



## **ARESCO, Inc. STANDARD TERMS AND CONDITIONS OF SALE**

### **1. Controlling provisions**

A. All sales are expressly limited to these terms and conditions, and the rights of the parties shall be governed exclusively by the terms and conditions hereof. No sales shall be final until acknowledged in writing by Seller's home office in Elkhorn, Nebraska.

B. This sale is subject to the terms and conditions stated herein, on the face of the invoice, and in all other documents accompanying the purchase product(s) which are in lieu of and replace any and all terms and conditions set forth in any documents issued by the Buyer, including without limitation, any purchase orders and any specifications. In case of conflict between the terms and conditions stated here and those on the face hereof, those on the face hereof shall control. ANY ADDITIONAL, DIFFERENT, OR CONFLICTING TERMS AND CONDITIONS ON SUCH DOCUMENT ISSUED BY BUYER AT ANY TIME ARE HEREBY OBJECTED TO BY SELLER, SHALL BE WHOLLY INAPPLICABLE TO ANY SALE MADE HEREUNDER AND SHALL NOT BE BINDING IN ANY WAY ON SELLER. No waiver or amendment to these terms and conditions shall be binding on Seller unless made in writing expressly stating that it is such a waiver or amendment and signed by Seller.

### **2. Terms and Prices**

A. Terms of payment are subject to the approval of the Seller's Credit Department.

B. Prices and deliveries are F.O.B. factory, unless otherwise stated and risk of loss shall pass to Buyer upon delivery to the carrier.

C. Buyer shall pay Seller the amount of any excise, sales, privilege, use, or any other taxes Local, State, or Federal which arise from the sale or delivery of the products covered by this order, or in lieu thereof Buyer shall provide Seller with a tax exemption certificate acceptable to the taxing authorities.

D. The prices on accepted orders and covering Seller's purchased material are firm for a period of six months from date of acceptance. With respect to those items on which firm prices have not been obtained, Seller will pass on the same escalation provisions as are made a part of Seller's purchase order. With regard to Building Trades Labor rates affecting erection or service the adjustment will be based upon the actual increase in rates between those in effect upon the date the order or contract is placed and the new rates plus 10% of such difference to cover the cost of insurance and payroll taxes.

E. Buyer shall pay Seller for all charges listed on Seller's invoice, including all shipping and handling charges. Unless otherwise stated on the face hereof, all payments shall be due upon receipt of invoice. On any amounts not paid when due, customer agrees to pay interest at the rate of 1 1/2% per month (18% per year) or, if such rate is in excess of the rate allowed by law, then customer agrees to pay the highest rate allowed by law. In addition, customer agrees to pay all costs of collection, including costs of litigation and reasonable attorney's fees. Seller reserves the right to obtain a security interest in the Products sold to customer, and in proceeds thereof, until payment is made in full by customer. Customer agrees to execute financing statements and other instruments at Seller's request. A \$25.00 collection fee will be charged for all dishonored checks.

### **3. Shipping Date and Delivery**

A. EVERY EFFORT WILL BE MADE TO FILL ORDERS WITHIN THE TIME STATED, BUT UNDER NO CIRCUMSTANCES WILL SELLER BE RESPONSIBLE FOR OR BUYER ENTITLED TO CONSEQUENTIAL DAMAGES ARISING OUT OF OR OWING TO ANY DELAYS IN DELIVERY WHATEVER. Seller shall be compensated for any and all extra costs and expenses occasioned by delays attributable to the Buyer.

### **4. Cancellations, Changes or Alterations**

A. Orders placed cannot be cancelled or altered nor can deferred deliveries of goods completed or in process be extended beyond original specified delivery dates except with Seller's express written consent and upon terms which will indemnify Seller against loss.

### **5. Warranty**

A. On equipment furnished by Seller, but manufactured by others, Seller extends the same warranty as Seller received from the manufacturer thereof. On used equipment that has not been reconditioned by Seller, Seller extends no warranties of any kind. On equipment reconditioned by Seller, Seller extends a 90 day parts only warranty unless otherwise specified in writing.

B. Goods returned without written permission of Seller will not be accepted for credit and will be returned to Buyer F.O.B. Elkhorn, Nebraska or Valley, Nebraska. Expenses incurred by Buyer in repairing or replacing any defective product will not be allowed except by written permission of Seller.

C. ALL SALES ARE MADE ON THE EXPRESS UNDERSTANDING THAT THERE ARE NO EXPRESS WARRANTIES OTHER THAN THOSE CONTAINED IN THIS AGREEMENT, AND THAT THERE ARE NO IMPLIED WARRANTIES THAT THE GOODS SHALL BE MERCHANTABLE NOR ARE THERE ANY WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

### **6. Consequential Damages**

A. IN THE EVENT OF BREACH OF THIS CONTRACT BY SELLER THE BUYER SHALL NOT BE ENTITLED TO CONSEQUENTIAL DAMAGES, EXCEPT WITH REGARD TO INJURIES TO THE PERSON IN THE CASE OF CONSUMER GOODS.

### **7. Modification**

A. This contract may be modified or rescinded only by a writing signed by both Seller and Buyer.

### **8. Governing Law**

A. This agreement shall be governed by the Uniform Commercial Code as enacted by the State of Nebraska.