

This document sets forth the terms and conditions pursuant to which the purchaser ("purchaser") will purchase and Ace Sanitary ("Seller") will sell the product, accessories and attachments (Collectively the "Products") ordered by purchaser. These terms and conditions shall govern and apply to the sale of Seller's Products to Purchaser, regardless of any terms and conditions appearing on any purchase order or other forms submitted by Purchaser to Seller or the inconsistency of any terms therein and herein.

#### **1. General**

- Seller reserves the right at all times to reject any and all orders for any reason.
- Orders for other than standard items or standard lengths, may not be cancelled after purchase has been committed, production scheduled or any other costs incurred.

#### **2. Price**

All prices F.O.B. Sellers facility. All prices are exclusive of any and all taxes, included, but not limited to, excise, sales and use. Unless otherwise specified herein, all prices are exclusive of transportation, freight, insurance and other costs and expenses, relating to the shipment of the Products from the F.O.B. point to Purchaser's facility. Any prepayment by Seller of freight, insurance or other costs shall be for the account of Purchaser and shall be repaid to Seller.

#### **3. Payment Terms**

Payment terms are as follows:

- 1% 10 days (to approved and qualified accounts.) Net 30 days. This is a cash discount for invoices paid within 10 days after the invoice date, regardless of date of receipt of shipment.
- Seller reserves the right to alter payment terms.
- Seller reserves the right to hold shipments against past due accounts.
- All past due accounts are subject to a late payment charge of 1.5% per month, or maximum allowed by law if different, along with the expense incidental to collection including reasonable attorney's fees and cost.

#### **4. Freight Terms**

All shipments will be made F.O.B. shipping point as designated in these terms and conditions, and title shall pass at the F.O.B. point. Delivery to the initial common carrier shall constitute delivery to the purchaser. Any claims for loss or damage during shipment are to be filed with carrier by the Purchaser. Seller will not assume responsibility for the performance of the carrier.

- Freight prepaid on **\$5,000.00** net invoice on all combined products of Seller **excluding hose assemblies**. Applies to Continental USA (48 States).
- Freight prepaid on **\$3,000.00** net invoice on **couplings only**. Applies to Continental USA (48 States).
- Orders with different numbers and dates may not be combined to make freight allowance.
- If a shipment is made at customers request resulting in a back order, the balance will be shipped collect if balance is under prepaid terms.

#### **5. Acceptance of Product**

Claims for parts damaged during shipment or for parts sent in error must be made within (10) days of receipt of shipment. No unauthorized returns will be accepted. Buyer's acceptance of delivery of product from carrier shall constitute a waiver of any claim for delay.

#### **6. Return of defective products.**

Defective or failed material shall be held at the Purchaser's premise until authorization has been granted by Seller to return or dispose of Products. Products that are to be returned for final inspection must be returned Freight Prepaid in the most economical way. Credit will be issued for material found to be defective upon Seller's inspection based on prices at time of purchase

#### **7. Products Ordered in Error**

Standard products only may be returned, provided that claim is made and Seller is notified within (10) days of receipt of Products subject to Seller's approval. If Products are accepted for return, they must be freight prepaid, and buyer will be charged a minimum of 15% re-handling charge, plus a chargeback for outbound freight charges if the original order was shipped prepaid. Returns are **not** accepted for any Products that are specially manufactured to meet the buyer's requirements of either specifications or large quantity.

#### **8. Cautionary Statement**

All Products are in the nature of commodities and they are sold by publish specifications and not for particular purposes, uses or applications. Purchaser shall first determine their suitability for the intended purposes, uses or applications and shall either conduct its own engineering studies or tests, or retain qualified engineers, consultants or testing laboratories and consult with them before determining the proper use, suitability or propriety of the merchandise or Products for the intended purposes, uses or applications.

Purchaser shall follow all instructions contained in Seller's catalogs, brochures, technical bulletins and other documents regarding the product. Purchasers or users of the Products should frequently and consistently undertake inspections and protective measures with respect to the use and application of Products, which should include the examination of tube and cover, conditions of the hose or tubing, and the identification, repair or replacement of sections showing cracking, blistering, separations, internal and external abrasions, leaking or slipped couplings or connections and make proper proof tests.

#### **9. Limited Warranty**

The merchandise or Products sold or distributed by Seller are warranted to its customers to be free from defects in material and workmanship at the time of shipment by us, subject to the following provisions. ALL WARRANTY CLAIMS SHALL BE MADE WITHIN SIX (6) MONTHS AFTER SELLER SHIPPED THE PRODUCTS. SELLER'S LIABILITY HEREUNDER IS LIMITED TO THE PURCHASE PRICE OF ANY PRODUCTS PROVING DEFECTIVE, OR, AT SELLER'S OPTION, TO THE REPLACEMENT OF SUCH PRODUCTS UPON ITS AUTHORIZED RETURN TO SELLER.

THIS WARRANTY IS IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, STATUTORY, OR OTHERWISE CREATED UNDER APPLICABLE LAW INCLUDING, BUT NOT LIMITED TO, THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL SELLER OR THE MANUFACTURER OF THE PRODUCT BE LIABLE FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, WHETHER OR NOT CAUSED BY OR RESULTING FROM THE NEGLIGENCE OF SELLER AND/OR THE MANUFACTURER OF THE PRODUCT, UNLESS SPECIFICALLY PROVIDED HEREIN. IN ADDITION, THIS WARRANTY SHALL NOT APPLY TO ANY PRODUCTS OR PORTIONS THEREOF WHICH HAVE BEEN SUBJECTED TO ABUSE, MISUSE, IMPROPER INSTALLATION, MAINTENANCE OR OPERATION, ELECTRICAL FAILURE OR ABNORMAL CONDITIONS, AND TO PRODUCTS WHICH HAVE BEEN TAMPERED WITH, ALTERED, MODIFIED, REPAIRED, REWORKED BY ANYONE NOT APPROVED BY SELLER, OR USED IN ANY MANNER INCONSISTENT WITH THE PROVISIONS OF THE "CAUTIONARY STATEMENT" ABOVE.

#### **10. Force Majeure**

We shall not be liable for any delay in performance or nonperformance which is due to severe weather, floods, fire, war, acts of third parties, acts of governmental authority or agency or commission thereof, accident, breakdown of equipment, differences with employees or similar or dissimilar causes beyond our control, including but not limited to those interfering with production, supply, transportation of products, raw materials or components, or our ability to obtain, on terms we deem reasonable, material, labor equipment or transportation.

#### **11. Assignment and Governing**

Neither party may assign this agreement without the written consent of the other party. This agreement shall be governed by and construed in accordance with the laws of the State of Ohio.