

**CLIMATE CONTROL, INC.**  
**General Terms and Conditions of Purchase**

These Terms and Conditions have been established to convey the conditions that Climate Control, Inc. (“Climate” or “Purchaser”) agrees to when purchasing materials from you (the “Seller”). The benefits and obligations of these Terms and Conditions commence on the day that Seller receives Climate’s Purchase Order.

1. **Acceptance.** This Purchase Order (including all attachments hereto and as amended or modified in accordance with the terms hereof, this “Purchase Order”) constitutes an offer by Purchaser to purchase the goods specified on the face hereof (the “Goods”) at the price(s) and the delivery date(s) so specified, upon the terms and conditions set forth herein and in accordance with any specifications appearing on the face hereof or in any attachments, schedules, exhibits, designs or drawings attached hereto (the “Specifications”). Seller shall be deemed to have accepted this Purchase Order by written acknowledgement or by commencement of work upon, or delivery of, any of the Goods. There are no oral understandings between Purchaser and Seller, and no other relevant agreements other than those embodied in this Purchase Order. Any proposal to vary any of the terms of this Purchase Order contained in Seller’s acceptance is hereby objected to and rejected, and shall not become a part of this contract. This Purchase Order may not be amended or modified except by a writing signed by an authorized representative of Purchaser. This Purchase Order shall in no respect constitute an acceptance of any offer by Seller.
2. **Identifying Numbers.** All invoices, packages, packing slips or correspondence relating to this Purchase Order shall refer to the Purchase Order number printed on the reverse side of this agreement. Without limiting the foregoing, this includes any and all “Goods” that may be shipped directly from a manufacturer.
3. **Prices.** Any discount for prompt payment that Seller offers Purchaser shall be determined from the date Purchaser receives a correct invoice, and not from the date of any erroneous invoice. The prices specified in this Purchase Order are the total prices of the Goods to the Purchaser, and no charges for packing, crating, cartage, returnable containers, shipping or similar items or services will be accepted and paid by Purchaser unless agreed to in writing prior to shipment and itemized separately. All sales, use, excise or similar taxes must also be itemized. Unless otherwise agreed in writing by Purchaser, all prices shall be F.O.B. point of destination.
4. **Delivery.** Time is of the essence. Seller shall adhere strictly to the delivery schedule and other time provisions specified in this Purchase Order. Seller shall promptly notify Purchaser of any actual or anticipated delays in delivery and shall take all reasonable steps to avoid or end such delays, at no additional cost to Purchaser. If Seller fails to ship all or any portion of the Goods on or before the date promised, Purchaser shall have the right to cancel this Purchase Order, without liability to itself, for any Goods not yet shipped and shall have the right to cover by purchase of substitute Goods (and to collect any such costs of cover from Seller). All Goods shall be supplied with adequate lifting lugs for unloading and installation, and shall be delivered F.O.B. point of destination.
5. **Inspection.** Purchaser shall have the right to inspect the Goods after they are received at the destination specified herein. However, the making of, or failure to make any inspection of, or payment for, the Goods shall in no way limit Purchaser’s right to reject nonconforming or defective Goods, nor be deemed to constitute acceptance by Purchaser of the Goods. Purchaser shall have a reasonable time after it discovers a defect or nonconformity to reject the Goods or to revoke acceptance of the Goods. If Purchaser rejects the Goods or revokes its acceptance of the Goods, and Seller does not deliver conforming Goods on or before the delivery date specified herein, Purchaser shall have the option to terminate all or a portion of this Purchase Order and to obtain a prompt refund from Seller for payments made with respect to the terminated portion of the Purchase Order, including without limitation, any costs of cover resulting from the purchase of substitute Goods. Rejected Goods shall be held by Purchaser, at Seller’s expense, until Purchaser receives Seller’s written instructions regarding disposition of the Goods.
6. **Warranties.** Seller represents and warrants to Purchaser that: (a) Seller will deliver to Purchaser good, exclusive and marketable title to the Goods, free and clear of all liens, security interests, claims and other encumbrances; (b) all Goods shall conform to the Specifications, shall be fit and sufficient for the purpose intended, merchantable and free from defects in design, materials and workmanship; and (c) no applicable Federal, state, local or foreign law, rule regulation, order or other directive will be violated in the manufacturing, selling or delivery of the Goods. At its sole expense, Seller shall promptly repair or replace, at Purchaser’s option, all Goods that do not

fully comply with the warranties in this section. Any item or items covered by this Purchase Order that under normal operating conditions, prove defective in material or workmanship, or fail to perform in accordance with the specifications or drawings, or otherwise are not in conformity with the requirements of this Purchase Order, within twelve (12) months from the date of Purchaser's acceptance or eighteen (18) months after delivery, whichever is earlier, will, at Purchaser's sole option, and at Seller's expense be either: (a) rejected and returned to Seller with the purchase price promptly refunded to Purchaser; (b) removed by Seller and replaced with conforming items; or (c) repaired by Seller without delay. This warranty period is extended for the period the items are defective or fail to perform in accordance with specifications. Any repairs or replacements made pursuant to this warranty shall be subject to an extended warranty of one (1) year from the date thereof. These warranties shall be in addition to any other warranties customarily extended by Seller to its customers and shall survive inspection, test, acceptance and payment. All warranties herein shall run to Purchaser and its successors, assigns and customers. Seller shall, at any time be chargeable for repairs made by Purchaser to correct Seller's breach of a warranty herein if Seller has been given notice of such breach.

7. **Risk of Loss.** The risk of loss or damage to the Goods shall not pass to Purchaser until the Goods are received and accepted by Purchaser at the destination specified herein (F.O.B. point of destination). Without limiting the foregoing, risk of loss or of damage to rejected Goods shall pass to Seller at the time of rejection by Purchaser.

8. **Changes.** No changes or substitutions shall be made in this Purchase Order without the prior written consent of Purchaser. Purchaser shall have the right to make changes at any time, by written direction to Seller, in drawings, specifications, designs, quantities, places and times of delivery and methods of packaging. If Seller believes that a change requested by Purchaser affects the price or delivery date for the Goods, Seller shall notify Purchaser in writing (with adequate supporting documentation) within ten (10) working days after receipt of a change order, and Seller shall not perform the requested change without the prior written consent of Purchaser. Purchaser and Seller shall mutually agree in writing on any adjustment in the price and/or delivery date caused by the requested change. Seller's claim for an adjustment will be deemed to have been waived unless asserted by Seller within fifteen (15) days after receipt of Purchaser's change order. Seller shall not stop performance of any unaffected portion of the Purchase Order while Purchaser and Seller are in the process of making any such changes and adjustments.

9. **Purchaser's Property.** Unless otherwise agreed to in writing, all drawings, sketches, blueprints, specifications, designs, models, tools, molds, jigs, dies, patterns and other materials furnished or paid for by Purchaser in connection with this Purchase Order shall be and remain the property of Purchaser, shall at all times be identified as such and segregated from similar property of others, shall be used only in filling Purchaser's Purchase Order, and shall be delivered to Purchaser, or otherwise disposed of, in accordance with Purchaser's instructions upon completion, termination, or cancellation of this Purchase Order or upon Purchaser's demand prior thereto. Seller assumes all risk and liability for loss of, or damage to, Purchaser's property in its custody or control, except for normal wear and tear.

10. **Insurance.** Seller shall maintain insurance coverage with coverage levels and exceptions standard in the industry, including, without limitation, workers' compensation, employer's liability, products liability and comprehensive general liability insurance, and shall furnish copies of policies or certificates of such insurance to Purchaser at Purchaser's request. Without limiting the foregoing, Seller shall provide insurance covering any and all of Purchaser's property in Seller's possession or control at Seller's sole expense in an amount equal to at least the replacement cost thereof, with losses payable to Purchaser and naming Purchaser as an additional insured.

11. **Hazardous Materials.** Seller shall promptly notify Purchaser in writing if any materials or Goods required by the Purchase Order are deemed hazardous under the laws, rules or regulations of any applicable governmental or regulatory authority. All Goods and materials under this Purchase Order shall be packaged, marked and shipped by Seller in compliance with all rules and regulations of applicable governmental or regulatory authorities and with any special requirements of Purchaser provided for in writing with this Purchase Order.

12. **Technical Support.** Seller shall provide technical and field support to Purchaser for the Goods as reasonably requested by Purchaser and at no cost to Purchaser. Seller shall provide a contact person who will be available for technical support on a regular basis during normal business hours, and an emergency contact who will be accessible twenty four (24) hours a day, seven days a week for emergencies.

13. **Indemnity.** To the fullest extent permitted by applicable law, Seller agrees to indemnify and hold harmless Purchaser, its subsidiaries, affiliates, successors, assigns, directors, officers, employees, agents, customers and users of its products (the "Indemnified Parties") against any and all claims, demands, losses, damages, liabilities, and obligations, including, without limitation, costs, expenses and attorneys' fees arising out of or relating to: (a) any claim that the Goods or Purchaser's use of the Goods constitutes an infringement of any patent, copyright, trademark, trade name, service mark or other proprietary right; (b) any claim that the Goods are defective; (c) any breach of warranty by Seller; or (d) the manufacture, use, sale, delivery or installation of the Goods. For any claim arising under (a) above, Seller shall have the right, at its sole expense, to obtain for the Indemnified Parties the right to continue using the Goods or to modify or replace the Goods in a manner acceptable to the Indemnified Parties in Purchaser's sole discretion. The relevant Indemnified Party shall notify Seller as soon as practicable of any claim under this Paragraph. Upon receipt of such notice, Seller shall promptly assume full responsibility for the defense of any suit and/or proceeding covered by this Paragraph. If Seller refuses to provide a defense to Purchaser as required above, nothing herein shall limit Purchaser's right to obtain competent counsel of its own choosing and to require Seller to pay costs associated therewith. **THE FOREGOING INDEMNITIES SET FORTH IN THIS ARTICLE 13 ARE INTENDED TO BE ENFORCEABLE AGAINST THE PARTIES IN ACCORDANCE WITH THE EXPRESS TERMS AND SCOPE THEREOF, NOTWITHSTANDING ANY EXPRESS NEGLIGENCE RULE OR ANY SIMILAR DIRECTIVE THAT WOULD PROHIBIT OR OTHERWISE LIMIT INDEMNITIES BECAUSE OF THE SIMPLE OR GROSS NEGLIGENCE (WHETHER SOLE, CONCURRENT, ACTIVE OR PASSIVE) OR OTHER FAULT OR STRICT LIABILITY OF ANY INDEMNIFIED PARTY. SELLER HERETO ACKNOWLEDGES THAT THE INDEMNITIES SET FORTH HEREIN MAY RESULT IN THE INDEMNITY OF A PARTY FOR ITS SIMPLE OR GROSS NEGLIGENCE (WHETHER SOLE, CONCURRENT, ACTIVE OR PASSIVE) OR OTHER FAULT OR STRICT LIABILITY OF THE INDEMNIFIED PARTY.**

14. **Assignment.** Without Purchaser's prior written consent, Seller shall not assign, delegate or subcontract all or any portion of this Purchase Order. Any purported assignment, delegation or subcontracting made without such consent shall be void. In no event shall any transfer or assignment of this Purchase Order relieve the Seller of any liability hereunder.

15. **Termination.** At any time, with or without cause, Purchaser shall have the right to terminate all or a portion of this Purchase Order by written or facsimile notice. Upon receipt of notice of cancellation, Seller shall immediately discontinue performance and shall comply with Purchaser's instructions concerning disposition of completed and partially completed Goods, work-in-progress and raw materials acquired pursuant to this Purchase Order. In the event of termination pursuant to this Paragraph, Purchaser's sole and only liability to Seller shall be Seller's reasonable direct costs of performance actually incurred prior to termination, plus (in the case of termination without cause only) an amount equal to the percentage of net profit Seller would have realized on any necessary work performed prior to termination of the Purchase Order, but less any salvage amount that Seller can realize by selling or using any raw materials, work in progress, or Goods. Seller shall have the burden of proof on all such amounts. In no event shall Purchaser's payment upon termination exceed the price specified herein for such Goods. Termination in accordance with this Paragraph shall not affect Purchaser's obligation to pay for Goods accepted by it prior to such termination.

16. **Default.** Notwithstanding any other provision herein to the contrary, in the event (i) any Goods delivered hereunder are defective or otherwise do not conform to Specifications; (ii) Seller fails to deliver any Goods in accordance with the delivery schedule set forth herein; (iii) Seller makes an assignment for the benefit of creditors, files or has filed against it proceedings in bankruptcy, if a receiver is appointed for Seller, or if Seller's financial condition becomes otherwise unsatisfactory to Purchaser; (iv) Seller, within ten (10) days after request by Purchaser for reasonable assurances, fails to provide Buyer with reasonable assurances of its ability to perform hereunder; or (v) Seller otherwise fails to comply with any of the terms hereof, the Buyer may deem this contract breached and hold Seller liable for all damages, whether direct or consequential, and all losses of every type, resulting from such breach. In such event, Purchaser shall be entitled to: (a) suspend its performance under this Purchase Order, (b) terminate this Purchase Order and have no further obligation to Seller; or (c) pursue any other right to remedy that Purchaser may have. Purchaser shall be entitled to set off all amounts Seller owes Purchaser as a result of the default against any amounts Purchaser owes Seller for Goods completed in full compliance with this Purchase Order. Nothing contained in Paragraph 15 above shall in any way limit or affect Purchaser's right to remedies related to Seller's default.

17. **Limitation on Purchaser's Liability.** Purchaser's liability to Seller on any claim of any kind for any loss or damage arising out of, in connection with, or resulting from this Purchase Order or from the performance or breach hereof shall in no case exceed the price allocable to the Goods (or units thereof) which give rise to such claim. In no event shall Purchaser be liable to Seller for anticipated profits or for any special, incidental, or consequential damages whatsoever, nor for penalties of any description.

18. **Confidential and Proprietary Information.** All disclosures, drawings, specifications, patterns or technical or business information furnished at any time to Seller by Purchaser shall remain the sole property of Purchaser, shall not be disclosed to any third party or be used by Seller other than in the performance of its obligations hereunder without the prior written consent of Purchaser, and any and all copies thereof shall be returned to Purchaser promptly upon Purchaser's request. In consideration of the grant to Seller of permission to enter the premises of Climate, which premises houses trade secrets, confidential information and proprietary operations and processes related to Climate's business and operations, Seller hereby agrees to keep confidential and not use, disclose or otherwise divulge any business information (including, but not limited to, equipment, process, operations, products or inventory) observed, discussed or otherwise obtained on the premises without Climate's prior written consent. Photographs may not be taken, recording devices may not be used and Climate's documents in any form or media may not be copied or removed from the premises without prior written consent from an authorized Climate representative.

19. **Rights and Remedies.** Purchaser's rights and remedies set forth herein shall be cumulative and in addition to all other rights and remedies available to Purchaser in law or equity.

20. **Waiver.** No waiver by Purchaser of any terms and conditions of this Purchase Order shall be effective unless in writing and signed by an authorized officer of Purchaser. Waiver by Purchaser of any breach of any provision contained herein shall not constitute or be deemed a waiver of any other breach of such provision or of any other provision. Purchaser's delay or failure to enforce any of its rights hereunder shall not be deemed a waiver of such rights.

21. **Severability.** Any part of this Purchase Order held to be invalid or unenforceable shall be deemed ineffective to the extent thereof without affecting the validity or enforceability of any part of this Purchase Order.

22. **Entire Agreement.** This Purchase Order contains the entire agreement of the parties and supersedes all prior and contemporaneous agreements, understandings, usages of trade and courses of dealing, whether written or oral. This Purchase Order may only be modified by a written agreement, signed by both parties, expressly modifying this Purchase Order.

23. **Headings.** The paragraph headings contained herein are for reference only and shall not affect in any way the meaning and interpretation of the terms and conditions set forth herein.

24. **Governing Law.** To the extent not inconsistent with the terms set forth herein, this Purchase Order shall be governed by the Uniform Commercial Code as adopted in the State of Virginia and shall otherwise be governed by the internal laws (notwithstanding the conflict of law provisions thereof) of the State of Virginia. Whenever a term defined in the Virginia Uniform Commercial Code is used herein, the definition contained in such Uniform Commercial Code is to Control. The United States Convention on Contracts for the International Sale of Goods does not apply to this Purchase Order and shall be disclaimed and excluded from any contracts placed by Seller with any of its suppliers.