

Conditions of Purchase

Ixom Watercare Inc's (Buyer) official purchase order or its written request to supply, whether delivered by hand, mail, email or facsimile or issued by means of electronic data transfer or otherwise ("Purchase Order") for goods or products (including without limitation, raw materials, processed materials or fabricated products) ("Goods") or services (including without limitation, consultancies, designs, advices, or maintenance ("Work")) is placed with Seller subject to these Conditions of Purchase. Buyer shall not be responsible for any order unless it is issued on a Purchase Order and no variation will be effective unless approved in writing by Buyer. All purchases by buyer, owner or its agents ("Buyer") are expressly limited and conditioned upon acceptance of these Conditions of Purchase. Each shipment of Goods or performance of Work received by Buyer shall only be upon the terms of the Purchase Order and these Conditions of Purchase (including without limitation, General Conditions for On-Site Work by Contractors when applicable) to the exclusion of all other terms and conditions. Buyer objects to and rejects any additional or different terms proposed by Seller on an acceptance, invoice or other Seller document. Any reference to Seller's quotation, bid or proposal does not imply acceptance by Buyer of any term, condition or instruction contained therein. In addition to other modes of acceptance, Seller by accepting the Purchase Order or commencement of performance pursuant to the Purchase Order constitutes acceptance by Seller of, and binds Seller to, these Conditions of Purchase. The Purchase Order together with these Conditions of Purchase ("Purchase Contract") represent the entire agreement between Buyer and Seller, unless otherwise expressly agreed to in a writing signed by Buyer. Except as otherwise permitted by these Conditions of Purchase, no amendment, addition or modification of any provision of the Purchase Contract is binding unless it is in writing, signed by the party to be bound and is specifically described as an amendment or modification of the Purchase Contract. The number appearing on the Purchase Order must be quoted on all invoices, delivery dockets and parcels. The provision by the Seller of its conditions of sale or equivalent terms, the attachment of such conditions of sale or equivalent terms to the Seller's invoices or other documents furnished by the Seller to the Buyer, or the reference to the Seller's conditions of sale or equivalent terms, shall have no legal or superseding effect on the Purchase Contract and shall have no application of any form between the Seller and the Buyer in respect of the Goods or the Work

1. Price.

1.1 The purchase price of the Goods and fees for Work payable by Buyer shall specified in the Purchase Order and shall be firm, fixed and cannot be varied without the prior written agreement of Buyer.

1.2 The prices stated shall be on a D.A.P. basis unless otherwise agreed in writing by Buyer and shall include costs for packing, crating, and transportation to the delivery point specified in the Purchase Order and all fees for Work.

1.3 If Buyer notifies Seller that it is able to buy similar goods or services at a lower delivered price than the price for the Goods or Work supplied by Seller, then the Seller may elect to supply the Goods and Work at the lower delivered price or fees or permit Buyer to cancel the Purchase Order and acquire goods or services from an alternate source.

2. **Taxes.** Unless otherwise agreed in writing, the price of the Goods or Work includes all federal, state or local taxes, duties or assessments of any nature imposed on the Goods or Work or any part of the transactions which are the subject of this Purchase Contract.

3. **Payment Terms.** Seller shall issue the invoice for the Goods and Work to Buyer. Unless otherwise specified in the Purchase Contract, payment for Goods shall be made within thirty (30) days from the invoice date. Buyer will not accept or pay any invoices for Goods not yet received or Work not yet completed. Buyer reserves the right to set off any amount owing under any Purchase Contract against any amount due from Seller to Buyer for any reason. Buyer will not be responsible for any charges not shown on the Purchase Order without Buyer's prior written consent to such charges in advance. Buyer may, prior to paying any invoice under the Purchase Contract, require Seller to release all lien rights applicable to the Goods or any other property of Buyer.

4. Packaging, Storage and Hazardous Goods; Work.

4.1 The Goods shall be properly packed to avoid being damaged in transit or during delivery, loading and unloading. All packages shall be clearly marked with the Purchase Order Number and the location of delivery.

4.2 Seller shall comply with: (a) all applicable International law relating to the transport, packaging, storage, handling and use of Goods ("International Law"); and (b) federal, state and local laws, regulations, orders or other relevant proclamations having the force of law in the United States and other relevant requirements relating to transport, packaging, storage, handling and use of Goods or performance of Work ("U.S. Law").

4.3 All Goods which are "Hazardous Materials" under applicable International Law must be marked by Seller with international danger symbol(s) and display the name of the material in English. Goods regulated under U.S. Law, including without limitation, the Toxic Substances Control Act, as amended, 15 U.S.C. §2601 et seq. or the Hazardous Material Transport Act as amended, 49 U.S.C. 5101 et. seq. must comply with the same or any additional marking or transport requirements of such laws. Delivery and other documents must include disclosure of the relevant hazard(s) and name of the Goods in English. Goods must be accompanied by emergency response procedures in English in the form of written instructions, labels or markings and Safety Data Sheets that clearly identify each hazardous chemical and includes information containing carcinogenicity and toxicity.

4.4 All information held by or reasonably available to Seller regarding any potential hazards or special requirements known or believed to exist in the transport, packaging, storage, handling or use of the Goods or performance of Work shall be immediately communicated in writing to Buyer.

4.5 The Goods shall be packed, labeled and marked in accordance with packaging and labeling requirements under applicable International Law and U.S. Law and specifications communicated by Buyer to Seller. Work shall be performed in accordance with all applicable U.S. Law, including without limitation, the Fair Labor Standards Act, as amended, 29 U.S.C. § 201 et seq. and the Occupational Safety and Health Act, as amended, 29 U.S.C. § 651 et. seq. and specifications communicated by Buyer to Seller. In the event the Goods are regulated by U.S. Law, Seller shall also package, label and mark the Goods with relevant approvals and information as required to comply with U.S. Law. Any proposed alteration to Buyer's packaging requirements or specifications for Goods or Work shall be subject to Buyer's prior approval.

4.6 Where required by Buyer or law, Seller shall supply Buyer with all necessary certificates of conformance, certificates of analysis, test certificates and permits and licenses together with the Goods delivered or Work performed pursuant to the Purchase Contract.

5. Delivery.

5.1 The date and place of delivery of the Goods or performance of Work shall be that specified in the Purchase Order unless otherwise agreed by Buyer and Seller.

5.2 TIME IS OF THE ESSENCE HEREOF INSOFAR AS IT APPLIES TO THE OBLIGATIONS OF SELLER. If any Goods are not delivered or Work is not performed within the time specified in the Purchase Order, Buyer may either:

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- (a) refuse to accept such Goods or Work and terminate the Purchase Contract without penalty, cost or charge; or
- (b) cause Seller to deliver the Goods or perform the Work by the most expeditious means, whereupon any additional delivery charges or other costs in excess of those that would apply for the usual means of delivery or performance of Work shall be borne by Seller.

5.3 If any Goods are not delivered to the place specified in the Purchase Order or as otherwise agreed between Buyer and Seller, Seller will be responsible for any additional expenses incurred in delivering the Goods to their correct destination.

6. **Title and Risk.** Title to and risk of loss in the Goods shall pass to Buyer upon delivery to Buyer in accordance with Section 5 above, but without prejudice to any right of rejection or other rights that may accrue to Buyer hereunder.
7. **Inspection of Goods or Work in Progress and Prior to Shipment or Completion of Performance.** Seller agrees that Buyer or its agents shall have the right of inspection of all Work performed pursuant to the Purchase Contract while in any stage of engineering, manufacture or installation, and of the Goods prior to shipment. Seller shall make this a condition of any sub-contracted Work. Buyer or its agents shall have the right to reject any Work performed or being performed or any Goods that do not conform to the Purchase Contract, whereupon the Work shall be re-performed or the rejected Goods replaced at no additional cost to Buyer. Any such inspection shall not relieve Seller of any obligations contained in the Purchase Contract or at Law.

8. **Loss or Damage in Transit.**

8.1 Buyer shall advise Seller of any loss or damage or defect in the Goods within the following time limits:

- (a) partial loss, damage, defects or non-delivery of any separate part of a shipment of Goods within 120 days of the date of delivery of such shipment or partial shipment; or
- (b) non-delivery of an entire shipment of Goods within 60 days of the intended date of delivery as specified in the Purchase Order.

8.2 Seller shall make good free of charge to Buyer any loss of or damage to or defect in the Goods where notice is given by Buyer in compliance with this Section.

9. **Quality.** Seller covenants and warrants that the Goods and the Work: (i) shall conform with the description provided by Seller; (ii) shall conform with all specifications, drawings or samples, if any, furnished or requested or agreed to by Buyer; (iii) are free of defects in material, workmanship or design; (iv) are of merchantable quality and are fit for the intended purpose for which they are purchased; (v) are new (unless otherwise specified); (vi) are free from all liens and encumbrances and Seller has good marketable title thereto; and (vii) shall conform to the requirements of any performance criteria or performance guarantee agreed in writing by the parties. Where Seller is certified to ISO9001 or ISO9002 or a higher level of certification, the Purchase Contract must be fulfilled in accordance with the terms of that certification. These covenants and warranties are in addition to any other warranties, express or implied, or statutory, or provided by Seller or any third party and shall survive any inspection, delivery, acceptance or payment by Buyer. Notice of breach of a covenant or warranty under the Purchase Contract shall be deemed sufficient if given within sixty (60) days after discovery thereof by Buyer.

10. **Rights of Buyer and Liability of Seller for Non-Conforming Goods or Work or Breach**

10.1 Notwithstanding Section 8, if any of the Goods or Work fail to comply with any warranty or term or condition of the Purchase Contract, Buyer may, at its sole option and discretion, reject or return at the Seller's cost, the non-conforming Goods or Work for any reason whatsoever upon delivery of the Goods or within a reasonable time thereafter. Any payment by Buyer for such Goods or Work shall not prejudice its right of rejection contained herein. Without in any way limiting Buyer's rights at law, Seller shall reimburse Buyer for:

- (a) any purchase price or fees paid by Buyer with respect to such Goods or Work; and
- (b) any costs incurred by Buyer in connection with the rejection of such Goods or Work.

10.2 Seller shall, without limitation, indemnify Buyer for any loss, damage, expense, claim or liability suffered or incurred by Buyer, whether consequential or otherwise, as a result of a breach of any of the covenants and warranties contained in Section 9 above or as a result of a breach of any other term of these Conditions of Purchase or the Purchase Order.

10.3 Notwithstanding Section 10.2, and without limiting the generality thereof, Seller shall repair or replace, at Buyer's option, all Goods or repair or re-perform Work which are or become defective or otherwise fail to comply with all warranties contained in Section 9 within 30 days of notification from Buyer of such defect or failure. Such repairs or replacements or re-performance shall be subject to the covenants and warranties set forth in Section 9 above and the liabilities contained in the Conditions of Purchase.

10.4 In addition to Buyer's other rights and remedies hereunder and at law and equity, Buyer also may, at its option, cancel the remaining balance of Goods or additional Work under the Purchase Order by notice and as to all or any part of the Goods or Work, purchase substitute goods or services elsewhere and charge Seller with any loss incurred.

11. **Infringement.** Seller shall, without limitation, indemnify, defend and hold harmless Buyer from and against any loss, damage, expense, claim or liability, including costs of defense and attorneys' fees, suffered or incurred by Buyer as a result of any claim by a third party alleging infringement of any intellectual property rights in relation to the Goods or any Work performed pursuant to the Purchase Contract.
12. **Indemnity.** Seller shall indemnify and hold Buyer, and its affiliates and subsidiaries, and their respective employees, directors, officers, agents and representatives, harmless from and against any suits, liabilities, losses, damages, claims, causes of actions, and expenses (including attorneys' fees) arising out of or connected with any act or omission of Seller, its agents, employees, or subcontractors, or a breach by Seller of the Purchase Contract. This indemnification shall be in addition to the warranty obligations of Seller.
13. **Compliance with Law.** Seller hereby certifies that all Goods to be furnished hereunder shall be manufactured and furnished in accordance with U.S. Law. Seller shall, if requested by Buyer, certify such compliance to Buyer in writing.
14. **Buyer's Rights in Specifications, etc.** Any specifications, plans, drawings, process information, patterns or designs supplied by Buyer to Seller in connection with the Purchase Contract shall remain the property of Buyer, and any information derived therefrom or otherwise communicated to Seller in connection with the Purchase Contract shall be kept confidential and shall not, without the written consent of Buyer, be published or disclosed to any third party, or be used by Seller except for the purpose of implementing the Purchase Contract. Any specification, plans, drawings, process information, patterns or designs supplied by Buyer to Seller must be returned to Buyer on request by Buyer and in any event upon completion or termination of the Purchase Contract. Any invention or improvement made by Seller attributable in whole or in part to such specifications, plans, drawings, process information, patterns or designs shall be the property of Buyer.

15. **Work on Buyer's Site.** Should the Purchase Contract require Seller to carry out any Work on a site of Buyer, such Work shall be subject to, in addition to these Conditions of Purchase and any conditions imposed by law, the conditions contained in the General Conditions for

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On-Site Work by Contractors for the particular site, a copy of which will be furnished to Seller before any work commences.

16. **Insurance.** In addition to any insurance required by the conditions contained in Buyer's General Conditions for On-Site Work, Seller shall maintain adequate insurance, including without limitation, public liability with coverage of USD \$20 million per event, workers compensation (including common law liability), automotive and other means of transportation/freight/marine transit liability insurance for the full replacement value of the Goods, product damage and product liability insurance with coverage of USD 20 million per event, and professional indemnity insurance with coverage of USD \$10 million per event, upon such terms and for such amounts as are reasonable under the circumstances of the Purchase Contract. Such insurance shall include the Buyer as an additional insured. Seller will, within five (5) days of a request from Buyer, provide to Buyer certificates of insurance evidencing that such insurance policies are current and in full force and effect and compliant with the requirements of this clause..
17. **Force Majeure.** Neither Buyer nor Seller shall be liable to the other for default or delay in performing its obligations under the Purchase Contract caused by any occurrence beyond its reasonable control, including without limitation, natural phenomena such as earthquakes and floods; fires; riots; acts of terrorism; war; freight embargoes; acts of God; industrial disturbances; government orders or regulations or other causes, whether similar or dissimilar to those enumerated above, PROVIDED THAT the party affected by such occurrence gives written notice within 7 days of the commencement of that occurrence, specifying the nature of the force majeure and the estimated duration thereof. In the event the affected party is unable to perform, or is reasonably expected to be unable to perform, as a result of the force majeure for more than thirty (30) days, then either party, without liability for any claim, loss or damage to the other party, may immediately terminate the Purchase Contract by written notice to the other party. Otherwise both parties' rights and obligations shall be suspended for the period the force majeure prevents or hinders performance and new time schedules and supply dates shall be agreed upon, in writing, between the parties hereto.
18. **Changes.** Buyer reserves the right at any time to make changes in any one or more of the following: (a) specifications, drawings and data incorporated in a Purchase Contract if Work is to be performed or if the Goods are to be specially manufactured for Buyer; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and (e) increase or decrease the quantities of the Goods or changes in the Work to be performed. If any change described above causes an increase or decrease in the cost of or the time required for performance of the Purchase Contract, an equitable adjustment will be made in the price or delivery schedule, or both. Any claim by Seller for adjustment under this Section will be deemed waived unless asserted in writing within ten (10) business days from receipt by Seller of Buyer's request for change.
19. **Termination.** Buyer may, at any time, terminate this Purchase Contract for its convenience, in whole or in part, by written notice or verbal notice confirmed in writing to Seller, without cause or liability, except for liabilities due for Goods received by Buyer or Work performed by Seller prior to the termination date. . The amount of such liabilities shall in no event exceed the aggregate price payable under the Purchase Contract less amounts already paid by the Buyer in respect of the Goods or the Work performed, and shall constitute Buyer's only liability for termination without cause. Seller shall not be entitled to anticipated profit or anticipated overhead charges following the date such termination. Termination of the Purchase Contract shall not relieve or release either party from any rights, liabilities, or obligations that such party has accrued prior to the date of such termination.
20. **Remedies.** No remedy provided herein shall be deemed exclusive of any other remedy available at law or equity. All claims for monies due or to become due from Buyer shall be subject to setoff or counterclaims by Buyer arising out of this or any other Purchase Contract by Buyer to Seller.
21. **Sub-Contracting and Assignment.**
 - 21.1 Seller shall not delegate any duties nor assign any rights or obligations or claims under the Purchase Contract or sub-contract any Work to be performed pursuant to the Purchase Contract without the express prior written consent of Buyer. Any assignment or delegation made without Buyer's consent shall be null and void.
 - 21.2 Buyer's consent to Seller sub-contracting any Work to be performed pursuant to the Purchase Contract shall not relieve Seller of its responsibilities for the whole of the Work to be performed pursuant to the Purchase Contract or of any obligations contained in the Purchase Contract or at law.
 - 21.3 Where Buyer has consented to the placing of sub-contracts by Seller, copies of each sub-order shall be sent by Seller to Buyer immediately when they are issued and Buyer reserves the right to inspect all sub-contracted Work
22. **Governing Law.** This Purchase Contract shall be governed by, subject to and construed in accordance with by the laws of the state or territory in which Buyer's site issuing the Purchase Order is situated, excluding its conflicts of law principles, and the parties irrevocably agree to submit to the jurisdiction and venue of the courts of that state or territory to interpret the Purchase Contract or to adjudicate any dispute arising thereunder. Any and all disputes and claims between Buyer and Seller related in any way to the Goods, the Work or the Purchase Contract shall be resolved by binding arbitration in Denver, Colorado by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association.
23. **Waiver.** Failure by either party hereto to enforce any provisions of the Purchase Contract or any rights hereunder, or failure to exercise any election provided for herein, shall in no way be considered a waiver of such provisions, rights, or elections, or in any way affect the party's right to later enforce or exercise the same or other provisions, rights, or elections it may have under this Purchase Contract.
24. **Notices.** Any notice required or otherwise given pursuant to this Purchase Contract shall be in writing and shall be hand delivered, mailed certified mail, return receipt requested, postage prepaid, or by recognized delivery service. Any notice to Buyer shall be addressed as follows: Operations Manager, Ixom Watercare Inc., 8150 S. Akron St, Suite 401, Centennial, CO 80112. Any notice to Seller shall be directed to the address of Seller shown on the front of the Purchase Contract.
25. **Counterparts.** This Purchase Contract may be executed in any number of counterparts, each of which, when executed and delivered shall be deemed to be an original, and all of which, when taken together, shall constitute one Purchase Contract. Delivery of executed counterparts by electronic method of transmission shall be equally as effective as delivery of an original executed counterpart to this Purchase Contract.