

# GENERAL TERMS AND CONDITIONS OF SALE

To be completed by the Client

First Name:  
Last Name  
Date:  
Signature

To be completed by ACRELEC

First Name:  
Last Name:  
Date on which the signed GTCS are received by ACRELEC  
Signature

## Article 1 – Purpose and definitions

1.1. These General Terms and Conditions of Sale are applicable to all products and services (hereinafter the "Products") sold by the Company ACRELEC, Inc. located at Oak Brook Pointe, 700 Commerce Drive, Suite 500- Oak Brook, IL 60523, Illinois, and/or any of its subsidiaries distributing the Product in the contractor's country (hereinafter "ACRELEC").

1.2. These General Terms and Conditions of Sales cancel and replace all previous Sales Conditions and are applicable notwithstanding any contrary clauses of the ACRELEC joint contractor's General Purchasing Conditions (hereinafter the "Customer"). The Customer agrees to these General Terms and Conditions of Sales whether in writing, orally, or implicitly by accepting delivery of the Products.

1.3. If the Customer has accepted specific conditions applicable to Product sales, using all mediums, such as orders and invoices, said conditions (hereinafter the "Special Conditions") will also be applicable to such sale of Products.

If any contradiction exists, the Special Conditions will prevail. If no Special Conditions exist, these General Terms and Conditions of Sales will be exclusively applied to sales between ACRELEC and the Customer.,

1.4. The General Terms and Conditions of Sales are applicable to all orders issued by the Customer. All other General Conditions, in particular those printed on any document submitted by the Customer, will be inapplicable. In particular, ACRELEC's acceptance of an order placed by the Customer does not constitute acceptance of any additional or different conditions whatsoever. ACRELEC expressly refuses all General Conditions proposed by the Customer, except if such conditions have been agreed to in writing between the Parties in compliance with Article 14, last paragraph.

## Article 2 - Orders, prices, payment terms, and delivery

2.1. Orders placed with ACRELEC accepting any valid ACRELEC offer constitute acceptance and are firm and final. ACRELEC may also, even after acceptance as long as ACRELEC's performance has yet to begin, to rescind the acceptance and terminate the contract at will. Any orders not signed by the Customer will be rejected by ACRELEC.

2.2. Products' prices are specified in the Special Conditions.

2.3. Prices are Ex Works (named place) (as defined by Incoterms 2010) being published by the International Chamber of Commerce. Products are ready for collection at ACRELEC's premises (Works, factory, warehouse, plant) on the date agreed upon in the Special Conditions.

2.4. The method and agency of transportation and routing will be designated by ACRELEC. In the event the Customer requests alternative shipment or routing, the resulting extra packing, shipping and transportation charges shall be borne by the Customer. The Customer pays all transportation costs and also bears the risks for bringing the Products to their final destination.

2.5. Prices do not include any present or future federal, state or local property, sales, use, excise, license, gross receipts or other taxes or assessments which may be applicable to, imposed upon or result from this transaction or any services performed in connection with these General Terms and Conditions of Sales and/or the Products. All taxes owed due to purchases made in the framework hereof, or resulting from payments or withholdings and declarations under the rules of value added taxes, shall be paid by the Customer.

2.6. Unless otherwise specified in the Special Conditions, a prepayment invoice is issued by ACRELEC when the Customer places an order for Products; an invoice for the balance due is issued

following ACRELEC's delivery or installation of the Products.

Payment may be made by bank transfer. Customer's payment obligations shall only be considered satisfied once amounts owed are fully credited to the ACRELEC account. The invoice number must be legibly indicated with each payment.

2.7. The Customer will be deemed as definitively and irrevocably waiving any dispute of invoices if no objections are expressed within 10 (ten) days subsequent to the receipt thereof.

2.8. ACRELEC reserves the right to change its prices at any time, but Products shall be invoiced on the basis of currently prevailing rates when the Customer's order is registered.

## Article 3 - Due date payment default

3.1. In the event that the Customer defaults fail to pay by the due date specified on the invoice then, without previous notice to perform, ACRELEC shall be entitled to suspend deliveries until full payment of said invoices, or demand full payment on the order date for any new orders, as it decides, without prejudice to ACRELEC's decision to terminate the sale in accordance with the conditions of Article 12 of these General Terms and Conditions of Sales.

3.2. In the event payment is not received when due, interest shall be due at the rate of one and one half percent (1.1/2%), or the maximum permitted by law, on the unpaid portion of the invoice sum for each period of thirty (30) days (18% per annum, compounded monthly – effective rate of 19.56% per annum) or part thereof from the due date. ACRELEC has the right to refuse to deliver goods or services or terminate the sale if the Customer is past due on any of its debts to ACRELEC. Furthermore, ACRELEC shall have the right to retake all goods immediately unless other written arrangements have been made concerning payment if the Customer is past due. The Customer agrees to make all goods available, shipping ready, for ACRELEC, within five (5) days of receiving notice from ACRELEC of its intention to retake the goods.

3.3. Upon default of any of the Customer's obligations set forth in these General Terms and Conditions of Sale or Special Conditions, the Customer hereby irrevocably authorizes any attorney, Justice of the Peace, or Clerk of Court, to enter judgment by confession against it, in favor of ACRELEC or its assigns, for the sum total of the amount in default plus all costs of collection, including without limitation, court costs and reasonable attorney fees. The Customer expressly waives any summons or other service of process, consents to personal jurisdiction and to immediate execution of the judgment, and expressly waives benefit of all exemption laws and presentment, demand, protest, and notice of default.

## Article 4 - Delivery and consignment

4.1. ACRELEC will supply to the Customer, and install as applicable, the Products specified on the order form. Delivery deadlines which may be specified in the Special Conditions, on the order form or any other communication from ACRELEC, are purely estimates and shall not be construed as "time is of the essence". Delayed delivery of all or part of the Products does not authorize the Customer to cancel its order and does not exempt the Customer from its obligation of accepting any remaining deliveries.

4.2. Under no circumstances shall the Customer or the Customer's customer be entitled to any damages for ACRELEC's failure to ship on time, and moreover, the Customer agrees to indemnify, defend and hold Seller harmless against any costs and expenses related to any claims for lost profits or other consequential damages based on ACRELEC's failure to deliver timely.

4.3. If the Customer does not pick up the Products on the date specified in the order or later agreed to by the

parties, the delivery of the Products shall nevertheless be deemed accepted by the Customer who shall therefore pay for the Products delivered. In this event, the storage of the Products arranged by ACRELEC will be at the risk and expense of the Customer.

4.4. Customer shall bear all risks and shall be solely and exclusively responsible for all product damage during transportation, regardless of whether ownership of the products has transferred at that time. In the event of damages or missing articles, the Customer or the latter's agent is responsible for making all required claims, taking all precautionary measures specified by law, under penalty of being personally liable.

4.1.1. The Customer controls the contents of its order upon receipt and shall imperatively express any reservations on the delivery slip, in particular when the Product's packaging is damaged when received. In such a case, only the carrier is liable. If no such reservations are expressed, the order will be considered as free of any obvious defects.

4.1.2. The Customer will communicate all claims that a Product is defective that are observed at the time of or subsequent to delivery, to ACRELEC within 24 (twenty-four) hours following the Product's receipt.

Said claim shall be addressed in writing to ACRELEC.INC, Oak Brook Pointe, 700 Commerce Drive, Suite 500, Oak Brook, IL 60523 by registered letter with acknowledgement of receipt, and by telephone to the local sales representative or, but without prejudice to the mandatory registered letter mentioned above, by email: [administration@us.acrelec.com](mailto:administration@us.acrelec.com); it shall include the following documents:

- A. Claims form legibly filled in, which ACRELEC will provide to the Customer;;
- B. Copy of the signed delivery slip;
- C. Copy of the order form;
- D. Photographs of the one or several damages.

All incomplete or late claims shall not be processed.

4.1.3. All claims on the grounds of non-compliance of the Products delivered with the order shall be sent by fax to 0033 (1) 60 07 00 77 within 24 (twenty-four) hours as of receipt of the Products. Such claims will include the same documents as those required for a claim for damages (except for photographs).

4.1.4. In all cases, claims will only give rise to a commercial rebate or the delivery of new Products. The Customer shall not be entitled to hold back any amounts owed to ACRELEC as compensation for a claim.

## Article 5 - Transfer of ownership

5.1. Unless otherwise specified, ACRELEC will continue to own the Products and be entitled to repossess them until all amounts owed relating to the Products have been paid in full by the Customer. ACRELEC will be entitled to repossess the Products at the Customer's exclusive expense. For this reason, the Customer grants ACRELEC, or any entity which represents or is appointed by ACRELEC, the irrevocable right to enter the premises where the Products are stored for the purpose of their repossession. For as long as ACRELEC maintains ownership of the Products, the Customer will stock these in such a way that they can be easily identified.

Product-related risks (in particular loss or deterioration) will be transferred to the Customer as of Products' remittal to the Customer, which shall undertake to insure them.

5.2. In order to protect and secure payment of all debts due and owing from the Customer and until ACRELEC has been paid in full, the Customer hereby grants to ACRELEC a security interest in the Products, and all proceeds and all accounts receivables resulting from the sale of the Products. In connection therewith, the Customer hereby authorizes ACRELEC to take all necessary steps to file such financing statements and

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exhibits with the proper authorities, including the filing of a UCC-1 financing statement.

**Article 6 - Workshop Return Warranty**

Delivered Products are systematically checked by ACRELEC prior to consignment.

Furthermore, all Products are under a 1 (one) year workshop return warranty against any manufacturing defects, except for specific warranties stipulated in any other document issued by ACRELEC, in particular its General Conditions for data-processing system maintenance, if these have been subscribed to by the Customer. The said warranty includes the repair/exchange free of charge of Products that are used under normal conditions, as specified in the user manual supplied with the Products. Dispatch costs for equipment that requires repairs in the workshop are incumbent on the Customer; return costs are paid by ACRELEC.

The workshop return warranty covers, at the option of ACRELEC, repairing the relevant Product (including parts and labour) or the Product's replacement with a Product having equivalent functionalities. In the event of a return to the workshop, the repair time depends on the duration and complexity of the work required and the supplier's timeframe for providing spare parts, units or sub-units.

**EXCEPT AS SPECIFICALLY SET FORTH IN THESE CONDITIONS OR IN A STATEMENT OF WORK ATTACHED HERETO, ACRELEC SPECIFICALLY DISCLAIMS ANY OTHER WARRANTY, EXPRESS, NON-INFRINGEMENT, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** To

further clarify, these products are intended for use in the United States and therefore no foreign warranties or representations/liabilities are applicable.

**Article 7 - Defects - Obvious defects - Non-compliance**

The Products shall be checked by the Customer at delivery; any claims relating to obvious defects and/or the non-compliance of Products received by the Customer as compared to the order or delivery slip shall be made in accordance with the conditions specified in Article 4 of these General Terms and Conditions of Sales.

The Customer shall provide evidence of the reality of observed defects; ACRELEC reserves the right to directly or indirectly undertake any contrary observations and verifications on site.

**Article 8 - Hidden defects**

Under the hidden defects warranty, ACRELEC shall only be obligated to replace defective Products free of charge; the Customer shall not be entitled to claim any compensation or damages for any reason whatsoever. Possible carriage costs shall be paid for by the Customer.

This warranty is not applicable to obvious defects.

Delivered Product defects and deteriorations resulting from improper storage and/or preservation conditions at the Customer's premises shall not open rights to the ACRELEC warranty.

**Article 9 – Intellectual property rights**

9.1. The Customer is not authorised to use the name, logo, trademark, trading names, graphics charter, drawings and models, design, image or any other elements for which the rights are held by ACRELEC in any of the former's advertisements, communications, publications or other elements, without ACRELEC's prior written agreement thereto.

9.2. The Customer shall not remove, try to conceal, damage, cover or alter any name, logo, trademark, or tradename which belongs to ACRELEC.

9.3. Neither the Customer nor the latter's representatives shall register or use names, logos, trademarks or tradenames that may cause a risk of confusion with ACRELEC's intellectual property rights.

9.4. Customer or latter's representatives shall endeavour to maintain and protect any goodwill associated with any name, logo, trademark, or tradename which belongs to ACRELEC.

**Article 10 - Software user licence**

10.1. In these General Terms and Conditions of Sales, "Software" refers to any software product, including and without the following list being exhaustive, operating systems, integrated software and software.

10.2. The Customer may purchase the Products in which Software is integrated. Software may be included in read-only memories or other semiconductors integrated in equipment, or may be the separate contents of discs or other mediums. Software is legally protected; it may also contain valuable industrial and trade secrets and be protected by patents.

10.3. If agreed so between the Parties, the Customer, in the capacity of end user, will enjoy a licence to use the Software included in such Products. All Software will be licensed to the Customer in compliance with the terms and conditions of applicable licensing agreements enclosed with the Software and which the Customer will sign separately. In addition to the obligations or restrictions specified in such licensing agreements, the Customer shall not make any copies of the Software except for back-up or filing purposes.

10.4. The Customer shall not duplicate, disassemble, decompile, undertake reverse engineering, modify, create by-products, or change in any other way either the Software or the form thereof.

10.5. The Customer shall only use the Software that is incorporated in or enclosed with a Product in the framework of the authorised use thereof, and has no other rights to the Software.

**Article 11 – Liability limitation**

THESE GENERAL TERMS AND CONDITIONS OF SALES SPECIFY ALL OF ACRELEC'S OBLIGATIONS AND LIABILITIES AS REGARDS TO THE PRODUCTS.

NO WARRANTY OR OTHER CONDITIONS, EXCEPT AS EXPRESSLY STIPULATED IN THESE GENERAL TERMS AND CONDITIONS OF SALE, SHALL BE BINDING ON ACRELEC.

IN THE EVENT OF THE DELIVERY OF GOODS WHICH DO NOT COMPLY WITH ORDER SPECIFICATIONS, ACRELEC'S LIABILITY SHALL BE STRICTLY LIMITED TO THE OBLIGATION OF REPLACING OR REPAIRING SUCH NON-COMPLIANT GOODS, AND SHALL EXCLUDE ANY DAMAGES.

NO WARRANTY OR LIABILITY SHALL BE GRANTED OR ASSUMED BY ACRELEC FOR DAMAGES TO PRODUCTS DUE TO THE CUSTOMER'S USE OF SOFTWARE WHICH ACRELEC HAS NOT INTEGRATED INTO THE PRODUCTS, OR FOR ANY CUSTOMER MISUSE TO PRODUCT (E.G. LIQUID DAMAGE, SURCHARGE DAMAGE, WEATHER RELATED DAMAGE).

FURTHERMORE, ACRELEC SHALL NOT BE HELD LIABLE BY THE CUSTOMER FOR ANY CONSEQUENTIAL LOSSES, INCLUDING LOSS OF TURNOVER OR PROFITS, LOSS OF CONTRACTS OR DATA, INTERRUPTION OF USE, DATA UNAVAILABILITY, OR THE PURCHASE COST OF SUBSTITUTING PRODUCTS, WHETHER DUE TO BREACH OF CONTRACT, A WARRANTY,

CONDITION, TORTIOUS ACTION, LIABILITY WITHOUT FAULT, ACRELEC'S APPLICATION OF PUBLIC ORDER LEGAL PROVISIONS, OR ON ANY OTHER GROUNDS.

POSSIBLE WARRANTIES, CONDITIONS OR OTHER PROVISIONS RELATING TO THE PRODUCTS WHICH ARE IMPLIED OR INCLUDED IN THE AGREEMENT PURSUANT TO FRENCH LAW ARE EXPRESSLY EXCLUDED, EXCEPT FOR THOSE IMPOSED BY PUBLIC ORDER PROVISIONS.

SUBJECT TO ANY LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED, YOU ACKNOWLEDGE AND AGREE THAT IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING UNDER THESE CONDITIONS OR THE USE OR NONUSE OF THE GOODS AND/OR SERVICES PROVIDED HEREUNDER, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE AND INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR DEATH, EXCEED THE AMOUNT PAID TO ACRELEC UNDER THIS AGREEMENT. THIS SECTION SHALL SERVE TO LIMIT THE OBLIGATIONS OR LIABILITY OF ACRELEC FOR ANY BREACH OF CONFIDENTIALITY OR DATA SECURITY, OR TO THE EXTENT THAT THE DATA AND/OR OUTPUT IS CORRUPTED, DISSEMINATED, DESTROYED OR ALTERED.

THE LAWS OF CERTAIN JURISDICTIONS, INCLUDING QUEBEC'S CONSUMER PROTECTION ACT, DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR CONDITIONS OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MIGHT NOT APPLY TO YOU, NAD YOU MIGHT HAVE ADDITIONAL RIGHTS.

**Article 12 - Termination clause**

Any breach of any one of the stipulations set forth in these General Terms and Conditions of Sales authorises ACRELEC to suspend all new deliveries and/or to immediately terminate ipso jure, without any further formality being required, ongoing Agreements, by simple notification addressed to the Customer by registered letter with acknowledgement of receipt.

**Article 13 - Applicable law / Power of jurisdiction**

These General Terms and Conditions of Sale and any Special Conditions shall be governed by Delaware law without resort to conflicts of laws principles.

(Not applicable to Quebec customers) In the event of a dispute under these General Terms and Conditions of Sale and any Special Conditions, the Parties hereby agree to resolve these issues by way of binding arbitration, rather than in court. The U.S. Federal Arbitration Act and U.S. federal arbitration law apply to this agreement. Customer agrees that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action.

For Quebec consumers: These Terms and any dispute of any sort that might arise between you and ACRELEC shall be governed by the laws of the Province of Quebec, without reference to its conflict of laws provisions, and the laws of Canada applicable therein, and any disputes will be submitted to the courts of competent jurisdiction of the District of Montreal (Quebec).

These Conditions alone does not give any particular jurisdiction and/or venue against ACRELEC. Ordinary personal/non-personal jurisdiction and choice of venue shall be applicable to any claim or action arising from these General Conditions of Sale. As part of these

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Conditions, any action arising out of a breach of these Conditions and any subsequent litigation for an additional period of five years (5) after the expiration of the Term shall be filed in the United States.

### Article 14 - General stipulations

**14.1. Force majeure event** - Except for obligations to pay amounts owed on the due date, neither Party shall be held responsible for a delay or breach of its contractual obligations resulting from unpredictable circumstances or which are beyond its control. In such a case, performance of the obligations affected by such event shall be suspended throughout the duration thereof. If the event lasts for more than two (2) months, ACRELEC shall be entitled to immediately terminate the sale of any Products under these General Terms and Conditions of Sale without incurring any liability.

A force majeure event is any occurrence which is independent of ACRELEC's intentions and which prevents the normal operating of its activity. In particular, a force majeure event consists of total or partial strikes which hinder ACRELEC's operating activities or those of one of its suppliers, subcontractors or carriers, including the interruption of transport, energy, raw material or spare part supplies.

**14.2. Non-waiver** - The fact that a Party does not prevail of a breach by the other Party does not constitute a waiver of prevailing of other breaches, subsequently or otherwise.

**14.3. Entirety** - If an Agreement stipulation, whether partially or totally, is declared to be invalid or without effect by the competent legal authorities, the said stipulation shall be performed as far as possible or authorised, and the Agreement will be amended as required in order to provide maximum effect to the Parties' initial intentions and the Agreement's economy. Remaining stipulations will continue to be enforceable.

**14.4. Assignment** - The Customer shall not be entitled to assign these General Terms and Conditions of Sale or any order placed in performance hereof. The Customer shall not be entitled to delegate the said Party's obligations under these General Terms and Conditions of Sale without ACRELEC's prior written authorisation; the latter shall not be entitled to refuse without valid reason. ACRELEC may transfer its obligations under these General Terms and Conditions of Sale to an affiliated company of the ACRELEC Group without the Customer's permission.

**14.5. Amendment** - No amendment to these General Terms and Conditions shall be binding on the Parties as long as it has not been specified in a written document signed by each Party's representatives.

**14.6. Completeness**- These Conditions, including all of its Schedules, Exhibits, Statement of Works, and Appendices related thereto, constitutes the entire understanding and supersedes all proposals, commitments, writings, negotiations and understandings, oral and written, and all other communications relating to the subject matter of the commercial transaction related thereto, even if made after the sale associated with the commercial transaction associated thereto.

**14.7 Indemnification** – You shall defend, indemnify and hold harmless Acrelec from and against any and all losses, claims, damages, liabilities or judgments (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") arising out of or relating to any third-party claim, action or other proceeding ("Proceeding"), against Acrelec: (i) alleging that the Product as used in commerce in accordance with the terms of these Conditions infringes a patent, copyright, trademark or other intellectual property right of such Party, or (ii) which are based on the negligent acts or omissions (or acts or omissions constituting intentional or willful misconduct) of You, your Affiliates or your Subcontractors. In the event of a Proceeding or threatened Proceeding (a "Claim") for which Acrelec is

entitled to indemnification, You shall have the exclusive right to conduct the defense of any such Claim and all negotiations for its settlement or compromise, and Acrelec shall be allowed to participate in such defense and negotiations at its own expense, unless otherwise mutually agreed to in writing.

### Article 15 – Express Warranty of Replacement and Repair for Defect in Material and/or Workmanship

Acrelec will replace or repair any good supplied by Acrelec with the exception to any consumables which wear in ordinary course of use (e.g. filaments, gaskets, targets, and other consumables). This Express warranty shall be void and null if the goods were (i) not operated and maintained in accordance with Acrelec's operating instructions, (ii) the claim was not notified in writing to Acrelec within two (2) weeks from occurrence, (iii) the defect occurred outside of the twelve months from installation, testing, and take over, (iv) a third party has modified or repaired the goods, and (v) the problem is not linked with goods or parts which already benefits from its own supplier warranty.

### Article 16 – Traduction de Ces Conditions Generales de Vente.

ACRELEC dispose d'un service francophone lui permettant, en cas de besoin de traduire ces conditions generals de vente. Veuillez simplement communiquer avec [administration@us.acrelec.com](mailto:administration@us.acrelec.com) pour plus de renseignements.