

Rain Bird - Systems Mfg. Div.

THIS PURCHASE ORDER IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

This purchase order includes and incorporates all of the following terms and conditions. In them you are referred to as "Seller" and we are referred to as "Buyer". This purchase order with all its terms and conditions is an offer to enter into a contract. Seller's acceptance of this order, verbally or in writing, its commencement of work on the products, goods and/or services that are subject to this order (collectively, "Products"), or its shipment of any of the Products, whichever occurs first, will be an unqualified and unconditional acceptance and will create a contract between us based upon all of the terms and conditions in the purchase order. If rather than accepting this purchase order in full in one of the ways mentioned above, Seller presents or proposes other or different terms and conditions, those other or different terms and conditions are hereby rejected and notice of objection to them is hereby given, and will not be part of our contract but will represent a new offer by Seller which can only be effective on Buyer's acceptance of it in writing. Seller should therefore be aware that any acceptance by it with the addition of other terms will create a contract on the terms and conditions set forth in this purchase order only and the additional terms and conditions will not become effective unless specifically accepted by Buyer in writing.

- 1. Revocation of Offer.** If this order is not accepted by Seller in any of the ways described above within five (5) days of its receipt by Seller, it is deemed expired and may no longer be accepted, provided that, if Seller commences work on or ships the Products after the order has expired, Buyer in its sole discretion may choose to accept the Products, in which event this order shall be reinstated with respect to such Products.
- 2. Cancellation.** Buyer has the right to cancel this order or any part of it if at any time Seller breaches any provisions of the order or becomes insolvent or subject to any legal proceedings related to bankruptcy or the relief of debtors, in which event Buyer shall have no further obligation to pay Seller. Buyer furthermore may cancel this order or any part of it for its sole convenience at any time by written notice to Seller. In that case, Buyer will pay costs actually incurred by Seller prior to the time of cancellation, provided that Seller shall take all reasonable steps to limit and mitigate such costs. Cancellation of this order shall not terminate Seller's obligations with respect to any Products provided prior to cancellation, including without limitation Seller's obligations under Section 8 below. Buyer's responsibility to pay Seller's actual costs in the event of cancellation for convenience is conditioned upon Buyer and Seller in good faith reaching an agreement as to the amount of such actual costs.
- 3. Specifications.** All Products furnished under this purchase order must comply with any applicable specifications of Buyer. In the event of a conflict between Seller's published specifications and Buyer's specifications, Seller agrees to notify Buyer and proceed with the order based upon Buyer's Specifications.
- 4. Price.** The price for the Products covered by this order shall be as agreed to between Buyer and Seller and specified in this order. If no price is specified, the price shall be the lower of the last price quoted by Seller or the prevailing market price. Invoices shall be issued upon shipment of Products. Seller agrees that any price reduction made in Products covered by this order subsequent to the placement of the order will be applicable to the order. Prices are firm unless provision is made for escalation or decrease on the face of the order, including without limitation a decrease based upon a decrease in a commodity pricing index or other specified index. Seller warrants that prices are at least as favorable to Buyer as those offered by Seller to any of its other like customers.
- 5. Delivery.** Deliveries of Products are to be made both in the quantity and at the time specified in the order, unless changed by Buyer. Delays in shipment shall be immediately reported by Seller to Buyer. Buyer may cancel the order or refuse to accept delivery if quantities or deliveries are not made in accordance with the order. Title to and risk of loss or damage to Products shall transfer to Buyer at the time Seller delivers and Buyer accepts the Products. Every package or other shipping unit, bill of lading, shipping memorandum and invoice must include Buyer's purchase order number. Buyer may notify Seller in writing of carriers authorized by Buyer, in which case Seller shall only use such authorized carriers and, if Seller nevertheless uses a carrier that has not been authorized by Buyer, Buyer may either charge Seller or reduce the amount due Seller by the amount of any additional freight or other costs resulting from Seller's use of the unauthorized carrier.
- 6. Confidentiality.** All information belonging to or supplied by or on behalf of Buyer hereunder is confidential and/or proprietary including without limitation specifications, drawings, designs and samples, formulas and compositions, actual or potential customers, and manufacture and distribution methods and processes. Seller may not use confidential information except in the performance of the order and may not disclose confidential information. Seller is not allowed without the Buyer's written consent in advance to advertise, publish or disclose the fact that Seller is furnishing the items in this purchase order, nor may the Seller disclose any details of this transaction nor any information, drawings, designs, data or other matters concerning the Buyer that are not generally available public information. Upon Buyer's request, Seller shall return all confidential information to Buyer. Seller's confidentiality obligations hereunder survive fulfillment, cancellation or other termination of this order.
- 7. Buyer's Names and Marks.** Seller shall not (a) use Buyer's name, logos, or trademarks ("Buyer's Trademarks"), or (b) disclose that Buyer is a customer of Seller, including without limitation in any customer lists, advertising or marketing materials, without Buyer's prior written consent. Any Products rejected or not purchased by Buyer that bear Buyer's Trademarks should be destroyed immediately in the event Buyer's Trademarks cannot be removed from such Products, unless directed otherwise in writing by Buyer. If this purchase order includes accompanying drawings, artwork, or specifications that instruct or direct Seller to apply Buyer's Trademarks to the Products, then the terms of Sections 7.A and 7.B. apply. If there are no such instructions or directions to apply Buyer's Trademarks to the Products, then the terms of Section 7.A. shall not apply.
 - A. Limited Trademark License.** Buyer grants to Seller a limited, revocable, non-transferable, non-exclusive trademark license ("License") for Seller to apply to the Products in formats and color schemes specified solely by Buyer Buyer's Trademarks solely for supplying the Products to Buyer under this purchase order. Buyer has the right to reasonably monitor Seller's use of Buyer's Trademarks to ensure such use is consistent with this License and Buyer's instructions and trademark usage policies. Buyer has the right to inspect Seller's manufacturing and supplying of the Products, the facilities in which the Products are manufactured, packaged, stored, and distributed by Seller and Seller's staff on the premises of Seller upon reasonable notice to ensure adequate quality control of the Products and to notify and require Seller to comply with any quality control standards. Seller expressly agrees that Buyer is the exclusive owner or licensee of all right, title and interest in and to Buyer's Trademarks and all goodwill relating thereto, that the corresponding registrations therefore are valid, that all use of Buyer's Trademarks is solely for the benefit of Buyer, and that all goodwill generated by such use shall inure solely to the benefit of Buyer. Buyer may terminate this License at any time per the terms of Section 2, and in any event, this License shall terminate immediately upon the fulfillment of this purchase order.
 - B.** Notwithstanding anything to the contrary, Buyer is able to seek injunctive or other monetary relief in courts of law in any dispute or controversy or breach of this purchase order involving Buyer's Trademarks. Buyer and Seller agree to submit to the personal jurisdiction of the state and federal courts of Los Angeles county, California, U.S.A., without regard to any choice-of-law provisions. Buyer and Seller agree that monetary damages would not be a sufficient remedy for any breach of the License. In addition to all other remedies, Buyer shall be entitled to specific performance and injunctive and other equitable relief as a remedy for any breach or threatened breach of the License. Seller agrees to waive any requirement for the posting of any bond or the showing of actual monetary damages in connection with such remedy hereunder.

8. Warranties.

- A.** Seller warrants to Buyer and to all of Buyer's customers that all of the Products delivered under this purchase order will be of merchantable quality, free of defects in design, material and workmanship, are suitable for the purpose intended, whether express or implied, will conform to Buyer's specifications, drawings or samples, and will be safe for their intended use.
- B.** Seller indemnifies and agrees to hold harmless Buyer, and Buyer's customers, owners, directors, officers, employees and agents, against any and all liability, claim, loss, cost and expense including attorney's fees and costs that arise from or relate to a breach or alleged breach by Seller of this warranty in Section 8.A. Buyer's acceptance or approval of any of the Products or any sample of the Products will not relieve Seller from this indemnification. Without limiting the foregoing indemnification, in the event of breach of this warranty, Buyer may require Seller to either (1) refund to Buyer the aggregate price paid and all related costs, including labor and shipping, incurred by Buyer for all Products in breach of this warranty ("Defective Products") or (2) replace all Defective Products with new Products satisfying this warranty, all at Seller's sole cost and expense.
- C.** Seller warrants that it has performed all work in connection with filling this purchase order, and that all Products provided pursuant to this purchase order are, in strict compliance with all applicable U.S. and foreign federal, state and local laws and regulations.
- D.** Seller indemnifies and holds harmless Buyer, and Buyer's customers, owners, directors, officers, employees and agents, from any and all liability, claim, loss, cost and expense including attorney's fees and costs that arise from or relate to actual or claimed infringement of any patent, trademark, copyright, or other related right, or the misappropriation of trade secrets or breach of confidential relationships with respect to anything furnished under this order.
- E.** Seller indemnifies and holds harmless Buyer, and Buyer's customers, owners, directors, officers, employees and agents, from any and all liability, claim, loss, cost and expense including attorney's fees and costs that arise from or relate to any breach or alleged breach of this order, violation of law, injury to or death of any person or damage to or loss of any property arising out of the Products covered by the order or the performance of this contract by Seller, its servants, employees, agents, or representatives.
- 9. Insurance.** Seller agrees to provide insurance coverage until all the work under this order is completed and accepted by Buyer or such longer period as may be specified in this order, and immediately upon Buyer's request to furnish certificates from its insurance carrier showing the following types of insurance with limits of liability and geographical territories acceptable to Buyer: (a) worker's compensation not less than applicable statutory limits; (b) comprehensive general liability insurance providing contractual liability to insure the above hold harmless agreement and Products liability with limits not less than \$1,000,000 bodily injury and property damage, \$1,000,000 Products and completed operations liability, and \$2,000,000 general aggregate liability; and (c) automobile liability insurance with a limit not less than \$1,000,000 per occurrence. Buyer is to be named as an additional insured and coverage is to be primary and non-contributing with respect to all of the foregoing insurance coverage.
- 10. Price-Extras.** The price shown on this purchase order shall include any and all charges for taxes, transportation, boxing, packaging, as well as all applicable sales, use, excise, or similar taxes, unless specifically stated to be extras on this purchase order. If Seller's performance requires services or materials exceeding the amounts indicated on this purchase order, Seller must notify Buyer of this fact and request an additional purchase order or purchase order change notice to cover the extra work or materials. No payments will be made not covered by a purchase order.
- 11. Force Majeure.** Buyer may delay the delivery and/or the acceptance of Products or performance under this purchase order when it is occasioned by causes beyond Buyer's control.
- 12. Inspection.** Payment for Products shall not constitute acceptance thereof. All Products ordered under this purchase order are subject to final inspection and approval by the Buyer. Buyer will make the inspection within a reasonable time after delivery and any rejected Products will be returned at Seller's expense to Seller for credit. No replacement of defective Products will be made unless that replacement is specified on the Buyer's Purchased Material Nonconformance notice. Buyer may reject an entire shipment when it consists of a quantity of similar articles and sample inspection discloses that the articles inspected contain similar defects.
- 13. Changes.** No change in the terms of this order will be binding on Buyer unless made in writing and signed by Buyer. Nevertheless Buyer reserves the right to change the quantities, specifications, drawings, designs, method of shipment or packaging or the place or time of delivery or work. If any such change causes an increase in the cost of or the time required for completion of this order, an equitable written adjustment will be made in the price or the delivery schedule or both. If Seller becomes aware of any change in the manufacturing location or any material change in the manufacturing process of the Products that are the subject of this order, Seller (a) shall immediately provide written notice to Buyer of such change and (b) shall not ship any further Products under this order unless and until Buyer has approved the change, which approval shall be in Buyer's sole discretion. If Seller becomes aware of any change in lead times with respect to the Products that are the subject of this order, Seller (a) shall immediately provide written notice to Buyer of such change and (b) Buyer may continue to place orders subject to the previous lead times for a period of 120 days following such notice. Seller's obligations under the preceding two sentences shall extend for 365 days following shipment of the last Products under this order.
- 14. Assignment and Subcontracting.** Seller shall not assign or subcontract any rights or obligations under this purchase order without the prior written consent of Buyer, and any such assignment or subcontracting without Buyer's consent shall be null and void with respect to Buyer. Furthermore, any change in the ownership or control of Seller will be considered such an assignment and unless specifically accepted and consented to by Buyer at Buyer's option will result in immediate cancellation of this purchase order.
- 15. Liens.** Seller shall be solely responsible for all claims of whatever nature arising out of non payment for services, labor, materials furnished or contracted for by Seller in performance of work hereunder, including all liens that may be levied against Buyer or its customers. Buyer shall have the right to pay directly to all such lien holders or Seller's creditors any and all such amounts as may be due them and deduct same from any payments due Seller.
- 16. Buyer's Property.** All tools, equipment, molds, pattern plates, core boxes, dies, gauges, models, drawings, designs, formulations, art work, negatives, supplies, materials, subassemblies and other materials and property furnished by Buyer to Seller, paid for by Buyer or developed by Seller for Buyer (collectively, "Buyer's property") shall be and remain the property of Buyer. All Buyer's property and each individual item thereof will be plainly marked and identified as Buyer's property and will be stored separately wherever possible from the property of Seller or others. Seller will not substitute any of Buyer's property, deliver it, or make it available to any other party or use it for any purpose other than the performance of Seller's obligations in filling this purchase order or other purchase orders of Buyer. All Buyer's property, while in Seller's custody or control, will be held at Seller's risk and insured by Seller at Seller's expense in an amount equal to the replacement cost with the loss payable to Buyer. At any time and for any reason, upon Buyer's request, Seller shall immediately return and deliver Buyer's property to Buyer in the same condition as received or developed by Seller except for ordinary wear and tear. For the avoidance of doubt, Seller acknowledges and agrees that Seller has an absolute obligation to return Buyer's property immediately upon request, and Seller shall not refuse to return Buyer's property for any reason, including without limitation based upon any dispute with respect to Products or any amount owed or claimed to be owed. Seller shall be liable for all loss, damage, cost and expense arising out of any breach of its obligations under this provision, including without limitation the cost and expense incurred by Buyer or a new seller in developing substitute Buyer's property. In the event of loss or damage to any Buyer's property, Seller shall be immediately and fully responsible for the replacement of such Buyer's property or at Buyer's option for payment to Buyer therefore at the then current replacement cost. Within 10 days of the end of each calendar year, and at any time upon written request by Buyer, until all Buyer's property is returned to Buyer, Seller shall prepare and deliver to Buyer a complete written inventory of Buyer's property, including the location of all items of Buyer's property and such other items of information required by Buyer.
- 17. Continuing Availability of Parts.** Seller shall notify Buyer in writing at least 180 days prior to the date on which Seller intends to discontinue supplying Products covered by this order or no longer make such Products available. Seller agrees to offer for sale to Buyer, at the then existing order price, for a period of 4-years for material and 7-years for equipment after the expiration of this order, functionally equivalent maintenance, replacement and repair parts. If Seller fails to fulfill the foregoing obligation, then in addition to whatever rights and remedies Buyer may have at law or in equity, Buyer may require Seller to provide Buyer, at no charge, with technical information and rights to manufacture such parts itself or through a third party, including information regarding sources of supply and any required licenses to intellectual property.

18. Miscellaneous.

- A. Seller will comply with, and its Products furnished under this purchase order will comply with, all applicable U.S. and foreign federal, state and local laws, orders, and regulations, including without limitation the Equal Employment Opportunity Clause relative to equal employment opportunity and the implementing rules and regulations are incorporated herein by reference, the affirmative action commitment for disabled veterans and veterans of the Vietnam era, set forth in 41 CFR 60-250.4, the affirmative action clause for handicapped workers, set forth in 41 CFR 60-741.4, and the related regulations of the Secretary of Labor, 41 CFR Chapter 60, the Occupational Safety and Health Act of 1970 as amended ("OSHA"), the Toxic Substances Control Act as amended, the California Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65"), the Fair Labor Standards Act of 1938 as amended and the Foreign Corrupt Practices Act, which are all incorporated by reference herein, and with all health, safety, environmental and labor laws of other jurisdictions to the extent applicable. In addition, Seller shall comply with the minimum security criteria of the Customs-Trade Partnership Against Terrorism ("C-TPAT") initiative of U.S. Customs and Border Protection if Seller has been notified by Buyer during the seller qualification process or otherwise that Seller is required to comply with C-TPAT. Additionally, Seller shall provide a United States-Mexico-Canada Agreement ("USMCA") certificate and Country of Origin certificates to Buyer if required. By acceptance of this order, Seller certifies that any chemical substance(s) furnished pursuant to this order have been properly labeled, and that proper information regarding the substance(s) (for example, material safety data sheets) has been provided to Buyer in accordance with any and all applicable U.S. and foreign federal, state or local laws. Seller further certifies that its Products as furnished pursuant to this purchase order, and during and after incorporation into Buyer's Products, do not and will not expose persons, including customers, employees and otherwise in the environment, to chemicals known to the State of California to cause cancer or reproductive toxicity and do not require a warning under Proposition 65. Seller further certifies that materials incorporated into the Products comply with the laws regarding slavery and human trafficking of the country or countries in which Seller is doing business.
- B. The invalidity of any part of this purchase order will not affect the validity of other parts.
- C. The remedies in this purchase order are cumulative and they are in addition to any other remedies provided for at law or in equity. No waiver of a breach of any provision of this purchase order will be a waiver of any other breach or of such provision.
- D. Time is of the essence in this contract.
- E. Seller will pay all the reasonable costs, attorney's fees, and expenses that are incurred by Buyer in enforcing the terms and conditions of this purchase order.
- F. No changes to this purchase order may be made except by a writing signed by Seller and Buyer except as otherwise provided herein.
- G. This purchase order will be governed by the Uniform Commercial Code as adopted in the State of California as well as other applicable provisions of California law excluding the conflict of law provisions thereof. Buyer and Seller expressly agree that the U.N. Convention on Contracts for the international Sale of Goods shall not apply to this order and is specifically and wholly excluded.
- H. This purchase order constitutes the entire agreement between Buyer and Seller relating to the subject matter hereof and supersedes all prior oral or written negotiations, commitments and understandings of the parties.
- I. Dispute Resolution.
 - (1) Seller and Buyer agree to use good faith efforts to resolve any disputes, controversies, or claims arising under or in connection with this purchase order. In the event of a dispute, each party shall appoint an individual with authority to bind the respective party of at least a vice president or director level. The designated individuals shall meet in person or by conference telephone call within fifteen (15) business days of a notice of dispute to resolve the issues in dispute.
 - (2) Except as provided in section 7.B., any disputes, controversies, or claims arising under or in connection with this purchase order that the parties cannot resolve themselves pursuant to section 18.I.(1) above, including without limitation disputes, controversies, or claims pertaining to general application, validity, construction, interpretation, or enforceability of this purchase order including this Section 18.I., shall be settled exclusively by final and binding arbitration before a single arbitrator, conducted in Los Angeles County, California, in accordance with the rules and procedures of the American Arbitration Association.