



## **STANDARD TERMS AND CONDITIONS OF SALE**

### **1 - General.**

No waiver, alteration or modification of the present Terms and Conditions (or Agreement) shall be binding on ITC Inc. (ITC) unless made in writing and signed by a duly authorized officer of ITC.

### **2 - Prices and Quotations.**

Prices in the current price list, as well as discounts, are subject to change without prior notice.

All prices listed are FOB ITC's warehouse in Toronto, Ontario, Canada.

Unless otherwise stated in writing on proposals or quotes, all quotations will expire 30 days after the date indicated on the quotation form or letter. Verbal quotations shall not be binding on ITC unless confirmed in writing.

Typographical or clerical errors on quotations shall not be binding on ITC and are subject to corrections without prejudice.

All applicable taxes are not included in any price quoted by ITC. The Purchaser shall be responsible for the payment of any tax, levy, duty, fee or assessment imposed by any level of government or other taxing authority, with regards to any goods or products purchased from ITC.

### **3 - Orders.**

All orders are subject to ITC's acceptance. Unless specifically stated in writing by ITC, products can only be ordered in packaging quantities stated on ITC's catalogs and/or price lists.

### **4 - Delivery Dates**

Delivery dates given in acceptance of Purchase Orders are to be deemed approximate. ITC shall not be liable for any delays in delivery due to causes beyond its control, or beyond the control of ITC's suppliers, including acts of God, acts of any military or civil authority, war or civil riots, strikes, fire, acts of the Purchaser, delays on transportation. Any such delay shall extend the delivery date correspondingly.

### **5 - Partial and Deferred Shipments.**

ITC reserves the right of making partial shipments. Each shipment shall then constitute a separate sale, subject to the Terms and Conditions stated herein or modified in writing as per Clause n. 1 above.

Deferred shipments are subject to ITC's price adjustment policy.

### **6 - Cost of Transportation.**

ITC may offer, under specific circumstances, to pay for the cost of transportation of the goods purchased by the Purchaser, to the destination specified in the Purchase Order or to a destination to be agreed upon by the Purchaser and ITC.

In such cases, ITC shall use a common carrier of its choice. Should the Purchaser request any particular method of shipment, the whole cost of transportation will revert to the Purchaser.

In those cases in which ITC pays the cost of transportation, the products travel at the Purchaser's risk. It will be the Purchaser's responsibility to pay for appropriate insurance of the goods shipped.

### **7 - Terms of Payment.**

Purchaser agrees to make payments within 45 (forty-five) days from the date of the invoice issued by ITC. Purchaser agrees to pay a late payment charge of 1 1/2% (one-and-a-half percent) per month, or the maximum late payment charge allowed by applicable laws, whichever is less, on any unpaid amount of such invoice per each calendar month that such payment is in default.

Charging of such a late payment charge does not imply any obligation for ITC to grant any extension of the terms of payment.

In the event of referral to a collection agency or attorney for the purpose of collecting overdue payments from the Purchaser, it is agreed that the Purchaser shall pay reasonable attorneys or collection fees.

Should no payment be received within 60 (sixty) days from the date of the invoice, all discounts including Distributor's discounts shall be cancelled, and the Purchaser shall be charged full Standard Prices applicable for the packaging quantities he will purchase. Such discounts may be reinstated only after full payment, including charges and fees, has been received, upon ITC's sole judgment.

### **8 - Credit Approval.**

Acceptance of any Purchase Order shall be subject to approval of the Purchaser's credit by ITC. ITC reserves the right to establish credit limits to any Purchaser.

### **9 - Title**

Title to the goods and products purchased from ITC shall be retained by ITC until the Purchaser, including such charges and fees, which may be applicable under clause 7, makes payment in full. This Title is maintained notwithstanding the mode of attachment of the goods and products to any property of the Purchaser.

Title is reserved for the purpose of securing the cost of the goods and products. Purchaser is not relieved from the duty to examine the goods and products upon receipt and to exercise due care in use, maintenance and installation of the goods and products until Title is transferred.

Risk of loss is passed to the Purchaser from ITC at the moment of shipment, notwithstanding the reservation of Title mentioned hereupon.

## **10 - Order Cancellation or Rescheduling.**

The Purchaser may not cancel or modify a Purchase Order after it has been accepted by ITC without ITC's prior written consent. This statement does not imply that such consent will automatically be granted.

No cancellation shall be accepted by ITC for special, modified, assembled, custom made or custom labeled products.

For blanket orders of Standard Products, where special discounts have been negotiated based on large quantities, cancellation may be accepted after Purchaser has accepted at least 60% (sixty per cent) of the quantity initially ordered.

## **11 - Returns.**

No goods and products may be returned to ITC without ITC's prior consent in writing. Such consent may be withheld by ITC or given upon such terms as ITC may stipulate.

No return shall be accepted by ITC for special, modified, assembled, custom made or custom labeled products.

In case a return is consented, Purchaser must obtain a Return Authorization Number in writing from ITC, and such number must be clearly stated on shipping documents. Consented returns shall not be received without a valid Return Authorization Number. Should a product acquired in bulk quantity (at bulk prices) be partially returned, the difference between the bulk price and the standard package price will be calculated on the quantity not returned, and deducted from the Credit Note to be issued by ITC.

The Purchaser shall pay all shipping costs related to such returns.

Products returned based on the above conditions shall be inspected. Damaged, defective, incomplete or not re-saleable products shall not be accepted by ITC and will be placed at Purchaser's disposal.

## **12 - Liability.**

Except to the obligations specifically assumed by ITC under Clause 13, the Purchaser indemnifies and holds harmless ITC from and against all claims, damage, liability, loss and whatsoever expense, including legal fees, arising out of this sales agreement, whether or not such claims, damage, liability, loss and whatsoever expense are insured by either party, and whether or not such claims, damage, liability, loss and whatsoever expense is a consequence of fundamental breach, and irrespective of any negligence on the part of ITC or any of its affiliates or subcontractors.

Without limitation, the Purchaser indemnifies and holds harmless ITC from and against:

- Claims in respect of damage of or caused by any product or goods, including bodily injury, damage to property and any other direct or indirect loss or increased cost suffered by the Purchaser or any third party;
- Claims in respect of delays in delivery of any product;
- Claims in respect of the infringing of patent, confidential information or any other intellectual or industrial property or any other right arising from the use of, or in respect to any product or goods;
- Claims related in any other way to any goods or product.

## **13 - Limited Warranty.**

ITC warrants to the Purchaser that the goods or products purchased shall be free from defects in material and workmanship under normal use and service for the period of one year from the date of shipment.

The Purchaser shall send to ITC prompt written notice and explanation of the circumstances of any claim that the products or goods were proved defective in material or workmanship.

ITC will not be liable for any negligence, misuse, improper operation, maintenance or installation, alteration, unauthorized repair, accident or unusual degradation of the goods and products.

No representations, warranties or conditions, express or implied, including but not limited to statements regarding capacity, suitability for use, fitness for operation or performance, privilege or freedom from any liens and encumbrances including statement regarding violation of existing patents, shall be deemed to be a warranty or statement by ITC for any purpose, nor give rise to any liability whatsoever by ITC.

The Purchaser's sole and exclusive remedy in the event of the breach of warranty as set forth herein, is expressly limited to: i) the correction of the defect by repair, modification or replacement, or ii) issuance of a credit or refund of the purchase price of the defective product or goods, as ITC's election and sole expense.

**EXCEPT AS STATED IN THIS AGREEMENT, NO OTHER WARRANTIES EXIST, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A SPECIFIC PURPOSE.**

**LIMITATION OF LIABILITY. ITC'S LIABILITY ON ANY CLAIM OF ANY KIND, INCLUDING NEGLIGENCE, FOR ANY DAMAGE OR LOSS RESULTING FROM, OR ARISING OUT OF THE PURCHASE OF ANY GOODS OR PRODUCTS SUPPLIED BY ITC, OR FROM THE BREACH OF PERFORMANCE THEREOF, IS LIMITED TO THE DIFFERENCE BETWEEN THE VALUE OF THE SAID GOODS OR PRODUCTS AS PURCHASED, AND THE VALUE THEY WOULD HAVE HAD IF THEY HAD BEEN AS WARRANTED. NO OTHER CLAIM SHALL BE MADE FOR OTHER INCIDENTAL OR CONSEQUENTIAL LOSSES.**

## **14 - Patents.**

No claim shall be made against ITC for any expense or loss resulting from infringement of patents in connection with the purchase of goods or products.

## **15 - Assignment and Enforceability.**

This Agreement is not assignable without the written consent of ITC.

Should any provision of this Agreement be held to be invalid, unenforceable or illegal, the validity, enforceability and legality of the remaining provisions shall not be impaired or affected in any way.

**THE PURCHASER ACKNOWLEDGES THAT HE HAS READ AND UNDERSTOOD THE PRESENT AGREEMENT, AND AGREES THAT THE SAME IS THE COMPLETE STATEMENT OF THE AGREEMENT BETWEEN HIMSELF AND ITC, THAT THE PURCHASER SHALL BE BOUND BY ITS TERMS AND CONDITIONS, AND THAT ANY PREVIOUS COMMUNICATION, AGREEMENT, OR STATEMENT, VERBAL OR IN WRITING, EXPRESS OR IMPLIED, RELATED TO THE SUBJECT MATTER, ARE SUPERSEDED BY THIS AGREEMENT.**