



Terms & Conditions

1400 DIVISION ROAD WEST WARWICK, R.I. 02893

AMTROL INC. ("AMTROL") GENERAL TERMS AND CONDITIONS OF DOMESTIC SALES

All sales of AMTROL products ("Products") are subject to acceptance by AMTROL by issuance of a written Order Acknowledgement and are subject to the following terms and conditions, which constitute the parties' Agreement.

1. Price and Governing Law. The prices of the Products are those as specified by AMTROL in its Order Acknowledgment. All federal, state and local taxes and other governmental charges levied upon the production, sale, use or shipment of the Products will be charged to and paid by the Purchaser. The sale Agreement between the parties shall be construed according to the internal laws of the State of Rhode Island.

2. Terms of Payment. Payment shall be due thirty (30) days after the date of the invoice unless otherwise agreed in writing by AMTROL. 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 Products shall be made F.O.B. point of shipment, unless otherwise agreed by AMTROL in writing. Delivery will be deemed complete and risk of loss or damage to the Products 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 the parties' Agreement, then AMTROL shall be entitled, at its option, to cancel any unfilled part of an order, defer delivery shipment hereunder and under any other contract with the Purchaser, and stop Products 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. Any shipping dates provided by AMTROL 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 under the Agreement (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 standard published warranties in effect at the time of shipment for the particular Products purchased shall apply. 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.

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.

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8. Acceptance. The Products 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 Products 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 Products. Products 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 transportation costs for Products must be paid by the Purchaser. In any event, only salable Products 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 Products, 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 Products 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 resulting from the sale 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 INCLUDING BUT NOT LIMITED TO PROPERTY DAMAGE AND MOLD. All the limitations and disclaimers contained in this paragraph and in the rest of the Agreement 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 and state law, including any applicable law relating to discrimination in employment.

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 Products in issue.