

# KLT Kitted Lab Technologies™, a division of ULTRAFAB, INC.

1050 Hook Road

Farmington, NY 14425

## TERMS AND CONDITIONS GOVERNING ALL SALES

### 1. GOVERNING TERMS AND CONDITIONS.

All quotations shall be considered offers by KLT Kitted Lab Technologies™ a division of Ultrafab, Inc. (hereinafter referred to, together with its divisions and subsidiaries collectively, as "KLT") to sell the goods described herein. KLT's sale will be solely upon the terms and conditions set forth herein. Any acceptance of the offer must be limited to the terms hereof. Additional or conflicting terms are rejected. Any contract arising out of the offer shall be governed by and construed in accordance with the laws of the State of New York without reference to the conflicts principles of such State. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this contract.

### 2. PRICE.

Unless otherwise specified on the face hereof, prices are F.O.B KLT's plant and in U.S. dollars. Any added expenses incurred by KLT because of delays in receipt of details, specifications and other pertinent information, because of defects in materials furnished by Buyer, or because of changes in material or design requested by Buyer, shall be chargeable to Buyer. All quotes remain open for 30 days unless otherwise specified. KLT may revise pricing or other terms of any quote not accepted within 30 days. Prices are good only for the goods, quantities and terms stated. All quotes are subject to the express reservation that KLT may change pricing at any time if its materials or manufacturing costs increase. Buyer shall pay in addition to the contract price any and all customs duties and sales, use, value added, excise, retailer's occupation and/or other taxes payable by reason of the sale of goods, together with any interest and penalties thereon. Unless otherwise specified, for sales outside the United States, Buyer shall be the importer of record. Buyer shall reimburse KLT for any such taxes, including interest and penalties thereon, as may be paid by KLT together with any expenses connected therewith.

### 3. PAYMENT.

Net payment in full is due within 30 days after shipment or storage of goods as provided herein. Unless otherwise specified, there shall be no allowance for cash discount. Unpaid invoices shall be subject to a service charge of 11/2% per month (or fraction thereof) overdue, and Buyer shall pay KLT's reasonable attorneys' fees and other collection costs of collecting overdue invoices. If Buyer is in default on this or any other order or if, in the judgment of KLT, the financial condition of Buyer, at any time prior to shipment, does not justify the terms of payment herein specified, KLT may require full or partial payment in advance of manufacture or shipment.

### 4. DELIVERY.

Material held beyond scheduled shipment date at Buyer's request is subject to reasonable storage and incidental charges. Methods and routes of shipment, unless specified by Buyer and made a part of the quote, shall be accepted as chosen by KLT. Delivery to common carrier, F.O.B. KLT's plant or warehouse shall constitute delivery and passage of title to Buyer, and risk of loss shall pass to Buyer concurrently with the transfer of title. If Buyer or the carrier refuse delivery or delay shipment or acceptance, the goods may be stored according to KLT's direction, as Buyer's agent, at Buyer's risk and expense. During any such period of storage, Buyer shall have title to the goods and bear the risk of loss. All costs subsequent to delivery, including but not limited to the cost of shipment and installation of the goods described herein, shall be borne by Buyer unless otherwise specifically agreed in writing by the parties.

### 5. DRAWINGS AND SPECIFICATIONS; TOOLING AND DIES.

KLT shall own all copyrights in all drawings and specifications prepared by or for it in connection with the goods. KLT shall supply Buyer copies of all such drawings and specifications on request within 30 days after first shipment of the subject goods. KLT may destroy the drawings and specifications thereafter. KLT shall own all patents and other intellectual property rights in any inventions made by it in the course of its design or manufacturing of the goods, subject to a license to Buyer to use and resell the goods for ordinary commercial purposes. Buyer shall provide immediate written notice to KLT upon receiving any drawing, specification or other submission from KLT if the same is incorrect, improper, or other otherwise objectionable. If Buyer fails to do so, the same shall be considered Buyer's criteria, and KLT shall be absolved of responsibility under this agreement (including under Paragraph 8 entitled "WARRANTY") and under all applicable laws, for all purposes. When KLT adheres to designs, drawings and/or specifications furnished or approved by Buyer (even if KLT prepared or approved the same), KLT shall not be responsible for them or their suitability for the application intended.

KLT shall be the sole owner of all tooling, dies, jigs, gauges and fixtures used in producing the goods and not supplied by Buyer. KLT may dispose of any or all of these items without liability to Buyer if KLT receives no orders for the subject goods for any 18-month period.

### 6. CANCELLATION.

This contract is not subject to cancellation by Buyer without KLT's written consent. Such consent will be granted, if at all, only upon the condition that Buyer shall pay KLT reasonable cancellation charges determined by KLT. Any cancellation or rescission by Buyer shall constitute a discharge of any claim by Buyer relating to this transaction.

### 7. AUTOMATION MACHINERY.

KLT supplies its automation machinery only under its standard agreements for such machinery and at Buyer's sole risk. Any possession or use of such automation machinery by Buyer is subject to (and Buyer agrees to be bound as to such equipment by) the applicable standard automation equipment agreement (a copy of which will be provided to Buyer on request), regardless whether Buyer has executed the same. KLT never sells or transfers title to such machinery, but instead merely licenses the temporary use thereof.

### 8. WARRANTY.

KLT's sole and exclusive warranty is as follows: Standard products conform in material respects to KLT's published dimensional and materials specifications and will be free from defects in material and workmanship for one year from the date of shipment from KLT's

facility under use that is normal and according to any applicable KLT application or use restrictions. In addition, custom weatherseal products within AAMA Specifications 701 or 702 comply with such applicable Specifications (current to date of manufacture). Custom products (weatherseal and other) conform in material respects to Buyer's written dimensional and materials specifications. Custom products are products for which any dimensional, material or other specifications are non-standard or Buyer-provided. No employee or agent of KLT is authorized to make any warranty other than that which is specifically set forth herein.

To secure coverage under this warranty, Buyer must notify KLT in writing of any claimed defect or deficiency covered by this warranty within one year from the date of shipment from KLT's facility for standard products or within 60 days from the date of shipment from KLT's facility for custom products. Then, upon prompt return of the goods to KLT freight prepaid, KLT will, at its option, refund the purchase price of, or replace or repair, free of charge, F.O.B KLT's plant or warehouse, such goods or portions thereof which it determines to be covered by the foregoing warranty.

### 9. LIMITATION OF LIABILITY.

The obligation of refunding the purchase price, replacement or repair set forth under WARRANTY above constitutes KLT's entire and exclusive liability and Buyer's sole and exclusive remedy with respect to the goods, and shall be in lieu of any other remedy available under applicable law, including any action based on negligence, strict tort or product liability. KLT will in no event be liable for any direct, indirect, incidental, special or consequential damages whatsoever, and KLT's liability under no circumstances will exceed the contract price for the goods of which liability is claimed.

ULTRAFAB MAKES NO WARRANTY OF FITNESS OR MERCHANTABILITY AND NO OTHER WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WHETHER BY COURSE OF DEALING OR TRADE USAGE OR OTHERWISE, EXCEPT AS SPECIFICALLY SET FORTH IN THIS PARAGRAPH.

As all end-uses of its products are unique, KLT cannot and does not warrant the air, water or dust infiltration qualities of its products. Any infiltration, compression, abrasion, durability, materials or other testing done by KLT is for convenience only and is not warranted by KLT. Buyer is responsible for its own testing, and KLT assumes no liability for its test procedures or results or any deficiency therein.

If any model or sample was shown to Buyer, such model or sample was used merely to illustrate the general type and quality of the goods and not to represent or warrant that the goods would necessarily be of that type or nature. Buyer accepts all risk of the use of the goods, whether used singly or in combination with other products or components. Performance statements in any promotional literature or elsewhere are descriptive only, and are not warranties. Buyer hereby waives any right to damages in the event it rescinds the contract for breach of warranty.

### 10. PATENTS AND TRADEMARKS.

KLT's goods are offered and sold on the condition that such sale does not convey any license, expressly or by implication, estoppel, or otherwise, under any patent, trademark, copyright or know-how with respect to which KLT can grant licenses.

KLT will not be liable for any claim of infringement unless due to infringement by goods manufactured by KLT in the form in which KLT has supplied such goods to Buyer and without regard to their use by Buyer. If Buyer notifies KLT promptly of any such claim of infringement and, if KLT so requests, authorizes KLT to defend or settle any suit or controversy involving such claim, KLT will, as its sole and exclusive obligation, bear the reasonable expenses of any such suit with counsel chosen by it (but not any expenses incurred by Buyer or any other person) and will satisfy any judgment or settlement in which KLT acquiesces, but only to an amount not exceeding the price paid to KLT for the allegedly infringing goods.

### 11. GENERAL.

Any assignment of this agreement by Buyer without KLT's written consent shall be void. Where Buyer's order covers operations to be performed by KLT on articles supplied by Buyer, such articles shall remain the property of Buyer at all times and Buyer assumes all risk of loss or destruction including normal spoilage, excepting only loss or destruction due to KLT's gross negligence. Storage, handling and transportation shall be at Buyer's expense. KLT shall not be liable for delay or default directly or indirectly resulting from or contributed to by any circumstances beyond KLT's control including, without limitation, accident to plant or equipment, lack or unavailability of plant capacity; riots; wars or national emergency; labor disputes of every kind, however caused; embargoes; non-delivery by suppliers; delays or carrier or postal authorities; or governmental restrictions, allocations, priorities, prohibitions or diversions.

Buyer shall notify KLT in writing of any accident, injury to person, damage to property, loss or other occurrence involving goods supplied hereunder within sixty (60) days of the occurrence thereof, if KLT might be liable therefor to persons other than Buyer. If Buyer shall fail to so notify KLT, Buyer shall defend, indemnify and save KLT harmless from all claims against and liability of KLT arising out of such occurrence.

No agreement or other understanding in any way adding to or modifying the prices, terms or conditions set forth herein shall be binding upon KLT unless made in writing and signed by KLT's authorized agent or officer.

### 12. DISPUTES.

Any litigation concerning this agreement or the goods shall be brought only in a court with subject matter jurisdiction located in Ontario County, New York, and the parties hereby expressly and irrevocably consent and submit to the personal jurisdiction of all such courts for this purpose and waive any claim that such forum is inconvenient, provided, that KLT may, at its sole option, nonetheless bring an action for the price of the goods and any other sums due to it hereunder or under any other agreement or transaction in any other court with subject matter jurisdiction where personal jurisdiction over Buyer may be obtained.