

DIAMOND WATER SYSTEMS, INC. TERMS AND CONDITIONS

As used herein, the underlined words shall have the following meaning:

Buyer: Diamond's Buyer identified on the Diamond's Quotation or Confirmation accompanying this document and/or any end user of Goods.

Goods: All products manufactured, sold, shipped or processed by Diamond for Buyer whether or not the same involves a sale of products or services, or combination of products and services.

Diamond: the seller Diamond water Systems, Inc.

1. Diamond agrees to sell, transfer and deliver the Goods to Buyer in accordance with terms and conditions contained herein.

2. The price quoted is good for a period of no more than thirty (30) days from the date of the quote after which Diamond reserves the right to change any and all price schedules, list prices, and rates. Buyer will be notified of any price change which shall be effective as of the date Buyer receives written notice of any price change. Prices quoted are before all applicable sales, use and similar taxes, shipping costs, duties or other assessment all of which Buyer shall be responsible.

3. In the event Buyer issues a purchase order to Diamond, each purchase order shall contain a description of the Goods ordered, the quantities and prices, and the requested shipment schedule. Despite any provisions to the contrary, all such orders will be and are made pursuant and subject to these Terms and Conditions and Diamond's Confirmation, whether specifically stated or not. If there is any inconsistency between the Terms and Conditions and the terms of a purchase order, these Terms and Conditions shall prevail. Unless Buyer shall notify Diamond in writing to the contrary, within two (2) days after receipt by Buyer of this document, or prior to delivery of Goods, whichever is earlier, the delivery and sale of the Goods by Diamond and payment and performance by Buyer shall be conclusively deemed to be subject to these Terms and Conditions.

No waiver, alteration or modification of any of the provisions hereof shall be binding on Diamond unless made in writing and agreed to by a duly authorized official of Diamond. Waiver by Diamond of any default by the Buyer hereunder shall not be deemed a waiver of any default by Buyer which may thereafter occur.

4. Buyer shall make full payment within thirty days from the date of delivery or before the expiration of the period set forth on the quotation, confirmation or invoice for net payment, whichever is earlier (the "Due Date"). All invoices unpaid beyond the Due Date shall bear interest at an annual rate of eighteen (18%) percent from the Due Date. Buyer's failure to make payment in accordance with these Terms and Conditions shall relieve Diamond from further performance under the agreement. In addition, in the event Buyer fails to make payment in accordance with these Terms and Conditions, Diamond shall be entitled to its reasonable costs of collection, including, but not limited to, attorney's fees and

court costs. Net 30 days shall mean 30 days from delivery of goods or performance of services.

5. **EXCEPT AS PROVIDED IN THESE TERMS AND CONDITIONS, DIAMOND EXPRESSLY EXCLUDES ALL WARRANTIES, GUARANTEES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, MATERIALS, WORKMANSHIP, DESIGN AND SUITABILITY FOR A SPECIFIED OR INTENDED PURPOSE.** In lieu thereof, any Goods which are defective due to faulty material or workmanship and are unsuitable for Buyer's specified or ordinarily intended use will be repaired, or replaced, f.o.b. point of origin, or the unit purchase price refunded, at Diamond's option; provided that the Goods are returned (upon Diamond's written consent first being given) or the same are rejected, in either event within the time set forth in Section 6. Under no circumstances shall Diamond be liable for back charges, Buyer's loss of profit, income or any special or consequential damage or loss, nor for any costs or damages incurred by Buyer as result of any failure, defect or defects due to faulty equipment, material or workmanship, providing services or delay in providing services or any other action or lack of action by Diamond. Additionally, Diamond shall not be responsible for any damages resulting from alterations, repairs or work done by Buyer on equipment or systems without Diamond's express written approval prior to any such alteration repair or work. Diamond's liability to Buyer for damage, from any cause whatsoever, and regardless of the form of action, whether in contract or tort including negligence, shall be limited to the specific amount paid by Buyer to Diamond under the quotation, proposal or Agreement

6. Within thirty (30) days of delivery to Buyer or the end Buyer of any delivery of Goods, the Buyer shall inspect the same and immediately notify Diamond of any defects in the Goods. Failure to so notify Diamond in writing of any defects within thirty (30) days of receipt shall constitute conclusive proof that the Goods were received without defects. In any event Diamond shall not be responsible for any damage caused to the Goods during shipment. It is the sole responsibility of the Buyer to file any appropriate claims with the carrier for reimbursement. Diamond will fully cooperate with the Buyer in making such claims.

7. Unless otherwise specified in connection with a particular order or agreement, title to and risk of any loss of or damage to the Goods shall pass from Diamond to the Buyer on Diamond's placing same in the custody of a carrier for shipment to Buyer. Passing of title upon such delivery shall not constitute acceptance of the Goods.

8. Diamond will use its best efforts to meet mutually agreed upon installation and delivery dates. If installation or deliveries are not timely, Buyer shall give Diamond notice of such failure and allow Diamond a reasonable time to make the delivery (Diamond will be allowed at least twenty one (21) days to make the delivery).

9. Diamond shall hold Buyer harmless against liability and direct (not consequential) costs resulting from infringement of U.S. patents by the Goods sold by Diamond.

10. Buyer shall not assign any right or interest in this document or any quotation without the written consent of Diamond.

11. If any part of this document, or any order thereunder, is void, voidable, invalid, or unenforceable, for any reason, the document or order shall then be considered divisible as to such part with the remainder of the document or order remaining as valid and binding as though such part were not included in the document.

12. Diamond shall not be liable to the Buyer for failure to perform its obligations under any order for Goods due to fire, flood, strikes, or other industrial disturbances, accidents, war, riot, insurrection, or other causes beyond the reasonable control of Diamond.

13. After acceptance by Diamond, cancellation or change in any quotation by Buyer shall not be effective without notice received, agreed to, and confirmed in writing by Diamond. In the event Diamond, in its discretion, approves Buyer's cancellation of an order, Buyer shall pay a cancellation fee of fifty percent (50%) of the total quoted price, for Diamond's labor, material and overhead costs. Any changes to the quotation shall be subject to additional charges and these Terms and Conditions. In addition to all other available remedies, Diamond may terminate Buyer's orders or deliveries upon any default by Buyer of the provisions of this document. Any such termination shall be without prejudice to the accrued rights of Diamond. All rights and remedies of Diamond are cumulative.

14. Buyer hereby grants to Diamond a security interest in all goods and equipment sold hereunder as security for payment of all monies and obligations owed by Buyer to Diamond. Said security interest shall remain in place until Buyer has performed all of its obligations hereunder including but not limited to payment of all monies owed by Buyer to Diamond. Failure of Buyer to make payments when due or in any way fail to comply with the terms of the agreement with Diamond shall constitute a default by Buyer under this security agreement. Buyer agrees that Diamond, without limiting any of its other rights and remedies and at its sole discretion may, upon default by Buyer, enter Buyer's premise and repossess any goods and equipment sold to Buyer by Diamond. Upon request Buyer shall execute such documents and take such steps as requested by Diamond to perfect maintain and preserve Diamond's security interest, including but not limited to execution of a UCC financing statement or obtaining insurance on the equipment.

15. This document and the sale of Goods by Diamond to Buyer shall be construed and enforced under the laws of the Commonwealth of Massachusetts and the parties hereto agree that the Courts of the Commonwealth (Hampden Division) and the United States Federal District Court of Massachusetts, Western Section, shall have exclusive jurisdiction of all legal actions concerning any dispute or claim arising hereunder.

16. Limited Warranty – a) From the date of Delivery, for a period of five years on the filter vessel and one year for all

other parts, Diamond shall provide a limited warranty for parts and labor for any defects due to faulty equipment, material or workmanship in any system listed on the proposal or quotation.

Buyer requested moves, changes and reconfigurations are not covered by this provision. Furthermore, work required to repair damages, malfunctions, or failures caused by, but not limited to, the following are not covered by this provision: (i) Failure to follow installation, operation or maintenance instructions; (ii) Failure or malfunctions due to Buyer or user abuse, misuse or negligent acts, action by third parties, fire, explosion, lightning, acts of god, pest damage, power surges or failures, strikes, labor disputes, water, civil disturbances, or other causes beyond Diamond's control, whether or not similar to the foregoing; (iii) Failure or damage due to Buyer or third party alterations, moves, changes or repairs in the Goods (iv) Cosmetic repairs, including but not limited to chips, dents, scratches, or breaks in stands, housings, switches, labels, shells, face plates, paint, or other parts of the equipment; (v) failures due to wiring; or (vi) Any other cause not related to defects due to faulty equipment, material or workmanship in any system

b) In relation to warranty work Buyer agrees to: I) provide the proper environment according to the manufacturer's specifications and free of excessive dust or harsh, hazardous or corrosive chemicals or vapors; II) provide proper electrical and telecommunications connections, ; III) agrees to fully cooperate with Diamond's repair efforts, including but not limited to providing timely access to equipment, providing a complete description of malfunction symptoms and performing any reasonable diagnostic steps Diamond may request; V) and agrees to unpack any mailed replacement part(s), making the substitution, and packing the defective component for return to Diamond or its designee.

c) Services for warranty work shall be done as soon as possible upon notification by Buyer and are done by Diamond or its representative using non-union labor. No guarantees are made as to the response time. Diamond, at its sole option, may repair or replace any and all defective equipment under this warranty with comparable new or refurbished equipment. Diamond's obligation to replace, repair or refund malfunctioning component costs shall be Buyer's sole and exclusive remedy under this limited warranty.