

TERMS OF CREDIT AND SALE FOR INNOVATIVE DEHUMIDIFIER SYSTEMS LLC

In consideration of the extension of credit by Innovative Dehumidifier Systems LLC and/or any of its related or affiliated entities (collectively "Seller"), for any reason, including, without limitation, the purchase of materials or the rendering of services, the Applicants and any Guarantors (hereinafter collectively "Buyer") understand and agree to the following terms of sale and credit ("Terms").

1. ACCEPTANCE – Acceptance of any order is expressly conditioned upon acceptance by Buyer of the terms and conditions contained herein. Seller is not bound by any terms on Buyer's order which attempt to impose any terms or condition at variance with these Terms or by any additional or different terms whether printed or otherwise, unless specifically agreed to by Seller in writing. Seller's failure to object to provisions contained in any of Buyer's forms shall not be deemed an acceptance of any of Buyer's terms or a waiver of the provisions of these Terms. Seller's terms and conditions on its Invoices, Delivery Tickets, Packing Slips and these Terms shall constitute the entire, final and exclusive statement of the agreement between Seller and Buyer (the "Sales Contract"). Buyer's assent to the terms contained in the Sales Contract shall be conclusively presumed from Buyer's acceptance of any shipment covered by this document. The Sales Contract shall be for the benefit of Seller and Buyer and not for the benefit of any other person. Prior course of dealing and verbal agreements not reduced to a writing signed by Seller, to the extent they modify, add to or detract from the Sales Contract, shall not be binding on Seller.
2. TERMS OF PAYMENT - Terms of payment for the sale of the Goods covered hereby are that payment is due upon receipt of Seller's Invoice for the Goods or delivery of the product and is past due (30) days from the date of said Invoice. Seller may apply any payment to any open charges within Seller's discretion. Payments not received by Seller within the thirty (30) day period will have an additional one and one-half percent (1.5%) per month interest, late or service charge (the "Contract Rate") assessed against the unpaid balance from 30 days from Invoice date until the date payment is received by Seller which interest Buyer agrees to pay. Any and all amounts awarded to Seller through judgment, arbitration, or any other means whatsoever shall continue to accrue interest at the Contract Rate.
3. TAXES - All prices quoted by Seller are exclusive of any taxes. Buyer is responsible for the ultimate payment of all taxes including, but not limited to sales taxes, stamp charges, licenses, duties and any and all governmental exactions by whatever name which may be assessed or levied on or on account of the Goods sold hereunder.
4. DELAY/NON-PERFORMANCE - Seller shall not be responsible or liable for any delay or failure in performance of any part of this Sales Contract to the extent that such delay or failure is caused by fire, flood, explosion, war, strike, embargo, governmental requirement, civil or military authority, act of God, act or omission of carriers, an inability arising from causes beyond Seller's reasonable control to obtain necessary materials, components, services or facilities, or other similar causes beyond its control ("Force Majeure Conditions"). If any Force Majeure Condition occurs, Seller will promptly notify Buyer of any material delay and will specify a revised performance date as soon as practicable. In the event of such delay, this Sales Contract will not be terminated and the date of performance will be extended for a period of time equal to the period of delay.
5. NO ASSIGNMENT - Orders are not assignable or transferrable by Buyer, in whole or in part, except with written consent of Seller.
6. ADDITIONAL EXPENSES - Seller reserves the right to make an extra charge for special boxing, packaging or cartage made necessary through Buyer's specifications.
7. WARRANTIES/DISCLAIMERS - Seller warrants only that the Goods supplied hereunder shall conform to the descriptions stated herein, that it will convey good title thereto and that the Goods will be delivered free from any security interest or other lien or encumbrance of which the Buyer at the time of contracting has no knowledge. **THERE ARE NO WARRANTIES OF MERCHANTABILITY NOR OF FITNESS OF SAID GOODS FOR ANY PARTICULAR PURPOSE NOR IS THERE ANY OTHER WARRANTY EXPRESSED OR IMPLIED EXCEPT AS HEREINABOVE SET FORTH. SELLER'S LIABILITY AND BUYER'S SOLE AND EXCLUSIVE REMEDY FOR ANY CAUSE OF ACTION ARISING OUT OF OR CONNECTED WITH THIS CONTRACT OR THE GOODS IS EXPRESSLY LIMITED TO REPLACEMENT OF NON-CONFORMING GOODS OR, AT SELLER'S SOLE OPTION, PAYMENT NOT TO EXCEED THE PURCHASE PRICE OF THE GOODS FOR WHICH DAMAGES ARE CLAIMED. SELLER SHALL NOT BE LIABLE TO BUYER, THE END USER OF THE GOODS OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, LIQUIDATED, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES WHATSOEVER, WHETHER ARISING OUT OF BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHERWISE.** Charges or expenses incident to any claims will not be allowed unless approved in writing by an authorized representative of Seller. Goods shall not be returned to Seller without Seller's permission. Nothing in this Section is intended to limit any warranty provided by the original manufacturer of any Goods.
8. COLLECTION - Buyer is responsible for paying its bills in accordance with the terms specified in this Sales Contract. Seller shall be entitled to receive from the Buyer all costs and expenses reasonably incurred in the collection of the amount owing hereunder by the Buyer, including reasonable attorney fees, collection fees and court costs in the event an action is filed for collection.
9. FINANCIAL CONDITION - Any order for Goods by Buyer shall constitute a representation that Buyer is solvent. In addition, upon Seller's reasonable request, Buyer will furnish a written representation concerning its solvency at any time during the transaction covered by this Agreement. If Buyer's financial condition at any time does not justify continuance of performance by Seller hereunder, Seller may require full or partial payment in advance. In the event of Buyer's bankruptcy or insolvency or in the event any proceeding is brought against Buyer, voluntarily or involuntarily, under the bankruptcy or any insolvency laws, Seller shall be entitled to cancel any order then outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its proper cancellation charges. Seller's rights under this section are in addition to all rights available to it at law or in equity.
10. DELIVERY/TITLE/SECURITY INTEREST/ACCEPTANCE - Delivery will be made F.O.B. Point of Origin. Seller will establish estimated shipping schedules as closely as practicable in accordance with Buyer's requested delivery date. However, Seller will not be responsible for failing to meet delivery schedules nor for any losses or damages to Buyer (or any third person) occasioned by deviations in the performance or the non-performance of any of Seller's obligations hereunder or by damages to the Goods when caused directly or indirectly by or in any manner arising from any Force Majeure Condition, act of Buyer or any other similar or different cause or causes beyond the control of Seller or the control of its vendors or suppliers. Seller reserves the right to ship in advance of any delivery date requested by Buyer, except for those dates stipulated "not before." Title will pass to Buyer upon delivery of the Goods of Seller subject to a purchase money security interest hereby reserved by Seller in the Goods sold and the proceeds thereof until payment of the full purchase price to Seller. Buyer agrees to execute financing statements or other documents as Seller requests to perfect Seller's security interest. All Goods shall be deemed accepted by Buyer unless, within ten (10) days after receipt by Buyer, Buyer shall notify Seller in writing that such Goods are defective and must specify the defect. Seller must also be given the opportunity to inspect the allegedly defective Goods, and if requested by Seller, the allegedly defective Goods must be returned to Seller at Buyer's expense. Seller's responsibility to give credit or replacement is limited to the extent that Seller is able to obtain equivalent credit or replacement from the original manufacturer of such Goods. No credit for Goods returned by Buyer shall be given without Seller's written authorization. All returns are subject to a restocking charge. No claim for shortage of Goods or damage to Goods shall be allowed unless Buyer, within ten (10) days after receipt of shipment, gives Seller written notice of the claim for shortage or damage and in such written notice fully describes the shortage and/or damage alleged. Seller's responsibility ceases upon issuance of Bill of Lading. Seller shall not be liable to Buyer for Goods which are damaged or lost while in the possession of a common carrier, and it will be Buyer's responsibility to recover any and all damage directly from the common carrier. All claims and returns must be submitted to the facility indicated by Seller. Failure to give required notice within the time provided, or failure to return allegedly defective or damaged Goods to Seller following Seller's request constitutes a waiver of all claims against Seller.
11. QUANTITY - Seller shall make its best effort to supply Buyer with the quantity of Goods ordered, provided, however, that Seller shall be deemed to have completely satisfied Buyer's order so long as Seller supplies a quantity of Goods within ten percent (10%) of the quantity ordered by Buyer.
12. CHOICE OF LAW; CONSENT TO JURISDICTION - All matters relating to the interpretation and effect of this Sales Contract shall be governed by and construed in accordance with internal laws of the State of North Carolina. Each of Buyer and Seller hereby: (i) irrevocably submits to the jurisdiction of any state or federal court located in Brunswick County, North Carolina over any action or proceeding to enforce or defend any matter arising from or related to this Sales Contract; (ii) irrevocably waives, to the fullest extent it may do so, the defense of any inconvenient forum to the maintenance of any such action or proceeding to enforce this Sales Contract; (iii) agrees that a final judgment in any action or proceeding shall be conclusive and may be enforced in any other jurisdictions by suit on the judgment or in any action or proceeding shall be conclusive and may be enforced in any manner provided by law; and (iv) agrees not to institute any legal proceeding or action out of or relating to this Sales Contract in any court other than one located in Montgomery County, North Carolina
13. MODIFICATIONS OF SALES CONTRACT - The terms and conditions specified herein or elsewhere may not be modified or added to, and any attempt to do so shall not be binding upon Seller, whether or not such attempt is made by the salesmen or agents of Seller or of its authorized distributor, unless a prior written consent, signed by an authorized officer of Seller, is given.
14. SEVERABILITY - If any provision of this Sales Contract shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
15. RIGHT TO CANCELLATION - Failure by the Buyer to make any payment at the time due and provided herein shall give Seller the right to suspend work or delivery, under this Sales Contract and any other agreement between Seller and Buyer, until payment is made. In the event that any failure to pay continues for more than fifteen (15) days after the due date or in the event Buyer's credit becomes unsatisfactory in Seller's sole discretion, Seller may at any time thereafter cancel this Sales Contract and any other agreement between Seller and Buyer by written notice mailed, telegraphed or sent via facsimile to Buyer and thereupon be entitled to recover the costs of all work done, all material provided and all damages sustained. Any such failure to make payment at the time provided shall be a bar to any claim by Buyer against Seller for any delay in completion of the work due to such suspension arising out of Buyer's failure to pay. Waiver of any default hereunder shall not operate as a waiver of any other or subsequent default.
16. INDEMNIFICATION - To the fullest extent permitted by law, Buyer shall indemnify, defend, protect and hold harmless Seller and Seller's owners, members, managers, agents and employees of, from and against any claims, damages, losses, expenses and costs, including but not limited to attorneys' fees, arising out of or resulting from the Goods, the subject matter of the Sales Contract, the performance thereunder, or the use of the Goods, to the extent caused by the acts or omissions of Buyer or anyone directly or indirectly employed or subcontracted by Buyer or anyone for whose acts Buyer may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce Buyer's other obligations of indemnity that may otherwise exist. Buyer shall indemnify, defend, protect and hold Seller harmless against any claims of infringement of any patent, trademark, copyright, trade secret or other proprietary right or information with respect to the use of the Goods or any Goods produced by Seller based on specifications or other information provided by Buyer.
17. TERMINATION - If the Buyer shall for any reason terminate an order in whole or in part, a notice of termination must be given in writing to the Seller ("the Notice"). The Seller shall thereupon cease work and the Buyer shall pay the Seller the following: (a) The price provided in the order for all Goods which have been specifically manufactured, modified or ordered by Buyer on a non-cancelable basis prior to Buyer's receipt of the Notice and which conform to the provisions of the order (such Goods shall be delivered to the Buyer); (b) Actual expenditures made by the Seller in connection with the uncompleted portion of the order, including reasonable cancellation charges paid or incurred by the Seller on account of commitments made under the order; and (c) Seller's overhead and profit for the order.
18. STATUTE OF LIMITATIONS - Any and all proceedings relating to the subject matter hereof shall be instituted within one (1) year after a cause of action has accrued or such cause of action will be deemed waived. In the event of breach or default by Buyer hereunder, Buyer agrees to pay to Seller reasonable attorneys' fees and such expenses as may be expended or incurred in the enforcement of any right or action with respect to a breach hereunder or any consultation in connection therewith.
19. RECOMMENDATION - Any recommendation or suggestion by Seller relating to the use of the Goods whether in its technical literature or in response to specific inquiry, or otherwise, is based on data believed to be reliable; however, the Goods are intended for use by Buyers having the requisite skill and know-how in the industry, and therefore it is for Buyer to satisfy itself of the suitability of the Goods for its own particular use and it shall be deemed that Buyer has done so, at its sole discretion and risk. Variations in environment, changes in procedures of use, or extrapolation of data may cause unsatisfactory results. No statement or recommendation made or assistance given by Seller or its representatives to Buyer or its representatives in connection with the use of any Goods by Buyer shall constitute a waiver by Seller of any of the provisions herein or affect Seller's liability, as herein defined, or be deemed to provide warranties additional to those set forth herein.