

# **HY-C Company, Inc.**

## **General Terms and Conditions of Sale**

The following terms and conditions govern all sales of HY-C Co., products and materials, whether made pursuant to oral or written orders to its representatives, sales reps., or home office in St. Louis, MO.

### **ACCEPTANCE AND ASSENT**

All orders are subject to acceptance at HY-C Co. or other point of shipment. Acceptance by HY-C Co. is expressly made conditional upon assent by buyer to all terms and conditions below and on the face hereof. The buyer's receipt of this acknowledgment without prompt written objection shall constitute acceptance by the buyer of all terms and conditions set forth within, and the order may not be canceled after acceptance without the consent of the HY-C Co. All sales final.

### **PAYMENT**

In the event that payment is not made as provided on the face hereof, Buyer agrees to pay late charges from the due date of 1½% per month or the maximum legal rate of interest, whichever is less. Buyer shall pay the HY-C Co. reasonable cost of collection, including but not limited to reasonable attorney's fees. Notwithstanding such terms of payment, if at any time HY-C Co. in good faith deems itself insecure for any reason whatsoever, it may declare the price immediately due and payable and may withhold shipment of the goods pending receipt of such payment. Remittances must be made free of charge. Cash discounts if any are indicated, will be allowed only when taken within the terms stated, and provided there are no past due items.

### **PRICE**

The prices set forth on the face hereof are the prices at which such goods were being shipped on the date this order was entered. The actual prices for the goods will be HY-C's prices in effect at the time of shipment.

### **SHIPMENT**

This is a shipment contract. HY-C Co. reserves the right to designate the routing on all prepaid shipments. On interstate sales, title to the goods passes after delivery. It is the parties' intent that freight is not a part of the material sale, and therefore is not subject to tax. HY-C Co. will attempt to honor, but will not guarantee requested shipping or delivery dates. When shipments are made F.O.B. point of shipment, Buyer is responsible for settling all claims with the carrier.

## **WARRANTIES ON GOODS NOT USED FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES**

HY-C Co. represents that all goods manufactured by HY-C Co. will be free from defects in material or workmanship for a period of one (1) year from date of shipment. HY-C Co. makes no other Warranty, express or implied, and all implied warranties of merchantability and fitness for a particular purpose are hereby disclaimed.

## **GOODS USED FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES**

As a statement of general policy concerning customer satisfaction on consumer goods, HY-C Co. believes its goods are as described and free from defects in materials or workmanship. HY-C Co. makes no written warranty as to such goods other than as set forth on the label or other written materials accompanying such goods. HY-C Co. shall not be liable under the printed warranties if any loss or damage is caused by improper application or use of the goods, or if the goods are not applied and used under applicable building codes.

## **LIMITATION ON HY-C'S LIABILITY FOR GOODS NOT USED FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES**

HY-C Co. will replace without charge, refund the purchase price, or make a fair allowance for any noncompliance with the description of the goods or any defect in material or workmanship, demonstrated to its satisfaction to have existed at the time of delivery. HY-C Co. will not be liable for consequential damages and under no circumstances will HY-C's liability exceed the price for defective goods. The remedies set forth herein are exclusive and in substitution for all other remedies to which Buyer would otherwise be entitled. HY-C Co. will be given a reasonable opportunity to investigate all claims and no goods may be returned to HY-C Co. until after receipt of definite shipping instructions from HY-C Co. Buyer must commence any action arising out of, based upon or relating to this agreement, or the breach thereof, within twelve (12) months from the cause of the action accrued. HY-C's warranty as expressed hereon shall only apply to products manufactured by the HY-C Co. The warranty for products manufactured by another and sold by the HY-C Co. shall be the manufacturer's standard warranty in effect at the time of sale for the specific product(s) as described in the price list for that product. If such warranty information of other manufacturers is not presented to Buyer, it shall be made available by the HY-C Co. upon request of Buyer.

## **FORCE MAJEURE**

Delay in delivery or non delivery in whole or in part by the HY-C Co. shall not be a breach of this agreement if performance is made impracticable by the occurrence of one or more of the following contingencies, the nonoccurrence of which is a basic assumption on which the agreement is made: (a) Fires, floods, or other casualties; (b) Wars, riots, civil commotion, embargoes, governmental regulations or Marshall law; (c) HY-C's ability to obtain necessary materials (finished or otherwise) from its usual sources of supply; (d) Shortages of cars or

trucks or delays in transit; (e) Existing or future strikes or other labor troubles affecting production or shipment whether involving employees of the HY-C Co. or employees of others and regardless of responsibility or fault on the part of the employer; and (f) Other contingencies of manufacture or shipment, whether or not of a class or kind mentioned herein, not reasonably within HY-C's control.

### **NOTICE OF CLAIM**

Any claim defect in material or workmanship shall be deemed waived by Buyer unless submitted to the HY-C Co. in writing within thirty (30) days from the date it was, or by reasonable inspection should have been, discovered by Buyer. Any claim by Buyer against HY-C Co. for shortage or damage occurring prior to such delivery must be made within thirty (30) days after receipt of goods and accompanied by original transportation bill signed by carrier noting that the carrier received the goods from the HY-C Co. in the condition claimed.

### **AGENTS AUTHORITY**

Buyer understands and agrees that no agent, employee, or representative of the HY-C Co. has authority to bind the HY-C Co. to any affirmation, representation, or warranty concerning the goods which is not set forth herein; and Buyer further understands and agrees that any such affirmation of fact, promise, or representation made by an agent, employee, or representative of the HY-C Co. which is not set forth herein shall not constitute a warranty.

### **CUSTOM AND USAGE**

No course of performance or any course of dealing or usage of trade shall vary the express terms hereof.

### **SOLD AGREEMENT**

This writing is intended by the parties as a final expression of their agreement and is intended also as a complete statement of the terms and conditions of their agreement which can be modified or rescinded only by a writing signed by both parties or their duly authorized agents.

### **NON-WAIVER**

Waiver by either the HY-C Co. or Buyer of a breach of any provision hereof shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect.

### **APPLICABLE LAW**

This agreement shall be construed and the rights and obligations of the parties hereto shall be governed by the laws of the point of origin.