



GENERAL TERMS AND CONDITIONS OF SALE

(Revised 04/2024)

1. GENERAL PROVISIONS. These General Terms and Conditions of Sale, together with any estimate, quote, order acknowledgment, invoice, and/or scope of work, and all attachments thereto, provided to you (“**Customer**”) by Anchor Industries, Inc. (“**Anchor**”), incorporated herein by reference, form the complete agreement between the parties (collectively, the “**Agreement**”). By accepting any materials, supplies, products, goods, systems, fixtures and/or equipment (individually, a “**Product**” and collectively, “**Products**”) and/or labor and services (individually, “**Service**” and collectively, “**Services**”) (“**Product**”, “**Products**”, “**Service**” and “**Services**” collectively, “**Products and Services**”) or tendering to Anchor any deposit or payment therefor, Customer acknowledges that Customer has read the Agreement, understands it, and agrees to be bound by its terms and conditions. **ADDITIONAL OR CONTRARY TERMS PROPOSED BY CUSTOMER SHALL BE DEEMED TO HAVE BEEN REJECTED BY ANCHOR UNLESS SPECIFICALLY AGREED TO IN WRITING AND SIGNED BY AN AUTHORIZED REPRESENTATIVE OF ANCHOR. THIS PROVISION, AND EACH AND EVERY OTHER PROVISION HEREIN, MAY NOT UNDER ANY CIRCUMSTANCES BE MODIFIED, CHANGED, AMENDED OR WAIVED VERBALLY, BUT MAY ONLY BE MODIFIED, CHANGED, AMENDED OR WAIVED BY A WRITTEN AGREEMENT EXECUTED BY ALL PARTIES HERETO.** Neither party shall be bound by any statements or representations not contained in the Agreement.

2. VALIDITY PERIOD. Any price quote(s) provided to Customer are valid for thirty (30) days unless otherwise specified in writing by Anchor. Anchor expressly reserves the right to withdraw, in its sole discretion, any quote(s) prior to acceptance. All orders are subject to approval of credit by Anchor and may be cancelled by Anchor at any time upon a change in the credit worthiness of the Customer, as determined solely by Anchor.

3. PAYMENT TERMS AND TAXES. Unless otherwise agreed to by Anchor in writing, payment shall be made in accordance with the terms set forth by Anchor in an invoice or order confirmation, as applicable. Sales tax will be applied in all states where Anchor is registered or otherwise obligated to collect sales tax, unless Customer submits, and Anchor approves, an “Exemption Certificate.” If sales tax is charged, it will be a separate line item and not included in the price of Products. Customer’s failure to make payment when due is a material breach of the Agreement. In the event payment is not received according to terms, Anchor may, at its discretion, assess interest at the maximum rate allowed by law or at the rate of 1.5% per month, whichever is greater. Customer also agrees to pay all costs and expenses incurred by Anchor in pursuit of payment which is past due, or otherwise in enforcing the terms of the Agreement, including, but not limited to, court costs and attorneys’ fees.

4. CONFIRMATION OF ORDERS. Customer shall ensure that any written confirmations of orders previously made by phone or otherwise are marked “CONFIRMATION OF PRIOR ORDER”. Buyer assumes responsibility for duplication of any prior orders if not properly marked as such. Anchor may send Customer an order acknowledgment for the Product ordered. Customer is responsible for reviewing any order acknowledgment for accuracy and ensuring that no duplicate orders for Products have been erroneously placed with Anchor. Customer will promptly notify Anchor of any inaccuracy in any order acknowledgment. Customer acknowledges and agrees that it will be liable for payment of duplicate orders.

5. SHIPMENT, DELIVERY AND RISK OF LOSS. Anchor recognizes Customer’s need for prompt delivery. However, Anchor does not guarantee a particular date for shipment or delivery of any Products, unless specifically agreed in writing by Anchor. Anchor shall not be responsible for delays in deliveries due to any contingencies or circumstances beyond Anchor’s control. Delivery of Products shall be made FOB Anchor’s Evansville, Indiana, facility, or FOB other shipping point(s) designated by Anchor. If Customer does not specify a method of shipment or carrier, or if the specified method is not practical in the sole discretion of Anchor, Anchor shall control the method of shipping and carrier without liability for differences in time and/or expense. Risk of loss and damage to Products and title shall pass upon release to the carrier. All COD shipments, if approved by Anchor, shall require cash, money order, or a certified check for payment. Anchor may deliver Products in installments, and each shipment is considered a separate and independent transaction and payment shall be made as to each shipment or as otherwise directed by Anchor. Upon receipt of any shipment, it shall be the responsibility of Customer to check materials and secure written acknowledgment from the delivering carrier for any shortages, loss, or damage. **CUSTOMER AGREES TO INSPECT ALL PRODUCTS BEFORE ACCEPTANCE OF ANY DELIVERY.** If Customer discovers concealed damage within five (5) days of receipt of Products, Customer must contact Anchor, whereupon Anchor will, if appropriate, assist in filing a claim on behalf of Customer with the carrier.

6. INSTALLATION AND USE. Customer assumes complete responsibility for the proper installation and use of the Products by Customer, its employees,

agents, renters, guests, licensees, and invitees. Customer is responsible for ensuring that the Products are installed and used in strict accordance with all safety information available from time to time from Anchor and in compliance with any applicable building codes or governmental requirements. For each installation, Customer is solely responsible for evaluating the site and the proper securing method determined. Even if an Anchor Team Member is present during the installation, Customer is responsible for the installation and at no time does that responsibility transfer to Anchor. Customer acknowledges that some soils require different staking or securing than that provided with the Product. Due to the variety of soil conditions, Customer is responsible for determining the necessary staking requirements. Customer is responsible for obtaining all licenses and permits and for paying all applicable taxes and fees associated with the installation and use of the Products. Customer should refer to the manufacturer’s suggested sequence of installation procedures. Anchor expressly disclaims, and Customer acknowledges that Anchor has not made, any representation or warranty as to the required method for Product installation or securing the Product to the ground. Inasmuch as weather conditions are unpredictable, good judgment and common sense must be incorporated within installation and use guidelines. It is the responsibility of the Customer to determine the severity of the weather, and proper time and method of installation, erection, use, and disassembly. Evacuation is recommended at any time weather becomes threatening or there is any doubt concerning the safe use of any Product.

7. CANCELLATION AND RETURNS. For Products made to Customer’s specifications, orders cannot be canceled or returned once materials have been ordered or production commenced. All other orders may be cancelled or returned by Customer only with the consent of Anchor. When requesting permission to return an order, Customer will provide Anchor with the invoice number and reason for return. If the return is agreed to, Anchor will issue a return goods authorization number (“**RGA**”). Any Product returned to Anchor without an RGA identified on the packaging will be refused at Anchor’s dock. Customer has thirty (30) days from date of shipment to request an RGA. If an RGA is issued, the qualifying Product should be sent back to Anchor by prepaid freight or postage which can then be subject to credit. Customer has fourteen (14) days from the date of issuance of the RGA to return the Product to Anchor. If a return is due to Anchor’s error, Anchor will reimburse the freight charges as part of a credit to be issued. Receiving an RGA does not imply immediate credit. Anchor reserves the right to impose a restocking fee of up to twenty-five percent (25%). Direct shipped items sent directly from a manufacture’s authorized warehouse require specific return instructions, which must be followed for credit issuance. Anchor, within thirty (30) days of its receipt of returned Product, and in its sole discretion, will issue credit to Customer for non-conforming Products.

8. INSURANCE; SUBROGATION. Customer understands and agrees that Anchor is not an insurer and that it is Customer’s obligation to obtain and maintain any insurance covering any losses to property or personal injury or any other damage which may occur at the premises where the Products and Services are delivered, assembled, installed, used, or performed. Customer agrees to look exclusively to Customer’s insurer to recover for injuries or damage in the event of any loss or injury; that the amounts payable to Anchor hereunder are based upon the value of the Products and Services and the scope of liability set forth herein; and that Anchor is not guaranteeing that no loss will occur. Customer does hereby, for itself and all others claiming for it under the Agreement, release and discharge Anchor from and against all hazards covered by Customer’s insurance, it being expressly agreed and understood that no insurance company, insurer, or any other third party will have any right of subrogation against Anchor.

9. SECURITY INTEREST; LIENS. Customer grants to Anchor, and Anchor retains, a security interest in all Products provided pursuant to the Agreement until Customer shall have made full payment for all Products and Services provided. Such interest is intended to be effective as a purchase money security interest. Customer agrees that Anchor may file the Agreement as a financing statement. In the event of failure to make payment on the due date in accordance with terms designated, the entire balance shall become due and payable at once. In case of default of payment, and to the extent permitted by law, Anchor shall have the right to take possession of the Products immediately, wherever they may be found, and remove them with or without process of law and may retain all money paid hereunder. Customer agrees to pay Anchor’s costs of collection, including, without limitation, reasonable attorneys’ fees and legal expenses, and that the same are secured by the security interest granted herein. Customer shall not, prior to payment, lease (except in the ordinary course of business), sell, mortgage, or pledge, said Products without prior written permission of Anchor. Customer acknowledges that Anchor shall maintain all mechanic’s lien rights under applicable law.

10. LIMITATION OF WARRANTY; WARRANTY DISCLAIMER. Anchor warrants that the Products will be free from defects in materials and workmanship for the time period stated and subject to the further terms and conditions described on the limited warranty registration sheet accompanying such Product, if any. Customer acknowledges that not all Products have a separate limited warranty registration sheet ("**Standard Warranty Products**"). Standard Warranty Products are warranted to be free from defects in materials and workmanship for a period of one (1) year from the date of purchase. ANCHOR DISCLAIMS ALL IMPLIED WARRANTIES ON STANDARD WARRANTY PRODUCTS, AND THE ONE (1) YEAR LIMITED WARRANTY ON MATERIAL AND WORKMANSHIP DEFECTS SHALL BE IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE ARE NO WARRANTIES OTHER THAN THOSE DESCRIBED ON THE FACE HEREOF. Customer may obtain a copy of the applicable Product warranty by calling Anchor at 1-800-544-4445, visiting www.anchorinc.com, or by writing to 7701 Hwy. 41 N, Evansville, IN 47725.

11. LIMITATION OF LIABILITY; LIQUIDATED DAMAGES. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AGAINST ANCHOR FOR DEFECTIVE OR NONCONFORMING PRODUCTS OR SERVICES IS FOR REPAIR OR REPLACEMENT OF DEFECTIVE PRODUCT(S) OR, AT THE SOLE DISCRETION OF ANCHOR, FOR AN ALLOWANCE TOWARDS THE PURCHASE OF A REPLACEMENT PRODUCT OR REFUND OF THE PRICE OF THE SERVICE. THIS EXCLUSIVE REMEDY SHALL NOT FAIL FOR ITS ESSENTIAL PURPOSE SO LONG AS ANCHOR IS WILLING AND ABLE TO REPAIR OR REPLACE DEFECTIVE PRODUCTS OR, IN THE SOLE DISCRETION OF ANCHOR, TO GIVE AN ALLOWANCE TOWARDS A REPLACEMENT PRODUCT OR REFUND THE PRICE OF THE SERVICES IN ACCORDANCE WITH THESE TERMS. CUSTOMER AGREES THAT NO OTHER REMEDY, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO REJECT OR REVOKE ACCEPTANCE OF PRODUCTS, OR THE RIGHT TO RECOVER INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST SALES, LOSS OF PRODUCTION, INJURY TO PERSON, DAMAGE TO PROPERTY, OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS SHALL BE AVAILABLE TO IT AND ANCHOR SHALL NOT BE LIABLE FOR SUCH INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, LOST SALES, LOSS OF PRODUCTION, PROPERTY DAMAGE, PERSONAL INJURY, OR ANY OTHER INCIDENTAL OR CONSEQUENTIAL LOSS ARISING OUT OF THE USE OF OR THE INABILITY TO USE THE PRODUCTS. THE LIMITATIONS SET FORTH IN THIS SECTION 11 SHALL APPLY EQUALLY TO ALL ANCHOR PRODUCTS, WHETHER STANDARD WARRANTY PRODUCTS OR OTHERWISE.

12. INDEMNITY. Customer shall notify Anchor promptly, and in any event within five (5) days, of any accident or failure involving Products or Services which results in personal injury or damage to property and shall cooperate fully with Anchor in investigating and determining causes of such accident or failure. TO THE FULLEST EXTENT PERMITTED BY LAW, CUSTOMER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND ANCHOR FROM ANY AND ALL CLAIMS, DEMANDS, SUBROGATION CLAIMS BY CUSTOMER'S INSURERS, CAUSES OF ACTION, FINES, CONTROVERSIES, LIABILITIES, REGULATORY ACTIONS, SEIZURES OF EQUIPMENT OR SYSTEMS, LOSSES, DAMAGES, COSTS AND EXPENSES (INCLUDING, BUT NOT LIMITED TO ATTORNEYS' FEES AND EXPERT WITNESS AND LITIGATION EXPENSES AND COSTS) (COLLECTIVELY, "**CLAIMS**"), ARISING FROM OR IN CONNECTION WITH ANY INJURY, DEATH, PROPERTY DAMAGE OR ANY OTHER CLAIM, WHETHER BASED UPON CONTRACT, WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE, RELATING TO THE AGREEMENT, THE BUSINESS RELATIONSHIP BETWEEN THE PARTIES, THE PRODUCTS AND THEIR COMPONENT PARTS, AND/OR SERVICES PROVIDED HEREUNDER, CUSTOMER'S USE, INSTALLATION, MODIFICATION, OR ALTERATION OF THE PRODUCTS AND THEIR COMPONENT PARTS, CUSTOMER'S FAILURE TO COMPLY WITH ANY APPLICABLE LEGAL OR GOVERNMENTAL REQUIREMENTS, CUSTOMER'S FAILURE TO MAINTAIN THE PRODUCTS AND THEIR COMPONENT PARTS OR KEEP THE SAME IN OPERATIVE CONDITION, OR CUSTOMER'S BREACH OF THE AGREEMENT. ANCHOR RESERVES THE RIGHT TO SELECT COUNSEL TO REPRESENT IT IN ANY SUCH ACTION. IN NO EVENT SHALL ANCHOR BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE PRODUCTS OR THEIR COMPONENT PARTS BY CUSTOMER OR ANY THIRD PARTY. THE INDEMNITY PROVISIONS CONTAINED HEREIN SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THE AGREEMENT AND SHALL APPLY REGARDLESS OF WHETHER OR NOT SEPARATE, SEVERAL, JOINT, OR CONCURRENT LIABILITY MAY BE IMPOSED ON ANCHOR AND WHETHER OR NOT THE SAME IS CAUSED OR CONTRIBUTED TO BY THE NEGLIGENCE OF ANCHOR, OR WHETHER OR NOT IT IS ALLEGED THAT ANCHOR IN ANY WAY CONTRIBUTED TO THE CLAIMS OR IS LIABLE DUE TO A NON-DELEGABLE DUTY. NOTWITHSTANDING THE FOREGOING, THIS INDEMNITY PROVISION DOES NOT PURPORT TO INDEMNIFY ANCHOR FOR ITS OWN SOLE

NEGLIGENCE TO THE EXTENT SUCH INDEMNIFICATION IS CONTRARY TO LAW. CUSTOMER, FOR ITSELF AND ITS INSURERS, EXPRESSLY WAIVES ANY AND ALL LIMITATIONS OR LIABILITY CAPS, IF ANY, ON CUSTOMER'S INDEMNITY TO ANCHOR ARISING FROM ANY APPLICABLE WORKERS COMPENSATION OR DISABILITY ACTS IN THE EVENT OF THE PERSONAL INJURY OR DEATH OF CUSTOMER'S EMPLOYEES, REPRESENTATIVES OR SERVANTS.

13. ONE-YEAR LIMITATION OF ACTIONS; LEGAL FEES. To the fullest extent permitted by law, it is agreed that no suit or cause of action or other proceeding shall be brought against Anchor more than one (1) year after the date the Products and Services were delivered and/or performed, whether known or unknown when the claim arises or whether based on tort, contract, or any other legal theory. Anchor shall be entitled to recover from Customer all reasonable attorneys' fees, court costs and expenses incurred in connection with Anchor's enforcing the terms and conditions of the Agreement.

14. FORCE MAJEURE. Anchor shall not be liable for any loss or damage of any kind resulting from delay, inability to deliver, or to perform any other work under the Agreement on account of fire, flood, labor problems, supply chain delays, pandemics, epidemics, access to premises, accidents, acts of civil or military authorities, acts of God, or from any other causes beyond Anchor's control.

15. DISPUTE RESOLUTION. Except for non-payment by Customer of any Invoice(s) which may be brought in Vanderburgh County, Indiana Superior or Circuit Court, any and all disputes, complaints, controversies, claims, grievances and questions directly or indirectly arising under, out of, in connection with, or in any manner related to this instrument or the relationship of the parties hereunder shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and any judgment or award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding said Rules, any arbitration hearing to take place hereunder shall be conducted in Evansville, Indiana before one (1) arbitrator who shall be a licensed attorney with extensive experience in construction law. The Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of Indiana (not including the choice of law rules thereof). All orders shall be accepted only at Anchor's Evansville, Indiana, offices, irrespective of any other address which may appear on a quote, estimate, or invoice. The party who does not prevail in any litigation or alternative dispute resolution shall pay all the prevailing party's reasonable attorneys' fees, experts' fees, costs and expenses incurred by such prevailing party in resolving said matter. As used herein the term 'prevailing party' shall include, but not be limited to, a person who obtains legal counsel or brings an action against the other by reason of the other's breach or default and obtains substantially the relief sought whether by compromise, settlement, or judgment. Each party hereby consents to a single, consolidated arbitration proceeding of multiple claims, or claims involving two or more parties. Either party may apply to any court of competent jurisdiction for injunctive relief or other interim measures in aid of the arbitration proceedings, or to enforce the arbitration award, but not otherwise. Any such application to the court shall not be deemed incompatible or a waiver of this section. The arbitrator shall be required to make written findings of fact and conclusions of law to support their award. The parties consent to the jurisdiction of the American Arbitration Association and waive any objection which either party may have to any proceeding so commenced based on improper venue or *forum non conveniens*. Notwithstanding anything herein to the contrary, Anchor shall be entitled to apply to a court in of competent jurisdiction in Evansville, Indiana to collect amounts due from Customer pursuant to the Agreement, including past due service fees, costs of collection and attorneys' fees.

16. SEVERABILITY. If any provision of the Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, the Agreement will continue to be valid as to the other provisions and the remainder of the affected provision. The parties agree that any execution by electronic means shall be deemed to be original signatures.

17. U.S. GOVERNMENT CONTRACTS. If Products or Services purchased by Customer hereunder are to be used in performance of any federal government contract or subcontract, a valid U.S. government contract number shall appear on the purchase order issued by Customer hereunder.