



GENERAL TERMS AND CONDITIONS OF SALE

These General Terms and Conditions of Sale ("General Terms") are incorporated into and form a binding and enforceable part of the Application and Agreement for Credit and Sales ("Application and Agreement") entered into between Applicant identified in the Application and Agreement and CONSOLIDATED SUPPLY CO., an Oregon corporation ("CSCO").

- 1. Governing Terms.** Applicant's acceptance of these General Terms is a material part of CSCO's inducement to extend credit and sell and deliver goods to Applicant. These General Terms apply to and govern all extensions of credit and sale of goods by CSCO to Applicant and supersede any other or different terms that have been proposed by or that hereafter may be proposed by Applicant for any sale or extension of credit, unless the proposed terms are expressly accepted in writing as a modification to these General Terms by signature of an officer of CSCO. Applicant's acceptance of these General Terms is a condition precedent to CSCO's acceptance of any order by Applicant, agreement for sale of goods by CSCO, or extension of credit to Applicant. The Application and Agreement and these General Terms contain the entire agreement of the parties and supersede all other prior or contemporaneous agreements between the parties.
 - 1.1 All orders by Applicant and sales of goods by CSCO after the date of the Application and Agreement are subject to these General Terms without further incorporation or reference.
 - 1.2 The Application and Agreement, these General Terms, and all orders, agreements, and sales are governed by and are to be enforced under the provisions of Oregon law, without reference to conflict-of-law principles.
 - 1.3 Applicant may not assign or transfer any rights or benefits arising under the Application and Agreement or these General Terms without the prior written consent of CSCO. No change in Applicant's ownership, structure, or organization will affect Applicant's obligations or CSCO's rights under the Application and Agreement or these General Terms.
 - 1.4 The Application and Agreement and these General Terms cannot be modified except by a written agreement signed by an authorized representative of Applicant and an officer of CSCO. Any failure by any party to strictly enforce performance or remedies available will not constitute a waiver of the right to subsequently enforce performance or any remedies. Any waiver of any term, condition, or remedy of the Application and Agreement or these General Terms with respect to a particular order must be in a writing issued or signed by an officer of CSCO and will not be applicable to any other or subsequent order or sale, nor considered a waiver or modification of any other term, right, or remedy.
 - 1.5 If any term of the Application and Agreement or these General Terms is invalid or unenforceable, the affected language will be considered deleted and the remaining terms will be valid and enforceable to the maximum extent possible.
- 2. Payment and Credit.**
 - 2.1 Payment of each invoice is due from Applicant no later than the last day of the month immediately following the issue date of the invoice. Amounts past due will bear late charges of 1.5 percent per month (18 percent per annum). The date of payment will be the date when funds are collected by CSCO in cash or from Applicant's bank.
 - 2.2 If Applicant fails to pay any invoice in full when due or if, in CSCO's sole discretion, Applicant's financial condition is impaired or unsatisfactory, CSCO may unilaterally and at its sole discretion (a) terminate credit extended to Applicant, (b) require additional security or collateral for existing credit

or the extension of further credit, (c) require Applicant to pay in full outstanding balances and pay all or part of future orders in cash, (d) suspend or terminate unfilled portions of any order, (e) suspend shipment of orders previously approved, or (f) require other modifications to credit and payment terms. These rights and remedies are in addition to, and not exclusive of, any of CSCO's other rights or remedies.

- 2.3 CSCO retains a security interest in and right of possession to any goods for which full payment has not been received, and Applicant will assist in perfecting any security interest or financing statement requested by CSCO. Goods held for Applicant will be stored for a reasonable time at Applicant's risk.

3. Delivery.

- 3.1 All orders are subject to acceptance by CSCO prior to extension of credit or delivery of goods.
- 3.2 CSCO cannot guarantee delivery dates for goods not in stock or for which the terms of delivery are outside CSCO's control. Any delivery or availability dates quoted by CSCO are estimates only and may not be relied on as contractual conditions or covenants. CSCO is not liable for unavailability or delay in delivery of goods for reasons outside its reasonable control, including without limitation acts of God or of Applicant, governmental or civil actions, weather, or transportation or supplier delays or shortages.
- 3.3 All goods are sold F.O.B. Consolidated's or manufacturer's facility. CSCO is not responsible for loss of or damage to goods in transit. Loss or destruction of the goods or injury or damage to the goods that occurs while the risk of such loss or damage is borne by Applicant does not relieve Applicant of its obligation to pay CSCO for the goods.
- 3.4 Prices are subject to change without notice and will be those established at the time of shipment or delivery. Prices do not include, and Applicant is responsible for paying, all sales, use, and other taxes and shipping, handling, or delivery charges.
- 3.5 Orders for non-stock goods can be canceled or suspended only with CSCO's prior written consent and only on terms that will compensate CSCO for costs or losses arising from the cancellation.
- 3.6 Applicant shall give CSCO notice of nonconforming goods within 48 hours of delivery. Upon timely notice, if CSCO determines that the goods were nonconforming, CSCO will refund the purchase price or replace them with conforming goods, at CSCO's sole option.
- 3.7 Applicant may return goods actually purchased within the prior six months from CSCO provided that the goods are of current manufacture and model, unused, in the original factory carton or crate, and in resellable condition. Stock merchandise will be credited at the purchase price or current price, whichever is lower. A rehandling charge may be assessed on the return of stock items that exceed CSCO's three-month supply of those items. Applicant will be charged a restocking fee for the return of any non-stock goods, including incoming and outgoing freight to return the goods back to the manufacturer or distributor. No credit will be issued on non-stock goods unless the manufacturer or distributor will take back the goods.

4. **Services.** CSCO sells only goods and provides no design or engineering services. Accordingly, any information, advice, recommendation, advertisement, or quotation that CSCO communicates to Applicant about CSCO's goods a) does not constitute design or engineering services or professional advice, and b) cannot be relied on as a warranty that particular goods are fit for Applicant's particular purposes.
5. **Warranty Disclaimer.** Goods sold by CSCO may carry manufacturer's or originator's warranties against defects, nonconformity, or unmerchantability, but CSCO makes no independent warranty or representation about the goods sold, and specifically **CSCO DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE**, relating to goods sold or delivered by CSCO. CSCO does not warrant or convey any license under any patent or trademark.
6. **Limitation of Liability.** CSCO's maximum liability to Applicant or any other party, whether under contract or warranty, in tort (including negligence), by strict liability, by statute, or otherwise, is limited to replacement of or refund of the price paid by Applicant to CSCO for the goods in question. Under no circumstances is CSCO to be liable for any special, consequential, incidental, indirect, liquidated, or punitive damages, including without limitation damages for personal injury, pain and suffering, mental distress, property damage, loss of use, lost profits or revenue, installation costs, or delay, even if CSCO has been informed of the possibility of such damages.

7. Disputes and Arbitration.

- 7.1 Except for CSCO's collection of past due amounts owed by Applicant or guarantor(s) of Applicant, all claims and disputes among Applicant, guarantor(s), and CSCO related to or arising from the Application and Agreement or these General Terms, or orders or sales that are subject to them, are to be determined by binding arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect, unless the parties agree to use other arbitration rules or services. This provision is specifically enforceable in any court of competent jurisdiction. The award of the arbitrator will be final and binding, and judgment may be entered thereon.
- 7.2 CSCO will be entitled to claim and recover from Applicant CSCO's expenses and reasonable attorney fees incurred in any effort to collect past-due amounts from Applicant or its guarantor(s), whether or not any action or proceeding is commenced. Further, in any arbitration, litigation, or other proceeding in which CSCO prevails arising out of or relating to the Application and Agreement or these General Terms or any order or sale governed by them, in which CSCO prevails, CSCO will be entitled to recover its costs, disbursements, expenses, and reasonable attorney fees, including without limitation those incurred on appeal.
- 7.3 All rights and remedies allowed by the Application and Agreement, these General Terms, or applicable law are expressly reserved and are cumulative.

8. Personal Guaranty.

The Personal Guaranty of the Application and Agreement is an open, unlimited, and continuing guaranty, and Guarantor(s) agrees that CSCO extends any and all credit to Applicant now and in the future in material reliance on the Personal Guaranty. The Personal Guaranty will not be affected by any settlement, extension, modification or amendment of the terms of any obligation of Applicant or any other guarantor. The Personal Guaranty will not be affected by the discharge, death, dissolution, liquidation, or release of any obligation of Applicant or any guarantor. Notice of acceptance of the Personal Guaranty, notice of non-payment, notices of non-performance, notices of amount of indebtedness outstanding at any time, presentment, protest, demand, prosecution of collection, foreclosure and possessory remedies, the right to remove the action from the court originally acquiring jurisdiction, and all other rights to notices and actions by CSCO and any rights to extension, composition, or otherwise are hereby fully, unconditionally, and irrevocably waived by Guarantor(s). The Personal Guaranty binds and inures to the benefit of, as the circumstances may require, not only the immediate parties hereto, but also their respective heirs, executors, administrators, personal representatives, successors in interest, and assigns.

- 8.1 GUARANTOR(S) AGREES THAT NO SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, LIQUIDATED, OR PUNITIVE DAMAGES OF ANY KIND ARE RECOVERABLE FROM CSCO AND THAT CSCO'S LIABILITY IS LIMITED AS SET FORTH IN SECTION 6 ABOVE.
- 8.2 No terms of the Personal Guaranty can be modified by any other agreement now or hereafter arising between CSCO and Applicant or Guarantor(s) unless the agreement expressly notes that it modifies the Personal Guaranty and the credit manager of CSCO expressly agrees in writing. To the extent of any conflict between the terms of the Personal Guaranty and those in Applicant's purchase order or other document with Applicant or Guarantor(s), whether now existing or arising in the future, the terms set forth herein take precedence over the conflicting terms and conditions.
- 8.3 In case of any default in payment owed pursuant to the Personal Guaranty, Guarantor(s) shall pay CSCO's reasonable attorney fees and costs, including those arising on any appeal and whether or not an action is filed.
- 8.4 Guarantor(s) is subject to all the terms and conditions of dispute resolution applicable to Applicant as set forth in Section 7 above.