

## TERMS AND CONDITIONS OF SALE

- 1. Nature of Document.** This document constitutes the acceptance of ACME/ALCO Manufacturing Co., a division of Standex Air Distribution Products, Inc. (Seller) to sell the Products specified on the reverse side (the Products) on the terms and conditions contained herein. This contract supersedes any oral quotation that may have been furnished by Seller to Buyer with respect to the Products. Any different or additional terms in Buyer's expression of acceptance of this contract are hereby objected to and rejected, however, any such additional terms shall not operate as a rejection of this contract unless the description, quantity, price or delivery schedule of the Products is materially affected.
- 2. Termination and Cancellation.** Seller shall have the right to terminate and cancel any contract for the sale of the Products if Seller determines that Buyer's credit is not satisfactory. Any such termination or cancellation shall be effective upon notification (either orally or in writing) to Buyer and shall be without liability to Seller. Under no circumstances shall buyer have any right to terminate the contract or cancel its order to purchase the Products. Seller, in its sole discretion, may require that the Products be furnished on a "C.O.D." basis to Buyer.
- 3. Prices.** Unless otherwise indicated, prices are F.O.B. Seller's factory and do not include any sales, use, excise or similar taxes or duties now or hereafter imposed by any governmental or taxing authority. Quoted prices are subject to change, without prior notice, at any time prior to acceptance by Buyer. Errors or omissions in prices are subject to correction. Prices do not include unloading, uncrating or removing skids at Buyer's place of business.
- 4. Payment.** Payment terms are two percent (2%) 10th prox./Net EOM. If Buyer fails to make payment on time, Buyer shall be liable to Seller for liquidated damages in the amount of the lessor of: (a) 1.5% per month on the remaining balance; or (b) the highest monthly interest rate which may be lawfully charged to Buyer. If shipments are delayed at Buyer's request, or delayed as the result of an embargo or other restrictions affecting normal transportation, final payment(s) shall become due and payable within thirty (30) days after Buyer has been notified that the Products are ready for shipment. Buyer shall be liable for all expenses (including attorneys' fees) incurred by Seller in collecting or attempting to collect amounts due to Seller under this Agreement.
- 5. Freight.** Carriers will be selected by Seller, unless Buyer instructs otherwise. Claims against carriers must be filed by Buyer on all F.O.B. shipments.
- 6. Title, Delivery, Risk of Loss.** Title to and risk of loss of, the Products shall pass to Buyer upon the delivery of the Products F.O.B. Seller's factory to an agent of Buyer or to a common carrier.
- 7. Inspection.** Buyer must carefully inspect the Products upon receipt of shipment and notify an authorized representative of Seller within two (2) days of receipt if there are any defects or quantity shortages, which could be determined by a thorough visual inspection. If the Seller is not so notified, Buyer waives any recourse or claims for replacement for those situations.
- 8. Indemnification.** Buyer hereby agrees to indemnify, defend and hold harmless Seller from and against all loss, damage, claims or expense, including attorneys fees, resulting from, or in any way connected to the combination or installation of Seller's product with or into any other component, materials or equipment to make a resulting product; or from the sale, resale or transfer by Buyer of Seller's product.

### 9. Disclaimer of Warranty.

UNLESS OTHERWISE PROVIDED IN SELLER'S SALES BROCHURE OR INSTALLATION INSTRUCTIONS, OR UNLESS BUYER HAS PURCHASED FROM SELLER PRODUCTS FOR WHICH THE MANUFACTURER HAS GIVEN A WARRANTY TO FLOW THROUGH DIRECTLY TO BUYER, THE PRODUCTS SPECIFIED ON THE FRONT OF THIS DOCUMENT ARE SOLD (AS IS,) WITHOUT EXPRESS OR IMPLIED WARRANTY AS TO PERFORMANCE, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. SELLER DOES NOT EXPRESSLY OR IMPLIEDLY WARRANT, GUARANTEE OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE PRODUCTS IN TERMS OF PERFORMANCE, RELIABILITY, LONGEVITY, OPERATION OR OTHERWISE. THE ENTIRE RISK AS TO RESULTS AND PERFORMANCE OF THE PRODUCTS IS ASSUMED BY BUYER. IF THE PRODUCTS ARE DEFECTIVE, BUYER, AND NOT SELLER, ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, REPLACEMENT OR CORRECTION. IN NO EVENT WILL SELLER BE LIABLE TO BUYER OR ANY OTHER PARTY FOR LOSS OF USE, REVENUE OR PROFIT OR FOR ANY OTHER INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES INVOLVING THE PRODUCTS FURNISHED BY SELLER.

- 10. Delays: Delivery.** The Seller shall not be liable for any delay or failure to perform, if such delay or failure shall be caused by an event or contingency beyond the reasonable control of Seller or its suppliers, irrespective of the nature thereof, including, but not limited to, a strike or other labor difficulty, a failure of machinery or equipment, a failure or delay in transportation, a shortage of labor, fuel or raw material, a governmental or judicial action, a fire, flood, accident, explosion, epidemic, storm, earthquake or other act of God. The delivery dates for providing the Products are approximate and subject to confirmation. Any delay or expense incurred by Seller caused by delays in receipt of details, specifications or other pertinent information from Buyer, or caused by changes requested by Buyer, shall be chargeable to Buyer.
- 11. Modification; Applicable Law; Entire Agreement.** No modification of the terms and conditions specified in this contract shall be binding upon Seller unless agreed to by an authorized representative of Seller in writing. The contract and all transactions between Buyer and Seller shall be governed by and construed in accordance with the laws of the State of the Seller's place of business on the first page of this contract, regardless of the Buyer's place of business. These provisions shall constitute the entire agreement of the parties with respect to the sale of Products by Seller to Buyer.
- 12. Arbitration.** Any controversy or dispute arising under the contract, or the breach thereof, shall be resolved by binding arbitration in the State of the Seller's place of business shown on the first page of this contract, under the rules of the American Arbitration Association. Buyer hereby consents to and submits to the jurisdiction of the state of the Seller's place of business shown on the first page.