

COOLING TOWER PRODUCTS

Standard Terms and Conditions of Parts Sales/Orders

OFFER AND ACCEPTANCE. These Standard Terms and Conditions are a part of, and govern, all transactions between Cooling Tower Products, Inc. and/or Water Treatment Specialists of Arizona, Inc. ("Cooling Tower") and you, the Buyer ("you" or "Buyer"), and supersede any terms and conditions in any of Buyer's documents. You may submit, accept or confirm orders using your form documents; provided, however, that no terms or conditions therein shall apply. If any form document you submit to Cooling Tower constitutes an offer or acceptance of an offer to purchase products from Cooling Tower, these Standard Terms shall govern the resulting contract. Your acceptance of any offer by Cooling Tower to sell products to you must be limited to these Standard Terms and the additional terms set forth by Cooling Tower in such offer. **YOU ARE HEREBY NOTIFIED THAT COOLING TOWER PRODUCTS OBJECTS TO ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS CONTAINED IN ANY ACCEPTANCE OR ANY OFFER MADE BY YOU.** Cooling Tower shall not be deemed to have waived this provision if it fails to object to the conditions appearing in, incorporated by reference, or attached to any Buyer's document. Buyer's acceptance of products called for in either a sales contract of Cooling Tower or in a purchase order accepted by Cooling Tower shall constitute Buyer's acceptance of these Standard Terms and Conditions of Sale.

PAYMENT TERMS. PARTS: If Cooling Tower extends you credit, payment is due within thirty (30) days after the date of invoice, payable in US funds. (Terms are subject to credit approval) Any and all clerical or stenographic errors on the invoice are subject to correction by Cooling Tower at any time. Cooling Tower may assess a finance charge against amount owed by you at the monthly rate of 1.5% (or the maximum rate permitted by law) for each month that payment is late. Any past due balances exceeding 30 calendar days will be subject to C.O.D. The extension of credit to Buyer notwithstanding, Cooling Tower may, in its sole discretion, require Buyer to make full payment of the purchase price prior to shipment. Cooling Tower may suspend credit and refuse shipment whenever Cooling Tower, in its sole discretion, believes Buyer's credit is unsatisfactory, unless the Buyer then makes arrangements for payment, which are satisfactory to Cooling Tower. Cooling Tower may cancel or reduce a line of credit at its sole discretion. You agree to pay Cooling Tower's reasonable costs of collection, including attorney's fees for delinquent accounts. Title to the products sold hereunder shall remain with Cooling Tower until the entire purchase price and all other charges and expenses are paid. Until full payment is made Cooling Tower shall also have continuing senior security interests in all products delivered to Buyer, as well as all proceeds, replacements, or substitutions of the products. Upon default by the Buyer for any reason, Cooling Tower may, without notice to the Buyer, declare all liabilities and obligations immediately due and payable and shall have all rights and remedies of a secured party under the Uniform Commercial Code. **COOLING TOWER REBUILDS AND/OR CONTRACT SERVICES:** All of the above terms apply. One third (1/3) of the total contract price is due upon the start of the project. The next one third (1/3) is due upon the completion of the project. The balance (1/3) is due thirty (30) days after the date of invoice.

TAXES. Prices do not include sales, use, excise or other similar taxes or duties. If Cooling Tower is required to pay any taxes on the goods or services furnished hereunder, then such taxes shall be paid by Buyer in addition to the prices stated.

DELIVERY. Unless otherwise specifically provided, delivery of products is F.O.B. Cooling Tower's shipping point. Risk of loss or damage shall pass to buyer upon delivery of the products by Cooling Tower to a carrier. Delivery, shipment and other performance dates are estimates only, and in no event shall Cooling Tower have any liability for loss of use or for any direct, consequential, or incidental damages resulting from any delay or failure in delivery, regardless of the reason(s) for such delay or failure.

FREIGHT DAMAGES. *Damages must be noted on the carrier's copy of the Bill of Lading, or the order must be rejected.* If these instructions are not followed, YOU WILL BE FINANCIALLY RESPONSIBLE FOR THE CHARGES INCURRED TO MANUFACTURE AND SHIP A REPLACEMENT

ORDER. If you are not the "Ultimate Final Destination", it is your responsibility to inform your customer/receiving party of these requirements.

RETURNS. Buyer shall obtain Cooling Tower's written permission prior to returning any goods. Unless otherwise agreed to in writing, Buyer shall bear all shipping costs and expenses in connection with the return of goods. Cooling Tower reserves the right to charge Buyer a restocking fee plus other amounts incurred by Cooling Tower on account of reworking the goods or replacing parts.

LIMITATION OF LIABILITY. COOLING TOWER SHALL NOT BE LIABLE TO YOU OR ANY OTHER PARTY FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST TIME, LOST PROFITS, LOST SALES, DAMAGES FROM DELAYED OR FAILED SHIPMENT, OR THIRD PARTY CLAIMS) ARISING FROM TRANSACTIONS BETWEEN YOU AND COOLING TOWER, NOR FROM HANDLING, USE, STORAGE METHODS, OR POSSESSION OF ITS PRODUCTS. YOU AGREE THAT COOLING TOWER IS NOT LIABLE FOR ANY DAMAGE CLAIMS CONNECTED WITH THE APPLICABILITY OR ACCURACY OF ANY ADVICE OR INFORMATION, WRITTEN OR ORAL, GIVEN BY COOLING TOWER, ITS AGENTS OR EMPLOYEES. COOLING TOWER'S TOTAL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, ARISING OUT OF TRANSACTIONS WITH YOU SHALL NOT EXCEED THE ACTUAL PRICE PAID FOR THE SPECIFIC PRODUCTS GIVEN RISE TO THE LIABILITY.

INDEMNIFICATION. Buyer agrees to indemnify and hold harmless Cooling Tower, its affiliates, and employees and agents of any of them, from and against any and all actual or threatened liabilities, damages, losses, demands, judgments, causes of action, claims (including but not limited to, claims of patent, copyright and/or trade secret infringement), expenses, and costs including attorney's fees and investigation, fines, penalties, and any other charges which arise from or relate to Buyer's actual or intended use of the products, or the performance, non-performance or purported performance of any covenant or agreement, or the breach of any representation, warranty, covenant or agreement hereunder.

UNFORSEEN CIRCUMSTANCES. All orders are subject to cancellation by Cooling Tower without liability in the event of any material adverse change in the cost or availability of materials or other unforeseen circumstances. Neither party shall be liable for any delay or failure to perform due to causes beyond reasonable control, including, without limitation, any acts of God, wars, fires, floods, accidents, labor disputes, shortages, governmental actions, or equipment failures.

MODIFICATIONS. No amendment change, alteration, modification, or waiver of any of the provisions hereof shall be binding on Cooling Tower unless made in writing and signed by an authorized representative of Cooling Tower. Failure of Cooling Tower to enforce any rights arising under the contract, including a breach or default by Buyer, shall not be construed as a waiver of any other rights of Cooling Tower or any other breach or default by Buyer. Should buyer breach this contract in any manner, Buyer shall be liable to Cooling Tower for all costs and expensed incurred by Cooling Tower as a result, including reasonable attorney's fees. Cooling Tower reserves the right to assign or subcontract any or all of its rights and obligations hereunder, without the consent of the Buyer, and without notice to the Buyer. The rights and obligations of Buyer hereunder may not be assigned without the prior written consent of Cooling Tower.

TERMINATION. Cooling Tower may terminate the contract, in whole or in part, at any time, upon written notice to Buyer. Cooling Tower shall not be liable to Buyer for any losses, damages or expenses resulting from such termination. Upon termination by Cooling Tower, all charges for products shipped and any ancillary charges shall be immediately due and payable by Buyer. This right of termination shall be additional to any and all rights Cooling Tower otherwise possesses. Buyer may not cancel or defer delivery of any orders without Cooling Tower's written consent, and then only upon terms that fully indemnify Cooling Tower against any and all loss.

APPLICABLE LAW. These Terms and Conditions are governed by the laws of the State of Arizona.

THESE STANDARD TERMS AND CONDITIONS MAY BE MODIFIED WITHOUT NOTICE