

Terms and Conditions of Sale

All products and services furnished by ARCO Electric Products (“Seller”) and all Seller’s quotations, order acceptances, and sales are conditioned on assent to these terms and conditions of sale, which may not be varied or waived except by express written agreement by an officer of Seller.

I. Territory

These terms and conditions of sale apply to shipments to all points within the continental United States (contiguous 48 states) and the provinces of Canada.

II. Price

All prices for ARCO products are subject to change without notice. It is the Purchaser’s responsibility to provide ARCO with written proof of tax exemptions. Absent written proof, any tax or other governmental change on the production, sale or shipment of products imposed by state, federal, municipal or other authorities shall be added to the invoice total and must be paid by Purchaser.

III. Transportation Charges

Delivery terms are F.O.B., Shelbyville, Indiana. ARCO reserves the right to select the method of shipment, routing, and carrier for all products sold. Upon ARCO approval, additional transportation costs due to the Purchaser’s request that routing, method of shipment or other instructions will be added to the invoice total and paid by Purchaser.

IV. Orders>Returns/Restocking/Cancellation

All orders are subject to acceptance and approval by ARCO’s credit department and are not binding, and may be removed from the manufacturing schedule unless so approved. ARCO reserves the right to select its own customers and to reject an order or to refuse to bid on any requirement.

Any unit returned for restocking must be:

1. approved for return by ARCO within 30 days of installation or 45 days of factory shipment with authorized RGA#.
2. Shipped to ARCO **FREIGHT PREPAID**; collect shipments will be refused at the receiving dock; and
3. In same condition as when it was shipped from ARCO.

A minimum restocking or cancellation charge will be assessed as outlined below on the following units with a minimum charge of \$100.00 per invoice. Any damages will be charged for accordingly.

A 20% charge will be made on all manual Roto-Phase I and II at 240 VAC, 60 Hertz and Power Bank capacitors at 240 and 480 VAC, 60 Hertz.

A 25% charge will apply to the following: 209, 480 and 575 VAC, 60 Hertz Roto-Phase, any Roto-Phase III, Automatic Roto-Phase, 600 VAC, 60 Hertz Power Bank capacitor units, Stato-Phase static units and any Parts orders.

A 50% charge will be made on all Special Design manufactured Roto-Phase units (i.e. VR Series, CL Series, HT Series, ELV Series and CNC).

Specially engineered motors and Power Banks are not subject to cancellation. Any cancellation of specially engineered products will be subject to full invoice charges. Cancellation of special units will be invoiced on a time and material basis.

Not returns of products will be accepted without prior written approval.

V. Terms of Payment

Payment terms are net 30 days. Invoices will be dated as of date of shipment. A service charge of 18% per annum will accrue after 30 days from invoice date. Accounts that have not been paid within 90 days of invoice will be turned over to Dun & Bradstreet for collection. Purchaser shall pay ARCO's reasonable attorneys fees and costs incurred in collecting delinquent accounts.

VI. General

ARCO shall not be liable for any delay or default in delivery of products where occasioned by any cause of kind or extent beyond the control of ARCO, including without limitation: armed conflict or economic dislocation resulting therefrom; embargoes; shortages of labor, raw materials, fuel, energy, production facilities or transportation; labor difficulties, civil disorders of any kind; action of civil or military authorities (including priorities and allocations); fires, floods, carrier failures and/or accidents.

VII. Warranty

ARCO warrants that its products are free from defect in material and workmanship as of the time and place of deliver. (Also, where ARCO undertakes to perform or assist in any servicing, repair or replacement, ARCO warrants that its performance or assistance will be free from defect in material and workmanship.) ARCO's warranties are so limited as stated in the previous sentence, and ARCO disclaims all other express warranties and all implied warranties as to the quality of any products or services furnished by ARCO, including the **IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

In the event any of the products are not free from defect in material and workmanship, the exclusive remedies therefore shall be repair, replacement or return of the purchase price upon authorized return of the defective product. Selection among these remedies shall in each case be at ARCO's reasonable discretion. Any such claim against ARCO must be made in detail and in writing and promptly pursued. Products that Purchaser claims are defective must be returned at Purchaser's cost.

Five years after delivery, all of ARCO's warranties and other duties with respect to the exclusive remedies provided for herein shall be conclusively presumed to have been satisfied. All liability thereafter terminates, and no action for any breach of any such warranty or duty against ARCO may thereafter be commenced.

VIII. No Incidental or Consequential Damages

ARCO shall not be liable for any incidental or consequential damages under any circumstances whatsoever, whether based on lost goodwill, lost resale profits, work stoppage, impairment of other products or otherwise, and whether arising out of breach of any warranty, breach of contract, negligence or otherwise.

IX. Modification or Termination

Products shall be shipped and invoiced by ARCO pursuant to the terms and conditions contained herein, which terms and conditions shall constitute the entire agreement between ARCO and Purchaser, and supersede any and all prior representations, agreements, or understanding, if any, whether oral or written, relative to products delivered hereunder. In the event that any of the terms of any purchase order of Purchaser conflict with any of the terms and conditions set forth herein, these terms and conditions shall govern. No modifications of the terms and conditions contained herein shall be effective unless made in writing on a date subsequent to the effective date hereof and executed by ARCO. ARCO hereby gives notice of its objection to any additional or different conditions in Purchaser's purchase orders of communications. In the absence of written acceptance of these terms and conditions, the acceptance by Purchaser of any products delivered hereunder shall constitute acceptance of the terms and conditions herein stated.