

PRINSCO, INC.

TERMS AND CONDITIONS OF SALE

- 1. ORDERS.** All orders placed by a purchaser are subject to acceptance by Prinsco. Orders accepted by Prinsco may not be cancelled or rescheduled without Prinsco's consent. All orders must identify the products, unit quantities, part numbers, applicable prices, and projected (but not guaranteed) delivery dates.
- 2. PRICE QUOTATIONS.** Price quotations given by Prinsco for its products and goods shall automatically expire in thirty (30) days from the date issued, or as otherwise stated in the quotation.
- 3. TAXES.** Unless otherwise agreed to by Prinsco, all prices quoted are exclusive of insurance costs, duties, and all taxes including federal, state and local sales, excise and value added, goods and services taxes, and any other taxes. Purchaser agrees to indemnify and hold Prinsco harmless for any liability for tax in connection with the sale, as well as the collection or withholding thereof, including penalties and interest thereon. When applicable, transportation and taxes shall appear as separate items on Seller's invoice.
- 4. PAYMENT.** Payment may be made by cash, check, money order, or wire transfer. Credit card payments are accepted at the time of purchase or within 10 days of invoice date. Where Prinsco has permitted shipment before payment, terms of payment shall be net thirty (30) days from date of invoice, without offset or deduction unless otherwise noted. On any past due invoice, Prinsco may impose interest at the rate of one percent (1.0%) per month. If purchaser fails to make a payment when it is due, Prinsco reserves the right to change or withdraw credit and suspend or cancel performance under any or all purchase orders or agreements in which Prinsco has extended credit to purchaser. In the event of default in payment by purchaser, Seller shall be entitled to costs, fees, and expenses, including but not limited to recovery of attorney fees, court costs and fees, and collections costs.
- 5. DELIVERY AND TITLE.** Title and risk of loss pass to the purchaser upon Prinsco's delivery of Prinsco's products and goods to purchaser or (A) to purchaser at point of pick up, if purchaser is transporting products and goods, or (B) to carrier, if purchaser is having a carrier transport the products and goods. Seller's delivery dates are estimates only and are not guarantees. A delayed delivery of any part of an order does not entitle purchaser to cancel other deliveries.
- 6. LIMITED WARRANTY AND LIMITATION OF LIABILITY.** Prinsco warrants our products to conform only to the applicable national standards as listed in Prinsco's publicly available corresponding product specifications documents, and to be free from defects in materials and workmanship under normal use and service. Improper installation or use and/or any unauthorized repair, modification or alteration of our products will void this warranty. Prinsco gives no warranty and make no guarantee of the results to be obtained from the use of our products. For uninstalled product, this warranty shall be effective only if Prinsco receives notice, in writing, of a claim within fifteen (15) days after the defect was or should have been discovered and within one (1) year from the date of our shipment of the product. For installed

product, this warranty shall be effective only if Prinsco receives notice, in writing, of a claim within thirty (30) days after the defect was or should have been discovered and within one (1) year from the date of our shipment of the product. In addition to the foregoing notice requirements for installed product, this warranty shall not be effective unless Prinsco is given a timely and reasonable opportunity to review the installed product as installed and prior to any removal and/or repair. A review may be requested by contacting Prinsco, during normal business hours, at 1-800-992-1725.

This warranty shall be effective only if the products are installed as required for all site conditions and in accordance with state and local codes, applicable product or industry specification and guidelines, Prinsco's installation recommendations, and other applicable laws. Specifically excluded from this Limited Warranty are product damages resulting from ordinary wear and tear, unauthorized repairs or modifications, misuse, abuse, neglect, or any other damage not caused by Prinsco.

Prinsco's liability under this agreement or otherwise is limited to, at Prinsco's sole election, repair or replacement of the product as to which a claim has been properly made, or refund, in an amount not to exceed the original purchase price. Our selection of one of these alternatives shall be Buyer's exclusive remedy. **IN NO CASE WILL WE BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES, REMOVAL OR INSTALLATION COSTS, DOWNTIME, DAMAGE TO OTHER PROPERTY, LOSS OF BUSINESS OR PROFITS, OR ANY OTHER CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

THIS LIMITED WARRANTY SET FORTH HERIN IS IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED. PRINSCO EXPRESSLY EXCLUDES ALL WARRANTIES OTHER THAN THIS LIMITED WARRANTY, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE OR USE. THE PROVISIONS SET FORTH HEREIN AND ON THE FACE HEREOF CONSTITUTE ALL THE TERMS AND CONDITIONS OF OUR CONTRACT OF SALE AND APPLICABLE LIMITED WARRANTIES.

7. HANDLING AND USE OF PRODUCTS. Even if Prinsco offers directions, recommendations or suggestions for the use of our products, it is solely Buyer's responsibility to determine whether a product is suited for the specific needs of Buyer, and there are no representations or warranties except as set forth herein. Buyer assumes all risks and liabilities arising from unloading, discharge, storage, handling, installation, and use of our products, including use of such products as part of or in connection with other equipment. Buyer assumes full responsibility for compliance with all governmental laws, rules and regulations governing unloading, discharge, storage, handling, installation and use of our products. Buyer agrees to indemnify Prinsco, our agents and employees for any and all claims, liabilities and expenses arising out of or caused by the failure of Buyer, its agents or employees to comply with the terms set forth herein or to follow instructions, warnings or recommendations furnished by us in connection with any products delivered to Buyer under this agreement.

8. CHOICE OF LAW. This agreement and the transactions contemplated hereby shall be governed in all respects by the laws of the State of Minnesota, without reference to its choice of law principles.

9. ARBITRATION. Any controversy or claim arising out of or relating to the limited warranty provided herein, or any alleged breach thereof, shall be settled exclusively by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall be conducted in Minneapolis, MN, or at such other place as the parties may agree, by one arbitrator independent of the parties appointed by them by mutual agreement or by the President of the American Arbitration Association.

10. PRICE DISPUTES. Any disputes regarding the sale prices of our products charged to Buyer must be submitted, in writing, within thirty (30) calendar days of the date of delivery. Absent such written notice of a price dispute, Buyer agrees to pay the price(s) quoted on the Invoice.

11. PERMISSIBLE VARIATIONS. Variation in product components, dimensions, quantity, appearance, and the like shall be permissible and shall not constitute cause for Buyer's rejection as long as the variations fall within the applicable AASHTO and/or ASTM product specifications at the time of manufacture.

12. INSPECTION AND REJECTION. Claims by Buyer regarding incorrect size, type, quantity, shipping damage of delivered product must be presented to Prinsco within fifteen (15) days following the date of receipt of such non-conforming or damage product by Buyer. The absence of any such claim shall constitute unqualified acceptance and a waiver by Buyer of any and all claims related to incorrect size, type, quantities, or shipping damage. No claim of any kind, whether as to delivered or non-delivery of products, and whether or not based on negligence or other tort, shall be greater in amount than the purchase price of such non-conforming, damaged, or undelivered products.

13. RETURNS/RESTOCKING CHARGES. Prinsco reserves the right to reject the return of any products sold pursuant to this agreement. Specifically, Prinsco will not accept the return of products that are not in a saleable condition and are not part of the current product line. Products accepted for return by Prinsco are subject to a restocking charge equal to twenty-five percent (25) of the sale price of the products plus applicable freight/shipping charges. See Prinsco Restocking Policy for further details.

14. FORCE MAJEURE. When Prinsco's ability to manufacture or deliver products or to otherwise perform under pursuant to an order is impeded, restricted, or affected (A) by any cause such as, but not limited to, (i) fire, explosion, flood, storm, earthquake, tidal wave, war, military operation, national emergency, civil commotion, or other event of the type of the foregoing, (ii) any strike or other difference with workers or unions (without regard to the reasonableness of acceding to the demands of such workers or unions), (iii) any governmental law, regulation, decree, order, or similar act, or (iv) any shortage in supplies of or impairment in the facilities of production, manufacture, transportation, or distribution of, either party attributable to (a) mechanical or other breakdown or failure, (b) the order, requisition, request, or

recommendation of any governmental agency or acting governmental authority, or either party's compliance therewith, (c) governmental proration, regulation, or priority, or (d) the inability of Prinsco to obtain, on terms deemed by Prinsco to be commercially practicable, any feedstock or other raw material (including energy); or (B) by any cause beyond such party's control, whether similar or dissimilar to any aforementioned cause, then the party whose ability is so impeded, restricted, or affected is relieved of the obligation to perform hereunder, and that duty is permanently canceled rather than merely suspended. For the purpose of the application and interpretation of the provisions of this paragraph, it is expressly deemed that all product is to be produced at one or more facilities owned or operated by Prinsco, and, therefore, if Prinsco's ability to supply Buyer with products from Prinsco's facilities is impeded, restricted, or affected by one or more of the aforementioned causes, then Prinsco shall not be obligated to purchase or obtain product for Buyer on the open market or from other producers or suppliers of similar products.

15. NO OTHER TERMS. ANY TERMS OR CONDITIONS ON PURCHASER'S PRINTED FORMS OR ANY OTHER DOCUMENT OF PURCHASER SHALL NOT APPLY. ACCEPTANCE OF ANY PRODUCTS AND GOODS WILL CONFIRM PURCHASER'S ASSENT TO THESE TERMS AND CONDITIONS OF SALE EXCLUSIVELY WITHOUT MODIFICATION. PURCHASER ACCEPTS ALL TERMS AND CONDITIONS HEREOF, NONE OF WHICH MAY BE CHANGED BY PURCHASER. ACCEPTANCE OF ANY SHIPMENT OF PRODUCTS OR GOODS BY PURCHASER IS AN ACCEPTANCE OF THESE TERMS AND CONDITIONS OF SALE, NOTWITHSTANDING ANY ACT OF SELLER, INCLUDING SHIPMENT OR ACCEPTANCE OF PAYMENTS, AND NOTWITHSTANDING ANY TERMS OR CONDITIONS CONTAINED IN ANY ACKNOWLEDGMENT OR OTHER DOCUMENT OF PURCHASER.