



Kadana USA Inc. Sales Contract Supplementary Terms and Conditions

1. Quote validity: Any quotation provided by Kadana USA Inc. ("KDN") is firm only if Buyer places a corresponding order within the time specified on the quote or, if no time period is mentioned, within 5 days.

2. Acceptance-Agreement: By purchasing and accepting delivery of Products supplied by Kadana USA Inc. ("Products") Buyer agrees to be bound by these terms and conditions (the "Terms"). Terms or conditions contained in any order form or other document submitted by Buyer which are inconsistent with, or in addition to, the Terms herein are rejected, objected to and shall be deemed void and of no force or effect.

3. Buyer Contract Changes: Once submitted, any change(s) to Buyer's order(s) may be made only with advance written approval of KDN, and such changes may require different terms, including a change in the price and/or time of delivery. Contracts may not be changed by Buyer after the providing mill has accepted the order.

4. Order Cancellation: Once an order has been accepted by the providing vendor, Buyer may not cancel order, except as stated in Section 6. below. KDN may cancel order without liability if the providing vendor cancels the order or fails to fulfill the terms of KDN's purchase order to them. KDN further reserves the right to cancel any order, in whole or in part, without liability, upon Buyer's breach or anticipated breach of contract Terms, or Buyer's bankruptcy, insolvency, dissolution, receivership proceedings, or upon the occurrence of any event leading KDN to reasonably question Buyer's willingness or ability to perform. See also Section 6. Delays/Force Majeure and Section 7. Payment and Interest.

5. Delivery: KDN reserves the right, in its sole discretion, to determine the exact method of transit for any shipment. Notwithstanding any terms to the contrary contained in any purchase order or order form submitted by Buyer, KDN reserves the right to make delivery in installments, all such installments to be separately invoiced and paid for when due per invoice, without regard to subsequent deliveries. Delay in delivery of any installment shall not relieve Buyer of its obligations to accept remaining deliveries. See also Section 6. Delays/Force Majeure and Section 7. Payment and Interest.

6. Delays/Force Majeure: Any specified delivery dates are estimates only and do not represent a promise by KDN to deliver Products at a date certain. KDN will endeavor to deliver Product within the requested delivery window, but due to circumstances beyond its control, may not be able to deliver by a particular date.

Insofar as any transaction between Buyer and KDN is governed by Article 2 of the Uniform Commercial Code, Buyer expressly agrees that the failure of KDN, for any reason, to deliver Products at any date certain is not an event triggering the remedies provided for in § 2-601.

KDN's time for performance shall be extended, and KDN shall not be liable for any loss, damage or penalty as a result of any delay in or failure to manufacture, deliver or otherwise perform hereunder due to any cause beyond KDN's reasonable control, including, without limitation, unsuccessful reactions, acts or omissions of Buyer, acts of the mill/supplier (including cancellation of supply), market instability, including but not limited to fluctuations in prices or supply, embargo or other governmental act/interference, restriction, regulation or request affecting the conduct of KDN's business, fire, explosion, accident, theft, vandalism or other casualty, riot, acts of war or civil



unrest strikes or other labor difficulties, lightning, flood, windstorm or other acts of God, delay in shipping or transportation (including the arrest of a vessel), or inability to obtain necessary labor, fuel, materials, supplies or power at current prices. If directed by KDN, seller shall hold such goods and shall deliver them when the cause affecting the delay has been removed or is otherwise terminated.

In the event of delays in delivery or performance due to causes beyond KDN's reasonable control, the date of delivery or performance shall be extended by the period of time KDN is actually delayed or as otherwise mutually agreed. If any such event continues for longer than 180 days, either party may terminate the order and Buyer will pay KDN for work performed prior to termination and not limited to, but including all reasonable expenses, deposits and losses incurred by KDN as a result of termination. If, for reasons other than the foregoing, KDN should default or delay or not deliver Products, Buyer's sole remedy against KDN is an option to cancel its purchase order, through prior written notice to KDN. In no event shall KDN be liable for Buyer's cost of cover.

7. Payment and Interest: Payment in full shall be made within sales contract/invoice terms. All payments are to be made in USD unless otherwise agreed in the contract.

KDN reserves the right to require an advance deposit of up to 100% of the purchase price at the time of order or any time prior to delivery as a condition of performance.

If for any reason KDN, in its sole and unfettered discretion, deems the ultimate collectability of the purchase price to be in doubt, KDN may, without notice to Buyer, delay or postpone the delivery of the Products and may, at its option, change the terms of payment to payment in full or in part in advance, with respect to the entire undelivered balance of Products.

In the event of default by Buyer in the payment of the purchase price or otherwise, KDN, at its option, without prejudice to any other of KDN's lawful remedies, may defer delivery, cancel Buyer's order and any other order of Buyer, or sell any undelivered Products on hand for the account of Buyer and apply such proceeds as a credit, without set-off or deduction of any kind, against the agreed upon purchase price, and Buyer agrees to pay the balance then due to KDN on demand.

Buyer agrees to pay all costs, including, but not limited to, reasonable attorney and accounting fees and other expenses of collection resulting from any default by Buyer in any of the terms hereof. Invoices remaining unpaid after their due date will be subject to an interest charge of 18% per annum (or the maximum rate allowed by law). Buyer must pay all costs of collection on unpaid amounts, including (without limitation) attorneys' fees and related costs. KDN reserves the right to collect any material that has not been paid for in full irrespective of whether the material has been processed, converted, or otherwise put in service.

8. Taxes and other charges: KDN shall not be responsible for the payment of any use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between, with the sole exception of any sales taxes invoiced and collected from Buyer by KDN.

All other such charges (if any) must be paid by Buyer separately and in addition to the prices quoted or invoiced. In the event KDN is required to pay any such tax, fee or charge, Buyer shall reimburse KDN therefore; or, in lieu of such payment, Buyer shall provide KDN at the time the order is submitted an exemption certificate or other document acceptable to the authority imposing the tax, fee or charge.

9. Warranties: KDN warrants that its Products shall, at the time of delivery, substantially conform to the description of such Products as specified in KDN's sales contract.



The parties expressly agree that the remedies set forth in § 2-601 of the Uniform Commercial Code are not available to Buyer.

This warranty is exclusive, and KDN makes no other warranty, express or implied, including any warranty of merchantability, fitness for any particular purpose which extend beyond the description of the goods on the face hereof, notwithstanding any exchanges, oral or written, between Buyer and seller, prior or subsequent to the date above, or non-infringement of any third-party patent or intellectual property rights. KDN's warranties made in connection with this sale shall not be effective if KDN has determined, in its sole discretion, that Buyer has misused the Products in any manner, has failed to use the Products in accordance with industry standards and practices, or has failed to use the Products in accordance with instructions, if any, furnished by KDN.

KDN's sole and exclusive liability and Buyer's exclusive remedy with respect to Products proved to KDN's satisfaction to be defective or nonconforming shall be replacement of such Products, at the delivery point specified in the sales contract, without charge, or refund of the purchase price, in KDN's sole discretion, upon the return of such Products in accordance with KDN's instructions. See Section 10. Returns/Claims.

KDN shall not in any event be liable for incidental, consequential or special damages of any kind resulting from any use or failure of the Products, even if KDN has been advised of the possibility of such damage including, without limitation, liability for loss of use, cost of capital, loss of work in progress, down time, loss of revenue or profits, failure to realize savings, any liability of Buyer to a third party, or for any labor or any other expense, damage or loss occasioned by such Product including, but not limited to, personal injury or property damage unless such personal injury or property damage is caused by KDN's gross negligence.

The exclusion of such damages and/or claims shall be deemed independent of, and shall survive, any failure of the essential purpose of any limited remedy arising from the purchase and/or these Terms. KDN's liability for damages hereunder shall in no case exceed the contract price for the specific Products less the salvage value of Products that give rise to the breach. The exclusions and limitations on damages shall apply regardless of how the loss or damage may be caused and against any theory of liability, whether based on contract, indemnity, warranty, tort, negligence, strict liability, or any other theory.

10. Returns/Claims: Products may only be returned if found by independent inspection by KDN's inspector to be defective or out of KDN sales contract specification. Immediately upon Buyer's receipt of any Products shipped hereunder, Buyer shall inspect the same and shall notify KDN in writing of any claims for shortages, defects or damages and shall hold Products for KDN's written instructions concerning disposition. If Buyer fails to notify KDN of any such claim within 30 days after the Products have been received by Buyer, such Products shall conclusively be deemed to conform to the Terms herein and to have been irrevocably accepted by Buyer.

All claims must be supported by documentation conclusively establishing that the steel products are defective or otherwise fail to conform to any specifications of this contract. Buyer must obtain advance written authorization from KDN prior to returning Products.

KDN must be given a reasonable opportunity to investigate and cure any nonconformance.

KDN's sole and exclusive liability and Buyer's exclusive remedy with respect to Products proved to KDN's satisfaction to be defective or nonconforming shall be replacement of such Products, at the delivery point specified in the sales contract, without charge, or refund of the purchase price, in KDN's sole discretion, upon the return of such Products in accordance with KDN's instructions.

All claims, known or unknown, not made as prescribed herein are expressly waived.

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11. Miscellaneous: KDN's failure to strictly enforce any term or condition contained herein or to exercise any right with respect to Buyer order shall not constitute a waiver of KDN's right to strictly enforce such terms or conditions or exercise such right thereafter. All rights and remedies are cumulative and are in addition to any other rights and remedies KDN may have at law or in equity. Any waiver of a default by Buyer shall be in writing and shall not operate as a waiver of any other default or of the same default thereafter. If any of these terms shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby. The section headings herein are for convenience only; they form no part of the Terms and shall not affect their interpretation. These Terms shall be binding upon, inure to the benefit of, and be enforceable by, the parties hereto, and their respective heirs, personal representatives, successors and assigns.

12. Choice of Law: Any dispute relating to any purchase of Products or any contract formed hereunder, or the validity of any such contract shall be subject to the exclusive jurisdiction of the courts of Somerset County, New Jersey and governed by and interpreted according to that state's respective laws, as the same may be from time to time in effect, including, without limitations the Uniform Commercial Code as in effect in the State of New Jersey.

The parties hereto agree that all actions or proceedings arising in connection with or relating to any purchase of Products or any contract formed hereunder shall be tried and litigated exclusively in the state and federal courts located in the County of Somerset, State of New Jersey, U.S.A. The choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Agreement in any jurisdiction other than that specified in this paragraph. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this paragraph, and stipulates that the State and Federal courts located in the County of Somerset, State of New Jersey, U.S.A. shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related to any purchase of Products or any contract formed hereunder. To the extent not prohibited by applicable law, the parties hereby knowingly, voluntarily, and intentionally waive any right to trial by jury that either party may have in any action or proceeding, in law or in equity, in connection with this sales order.

13. TRANSFER OF TITLE AND RISK. Title to goods and associated risk pass to buyer when product is delivered and invoiced to Buyer under contract terms. KDN reserves the right to reclaim product that is not paid for within terms.

14. FOREIGN CORRUPT PRACTICES ACT: The U.S. Foreign Corrupt Practices Act (FCPA) makes it a crime for any individual to offer or provide, directly or through a third party, anything of value to a foreign government official with corrupt intent to influence an award or continuation of business or to gain unfair business advantage. Kadana USA Inc. expressly forbids any activity on the part of its employees, agents, vendors, customers and intermediaries that could be determined by the U.S. government to be in violation of the FCPA. If KDN determines any party to this contract is in violation of the FCPA, either directly or indirectly, KDN, without penalty, shall have the right to terminate the contract without any liability whatsoever.

15. SECTION 232 / 301 INFORMATION AND OTHER GOVERNMENT TRADE ACTIONS: Offered pricing will be adjusted in line with potential duty rates that may be imposed due to Section 232/301 or other government trade actions, if not specifically adjusted within this contract.

THESE TERMS AND CONDITIONS, ALONG WITH THE KDN SALES CONTRACT FOR THE ORDER, CONSTITUTES THE ENTIRE AGREEMENT AND SUPERSEDES ALL PRIOR AGREEMENTS, EITHER WRITTEN OR ORAL. KDN'S ACCEPTANCE OF ANY ORDER FORM PROVIDED BY BUYER IS EXPRESSLY MADE CONDITIONAL ON BUYER'S ASSENT TO THE TERMS HEREIN ("THE TERMS"), AND KDN AGREES TO SELL THE PRODUCTS ONLY UPON THE TERMS, AND NO OTHERS. BUYER'S ASSENT TO THE TERMS SHALL BE DEEMED GIVEN UNLESS BUYER NOTIFIES KDN IN WRITING OF BUYER'S SPECIFIC OBJECTIONS TO CERTAIN TERMS WITHIN TEN (10) DAYS AFTER THIS FORM OR ANY SALES ORDER IS ISSUED, WHICHEVER IS SOONER. THE MERE TENDER BY BUYER OF ITS OWN TERMS AND CONDITIONS OR OTHER SUCH FORM SHALL NOT BE DEEMED A SPECIFIC OBJECTION.

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