

FROSTY PUMP TERMS & CONDITIONS

The goods (herein referred to as the "Goods" whether goods or services) will be sold by FROSTY DISPOSAL PUMP SERVICES, LLC d/b/a Frosty Pump ("Seller") to Buyer based upon the following Terms and Conditions of Sale:

I. Applicability

Notwithstanding any prior quotations, correspondence, conversations or purchase orders relative to the Goods, these Terms and Conditions are the only terms and conditions applicable to the Goods. Acceptance of an order by Seller is effective only when officially acknowledged in writing by Seller and is expressly conditioned upon Buyer's assent to these Terms and Conditions. Any additional or different terms and conditions set forth in any purchase order, sales order, invoice or similar form or document from Buyer are objected to by Seller and shall not be effective or binding upon Seller, unless assented to in writing by an officer of Seller.

II. Prices and Terms of Payment

Unless otherwise specified on a quotation or invoice from Seller, the prices set forth on any such quotation or invoice issued by Seller are FOB Seller's facilities and do not include any form of taxes or cost of installation unless specifically indicated by Seller in writing. All federal, state, municipal, excise, sales, or use taxes now in effect, or hereafter enacted, shall be borne and paid by Buyer, where applicable. Terms of payment are cash, net 30 days, payable in United States currency at Tom Green County, Texas.

Any account not paid according to these terms will incur a late payment service charge of the lesser of 18% per annum or the maximum rate allowed by law. Seller reserves the right to change these terms or to require full or partial payment in advance. Seller may at any time suspend performance of any order or require payment in cash, security or other adequate assurance satisfactory to Seller when, in Seller's opinion, the financial condition of Buyer or other grounds for insecurity warrant such action. All sales are subject to the approval of Seller's credit department.

An export crating charge for wooden crates will apply where applicable. A minimum charge of \$50.00 will be applied to all orders shipped outside the United States and its territories to cover preparation of export documents.

Solely for the purpose of reserving a security interest in the goods being sold hereunder, Seller retains title to such goods until they are paid for in full by Buyer. Such retention of title by Seller shall not effect the passage of risk of loss as specified in Section 3 below. Seller's lien also attaches to the proceeds of the Goods

III. Transportation

No freight allowance will be allowed on shipments picked up at Seller's Facility. All shipments will be shipped prepaid and transportation and handling charges will be added to the material invoice unless Buyer makes arrangement for its own loading and transportation. Mode of transportation will be at Seller's best judgment unless otherwise specified by Buyer. All transportation is at the risk of Buyer. Seller will provide commercial packaging adequate,

under normal conditions, to protect the goods in shipment and identify the contents. Should Buyer request any special packaging, it will be done at Buyer's expense. All goods are sold ex works (as defined in Incoterms 1000, ICC Publication No. 460).

IV. Delivery

Every effort will be made to adhere to the delivery date specified by Buyer and as may be agreed to by Seller, but Seller shall not be liable or responsible for delays or failures of shipment caused by Buyer or arising from any cause beyond Seller's reasonable control, including without limitation, labor controversies, embargoes, government regulation, trade restrictions, pandemic, illness, accidents, states of war, riots, fires, earthquakes, storms, failures of sources of supply, or delay in receiving machinery or materials.

When an order is complete and ready for shipment in accordance with the delivery date shown on the original purchase order and request is made by Buyer to delay or reschedule the shipment to a later date, a charge of 1 1/2% of the invoice price will be assessed per month from the date of such request to the date of such later shipment in order to pay for storage services. When an order is accepted by Seller on a make-up and hold basis, Seller will notify Buyer when the order is complete and ready for shipment. If shipment is not authorized to be made within 15 days of such notification, a charge of 1 1/2% of the invoice price will be assessed per month, or fraction thereof, from the date of notification until the date of shipment, in order to pay for storage services and administrative expenses.

Receipt of Goods by Buyer will constitute acceptance of delivery and waiver of all claims for loss or damage due to delay.

Failure on Seller's part to make any shipment or partial shipment shall not be grounds for cancellation of the order.

V. Returns

If the Goods do not meet the warranty below, Buyer must return the defective Goods to Seller in the original packaging within ninety days of receipt of same by Buyer with a specific description of the problem and with supporting documents. No Goods will be accepted for return unless accompanied by a written Returned Material Authorization ("RMA") from Seller, subject to a restocking charge.

Unless otherwise agreed in writing, Goods shall be returned to Seller's Facility, and freight, insurance and handling charges on returned Goods shall be at Buyer's expense. Any duties applied on returned Goods are to the account of Buyer. Buyer shall be responsible for any loss or damage to returned Goods transported by Buyer or by any carrier or conveyance arranged by Buyer.

VI. Warranty

For standard Goods sold hereunder, Seller warrants to Buyer (but not to any subsequent purchasers or affiliates of Buyer) that such standard Goods will be free from defects in material or workmanship, as long as the standard Goods are used in accordance with the instructions provided by Seller, are properly stored and installed, are used in normal conditions and are

unmodified. This warranty shall apply only to defects in material or workmanship appearing within ninety days from the date of receipt of the Goods by Buyer and made known to Seller, in writing, within thirty days of the defect first appearing. Seller shall be the sole judge of defects in material or workmanship.

For custom Goods sold hereunder, Seller warrants to Buyer that (i) on the day of delivery to Buyer, such custom Goods will conform to the relevant specifications provided by Buyer to Seller and as may have been accepted by Seller, and (ii) for ninety days from the date of delivery, such custom Goods will be free from defects in material or workmanship. Seller shall be the sole judge of failures to conform to the specifications and defects in material or workmanship.

If upon Seller's inspection, Seller concludes that the Goods do not meet the applicable above warranty, Seller shall thereupon correct such defects or nonconformance with specifications, as applicable, either (at Seller's option) by (i) repairing such defective Goods at Seller's Facility or by making available at Seller's Facility repaired or replacement goods, or (ii) refunding to Buyer the purchase price of the Goods. If the inspection by Seller does not disclose any defects or nonconformance with specifications, all costs of shipping and inspection shall be at the expense of Buyer.

To the extent components in the Goods are manufactured by third parties, Seller makes no warranty in regard to same and Buyer's sole remedy in regard to such components is a claim against such third parties.

ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE DISCLAIMED BY SELLER, INCLUDING THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. REPAIR OR REPLACEMENT OF GOODS, OR REFUND OF THE PURCHASE PRICE, AT THE OPTION OF SELLER, SHALL CONSTITUTE THE EXCLUSIVE REMEDY OF BUYER AND THE EXCLUSIVE LIABILITY OF SELLER FOR BREACHES OF WARRANTY. SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES. IN NO EVENT SHALL SELLER'S LIABILITY ARISING OUT OF THESE TERMS AND CONDITIONS OR THE GOODS EXCEED THE AMOUNT PAID BY BUYER FOR THE GOODS GIVING RISE TO THE LIABILITY. THESE LIMITATIONS OF LIABILITY SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, AND REGARDLESS OF WHETHER SELLER HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH LIABILITY. IT IS HEREBY EXPRESSLY UNDERSTOOD AND AGREED THAT UNLESS A STATEMENT IS SPECIFICALLY IDENTIFIED IN ANY SALES ORDER AS A WARRANTY, THE STATEMENTS MADE THEREIN OR IN ANY OTHER DOCUMENTS RELATING TO THE GOODS TO BUYER ARE NOT EXPRESS WARRANTIES AND DO NOT FORM A PART OF THE BASIS OF THE BARGAIN BUT ARE MERELY SELLER'S OPINION OR COMMENDATION OF THE GOODS. ANY DESCRIPTION OF THE GOODS CONTAINED IN ANY AND ALL BROCHURES, SALES ORDERS, PAMPHLETS OR OTHER LITERATURE OF SELLER, WHETHER DELIVERED BEFORE OR AFTER THE DATE HEREOF, ARE NOT INTENDED TO BE WARRANTIES. INSTEAD, THEY ARE FOR THE SOLE PURPOSE OF IDENTIFYING SUCH GOODS; AND SUCH DESCRIPTION IS NOT PART OF THE BASIS OF THE BARGAIN AND DOES NOT CONSTITUTE A WARRANTY THAT THE GOODS SHALL CONFORM TO THAT DESCRIPTION. THE USE OF ANY SAMPLE OR MODEL WAS FOR ILLUSTRATIVE PURPOSES ONLY, CONFORMITY OF THE GOODS TO SUCH SAMPLE OR

MODEL IS NOT PART OF THE BASIS OF THE BARGAIN AND IS NOT A WARRANTY THAT THE GOODS WILL CONFORM WITH THE SAMPLE OR MODEL. NO AFFIRMATION OF FACT OR PROMISE MADE BY OR ON BEHALF OF SELLER, WHETHER OR NOT IN THIS SALES ORDER, SHALL CONSTITUTE A WARRANTY THAT THE GOODS WILL CONFORM TO THE AFFIRMATION OR PROMISE.

VII. Indemnity

Buyer shall indemnify and hold Seller harmless from and against all claims and causes of action for damages and expenses of every kind and character (including costs of suit and reasonable attorney's fees) asserted against Seller, its agents, servants, and employees, by any firm, person, corporation, or other legal entity on account of injury to or death of any person or persons whomsoever, or for damage due or destruction of any personal or real property (including subsurface property or property rights) INCLUDING THOSE CLAIMS ARISING FROM THE PURPORTED NEGLIGENCE OR INTENTIONAL ACTS OF SELLER, or on account of infringement or alleged infringement of any patents, copyrights, or trademarks arising out of, directly or indirectly, the Goods or use of the Goods.

VIII. Confidentiality

All drawings, diagrams, specifications and other materials furnished by Seller relating to the use and service of articles furnished hereunder and the information therein are proprietary to Seller. Such materials have been developed at great expense, and they contain trade secrets of the Seller. Buyer may not reproduce or distribute such materials except to Buyer's employees who may use the articles as part of their duties. All such materials relating to the article supplied directly by Seller (except information as may be established to be in the public domain or disclosed pursuant to judicial government action) shall be received in confidence, and Buyer shall exercise reasonable care to hold information in confidence.

All information received by Seller from the Buyer shall be deemed not to be confidential and not to involve any trade secrets unless such information is clearly identified as confidential/trade secret information by the Buyer and a responsible officer of Seller has specifically signed a confidentiality agreement relating to such information. Sales personnel and other representatives of Seller are not authorized to accept any information from the Buyer in confidence.

IX. Other Terms and Conditions

Seller reserves the right to ship quantity variances on any Goods. Orders accepted by Seller are not subject to cancellation except with Seller's written consent. Acceptance of Buyer's cancellation will be predicated upon Buyer's payment of a cancellation charge as may be determined by Seller.

Manufacturer's part number, where shown, is used only to identify the position of that part in the equipment. Seller's materials and designs might be different, but are interchangeable.

Orders requiring affidavits must so state when the orders are placed. Any certifications of specifications will be furnished for an amount determined by Seller, but only if no physical test data is required.

Any contract arising hereunder, or any dispute as to the Goods or the relationship of the parties, shall be construed and enforced in accordance with the laws of the State of Texas and as if this document was drafted by and on behalf of both Buyer and Seller, and the rights and duties of Buyer and Seller hereunder shall be determined by the laws of the State of Texas in the Courts of Tom Green County, Texas.

Should any clause, sentence, or part of these Terms and Conditions be held invalid, such holding shall in no way affect the validity of the remainder, which shall remain in full effect. Failure to enforce any or all of the Terms and Conditions in a particular instance or instances shall not constitute a waiver or preclude subsequent enforcement thereof.

The parties agree that these Terms and Conditions are intended as the final expression of the agreement between the parties and are a complete and exclusive statement of the terms of that agreement. Seller reserves the right to amend or modify these terms, but such changes will not affect sales made before the date of such amendment.