



## PURCHASE ORDER

### Terms and Conditions:

KNOTT BRAKE COMPANY (herein "Buyer") hereby orders certain goods identified on the face hereof from the party identified on the face hereof (herein "Seller") upon the terms and conditions set forth on the face hereof and hereinbelow:

- PRICE:** The price shall not be higher than that appearing on the face of this Purchase Order (the "Order"), or if no price appears thereon, then no higher than that last quoted by Seller.
- INSPECTION & ACCEPTANCE:** Delivery of the goods and materials shall not constitute acceptance of such goods and materials. All goods and materials ordered herein shall be subject to inspection and acceptance after delivery. Goods or materials failing to meet the requirements of this Order will be held at Seller's risk and may be returned at Seller's expense. Any inconsistent or additional terms contained in any quotation or previous offer from Seller are hereby rejected unless expressly accepted in writing by Buyer within ten (10) days after this Order.
- SUBSTITUTION AND EXTRAS:** No substitutions of materials or accessories may be made without Buyer's written consent. No charge will be allowed for extras, shipping, packing, crating, freight, express or other carrier's charges for cartage, unless designated on this Order. If Buyer designates a specific shipper on the front of this Order, Seller agrees to use such shipper. In the event Seller fails to use such shipper, Seller shall be responsible for any increase in shipping costs to Buyer along with any other costs and expenses incurred by Buyer due to Seller's failure to use the designated shipper.
- CANCELLATION:** In addition to any other rights which Buyer may have, Buyer reserves the right to cancel this Order in whole or in part, holding Seller responsible if material furnished pursuant to this Order or any shipment thereunder is not as specified or if delivery is not made when and as specified. **TIME OF PERFORMANCE OF THIS ORDER IS OF THE ESSENCE.**  
  
Buyer may cancel this Order in whole or in part if Seller is adjudicated a bankrupt, if a petition under the Bankruptcy Act is filed against Seller, if Seller makes an assignment for the benefit of creditors, if a receiver of the property of Seller is appointed or if an action under any law for the relief of debtors is taken in respect of Seller.  
  
Upon any cancellation of this Order by Buyer, for any reason, in no event shall Seller be entitled to lost opportunity costs, unabsorbed overhead or anticipated profits as a result of such cancellation.
- DELIVERY:** Unless otherwise agreed in writing, Seller shall not make material commitments or production arrangements in excess of the amount, or in advance of the time, necessary to meet Buyer's delivery schedule, except at Seller's own risk. It is Seller's responsibility to comply with this schedule, but not to anticipate Buyer's requirements.
- PATENT, COPYRIGHT AND TRADEMARK INDEMNIFICATION:** Seller warrants that it will defend at its expense the allegations of any suit against Buyer or Buyer's customers respecting infringement of any U.S. or other Letters Patent, or violation of any copyright, trademark or other intellectual property right, covering all or part of the goods or materials furnished under this Order, their manufacture and/or their use, or Seller shall procure for Buyer or Buyer's customers the right to continue to use such goods or materials, or replace it with substantially equivalent non-infringing or non-violating goods or materials. Buyer shall reasonably notify Seller of any charge of and suit for such infringement and tender to Seller the defense of such allegations, Buyer having the right to be represented in such defense at its own expense.
- OVER-SHIPMENT:** Goods or materials shipped in excess of quantity ordered may be returned at Seller's expense, which expense shall include, but not be limited to, packing, crating, freight and express costs and charges along with Buyer's labor costs, or, alternatively, at Buyer's option, Buyer may charge Seller an amount not to exceed fifteen dollars per package, plus shipping costs, for each package returned.
- TITLE & RISK OF LOSS:** Unless otherwise specified on the face of this Order, all risk of loss or damage and title to the goods or materials furnished under this Order shall pass to Buyer upon delivery at Buyer's premises.
- WARRANTY:** Seller expressly warrants that all goods, materials and/or services specified in this Order shall conform to the specifications, drawings, samples and other descriptions upon which this Order is based, shall be fit and sufficient for the purpose intended, merchantable, of good material and workmanship and free from defect. Inspection, test, acceptance or use of the goods furnished hereunder shall not affect Seller's obligation under this warranty and such warranty shall survive inspection, test, acceptance and use. This warranty shall run to Buyer, its successors, assigns and customers and the user of its products and shall survive termination or cancellation of this contract. Seller agrees to replace or correct defects (including labor and transportation) in any goods or services not conforming to the foregoing warranty promptly without expense to Buyer, when notified of such non-conformity by Buyer. In the event of failure by Seller to promptly correct defects in or replace non-conforming goods or services, Buyer, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for costs incurred by Buyer thereby. The warranties and remedies contained in this Order supplement the warranties and remedies provided by the Uniform Commercial Code, which warranties and remedies shall not be disclaimed or limited in any way by Seller.
- INDEMNITY:** Seller shall defend and indemnify Buyer against all damages, liabilities, claims, losses and expenses either direct, indirect or consequential (including attorneys' fees) arising out of, or resulting in any way, except from Buyer's negligence, from any defect in the goods or services purchased hereunder or from any act or omission of Seller, its agents, employees or subcontractors. This indemnity obligation of Seller shall survive the expiration, termination or cancellation of this contract.
- DATA:** Seller shall not use or disclose any data, designs or other information belonging to or supplied by or on behalf of Buyer, except as necessary in the performance of this or other orders for Buyer and provided such information remains subject to the restrictions in this section. Upon Buyer's request, such data, designs or other information and any copies thereof shall be returned to Buyer. Where Buyer's data, designs or other information are furnished to Seller's suppliers for procurement of supplies by Seller for use in the performance of Buyer's orders, Seller shall insert the substance of this provision in its orders. Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer incident to the placing and filling of this Order, shall not, unless otherwise specifically agreed upon in writing by Buyer, be deemed to be confidential or proprietary information, and accordingly will be acquired free from any restriction. No employee of Buyer has authority to make any agreement, express or implied, limiting the use or publication of or providing for confidential treatment of information or suggestions of whatever kind received by him, except Buyer's President as agreed in writing.
- EQUIPMENT/PROPERTY:** Unless otherwise agreed in writing, all equipment, materials and other property of every description furnished to Seller by Buyer and any replacement thereof, or any property affixed or attached thereto, shall be and remain the personal property of Buyer. Such property, and whenever practical each individual item thereof, shall be plainly marked or otherwise adequately identified by Seller as "Property of Knott Brake Company" and shall be safely stored separate and apart from Seller's property. Seller shall not substitute any property for Buyer's property and shall not use such property except in filling Buyer's orders. Such property while in Seller's custody or control shall be held at Seller's risk, shall be kept insured by Seller at Seller's expense in an amount equal to the replacement cost with loss payable to Buyer. Such property shall be subject to removal at Buyer's written request, in which event Seller shall prepare such property for shipment and shall deliver it to Buyer in the same condition as originally received by Seller, reasonable wear and tear excepted, all at Seller's expense. Seller shall have no lien against such property and waives any rights if it may to any such lien.
- COMPLIANCE WITH LAWS & REGULATIONS:** Seller shall cause the work and materials contemplated hereunder to be performed and manufactured in strict conformity with federal, state and local laws and ordinances, and all lawful regulations of any public authority applicable to this transaction, and Seller agrees, upon request, to furnish Buyer a Certificate of Compliance with any or all such laws in such form as Buyer may require. Executive Order 11246, the Rehabilitation Act of 1973, and the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended, contain required contract clauses relative to equal employment opportunity, which are hereby incorporated herein by specific reference. By way of such federal laws, Seller is notified that they may be subject to the provisions thereof with respect to affirmative action program and plan requirements.
- APPLICABLE LAW:** The right and duties of the parties hereto shall be determined by the laws of the State of Ohio and to that end this contract shall be construed and considered as a contract made and to be performed in the State of Ohio.
- SET-OFF:** If delivery is not made within the time specified herein, Buyer may purchase elsewhere and charge Seller the difference in price and/or Buyer may cancel the entire Order or any undelivered portion thereof. Payments due Seller may be offset against sums owed to Seller by Buyer.
- CHANGES IN WRITING:** This Order represents the final written expression of agreement between Buyer and Seller constituting the entire contract between Buyer and Seller and superseding all previous communications, either oral or written. In the event the terms and conditions of this Order are inconsistent in any manner with a quotation or proposal from Seller, this Order shall be deemed a counteroffer and Seller's subsequent delivery shall be deemed Seller's acceptance of such counteroffer on the terms and conditions contained herein. No terms or conditions other than those set forth above and on the face of this Order shall be effective unless said changes are reduced to writing and signed by both parties. Shipment by Seller of goods or materials pursuant to this Order shall be deemed to be an acceptance by Seller of the Terms and Conditions of this Order. Any different terms or conditions in Seller's acknowledgment of this Order or Seller's invoice, regardless of whether such terms and conditions are material or not, shall not be binding unless expressly accepted in writing by Buyer and Buyer specifically objects to the inclusion of any different or additional terms or conditions by Seller in acknowledging, confirming or accepting this order. If Seller does include different or additional terms and conditions in its acknowledgment, acceptance, confirmation, invoice or other written form sent in response to this Order by Seller, neither Buyer's acceptance or delivery of all or part of the goods, nor Buyer's payment for the goods shall constitute acceptance of such additional or different terms, but instead the terms and conditions of this Order shall govern. Neither this Order nor any interest herein nor any claim arising hereunder shall be transferred or assigned by Seller without the written approval of Buyer.