

## GENERAL TERMS AND CONDITIONS OF SALE

**OFFERS:** Unless otherwise indicated, the prices set forth in this quotation are valid for 60 days from the date of the quotation and apply to products that are scheduled for shipment within twelve months from the date of the Buyer's purchase or at Keller America, Inc. shipping capabilities at the time the order is entered, whichever is later.

**ACCEPTANCE OF ORDER:** Any purchase order to be accepted has to refer to a quotation, whether delivered by surface mail, e-mail or facsimile. All oral orders must be confirmed in writing. By referring to this quotation, Buyer accepts and adopts the General Terms and Conditions of Sale ("Terms and Conditions ") to the exclusion of any additional or different terms appearing in Buyer's purchase order and waives any right Buyer may have to enforce any such additional or different terms. Our Confirmation of Order or Invoice validates orders. Orders for custom-configured products are built to your specification and therefore may not be cancelled once the order has been confirmed.

**DATE OF SHIPMENT:** The estimated shipping capability stated on the quotation is given solely for the Buyer's information and does not constitute a commitment to deliver products in accordance herewith. Buyer may request a specific shipping date or shipping schedule. Keller America, Inc. will schedule shipments based upon Buyer's request and Keller America, Inc.'s shipping capabilities at the time Buyer's purchase order is processed, at which time Keller America, Inc. will issue to Buyer a formal Acknowledgment of Order that will indicate the estimated shipping date(s). After the shipments have been scheduled, Buyer may not cancel or postpone a scheduled shipment unless Buyer submits its request in writing and Keller America, Inc. consents by issuing a new acknowledgment. Any request to cancel or to reschedule the shipment that is received less than 21 days from the date scheduled for the shipment of the products covered by the request may be rejected as untimely, or may be accepted upon payment of the cancellation charge of 20% or a rescheduling charge of 10% of the sales price shown on this quotation at Keller America, Inc.'s option. Keller America, Inc. will use its best efforts to ship on or even before the estimated shipping dates indicated, but will not be liable for any delay or failure to deliver. Keller America, Inc. shall not be liable for any special, incidental or consequential damages resulting for delivery delays or inability to deliver.

All goods or materials supplied by Keller America, Inc. remain its property until total payment is received. All such goods and materials are at the sole risk of the Buyer and in the event of being damaged, destroyed or lost after delivery. Keller America, Inc. is entitled to receive the total payment of those goods.

**PRICE:** Unless otherwise specified in the quotation, our prices are in US dollars (USD). They are exclusive of freight costs and of all state and local sales, use, excise, privilege and similar taxes. Such taxes imposed on Keller America, Inc. or which Keller America, Inc. has a duty to collect in connection with the sale or delivery of the products described on the quotation shall be paid by Buyer and will appear as separate items on the invoice.

**SHIPMENT/FREIGHT:** Deliveries are F.O.B. Newport News, VA. Title and risk of loss shall pass to Buyer upon tender of the products by Keller America, Inc. to a common carrier. In absence of specific written instruction from Buyer, Keller America, Inc. will select the common carrier, but Keller America, Inc. shall not thereby incur any liability in connection with shipment. Buyer shall be responsible for any freight charge. Declared value for each shipment will be a maximum of \$100 regardless of the actual value of the goods, notwithstanding written instructions from the Buyer specifying a higher declared value. If the products are shipped freight prepaid, Buyer shall pay Keller America, Inc. the appropriate freight charges, which will be shown as separate items on the invoice.

**PAYMENT:** Terms are indicated on our Confirmation of Order and on our Invoices. Keller America, Inc. will submit an invoice to Buyer for each shipment at the time of shipment. Except, as otherwise provided on the quotation, Buyer shall pay the amount invoiced by Keller America, Inc. within 30 days from the date of the invoice. If in the judgment of Keller America, Inc. the financial condition or payment record of Buyer at any time does not justify shipment under the payment terms specified above, Keller America, Inc. may refuse to ship unless it receives payment in advance, or at its option, payment upon delivery. 2% interest per month is charged on overdue accounts.

**DOCUMENTATION:** The information given in our documentation, printed matter, data sheets and price lists is without commitment. This information specifies the product but is no warranty, unless agreed in writing.

**WARRANTIES:** Keller America, Inc. warrants that the products that it sells are delivered free from defects in material and workmanship. Keller America, Inc.'s liability under this warranty is limited to replacing or repairing or issuing a credit note, at its option, for any product which is returned to the factory, transportation charges prepaid, and which is determined by Keller America, Inc. to be defective. This warranty does not apply to batteries and accumulators and to any product which has been subjected to or damaged due to misuse, misapplication, negligence or accident, or which has been repaired or altered without express prior and written consent from Keller America, Inc. In order to obtain service under the terms of the warranty, Buyer must notify Keller America, Inc. of any defects before the expiration of the warranty period and make suitable arrangements for the performance of services. In all cases, Buyer shall be responsible for packaging and shipping the products to the Keller America, Inc. plant with shipping charges prepaid. Keller America, Inc. shall pay for the return of any products to Buyer if the shipment is to a location within the continental USA. Buyer shall be responsible for paying all shipping duties, taxes, and other charges for products returned to any other location. Keller America, Inc. will provide on-site service only upon prior agreement and upon payment of all travel expenses by Buyer.

Warranty period for the Levelgage, LevelRat, Acculevel, Microlevel, Nanolevel, Digilevel, Preciseline, and Valueline products is 24 (twenty-four) months from date of shipment. Warranty period for all other products is 12 (twelve) months from date of shipment. Warranty repair covers all applicable parts and labor. This warranty is given in lieu of any other warranty, express or implied. Keller America, Inc. explicitly disclaims any implied warranties of merchantability and fitness for a particular purpose. There are no warranties, express or implied, that extend beyond the description herein. The sole and exclusive remedy for any claims against Keller America, Inc. shall be the warranty described in this document. All damages, direct or consequential, limited to the described warranty are excluded.

**REPAIRS:** Unless otherwise requested in writing by the Buyer, all products returned to Keller America, Inc. under the terms of the warranty will be checked and analyzed in order to determine the cause of the default(s) claimed by the Buyer. A report will then be submitted to the Buyer pointing out the nature of the default(s), the party responsible for the default(s) and the quotation of the repair, if needed. For further repair instructions go to [www.kelleramerica.com](http://www.kelleramerica.com).

**COMPLAINTS:** All claims or disputes must be made in writing to Keller America, Inc. a maximum of 60 days from receipt of the goods, including discovery of faults not previously apparent. If the warranty claims are justified, Keller America, Inc. is free at its discretion to repair, replace or issue credit. No further compensation for damages will be made. Any disputes or claims of Buyer must be initiated in a proper court or other adjudicative body, as applicable, within one (1) year from the date of shipment by Keller America, Inc., or its representative(s), or such claim shall be deemed invalid or expired and cannot be renewed. To the extent allowed, this limitation period shall trump any applicable statutory limitations period that may state a longer period.

**LIMITATION OF RESPONSIBILITY:** Our responsibility concerns the correct function of our products only. It cannot be extended to the whole system in which they are used. Our responsibility is limited to the replacement, repair or reimbursement of the goods we agree are defective or non-conforming. The claim must be in writing within 60 days from receipt of the goods.

**PLACE OF JURISDICTION / APPLICABLE LAW:** The contract made by acceptance of this offer shall be deemed made in the State of Virginia and shall be governed by and construed in accordance with the laws of that state without reference to or application of any conflicts of laws principles and without consideration of the place of execution. Buyer expressly agrees to the subject matter and personal jurisdiction of the Circuit Courts for the City of Newport News, Virginia, or the federal District Court for the Eastern District of Virginia, Newport News Division.

**ASSIGNMENT:** Neither this offer nor any contract resulting there from may be assigned or transferred in whole or part without the prior written consent of Keller America, Inc. No assignment or transfer in violation of this provision shall be valid or binding on Keller America, Inc.

**ATTORNEY'S FEES:** Upon any breach of this Agreement, the reasonable attorney's fees and costs of the substantially prevailing party, whether by litigation or settlement, shall be paid by the breaching party.