

## AMTROL INC. DOMESTIC TERMS & CONDITIONS OF SALE

**YOUR DECISION TO RETAIN THE GOODS ACCOMPANYING OR REFLECTED ON THIS INVOICE CONFIRMS YOUR ASSENT TO OUR CONDITIONS OF SALE BELOW, AND WE AGREE TO FURNISH THE GOODS ONLY UPON THESE CONDITIONS.** AMTROL hereby objects to any additional or different provisions contained in any purchase order or other communication from Purchaser as material alterations and notice of rejection of them is hereby given.

**THIS CONTRACT AND THESE TERMS AND CONDITIONS SHALL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN AMTROL AND PURCHASER, AND SHALL BE GOVERNED BY AND SHALL BE CONSTRUED ACCORDING TO THE INTERNAL LAWS OF THE STATE OF RHODE ISLAND.**

**1. Price.** The prices of the Goods are those specified on the face of this Acknowledgment. All federal, state and local taxes and other governmental charges now and hereafter levied upon the production, sale, use or shipment of the Goods will be charged to and paid by the Purchaser.

**2. Terms of Payment.** Payment shall be due thirty (30) days after the date of the invoice unless otherwise specified on the front of this form. All late payments may be charged a service charge computed on a daily basis from the due date until paid in full at the rate of 1 1/2% per month or the maximum rate permitted by law, whichever is less.

**3. Freight and Shipping Terms.** Delivery of the Goods shall be made F.O.B. point of shipment, unless otherwise specified on the front of this form. Delivery will be deemed complete and risk of loss or damage to the goods will pass to the Purchaser upon delivery to the carrier. Delivery to the initial carrier shall constitute delivery in good order to such carrier. For its protection, Purchaser should examine the shipment at its arrival to ascertain if in good order. If any shortage or damages are encountered, before signing, Purchaser should request the transportation agent to enter a full description on the express bill. The carrier will be selected by AMTROL in the absence of specific instructions by the Purchaser to which AMTROL has agreed. In no event shall AMTROL be liable for any delay in delivery, nor shall the carrier be deemed an agent of AMTROL. All weights are approximate.

**4. Credit Approval, Purchaser's Insolvency.** Purchaser's orders are accepted subject to credit investigation and approval. In the event of any proceedings, voluntary or involuntary, under any chapter of the Bankruptcy Code, state receivership law, or other form of insolvency proceeding with respect to the Purchaser, the inability of the Purchaser to meet its debts as they become due, the appointment of an assignee for the benefit of Purchaser's creditors, or the breach by the Purchaser of any term of this Acknowledgment, then AMTROL shall be entitled, at its option, to cancel any unfiled part of this order, defer delivery shipment hereunder and under any other contract with the Purchaser, and stop goods in transit, all without any liability.

**5. Product and Packaging Changes.** AMTROL reserves the right to make reasonable changes of any kind without notice.

**6. Delivery and Force Majeure.** Shipping dates are based upon receipt of all necessary information. AMTROL reserves the right to make delivery in installments, unless otherwise expressly stipulated in the contract for sale; and all such information, when separately invoiced, shall be paid for when due per invoice, without regard for subsequent deliveries. Delay in delivery of any installment shall not relieve Purchaser of its obligations to accept remaining deliveries. Claims for shortages or other errors must be made in writing to AMTROL within thirty (30) days after receipt of shipment, and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Purchaser. Neither of the parties will be liable for a failure to perform its obligations hereunder (excluding, however, obligations to pay money) caused by: strikes or other labor disturbances; inability to obtain equipment, parts, materials or supplies; acts of governments or of agencies thereof; fires; storms; floods or other natural disasters; machinery breakdowns; failure of utilities; war; embargoes; civil disturbances; acts of God; or any other cause not reasonably within the control of the affected party and not the result of its fault. In the event of product or supply shortages, AMTROL reserves the right to allocate equitably, taking into account contractual commitments.

**7. Warranties.** AMTROL Inc.'s current published warranties in effect at the time of shipment for the particular products purchased shall apply. If Purchaser is buying products for resale Purchaser agrees that it will not provide any warranties other than the equivalent to AMTROL's current published warranty for the Product and will make a term of resale all of the same limitations of liability and limitations of warranties contained herein and in AMTROL's current published warranties. If you are not sure you have a current copy or need additional copies of the warranty applicable to your order, contact Customer Service at 800-426-8765. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES WHATSOEVER, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE (except warranties of title). This exclusive remedy shall not be deemed to have failed its essential purpose so long as AMTROL is willing and able to replace defective parts or products or at its option issue a credit to Purchaser or supply a replacement part or product within a reasonable time after Purchaser proves to AMTROL that a defect is involved; pursuant to the terms of the applicable warranties.

Any description of the products, whether in writing or made orally by AMTROL or AMTROL's agents, specifications, samples, literature, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with Purchaser's order are for the sole purpose of identifying the products and shall not be construed as an express warranty. Any suggestions by AMTROL or AMTROL's agents regarding use, application or suitability of the products shall not be construed as an express warranty unless confirmed to be such in writing by AMTROL.

**8. Acceptance.** The Goods shall be deemed accepted by the Purchaser unless notice of defect, shortages and variances is received within thirty (30) days of shipping thereof and the Goods are returned to AMTROL within sixty (60) days of shipping.

**9. Cancellation of Orders.** After AMTROL's Acknowledgment of Order has been issued, an order may be modified or canceled only upon written agreement by AMTROL.

**10. Credit for Returned Goods.** Goods may not be returned for credit unless AMTROL has agreed to accept the return in writing. Where returns are accepted, a deduction of 25% or \$25.00, whichever ever is greater, will be made for re-handling. All transportation costs for Goods must be paid by the Purchaser. In any event, only salable Goods of standard manufacture may be returned for credit.

**11. Patents, Trademarks and Copyrights.** AMTROL will, at its own expense, defend any suits that may be instituted by anyone against Purchaser for alleged infringement of any United States patent, trademark, or copyright relating to any products manufactured and furnished by AMTROL hereunder, if such alleged infringement consists of the use of such products, or parts thereof, in Purchaser's business and provided Purchaser shall have made all payments then due hereunder and shall give AMTROL immediate notice in writing of any such suit and transmit to AMTROL immediately upon receipt all processes and papers served upon Purchaser and permit AMTROL through its counsel, either in the name of Purchaser or in the name of AMTROL, to defend the same and give all needed information, assistance and authority to enable AMTROL to do so. If such products are in such suit held in and of themselves to infringe any valid United States patent, trademark or copyright, then: (a) AMTROL will pay any final award of damages in such suit attributable to such infringement, and (b) if in such suit use of such products by Purchaser is permanently enjoined by reason of such infringement, AMTROL shall, at its own expense and at its sole option, either (i) procure for Purchaser the right to continue using the

products, (ii) modify the products to render them non-infringing, (iii) replace the products with non-infringing goods, or (iv) refund the purchase price and the transportation costs paid by Purchaser for the products.

Notwithstanding the foregoing, AMTROL shall not be responsible for any compromise or settlement made without its written consent, or for infringements of combination or process patents covering the use of the products in combination with other goods or materials not furnished by AMTROL. The foregoing states the entire liability of AMTROL or infringement, and in no event shall AMTROL be liable for consequential damages attributable to an infringement.

As to any products furnished by AMTROL to Purchaser manufactured in accordance with drawings, designs or specifications proposed or furnished by Purchaser or any claim of contributory infringement result from the use or resale by Purchaser of products sold hereunder, AMTROL shall not be liable, and Purchaser shall indemnify AMTROL and hold AMTROL harmless from and against any and all loss, liability, damage, claim or expense (including but not limited to AMTROL's reasonable attorneys' fees and other costs of defense) incurred by AMTROL as a result of any claim of patent, trademark, copyright or trade secret infringements, or infringements of any other proprietary rights of third parties.

**12. EXCLUSION OF CONSEQUENTIAL DAMAGES AND DISCLAIMER OF OTHER LIABILITY.** AMTROL's liability with respect to breaches of warranty shall be limited as provided in Section 7 hereof. With respect to other breaches of this contract, AMTROL's liability shall in no event exceed the contract price. AMTROL SHALL NOT BE SUBJECT TO AND DISCLAIMS: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY; (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY AMTROL, OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL AND CONTINGENT DAMAGES WHATSOEVER. All the limitations and disclaimers contained in this paragraph and in the rest of this contract shall apply to claims of Purchaser's customers or any third party asserted by Purchaser against AMTROL for indemnity or contribution, as well as to direct claims of Purchaser against AMTROL.

**13. Compliance with Federal Law.** AMTROL complies with all applicable provisions of federal law, including any applicable law relating to discrimination in employment. Acceptance of the goods referenced herein represents and warrants to AMTROL that neither you nor any of your affiliates, owners, officers, managers or principals (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) is a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

**14. Limitation of Actions.** No action, suit or other legal proceeding may be brought in connection with the transactions contemplated by these General Terms and Conditions unless it is commenced within one year after delivery of the Goods in issue.

**YOUR DECISION TO RETAIN THE GOODS ACCOMPANYING OR REFLECTED ON THIS INVOICE CONFIRMS YOUR ASSENT TO OUR CONDITIONS OF SALE BELOW, AND WE AGREE TO FURNISH THE GOODS ONLY UPON THESE CONDITIONS.** If these terms are not acceptable, you should notify us at once. AMTROL hereby objects to any additional or different provisions contained in any purchase order or other communication from Purchaser as material alterations and notice of rejection of them is hereby given.

**THIS CONTRACT AND THESE TERMS AND CONDITIONS SHALL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN AMTROL AND PURCHASER, AND SHALL BE GOVERNED BY AND SHALL BE CONSTRUED ACCORDING TO THE INTERNAL LAWS OF THE STATE OF RHODE ISLAND.**

**1. Price.** The prices of the Goods are those specified on the face of this Acknowledgment. Prices for deliveries are firm for the agreed period. Prices for deliveries are understood to be Ex Works ("EXW") as defined in INCOTERMS 2000. They include packing in accordance with AMTROL's general practices. Any custom duties, charges, fees, taxes, etc. imposed outside the United States shall be borne and paid directly and promptly by the Purchaser.

**2. Taxes.** Purchaser will pay any taxes or similar government charges imposed by any taxing authority with respect to this Contract or the subject matter hereof. Any such items paid by AMTROL will be reimbursed by Purchaser upon presentation of an invoice. If Purchaser is required to withhold tax from Contract payments to AMTROL, Purchaser will increase the amount of such payments so that the amount, net of withholding tax, is equal to the Contract value.

**3. Terms of Payment.** Payments are to be effected in United States of America currency without any deduction to AMTROL's account in the United States of America. Payment shall be due thirty (30) days after the date of the invoice unless otherwise specified on the front of this form. All late payments may be charged a service charge computed on a daily basis from the due date until paid in full at the rate of 1 1/2 % per month or the maximum rate permitted by law, whichever is less.

**4. Freight and Shipping Terms.** Delivery of all Product sold hereunder will be made Ex Works ("EXW") as defined in INCOTERMS 2000, unless otherwise agreed. For its protection, Purchaser shall examine the shipment at its arrival to ascertain if in good order. If any shortage or damages are encountered, before signing, Purchaser should request the transportation agent to enter a full description on the express bill. The carrier will be selected by AMTROL in the absence of specific instructions by the Purchaser to which AMTROL has agreed. In no event shall AMTROL be liable for any delay in delivery, nor shall the carrier be deemed an agent of AMTROL. All weights are approximate.

All shipments hereunder shall at all times be subject to the export control laws and regulations of the United States of America and any amendments thereof. Purchaser agrees that it shall not make any disposition of U.S.A.-origin Products purchased from AMTROL, by way of transshipment, reexport, diversion or otherwise, other than in and to the ultimate country of destination specified on Purchaser's order or declared as the country of ultimate destination on AMTROL's invoices, except as said laws and regulations may expressly permit.

**5. Credit Approval, Purchaser's Insolvency.** Purchaser's orders are accepted subject to credit investigation and approval. In the event of any proceedings, voluntary or involuntary under any chapter of the U.S. Bankruptcy Code, state receivership law, or other form of insolvency proceeding or similar laws of Purchaser's country with respect to the Purchaser, the inability of the Purchaser to meet its debts as they become due, the appointment of an assignee for the benefit of the Purchaser's creditors or the breach by the Purchaser of any term of this Acknowledgment, then AMTROL shall be entitled, at its option, to cancel any unfulfilled part of this order, defer delivery shipment hereunder and under any other contract with Purchaser, and stop goods in transit, all without any liability.

**6. Product and Packaging Changes.** AMTROL reserves the right to make reasonable changes of any kind without notice.

**7. Delivery and Force Majeure.** Shipping dates are based upon receipt of all necessary information. AMTROL reserves the right to make delivery in installments, unless otherwise expressly agreed in writing; and all such installments, when separately invoiced, shall be paid for when due per invoice, without regard for subsequent deliveries. Delay in delivery of any installment shall not relieve Purchaser of its obligations to accept remaining deliveries. Claims for shortages or other errors must be made in writing to AMTROL within fifteen (15) days after receipt of shipment, and failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Purchaser. Neither of the parties will be liable for failure to perform its obligations hereunder (excluding, however, obligations to pay money) caused by: strikes or other labor disturbances; inability to obtain equipment, parts, materials or suppliers; acts of governments or of agencies thereof; fires, storms, floods or other natural disasters; machinery breakdowns; failure of utilities; war; embargoes, civil disturbances; acts of God; or any other cause not reasonably within the control of the affected party and not the result of its fault. In the event of product or supply shortages, AMTROL reserves the right to allocate equitably, taking into account contractual commitments.

**8. Warranties.** AMTROL's current published warranties in effect at the time of shipment for the particular products purchased shall apply. If Purchaser is buying products for resale Purchaser agrees that it will not provide any warranties other than the equivalent to AMTROL's current published warranty for the Product and will make a term of resale all of the same limitations of liability and limitations of warranties contained herein and in AMTROL's current published warranties. If you are not sure you have a current copy or need additional copies of the warranty applicable to your order, contact Customer Service at 800-426-8765. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS AND IMPLIED WARRANTIES WHATSOEVER, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. This exclusive remedy shall not be deemed to have failed its essential purpose so long as AMTROL is willing and able to replace defective parts or product within a reasonable time after Purchaser proves to AMTROL that a defect is involved; pursuant to the terms of the applicable warranties. Any description of the products, whether in writing or made orally by AMTROL or AMTROL's agents, specifications, samples, literature, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with Purchaser's order are for the sole purpose of identifying the products and shall not be construed as an express warranty. Any suggestions by AMTROL or AMTROL's agents regarding use, application or suitability of the products shall not be construed as an express warranty unless confirmed to be such in writing by AMTROL.

**9. Acceptance.** The Goods shall be deemed accepted by the Purchaser unless notice of defect, shortages and variances is received within fifteen (15) days of shipping thereof and the Goods are returned to AMTROL within sixty (60) days of shipping.

**10. Cancellation of Orders.** After AMTROL's Acknowledgment of Order has been issued, an order may be modified or cancelled only upon written agreement by AMTROL.

**11. Credit for Returned Goods.** Goods may not be returned for credit unless AMTROL has agreed to accept the return in writing. Where returns are accepted, a deduction of 25% will be made for re-handling. All costs for Goods must be paid by the Purchaser. In any event, only salable Goods of standard manufacture may be returned for credit.

**12. Patents, Trademarks and Copyrights.** AMTROL will, at its own expense, defend any suits that may be instituted by anyone against Purchaser for alleged infringement of any United States patent, trademark, or copyright relating to any products manufactured and furnished by AMTROL hereunder at the time of sale, if such alleged infringement consists of the use of such products, or parts thereof, in Purchaser's business and provided Purchaser shall have made all payments then due hereunder and shall give AMTROL immediate notice in writing of any such suit and transmit to AMTROL immediately upon receipt all processes and papers served upon Purchaser and permit AMTROL through its counsel, either in the name of Purchaser or in the name of AMTROL, to defend the same and give all needed information, assistance and authority to enable AMTROL to do so. If such products are in such suit held in and of themselves to infringe any valid United States patent, trademark or copyright corresponding to such patent, trademark or copyright in force at such time, then: (a) AMTROL will pay any final award of damages in such suit attributable to such infringement, and (b) if in such suit use of such products by Purchaser is permanently enjoined by reason of such infringement, AMTROL shall, at its own expense and at its sole option, either (i) procure for Purchaser the right to continue using the products, (ii) modify the products to render them non-infringing, (iii) replace the products with non-infringing goods, or (iv) refund the purchase price and the transportation paid by Purchaser for the products.

Notwithstanding the foregoing, AMTROL shall not be responsible for any compromise or settlement made without its written consent, or for infringements of combination or process patents covering the use of the products in combination with other goods or materials not furnished by AMTROL. The foregoing states the entire liability of AMTROL or infringement, and in no event shall AMTROL be liable for consequential damages attributable to an infringement.

As to any products furnished by AMTROL to Purchaser manufactured in accordance with drawings, designs or specifications proposed or furnished by Purchaser or any claim of contributory infringement result from the use or resale by Purchaser of products sold hereunder, AMTROL shall not be liable, and Purchaser shall indemnify AMTROL and hold AMTROL harmless from and against any and all loss, liability, damage, claim or expense (including but not limited to AMTROL's reasonable attorneys' fees and other costs of defense) incurred by AMTROL as a result of any claim of patent, trademark, copyright or trade secret infringements, or infringements of any other proprietary rights of third parties.

**13. EXCLUSION OF CONSEQUENTIAL DAMAGES AND DISCLAIMER OF OTHER LIABILITY.** AMTROL's liability with respect to breaches of warranty shall be limited as provided in this Section 13 hereof. With respect to breaches of warranty and any other breaches of this contract, AMTROL's liability shall in no event exceed the contract price. AMTROL SHALL NOT BE SUBJECT TO AND DISCLAIMS: (1) ANY OTHER OBLIGATIONS OR LIABILITIES ARISING OUT OF BREACH OF CONTRACT OR OF WARRANTY; (2) ANY OBLIGATIONS WHATSOEVER ARISING FROM TORT CLAIMS (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ARISING UNDER OTHER THEORIES OF LAW WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY AMTROL, OR ANY UNDERTAKINGS, ACTS OR OMISSIONS RELATING THERETO, AND (3) ALL CONSEQUENTIAL, INCIDENTAL AND CONTINGENT DAMAGES WHATSOEVER INCLUDING BUT NOT LIMITED TO PROPERTY DAMAGE AND MOLD. All the limitations and disclaimers contained in this paragraph and in the rest of this contract shall apply to claims of Purchaser's customers or any third party asserted by Purchaser against AMTROL for indemnity or contribution, as well as to direct claims of Purchaser against AMTROL.

**14. Assignment.** AMTROL reserves the right to assign any or all of its rights and obligations under the Contract to a subsidiary or an affiliated company of AMTROL, in which event AMTROL shall notify the Purchaser in writing and will remain liable as guarantor of the performance of the obligations thus assigned.

**15. Interpretation.** The validity, construction, and performance of the Contract, shall be governed by and interpreted in accordance with the laws of the State of Rhode Island, United States of America, specifically including the provisions of the Uniform Commercial Code as adopted in that state, and excluding (a) the provisions of the United Nations Convention on the International Sale of Goods and (b) the laws of Rhode Island with respect to choice or conflict of laws.

**16. Licenses and Permits.** Purchaser shall be responsible for all payments and dealings with the regulatory agencies in Purchaser's country including, but not limited to, obtaining and maintaining the required government authorizations, licenses, import requirements and permits for AMTROL to carry out its obligations under the Contract.

**17. Arbitration.** Any differences of opinion arising between the parties out of or in connection with the purchase or its implementation shall be settled amicably. Should this, contrary to expectations, not be possible, then instead of any other legal procedure, they shall be finally decided upon, without prior compromise proceedings, by a board of arbitration composed of three arbitrators in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce, Paris. Providence, Rhode Island shall be the place of arbitration.

**18. Compliance with United States Federal Law.** AMTROL complies with all applicable provisions of federal law, including any applicable law relating to discrimination in employment. Acceptance of the goods referenced herein represents and warrants to AMTROL that neither you nor any of your affiliates, owners, officers, managers or principals (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), (ii) engages in any dealings or transactions prohibited by Section 2 of such executive order, or is otherwise associated with any such person in any manner violative of Section 2, or (iii) is a person on the list of Specially Designated Nationals and Blocked Persons or subject to the limitations or prohibitions under any other U.S. Department of Treasury's Office of Foreign Assets Control regulation or executive order.

**19. Limitation of Actions.** No action, suit or other legal proceeding may be brought in connection with the transactions contemplated by these General Terms and Conditions unless it is commenced within one year after delivery of the Goods in issue.