



Key Knife, Inc.
19100 SW 125th Court
Tualatin, OR 97062
Phone: (800) 684-4855
Fax: (503) 691-2240

STANDARD TERMS AND CONDITIONS

1. ACCEPTANCE OF TERMS. The following terms and conditions shall apply to and form a part of all System/Service Quotes provided by Key Knife, Inc. ("Key Knife") and any orders resulting from System/Service Quotes, the sale of Key Knife products (the "Products") and/or provision of services (the "Services") to the Buyer. Acceptance of the offer communicated hereby is expressly limited to the terms hereof, and any additional or different terms of Buyer's purchase order or other form of acceptance or any other form of Buyer are objected to and rejected in advance and shall not become a part of any orders. Acceptance of a product or service from Key Knife shall constitute acceptance of these terms and conditions by the Buyer.
2. PRICE. Prices stated by Key Knife include only the Products and/or Services specified. Unless otherwise stated, a price does not include any duty or any federal, state or local taxes that are or may hereafter be applicable.
3. CANCELLATION AND MODIFICATION. Buyer may cancel an order for Products and/or Services at no charge only by delivering written notice of cancellation to Key Knife before Key Knife has commenced any work on Products comprising the subject order. If work on the order has commenced, Buyer agrees to pay Key Knife a pro-rata portion of the purchase price based on the percentage of work completed to date.. Key Knife will send Buyer an invoice for all such charges, which shall be due and payable upon receipt.
4. DELIVERY OF PRODUCTS. Unless otherwise stated, delivery of Products will be F.O.B. Key Knife's facilities, Tualatin, Oregon. While Key Knife will, at Buyer's request, arrange for shipment, Buyer shall be responsible for all insurance and freight charges and bear all risks of transportation; shipping and insurance charges shall be prepaid by Key Knife and added to the Buyer's invoice at cost, unless otherwise specified by Buyer. All claims for loss or damage after risk of loss has passed to Buyer shall be filed by Buyer with the carrier. Buyer shall be liable to Key Knife for the full price of the Products, irrespective of loss or damage in transit. Any estimated shipment date is based upon conditions prevailing at the time, and is expressly subject to change due to commitment of Key Knife's Production capacity.
5. TERMINATION BY KEY KNIFE. Key Knife reserves the right to terminate this Agreement, and to stop production and delivery of Products and provision of Services under this Agreement upon Buyer's repudiation of this Agreement, Buyer's insolvency, an assignment for the benefit of Buyer's creditors, the filing of a voluntary or involuntary proceeding in bankruptcy regarding the Buyer, or a material breach by Buyer hereunder. All amounts owing for Products shipped or Services performed through the date of termination shall be immediately due and payable upon termination. Termination of this Agreement shall not affect any right or obligation based upon default or performance before termination; any provision of this Agreement which contemplates performance subsequent to any termination or expiration of this Agreement shall survive any termination or expiration of this Agreement and continue in full force and effect, including without limitation Section 9 (Limited Warranty and Remedy) and Section 10 (Limitation of Liability; Waiver of Consequential Damages).
6. PAYMENT. Unless otherwise agreed or stated herein, the Buyer shall pay the full contract price to Key Knife at Key Knife's place of business within 30 days following the shipment of Products and/or performance of Services, as applicable. Any amount not paid when due shall accrue interest at the rate of 1.5% per month (18% per annum) until paid, or such lesser amount as shall equal the maximum rate allowed by law.
7. SECURITY INTEREST. Until all amounts payable to Key Knife are paid in full, and as security for payments when due and performance of the obligations of Buyer, Buyer hereby grants to Key Knife a purchase money security interest (including the right of repossession) in the Products sold to Buyer, and all substitutions, replacements and additions to the Products, and all proceeds thereof (the "collateral"). Buyer agrees that it shall execute, from time to time as Key Knife may request, one or more financing statements or other documents or shall take such other actions considered necessary or desirable by Key Knife in order to perfect or protect the security interest in the collateral created by this section. In addition, the Buyer irrevocably hereby makes, constitutes and appoints Key Knife (and all persons designated by the Key Knife for that purpose) as the Buyer's true and lawful attorney and agent-in-fact to execute such financing statements, documents and other agreements and instruments and do such other acts and things as may be necessary to preserve and perfect Key Knife's security interest in the collateral.
8. MONEY BACK GUARANTY. This money back guaranty is available only for new systems purchased by a first-time purchaser of a Key Knife system ("System"), and shall not extend to any system which has previously been purchased by the Buyer from Key Knife or any other Product. Subject to the terms of this paragraph, if the System purchased by Buyer fails to perform to Buyer's satisfaction, Buyer may return the System to Key Knife. This guaranty shall expire at the earlier to occur of (i) 90 days from the date of installation or (ii) 180 days from the date of shipment. Key Knife will refund the purchase price therefor so long as Buyer returns the System in the same condition as originally delivered, normal wear and tear excepted. The return or disposition of the System is to be performed at Key Knife's direction and expense. The guaranty period specified herein is based on the assumption that Buyer will be operating one shift per day. If Buyer operates two or more shifts per day, the guaranty period shall be the earlier of (i) 45 days from the date of installation or (ii) 180 days from the date of shipment.



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9. **LIMITED WARRANTY AND REMEDY.** Key Knife warrants that on the date of shipment to Buyer and for one year thereafter the Products will be free of defects in workmanship and material. If within one year from date of date of shipment of the Products, Buyer discovers that the Products are not as warranted above and promptly notifies Key Knife in writing thereof, Key Knife will, at Key Knife's option and as its sole liability, repair or replace the item and any affected part of the Products, or refund the purchase price therefor. The same obligations and conditions shall extend to replacement items furnished by Key Knife hereunder. Buyer agrees to grant Key Knife access to the Products at all reasonable times in order for Key Knife to determine the existence of a claimed defect in the Products. Key Knife Product systems and accessories require installation by an Authorized Key Knife Representative or a Key Knife- authorized and -trained employee(s) of Client. Installation, alteration, or modification by anyone other than an Authorized Key Knife Representative or a Key Knife-authorized and -trained employee(s) of Client shall void the terms of this product warranty. This warranty does not cover (1) defects due to misuse, abuse, or improper or inadequate installation, storage, service, modification or repair of the Products; (2) damage during shipment; (3) consumable parts, (4) normal wear and tear or (5) Products not manufactured or designed by Key Knife. Notwithstanding any other provision herein, materials or equipment manufactured by persons other than Key Knife are sold exclusively under such warranty as the manufacturer provides to Key Knife. Key Knife hereby assigns to Buyer any rights it may have arising out of the warranties given to Key Knife by any manufacturer of materials or equipment purchased by Key Knife and resold to Buyer, to the extent permissible or enforceable. In no event shall Key Knife be responsible to Buyer for warranties on purchased equipment or materials that are more extensive than the warranty provided to Key Knife by the manufacturer. Key Knife warrants with regard to Services that the Services will be provided in a professional and workmanlike manner consistent with industry standards and practice. The Services provided by Key Knife shall be deemed to be accepted by Buyer unless Buyer notifies Key Knife within fifteen (15) days following the date of the issuance of the invoice therefor, which shall constitute the warranty period for Services. Any such notice shall be in writing and shall specify the nature and extent of any unacceptable Service. In the event that Buyer timely notifies Key Knife of any non-acceptable Service, Key Knife shall promptly coordinate with Buyer to review the deficiency and, as its sole liability, to reperform the services to correct any such deficiency. Any expense of costs incurred to investigate, confirm, or correct the deficiency shall be borne by the party responsible for such deficiency. In the event the Service is subsequently shown to have been in compliance, Buyer shall reimburse Key Knife for the expenses and costs incurred in response to the notice.

THE WARRANTIES STATED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. KEY KNIFE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. KEY KNIFE IS NOT RESPONSIBLE IN ANY WAY FOR DAMAGE TO A PRODUCT, PROPERTY DAMAGE OR PHYSICAL INJURY RESULTING IN WHOLE OR IN PART FROM (1) IMPROPER OR CARELESS USE, (2) UNAUTHORIZED MODIFICATIONS, OR (3) OTHER CAUSES BEYOND KEY KNIFE'S CONTROL.

The foregoing states Buyer's exclusive remedies against Key Knife for any defect in the Products or Services or for any failure of the Products or Services to be as warranted, whether Buyer's remedy is based on contract, warranty, tort (including negligence), strict liability, indemnity or any other legal theory, and whether arising out of warranties, representations, instructions, installations or defects from any cause.

If Buyer resells the Products, Buyer agrees that any and all warranties made to customers of Buyer shall be made only by Buyer with the exception of the Limited Warranty and Remedy set forth above (the "Standard Customer Warranty"), which Buyer is authorized to provide to its customer. Buyer hereby agrees to indemnify Key Knife for any loss due to Buyer's failure to comply with Buyer's obligations hereunder with respect to warranties.

10. **LIMITATION OF LIABILITY; WAIVER OF CONSEQUENTIAL DAMAGES.** THE REMEDIES OF BUYER SET FORTH IN THESE TERMS AND CONDITIONS ARE EXCLUSIVE. IN NO EVENT SHALL THE MAXIMUM LIABILITY OF KEY KNIFE TO BUYER HEREUNDER WITH RESPECT TO PRODUCTS OR SERVICES OR ANYTHING DONE IN CONNECTION THEREWITH, OR FROM THE MANUFACTURE, SALE, DELIVERY, RESALE, INSTALLATION OR TECHNICAL DIRECTION OF INSTALLATION, REPAIR OR USE OF ANY EQUIPMENT COVERED BY OR FURNISHED UNDER ANY CONTRACT, WHETHER IN CONTRACT, WARRANTY, FAILURE OF A REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY, EXCEED THE LESSER OF (I) BUYER'S DIRECT DAMAGES ACTUALLY INCURRED OR (II) THE TOTAL AMOUNT PAID BY BUYER WITH REGARD TO THE APPLICABLE GOODS AND SERVICES UNDER THIS AGREEMENT. IN ANY EVENT, ALL LIABILITIES OF KEY KNIFE SHALL TERMINATE UPON EXPIRATION OF THE APPLICABLE WARRANTY PERIOD. IN NO EVENT WILL KEY KNIFE BE LIABLE TO BUYER OR ANY OTHER PERSON FOR COST OF PROCUREMENT OF SUBSTITUTE GOODS, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF GOODWILL, COMMERCIAL LOSSES, DAMAGES FOR LOSS OF USE OF FACILITIES OR EQUIPMENT, COVER, BUSINESS INTERRUPTION, LABOR OR INSTALLATION EXPENSES, PUNITIVE DAMAGES, OR FOR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER (A) BUYER'S CLAIMS ARE BASED IN CONTRACT, TORT, NEGLIGENCE, BREACH OF WARRANTY, STRICT LIABILITY, OR OTHERWISE; OR (B) KEY KNIFE HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

11. **INTELLECTUAL PROPERTY.** Drawings, specifications, designs, computer programs or technical documents prepared by U.S. Standard Terms & Conditions



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Key Knife at any time remain the exclusive property and trade secret and proprietary information of Key Knife. These drawings and technical documents may not be used by Buyer or reproduced, transmitted, or communicated to a third party without Key Knife's written consent. All drawings and technical documents are confidential and must not be used for any installation other than the one for which they were designed. Key Knife may provide its drawings or other technical documents to Buyer for the limited purpose of properly installing, operating, and maintaining the Products. The sale of the Products under this Agreement, and the provision of any drawings or other technical documents, does not give or imply any right or license to Buyer to analyze or manufacture such Products or to use, make or have made any such Products.

12. NONWAIVER. The failure of either party to enforce a covenant or condition of this Agreement shall not affect its right thereafter to enforce the same, nor shall the waiver of any breach of any provision of this Agreement be taken or held to be a waiver of any succeeding breach.

13. FORCE MAJEURE. Key Knife shall in no event be liable for delays in delivery of the Products or Services or other failures to perform caused by fires, pandemics or epidemics, acts of God, strikes, labor difficulties, acts of governmental or military authorities, delays in transportation or procuring materials, or causes of any kind beyond Key Knife's reasonable control.

14. DISPUTES. All disputes in any way relating to, arising under, connected with or incident to this Agreement shall be litigated, if at all, solely and exclusively in the State Circuit Court of Oregon for the County of Multnomah, or, if applicable, in the Federal District Court for the District of Oregon, and, if necessary, their respective corresponding appellate courts. Each party shall forebear from filing a claim in any other county or jurisdiction and expressly submits itself to the personal jurisdiction of the State of Oregon. The performance and construction of this Agreement shall be governed by the substantive laws of the State of Oregon without regard to conflict of law provisions. No action, regardless of form arising out of transactions under this Agreement, may be brought by either party more than two (2) years after the cause of action has occurred.

15. NON-ASSIGNMENT. Neither party may assign any of its rights or obligations pursuant to this Agreement without the written consent of the other party.

16. EXPORT CONTROL. Buyer understands that exports and re-exports of any Products, parts, and any related software, technical data, service, or technical assistance ordered from or otherwise provided by Key Knife (individually, an "Item" and, collectively, the "Items") are subject to U.S. export, import, customs, antiboycott and economic sanctions laws, regulations, rules and orders (collectively, "Trade Control Laws"). Buyer shall not export, re-export or otherwise transfer or provide any Item, or any product incorporating an Item, in contravention of any Trade Control Law. In addition to any other remedy it may have, Key Knife may suspend and/or cancel the export, delivery, installation, and/or any maintenance or repair service of any Item if Key Knife believes that such activity may violate any Trade Control Laws or Key Knife's own compliance policies. Key Knife will not be liable to Buyer for any loss or expense if Buyer fails to comply with any Trade Control Law or with the provisions set forth herein. Buyer shall also abide by comparable and applicable non-U.S. trade control laws, unless they contradict U.S. law.

17. ANTI-CORRUPTION. Neither party has engaged or shall engage in any bribery; provision or receipt of payment, gift, or thing of value; kickbacks; collusive bidding; price fixing; or other unfair trade practices. Each party (and its partners, employees, representatives and agents) shall comply with the U.S. Foreign Corrupt Practices Act and the applicable anti-bribery and anti-corruption laws of any country outside the United States.

18. CONFIDENTIAL INFORMATION. Each party shall hold confidential, not divulge to third parties, and not use for any purpose unrelated to this Agreement, without the prior written consent of the other party, any trade secrets or other information (whether communicated in writing or orally) concerning a disclosing party, its affiliates, or their respective operations, engineering practices and procedures, manufacturing technology or techniques, marketing plans, business plans, product or sales information, or any other proprietary or confidential information obtained by the receiving party from or through the disclosing party (collectively, the "Confidential Information"), except as expressly permitted by this Section. A receiving party may disclose the Confidential Information to its directors, officers, employees, agents or advisors (collectively, its "Representatives") having a need to know such information in connection with this Agreement. The receiving party will use the same degree of care that it uses to protect the confidentiality of its own Confidential Information (but not less than reasonable care). A receiving party shall inform its Representatives receiving Confidential Information of the confidential nature thereof and will be responsible for any breach of the receiving party's obligations under this Section by its Representatives. All documentation (including copies and duplicates in any medium whatsoever) in a receiving party's possession or under a receiving party's control that contain, are based on, or reflect any Confidential Information shall also be deemed Confidential Information. Notwithstanding the foregoing, Confidential Information shall not be deemed to include any information that: (i) was known to a receiving party prior to obtaining it from the disclosing party, as shown by the receiving party's written records; (ii) was, at the time of disclosure to the receiving party, or thereafter becomes, part of the public domain other than as a result of any disclosure in breach of this Section by the receiving party or its Representatives; (iii) was obtained by the receiving party from a third party who was not known by the receiving party at the time of disclosure to have an obligation of secrecy to the disclosing party with

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respect to such information; or (iv) is developed independently by the receiving party without reference to or reliance upon the Confidential Information received from the disclosing party. Notwithstanding anything to the contrary contained in this Agreement, Confidential Information may be disclosed by the receiving party or its Representatives as required by applicable law, legal process, rule (including stock exchange rule), regulation, subpoena, order, or decree of any government, government agency, court, or other governmental authority, and the receiving party, unless prohibited by law, shall notify the disclosing party in writing, as soon as reasonably practical. If requested by the disclosing party, the receiving party shall reasonably cooperate with the disclosing party, at the disclosing party's sole expense, in seeking to obtain a protective order or other appropriate remedy.

19. ENTIRE AGREEMENT; APPLICATION OF TERMS AND CONDITIONS. This Agreement, consisting of these terms and conditions and the System/Service Quote to which these terms and conditions are attached, represents the entire agreement between Key Knife and the Buyer regarding the sale of Products and/or provision of Services to the Buyer, and is a complete and exclusive statement thereof, notwithstanding any prior course of dealings, custom or usage of trade, or course of performance. All products, including without limitation spare parts, and services provided to Buyer by Key Knife shall be subject to these Standard Terms and Conditions, whether or not listed on a System/Service Quote, purchase order or other document; all such services shall be considered "Services" and all such products, including without limitation spare parts, shall be considered "Products" as used herein. No prior or subsequent agreements, understandings, representations, or commitments shall be binding. No purchase order, acceptance form or other document submitted by the Buyer shall be binding upon Key Knife. These Standard Terms and Conditions shall control over, and apply in lieu of, any and all conflicting and/or pre-printed terms and conditions contained in your purchase orders, quotes, proposals, order acknowledgements, invoices or similar documents, which terms and conditions shall be null and void and of no effect. These Standard Terms and Conditions may be modified upon 30 days prior notice by Key Knife and the transmittal of substitute Standard Terms and Conditions or posting at www.keyknife.com.