

GENERAL TERMS AND CONDITIONS: The sale of any product by TOK, Inc. (“TOK”) and any quotation from TOK are subject to the following additional terms and conditions which are knowingly and conclusively accepted by the Buyer. Any other terms and conditions inconsistent with these terms and conditions are not binding on TOK and are not applicable to any sales or quotation by TOK. TOK’s failure to object to any contrary or additional terms contained in any communication from Buyer shall not constitute a waiver of or an addition to these terms and conditions.

1. **Price.** The prices are as negotiated between TOK and Buyer. Prices are subject to change by TOK without prior notice. Prices may be affected by minimum quantity charges and quantity volume discounts. Prices are at all times subject to currency fluctuations, labor charges and material costs.
2. **Delivery.** TOK shall select the carrier. Delivery is “EXW”, which shall be interpreted in accordance with INCOTERMS 2020 as amended, to Buyer’s facilities or as specified by Buyer all at Buyer’s cost. If shipment is from TOK’s supplier to Buyer’s facilities, then Buyer shall be responsible for all freight, shipping and related transportation costs and fees. TOK shall invoice Buyer for such charges. Buyer shall be responsible for the payment of all personal property and all other taxes, customs duties and fees, excise taxes, penalties, assessments and all transportation charges, insurance costs, and other charges incident to the storage and movement of the Product in connection with delivery to Buyer. Buyer shall pay all customs duties, fees, assessments, penalties, expenses and related transportation charges upon demand by TOK and before delivery. Unless different agreement is made between the parties, payment for the products shall be made by telegraphic transfer. The carrier shall not be construed to be an agent of TOK. TOK shall not be responsible for any carrier delays. TOK’s liability for risk of loss shall terminate upon delivery of the product to the carrier. TOK shall not be liable for any damages or penalty for delay in delivery or failure to deliver when such delay is caused by force majeure or is otherwise beyond TOK’s control. If the Products are destroyed before the time of risk of loss passes to Buyer, then this Agreement shall be avoided and TOK excused from all obligations hereunder.
3. **Payment.** Payment for product is due to TOK advance payment, except for customs duties, all taxes and related fees, penalties, assessments and related transportation expenses, which shall be due and payable upon receipt of TOK’s invoice. Late charges and interest for nonpayment shall be allowed to the highest extent allowed by applicable law. All collection charges and collection fees and expenses are the responsibility and obligation of the Buyer.
4. **Limitation of Damages.** IN NO EVENT WILL TOK OR ITS AUTHORIZED REPRESENTATIVES BE LIABLE TO THE BUYER FOR ANY CLAIMS OR DAMAGES IN EXCESS OF AMOUNTS PAID BY THE BUYER TO TOK FOR THE PRODUCT OR SERVICES RELATING TO THE PRODUCT SPECIFIED HEREIN. TOK SHALL NOT BE LIABLE FOR ANY LOST PROFITS, LOST SAVINGS, OR ANY SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF TOK OR ITS AUTHORIZED REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
5. **Warranty.** TOK warrants to Buyer that all of its products shall be free from initial defects in material and workmanship during normal use and service for a period of ninety (90) days from date of consumer purchase. TOK must be notified in writing of all warranty claims and all such claims must be made within this time period. Merchantability and fitness for a particular purpose are disclaimed to the fullest extent of law. All weight resistance descriptions on any product are for general reference only and are not guaranteed or specific for any purpose. Warranty claims and product returns are subject to TOK’s Return Materials Authorization (RMA) procedures. This limited warranty does not apply to product that has been abused, damaged, altered or misused by any person or entity after title passes to Buyer. TOK’s sole obligation, and Buyer’s sole remedy, is for TOK to replace and send such replacement to Buyer freight prepaid as soon as commercially reasonable and practicable. Buyer shall return products covered by this warranty freight prepaid after completing a failure report and obtaining a RMA number from TOK to be displayed on the shipping label. Customer shall bear all of the risk, and all costs and expenses, associated with products that have been returned to TOK for which there is no defect found. No agent, employee or representative of TOK has any authority to bind TOK to any representation of warranty concerning the goods sold to Buyer, unless specifically included within these terms and conditions; any such representation is not deemed a part of the basis of this transaction and shall not in any way be enforceable against TOK.
6. **Disputes.** Any dispute, controversy or difference of opinion as to whether any of the Product are defective which the parties are unable to resolve by negotiation, shall be resolved by final and binding arbitration in Tokyo, Japan in accordance with the Commercial Arbitration Rules of The Japan Commercial Arbitration Association. Each party shall bear its own expenses and costs of the arbitration.
7. **Liability for Damages to TOK.** Buyer understands that upon TOK’s acceptance of Buyer’s order, TOK will incur substantial expenses and suffer significant losses if Buyer subsequently breaches its agreement to purchase the Product. In the event of any default by Buyer, Buyer shall be liable for all damages suffered by TOK and shall indemnify TOK against and be responsible for all of TOK’s obligations to any third parties involved in supplying the Product.
8. **Relationship.** The relationship created between Buyer and TOK shall be strictly that of customer and supplier. Neither party is constituted an agent or legal representative of the other party for any purpose whatsoever, and neither party is granted any right or authority hereunder to assume or create any obligation, express or implied, or to make any representation, warranties or guarantees on behalf of the other party.
9. **Property Rights.** All rights, proprietary rights, patents, trademarks, service marks, copyrights, trade secrets, and any other intellectual property rights that exist in or arise from the product and its technology shall at all times remain to TOK. Buyer acknowledges and agrees that any acts contained in this Agreement will not be construed as transfers, grants, options, licenses, and any other assignments of any rights, titles and interests to Buyer or its agents.
10. **Waiver.** A waiver by either party of a breach of any of the terms hereof by the other party shall not be deemed a waiver of any subsequent breach.
11. **Choice of Law and Jurisdiction.** This Agreement, and any dispute arising from the relationship between the Parties hereunder, will be governed by the laws of Japan, excluding its conflict of law rules. The Parties knowingly, voluntarily and irrevocably consent that all matters and disputes relating to and arising from this Agreement shall be exclusively brought in the Tokyo District Court of Japan.
12. **Severability.** If any of the terms or conditions hereof are held void or unenforceable, such terms or conditions will be treated as severable, leaving the remainder of the terms and conditions valid and enforceable.
13. **Attorneys’ Fees.** In any action or proceeding involving the enforcement or interpretation hereof, each party shall be responsible for its own attorneys’ fees and all costs and expenses incurred in connection therewith.
14. **Interest and Collection Costs.** Any amount not paid by Buyer when due shall bear interest at the highest legal rate permitted by applicable law. All costs of collection and enforcement of any judgment shall be awarded.
15. **Use of Standard Forms.** For purposes of convenience only, the parties shall be free to use their standard business forms in connection with the transactions contemplated by this Agreement. However, this Agreement shall take precedence over any invoices, quotations, purchase orders or other standards forms of Buyer. Any terms contained in such standard forms that are inconsistent with the terms herein shall be of no force or effect.
16. **Successors in Interest.** This Agreement shall be binding upon and inure to the benefit of the parties and shall not be assigned by either party without the prior written consent of the other party.

17. **Entire Understanding.** This Agreement constitutes the entire agreement between TOK and Buyer and shall supersede any other prior agreements, whether oral or written, express or implied, as they pertain to the product and services ordered, and shall supersede any conflicting provisions of Buyer's purchase order and written acknowledgment. This Agreement may not be changed or modified except as specifically and mutually agreed upon in writing by both parties.