

## CONDITIONS OF SALE

IT IS SPECIFICALLY UNDERSTOOD AND AGREED that the terms of sale as shown below and on the invoices submitted to Customer hereunder, shall be considered the General Agreement between the parties and that all sales and/or transactions between Customer and Seller ("H<sub>2</sub>O Supply, Inc.") shall be covered thereby. Your agreement to the terms and conditions of sale set forth below and on the reverse side hereof shall be conclusively presumed from your failure to promptly object in writing and from your acceptance of all or any part of the goods ordered.

1. **PRICES-** All prices, named, quoted or proposed, shall be H<sub>2</sub>O Supply, Inc.'s prices in effect at the time of shipment by H<sub>2</sub>O Supply, Inc., unless H<sub>2</sub>O Supply, Inc. has given a firm quotation in writing and Buyer has given an order and released the goods for shipment within the time periods specified in the quotation. Unless otherwise agreed, price quoted does not include shipping and administrative handling charges.
2. **CREDIT APPROVAL-** Shipments, deliveries and performance of work shall at all times be subject to the approval of the H<sub>2</sub>O Supply, Inc. Credit Department, Lewisville, Denton County, Texas. H<sub>2</sub>O Supply, Inc. may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to such Department.
3. **TERMS OF PAYMENT-** It is acknowledged and agreed that a delinquency charge equal to the greater of 18% per annum or the prime rate plus 1% as stated by the Wall Street Journal or the maximum permitted by law, computed on the unpaid balance shall be paid as liquidated damages on all accounts not paid in full when due
4. **VENUE-** It is further acknowledge and agreed that the sales contemplated herein bear a reasonable relation to the State of Texas, which State's laws will govern the rights and duties of the parties hereunder. All bills, invoices, charges, claims and accounts hereunder are specifically payable in Lewisville, Denton County, Texas, where this contract is performable, in whole or in part, and where jurisdiction and venue hereunder will lie.
5. **SHIPMENT-** Risk of loss shall transfer to buyer upon delivery of goods to common carrier, Buyer, or Buyer's agent. Terms are FOB H<sub>2</sub>O Supply Inc.'s warehouse unless otherwise specified. H<sub>2</sub>O Supply, Inc. reserves the right to ship C.O.D. and any freight charges incurred by H<sub>2</sub>O Supply, Inc. are subject to a reasonable mark-up to cover administrative handling charges.
6. **CORPORATE AUTHORITY-** The Debtor, if a corporation, warrants that it is: (1) qualified and in good standing to do business in the State of Texas; (2) and the execution and performance of this agreement is within the debtor's corporate powers, has been duly authorized, and are not in contravention of any law or the debtor's charter.
7. **BANKRUPTCY-** The Debtor warrants that it has not filed a petition for protection from the United States Bankruptcy Court, under any title to the United States Bankruptcy Code and it has no present intention to do so.
8. **BUSINESS CHANGES-** It is further agreed that Customer will immediately notify Seller by Certified mail if any material change occurs that reduces the means and/or ability of Customer to pay all claims or demands against customer. Customer represents and agreed that the purchases made hereunder are for business use and/or resale.
9. **WARRANTY- SELLER WILL PASS THROUGH TO CUSTOMER ANY WRITTEN OR IMPLIED WARRANTY OF THE MANUFACTURER BY DISCLAIMER THEREOF, OTHERWISE SELLER DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTY BEYOND THE DESCRIPTION OF THE GOODS SOLD. CUSTOMER WILL HAVE THE RIGHT TO EXAMINE APPROPRIATE SAMPLES OF THE GOODS BEING SOLD HEREUNDER, OR TO REFUSE TO SO EXAMINE; AND SELLER DISCLAIMS ANY IMPLIED WARRANTY AS TO SUCH GOODS WITH REGARD TO ANY DEFECT WHICH SUCH EXAMINATION OUGHT TO REVEAL TO CUSTOMER UNDER THE CIRCUMSTANCES. UNDER NO CIRCUMSTANCES WILL SELLER BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES OR ANY LOSSES OR DAMAGES RESULTING FROM A DEFECT IN ANY PRODUCTS SOLD HEREUNDER.**
10. **SECURITY INTEREST –** Seller hereby specifically reserves, and Customer hereby grants Seller, a security interest in and to all goods, wares and merchandise sold and delivered to Customer hereunder; and should Customer default in the payment of any or all of any obligation, account, or debt created hereunder, or should any statement of warranty of Customer be false or incorrect, or should any loss, theft, damage, or destruction occur to Customer's assets, or should Seller believe that the prospect for payment of any such indebtedness or obligation be impaired, or in the event of Customer's actual or threatened death, dissolution, termination of existence, insolvency, business failure, appointment of Receiver, assignment for benefit of creditors, receivership, and/or bankruptcy, then, in any of such events, Seller may declare all obligations secured hereby immediately due and payable and may proceed to enforce payment of the same and exercise any and all of the rights and remedies provided by the Uniform Commercial Code, as well as all other rights and remedies possessed by Seller. Seller may require Customer to assemble the Collateral and make it available to Seller at any place, to be designated by Seller, which is reasonably convenient to both parties. Seller will give Customer reasonable notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is to be made. The requirements of reasonable notice shall be met if such notice is mailed, postage prepaid, to the address of Customer shown at the beginning of this agreement at least five (5) days before the time of the sale or disposition. Expenses of retaking, holding, preparing for sale, selling, or the like, shall include Seller's reasonable attorney's fees and legal expenses. No waiver by Seller of any default shall operate as a waiver of any other default; and the terms of this agreement shall be binding upon the heirs, executors, administrators, successors, and assigns of the parties hereto.
11. **MATERIAL RETURN POLICY –** Merchandise may be returned for Credit only with the approval of H<sub>2</sub>O SUPPLY, INC. All merchandise may be returned ONLY WITH PRIOR WRITTEN APPROVAL OF THE BRANCH MANAGER. Customer credit will be issued subject to the manufacturer's acceptance terms and issuance of credit to H<sub>2</sub>O SUPPLY, INC. All stock merchandise returned for credit may be subject to a MINIMUM RESTOCKING CHARGE OF 20%. All merchandise returned for credit must be accompanied with a copy of the ORIGINAL INVOICE and a completed "Material Return Authorization" form. All cash and credit card sales are final and no returns or exchanges allowed. No returns on any electrical items including but not limited to water heaters and pumps.
12. **DAMAGE/SHORTAGE-** Claims for breakage or shortages will not be allowed unless noted on delivery ticket at the time of receipt.
13. **NONSTOCK ITEMS-** Non-stock items are materials that are not stocked at this location on a regular basis. This material is brought in for the sole purpose of our customer's order. Such non-stock material may not be cancelled or returned once ordered. If the "Location" section on the document is blank or empty, labeled as NONSTK or Temp, then the item is a nonstock item and is subject to the terms of sale for nonstock items.