be free from defects in material and workmanship. For one (1) year from the date of shipment to Buyer from Sellers plants, the warranty period, Seller will, at its option, repair or replace, without charge, or allow credit for, any products found on inspection by Buyer to be defective under normal usage, provided that Seller shall be notified in writing immediately upon discovery of such defects. In no case shall Seller be liable for any charges, expenses or damages beyond the replacement of products of its manufacture, F.O.B. carrier at point of original destination. Seller is not liable for any labor charges involved in the removal or replacement of defective material or any material or any resulting damages. Material may be returned to Seller only with the express written consent of Seller. The foregoing warranty is valid only if the materials are used in accordance with their design and intent of manufacture. The Buyer agrees immediately to report errors in workmanship or defects in material. No allowance shall be made for labor, repairs or alternations performed by the Buyer without the Seller's written consent; and in no case shall the Seller's liability under this agreement exceed the price charged for such material as may prove defective or not in accordance with specifications.
WARRANTY DISCLAIMER. THE EXPRESS WARRANTIES SET FORTH ABOVE ARE SELLER'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITATION OF LIABILITY IN SECTION 8. EXCEPT AS SET FORTH ABOVE, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS SOLD HEREUNDER. SELLER EXPRESSLY EXCLUDES AND DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, APPLICATION OR USE.
F. RESALE OF PRODUCTS. Buyer agrees to (a) include in any purchase agreement with its customers (including, but not limited to, any resellers) provisions 6, 8, 11 and 12 of these Terms, (b) identify Seller as a third party beneficiary with respect to such provisions, and (c) expressly identify Seller, if not already identified, as (i) one of the indemnified parties in Section 6 and (ii) one of the parties whose liability is limited under Section 8. Neither Buyer nor Buyer's employees, agents, representatives or resellers (or any other subsequent reseller(s) in the chain of sale of the product) shall make any representations, warranties, guarantees, or other commitments to any of its customers regarding the products, which representations, warranties, guarantees, or other commitments are additional to or inconsistent with any then-existing representations, warranties, guarantees, or other commitments in these Terms, the Warranties or any other written documentation provided by Seller to Buyer.

ACKNOWLEDGEMENT

In lieu of a purchase order _____ (Company Name) acknowledges that the products described on the face hereof are correct, the Terms are acceptable, and this is IKG's authorization to proceed. If signed Order Acknowledgement is not received by IKG within five (5) working days, then this acknowledgment represents the agreement per your _____ (phone call, IKG quote #, etc.).

Signed

Date