

## TERMS AND CONDITIONS OF SALE

1. For purposes of these Terms and Conditions, "WaterFurnace" which is defined as any and all of the following NIBE Industrier AB subsidiaries and / or affiliates: WaterFurnace Renewable Energy, Corp., WaterFurnace International, Inc., The term "Purchaser" means the individual, corporation or other legal entity that has submitted an Order to WaterFurnace. The term "Order" means Purchaser's expressed desire, whether oral or written in a purchaser order or otherwise, to purchase Goods from WaterFurnace. The term "Goods" means all of the products, materials and related services that Purchaser desires to purchase from WaterFurnace. The sale of the Goods that are the subject of an Order, both now and in the future, will be governed by these Terms and Conditions of Sale (hereinafter "Terms"). Acceptance of an Order by WaterFurnace is expressly conditional upon Purchaser's assent to these Terms. No terms or conditions contained in Purchaser's purchase order, request for quotation, or other documentation which are different from, in addition to, or at variance with these Terms shall apply or be binding upon WaterFurnace, and WaterFurnace rejects and objects to any such different or additional terms.
2. Any stated shipping or delivery date specified in an Order or sales order acknowledgment or other communications area proximate and are not a guarantee of any particular date of shipment or delivery. WaterFurnace will not be responsible for any delay or failure to perform under any Order that is caused by accidents, labor disputes, shortages of labor or materials, fuel or power, fires, floods or other acts of God, acts or omissions of Purchaser, priorities in production, restrictions imposed by national or local legislation or regulations, or any cause, whether similar or dissimilar to those enumerated in this provision, which is beyond the control of WaterFurnace. Any Order delayed by reason of the any of the foregoing will not be subject to cancellation by Purchaser, and WaterFurnace may, in its discretion, cancel this Order or delay performance for any period necessary due to the foregoing causes. Any such Order shall remain in effect during the period of any such delay, and WaterFurnace shall also have the right to prorate the quantity deliverable under any Order and the quantities deliverable under its contracts with other customers. In the event of a delay or failure of performance, WaterFurnace shall not be liable for any resulting losses or damages of any kind, and in no event shall WaterFurnace's liability exceed that portion of the invoice price represented by the quantity of goods delayed or not shipped.
3. WaterFurnace shall have the absolute right to cancel any Order upon breach of these Terms under any Order by Purchaser, upon Purchaser's failure to make any payment required under any Order or these Terms, or upon the insolvency or bankruptcy of Purchaser.
4. Purchaser must make any rejection on receipt of Goods. Non-conforming Goods can only be returned with written authorization by WaterFurnace, and no non-conforming Goods shall be returned after being modified or otherwise made unsalable. If Purchaser does not accept Goods, or wrongfully rejects, revokes acceptance of, or repudiates apart of or the whole Order then, with respect to any Goods affected, WaterFurnace may recover from Purchaser all damages allowed by law, together with incidental or special damages and recovery of reasonable attorneys' fees incurred by WaterFurnace in any effort to collect such damages. The foregoing shall be in addition to, and not exclusive of, all other rights or remedies which WaterFurnace may have by law.
5. Purchaser agrees that any action for breach which may accrue to Purchaser hereunder shall be commenced within one year from the date of delivery of the Goods.
6. Failure of WaterFurnace to assert or insist upon strict compliance with any provision of an Order or these Terms shall not be a waiver by WaterFurnace of its right to assert or rely on any such provision in the future.
7. All applicable federal, state or local sales, use or excise taxes are the responsibility of Purchaser and shall be in addition to the price or prices contained in any Order or any sales order acknowledgment unless expressly stated otherwise in a sales order acknowledgment. WaterFurnace shall have the right to invoice separately any such taxes, which may be imposed at a later time. Applicable tax exemption certificates and other applicable certificates must accompany any Order to which the same applies. Purchaser warrants that the purchased Goods are for business/resale purposes and Goods shall not be used by Purchaser for personal, family or household purposes.
8. Any notice or other communication required or permitted hereunder shall be sufficient if sent in writing by certified mail, postage prepaid, to the other at address shown on the Order or any sales order acknowledgement. Any such notice, if so mailed, shall be deemed to have been received upon the third business day following such mailing. Each party hereto may change its address for notice purposes by written notice to the other party.
9. All prices are subject to change without notice.
10. Payment terms shall be cash, net thirty (30) days from date of shipment. A service charge of one and one-half percent (1½%) per month (eighteen percent (18%) annual rate) will be charged on unpaid balances after thirty (30) days. Purchaser agrees to pay all costs and attorneys' fees incurred by WaterFurnace in collection of all invoices and amounts due WaterFurnace from Purchaser or in the enforcement of any claim by WaterFurnace against Purchaser for damages or indemnification. Invoice(s) and statement(s) are provided as a courtesy and non-receipt of such is not acceptable cause for delayed payment. At all times, WaterFurnace shall be entitled to set-off any amount or obligation owing from the Purchaser to WaterFurnace against any amount or credit due or payable at any time from WaterFurnace to Purchaser.
11. All shipments shall be FOB point of shipment unless otherwise stated on WaterFurnace's sales order acknowledgement. WaterFurnace shall have no liability whatsoever for damage, loss or deterioration of the Goods after delivery of the Goods to a common carrier, regardless of whether WaterFurnace charges Purchaser for freight. Purchaser acknowledges that all claims for losses caused by the carrier, including those for inconvenience, delay or expense, shall only be made against the carrier. In no event shall Purchaser deduct any amount for damage in transit from any amount due WaterFurnace.
12. Prior to the date of delivery of the Goods, Purchaser shall have the right to make changes in an Order provided that WaterFurnace receives written notice of the desired changes and agrees to the changes and provided further that Purchaser accepts any additional charge(s) therefore as determined by WaterFurnace. Changes which interfere with or

alter WaterFurnace's production schedules, as determined by WaterFurnace, will not be acceptable unless the time for performance is extended for such period as is deemed necessary by WaterFurnace. Failures of WaterFurnace to accept Purchaser's request to change its Order shall not be cause for Purchaser's cancellation of its Order except upon payment of a cancellation charge determined by WaterFurnace.

13. **Except as contained in the manufacturer's express limited warranty certificate applicable to the Goods, WaterFurnace disclaims, and does not make, any warranties, express or implied, with respect to Goods, either to Purchaser or to any of Purchaser's customers, or to any other person or end-user, including (without limitation) any warranty of merchantability or fitness for a particular use or purpose.** Purchaser shall process all warranty claims under the aforesaid limited warranty certificate to WaterFurnace or as otherwise directed by WaterFurnace. All approved labor and refrigerant allowances shall be satisfied through the issuance of warranty credits to Purchaser for use on any future order.
14. **WaterFurnace disclaims and will not be liable for special, incidental, indirect, or consequential damages (including, without limitation, damages for loss of business profits or business interruption or to personal property) or exemplary or punitive damages, in any way arising out of or related to the Goods or delivery of Goods.**
15. Purchaser shall do such things as are necessary to fully and accurately make the terms of the applicable manufacturer's express limited warranty certificate available to any subsequent purchaser or end-user of Goods on a timely basis. Purchaser is solely responsible for, and shall indemnify, defend, and hold WaterFurnace harmless from, any separate warranties or promises made by Purchaser that are in addition to, different from, or inconsistent with those contained in the applicable manufacturer's express limited warranty certificate as well as for any claims for damages, whether in contract, tort, or otherwise, against WaterFurnace arising out of any act or omission of Purchaser.
16. WaterFurnace reserves the right to correct and is not bound to any clerical or stenographic errors or omissions contained in any quotation or sales order acknowledgment.
17. The relationship between WaterFurnace and Purchaser is that of vendor and vendee, and nothing in these Terms constitutes a partnership, agency, or any other relationship for any purpose. No other relationship exists or shall be implied unless contained in a separate writing signed by both parties. WaterFurnace and Purchaser do not have authority to, and shall not act in any way to, bind the other or contract in the name of the other in any way or for any purpose.
18. These Terms may be modified or amended by WaterFurnace at any time, and any such change is effective when incorporated by reference in any sales order acknowledgement and in all events after 30 days of posting of the modified or amended Terms on its website at [www.waterfurnace.com/terms-of-sale](http://www.waterfurnace.com/terms-of-sale). Purchaser is responsible to make periodic review of the posting of Terms on the WaterFurnace website.
19. Any provision of an Order prohibited by law, invalidated by the enactment of any statute, ordinance or regulation, or declared unlawful by a court of competent jurisdiction, shall be ineffective only to the extent of such prohibition and shall not in any manner invalidate or affect the remaining provisions of an Order, such provisions being deemed severable.
20. All matters between WaterFurnace and Purchaser are governed by and construed in accordance with the laws of the State of Indiana without regard to its conflict of law provisions. Federal or state courts located in Allen County, Indiana shall have personal and subject matter jurisdiction over, and the parties each hereby submit to, the venue of such courts with respect to any dispute in any way related to an Order, Goods, or these Terms, and all objections to such jurisdiction and venue are hereby waived. Purchaser consents to service of process as permitted under Indiana law.

The undersigned individual represents and warrants that he/she is an officer or owner of Purchaser and, as of the date of signature, has been properly authorized by Purchaser's governing body to sign and bind Purchaser to these Terms.

**Officer or Principal:**

Signature by: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_