

GENERAL TERMS AND CONDITIONS OF SALE OF SERVICES

These terms and conditions (collectively, "Terms and Conditions") govern all services and components supplied in the course of providing those services (collectively, "Services") agreed to be supplied by IXOM Watercare Inc ("Seller") to any person to whom any quotation is made or who is offering to contract with the Seller ("Buyer"). The Terms and Conditions are incorporated into any order, offer, arrangement or understanding between the Seller and the Buyer (including pursuant to a quotation or letter of offer accepted by the Buyer) as well as any quotation or invoice or any other document to which they are attached (individually and collectively "Order"). All purchases by Buyer are expressly limited and conditioned upon acceptance of the Terms and Conditions and without limiting any other mode of acceptance, Buyer's acceptance of the Services manifests Buyer's assent to the Terms and Conditions and the credit terms offered by Seller. Seller objects to and rejects any provision additional to or different from the Terms and Conditions that may appear in Buyer's purchase order, acknowledgement, confirmation, writing or in any prior or later communication from Buyer to Seller, unless Seller expressly agrees to such provision in a written amendment signed by Seller. An Order together with these Terms and Conditions are herein referred to as "Contract".

1. PRICES; TAXES; PAYMENT TERMS; DEFAULT.

(a) Prices for Services and any adjustments to such prices shall be determined in accordance with Seller's final pricing letter or offer forming part of the Contract which has been accepted by Buyer ("Price"). The Buyer may accept that pricing letter and its contents either through written confirmation or by accepting, receiving or allowing the provision of any of the Services.

(b) Prices do not include any sales, use, excise, privilege, or other taxes or assessments imposed on the Services sold hereunder and unless Buyer provides proof of exemption satisfactory to Seller, such may be added to the price of the Services.

(c) Subject to Section 1(e) and unless otherwise agreed in writing, payment terms are net 30 days from date of invoice. Payments not received when due shall incur service charges at the rate of 1½% per month (18% per annum) until paid, compounded on a daily basis.

(d) If any of the events set out in this Section 1(d)(i) through (v) below occur, Seller reserves the right, among other remedies, to delay or suspend further provision of Services or require full or partial cash payment in advance until all sums due have been paid. Buyer shall be liable for all costs and expenses incurred by Seller in collecting any overdue amounts, including without limitation reasonable attorneys' fees.

(i) Buyer defaults in any payments or is unable or states that it is unable to pay its debts as and when they fall due.

(ii) Buyer commits an act of bankruptcy, files a voluntary petition in bankruptcy or has filed against it an involuntary petition in bankruptcy or has a trustee, receiver, liquidator, custodian, conservator, manager, controller or voluntary administrator appointed in respect of Buyer's estate or any part of Buyer's property or assets.

(iii) Buyer passes a resolution for its winding up or enters into liquidation or has an application for winding up filed against it.

(iv) Buyer makes an assignment for the benefit of its creditors.

(v) Buyer experiences any analogous event having substantially similar effect to any of the events listed above.

(e) Notwithstanding Section 1(a), Seller may at any time in its sole and unfettered discretion and without being under any duty or obligation to assign reasons, review, alter or terminate Buyer's credit limit or payment terms without notice. Without limiting the generality of the foregoing, the decision of Seller shall be final and Seller accepts no liability or responsibility for any loss, howsoever arising, incurred by Buyer due to the operation of this condition.

2. SERVICE DELIVERY AND RESPONSIBILITY TO PURCHASE.

(a) Unless agreed otherwise in writing, all Service delivery dates are estimates only. Seller shall make all reasonable efforts to have Services completed on or about the date or within the time frame of the Order but Seller shall not be liable for any failure or delay in completion for any reason.

(b) Purchase orders issued by Buyer and placed with Seller are irrevocable and Buyer is contractually obliged to take delivery of Services and pay for all Services ordered and supplied or made available by Seller pursuant to such purchase order

3. INSPECTION; ACCEPTANCE.

Buyer shall promptly examine the Services for any defects or failure of the Services to comply with the Contract ("Defects"). All claims for Defects shall be deemed waived unless made in writing and received by Seller within:

(a) for components provided by the Seller – 90 days of completion of the Services; and

(b) for all other parts of the Services - 30 days of completion of the Services, ("Warranty Period").

If Buyer finds that any of the Services have Defects, Buyer may, at its option, reject that portion of the Services that fail to comply by providing Seller with a notice made in writing and received by the Seller within the applicable Warranty Period. Failure to timely deliver written notice of any such claim or rejection of the Services within the warranty period specified in this clause 3 shall be deemed an absolute and unconditional waiver of and bar against such claim for Defects and all claims related thereto and shall constitute an unqualified acceptance of such Services, irrespective of whether the facts giving rise to such claim shall have then been discovered or of whether use or application of the Services shall have then taken place.

4. LIMITED WARRANTY.

(a) Subject to Section 4(e) and Section 7 below, Seller warrants that the Services shall conform to the specifications, scope and description agreed by the parties in writing and contained or referenced in the Order and that components supplied in the course of providing the Services will be free from material defects.

(b) Buyer is solely responsible for determining that the Services and their specification and scope are appropriate for Buyer's intended use. Any advice or recommendations by Seller with respect to the Services or the use of the Services are provided in good faith based on tests or experience believed to be reliable but such advice or recommendations are not warranted. Buyer agrees that it is responsible for ensuring that Services that comply with the warranties in Section 4(a) are fit and suitable for its purposes, requirements, processes, plant and equipment.

(c) To the maximum extent permitted by law, Seller makes no other representation or warranty of any kind, and hereby expressly disclaims all other representations or warranties, express, implied, statutory or arising from a course of dealing, usage of the trade or otherwise, including without limitation any representation or warranty as to merchantability, fitness for a particular purpose, or any other matter with respect to the Services, whether used alone or in combination with any other services or equipment.

(d) In the event the exclusion of some or all of such warranties under section 4(c) for any of the Services would be illegal, the Seller's liability for any additional warranty is limited to the extent required by applicable law and, to the extent permitted by such law is subject to section 4(e) and section 5.

(e) Without limiting clauses 3 and 4(d) of above, Seller's sole liability and Buyer's sole remedy for breach of warranty are specifically limited to the re performance of the non-conforming Services and, where applicable, resupply of components supplied in the course of providing the Services, or the cost of such re-performance or resupply where Seller fails to rectify the breach in a timely manner. Should these remedies be found by a court with jurisdiction over the supply of Services and this Contract to be legally unenforceable, Buyer agrees that the return of the amount paid by the Buyer to the Seller for the purchase of the Services which fail to conform with the warranties set forth in section 4 shall be considered a fair and adequate remedy and prevent the remedies from failing of their essential purpose.

5. LIMITATION OF LIABILITY.

(a) The liability of Seller and its affiliates to Buyer under and in connection with the Contract is limited to the price allocable to the Services giving rise to the claim and in no event shall the cumulative liability of Seller howsoever arising, whether under warranty, contract, tort, negligence, strict liability, indemnification, defense or any other cause or combination of causes whatsoever, exceed the total payments received from Buyer under the Contract in connection with the Services.

(b) To the extent permitted by law and notwithstanding any provision to the contrary in the contract, Seller shall not be liable for special, indirect, incidental or consequential damages, including without limitation, loss of profits, loss of business revenues, loss of capital, failure to realize expected profits or savings, overhead costs, loss by reason of service interruption or increased expense of operation, loss of goodwill, loss of reputation, loss of value in any intellectual property, damages or liquidated sums payable pursuant to other agreements or to other third parties, other economic losses, whether arising under warranty, contract; negligence (including negligent misrepresentation) or other tort, strict liability, breach of statute, indemnification, or any other cause or combination of causes, including any theories of concurrent liability arising from a duty of care by operation of law or otherwise.

6. INDEMNIFICATION.

- (a) Buyer is obligated to provide the Seller and its employees and subcontractors with all permits to work required by law in connection with the provision of the Services, and Seller will not be required to commence performance of the Contract or the provision of the Services until such permits to work have been provided to the Buyer.
- (b) To the maximum extent allowed by law, Buyer assumes all risks and liability whatsoever for all injuries, losses and damages to persons or property or otherwise and shall indemnify, defend and hold harmless Seller and Seller's employees and agents against all claims, damages, losses, costs, liabilities, and other expenses (including investigation and attorneys' fees) that Seller incurs or may be obligated to pay as a result of (i) Buyer's, its employees', agents', carriers' or customers' violation or alleged violation of any Law, or (ii) Buyer's breach of any of its obligations set forth in this Contract including without limitation in clause 6(a).

7. FORCE MAJEURE.

Completion of the Services may be totally or partially suspended or delayed by Seller during any period in which the Seller may be prevented or hindered from delivery or supply through the Buyer's failure to provide the necessary permits to work, or through any circumstances outside Seller's reasonable control or where such delivery or supply of Services is rendered materially more expensive by such circumstances. Circumstances beyond Seller's reasonable control shall be deemed to include, without limitation, strikes, lockouts or other labor difficulty; acts of carriers; acts of God; acts of civil or military authorities; acts or omissions of Buyer; war; riot; fire; explosion; acts of terrorism; flood; any inability to obtain or lack of any necessary or adequate materials, inputs, fuel, power, labor, equipment, containers, facilities or services on usual terms; power or water shortage; accidents or breakdowns or failures of plant or machinery or apparatus; breakdown or failure of any software, hardware or communication network; changes in applicable Laws; or any other event, whether or not enumerated herein, beyond the reasonable control of Seller that makes impractical the supply of the Services or of a material or other resource upon which the Services depends. Seller shall not incur any liability to Buyer in respect of such suspension.

8. INTELLECTUAL PROPERTY.

Seller is the sole and exclusive owner of the Intellectual Property in the Services and processes incorporated in such Services, and the rights attached to that Intellectual Property. Nothing herein grants to Buyer any right, title or interest in or to any of the Intellectual Property in the Services. Buyer shall not claim to have acquired any right, title or interest to the Intellectual Property in the Services by virtue of purchasing Services sold hereunder. Buyer shall not deconstruct, reverse compile or reverse engineer the Services in any way for the purpose of deciphering or replicating the composition of the Services. As used herein, "Intellectual Property" means any intellectual or industrial property right anywhere in the world including, without limitation, any patent, patent application, utility model, copyright (including copyright in manuals, databases, and promotional materials), registered design and other design rights, unpatented secrets and innovations, confidential information, and any other rights that may subsist anywhere in the world in improvements, inventions and other manufacturing processes or technical and other information of Seller. Buyer shall not resell, distribute or supply the Services to any third party for any reason without Seller's prior written consent.

9. CONFIDENTIALITY; ENTIRE AGREEMENT; AMENDMENTS; CHANGES TO TERMS AND CONDITIONS.

- (a) All information that Buyer acquires from Seller hereunder, directly or indirectly, and all information that arises out of the sale of the Services hereunder, concerning such Services and/or proprietary processes involved, including information concerning Seller's current and future business plans, information relating to Seller's operations, know-how, and other Seller-furnished information shall be deemed Seller's "Proprietary Information". Buyer shall (a) hold Seller's Proprietary Information in strictest confidence, (b) not disclose it to others, (c) use it solely for purposes of this Agreement and (d) upon Seller's request, either promptly deliver to Seller all such Proprietary Information that is in written, electronic or other form, including copies and summaries, or, at Seller's option, destroy such Proprietary Information and provide Buyer certification of such destruction. The obligations under this Section shall survive the expiration or termination of the Contract.
- (b) The Contract constitutes the entire agreement of the parties with respect to the purchase and sale of Services and supersedes and excludes all prior and other discussions, representations (contractual or otherwise) and arrangements relating to the supply of Services, including but not limited to, those relating to the performance of Services or results that ought to be expected from using the Services.
- (c) The Seller may change these Terms and Conditions from time to time. These Terms and Conditions and any changes to the Terms and Conditions will be shown on the website www.ixom.com, together with the date on which any new

Terms and Conditions become effective. It is the Buyer's obligation to check the Seller website or ask the Seller to provide a copy of the most up to date Terms and Conditions at the time Buyer enters into a Contract. By entering into a Contract after the date upon which the new Terms and Conditions become effective the Buyer accepts and is bound by the changed Terms and Conditions for that Contract and future Contracts. If the Buyer does not accept the changes to the Terms and Conditions, it may notify the Seller to close its account. No amendment or variation of the Contract, other than amendment or variation to the Terms and Conditions as set out in this clause 9(c), is valid or binding on a party unless made in writing and executed by both parties.

10. GOVERNING LAW.

The rights and duties of the parties and any dispute regarding the sale of Services covered hereby shall be resolved according to the laws of the state of Colorado, without regard to its conflicts of law provisions. Buyer hereby agrees to submit to the non-exclusive jurisdiction of the courts in the state of Colorado. Any controversy or claim arising out of or relating to the sale of Services or the dealings between the parties shall be settled exclusively by arbitration in Denver, Colorado by a single arbitrator pursuant to the American Arbitration Association's Commercial Arbitration rules then in effect, and judgment upon the award shall be entered in any court having jurisdiction thereof. The prevailing party in any arbitration proceeding shall be entitled to recover its reasonable attorneys' fees and costs, in addition to any other relief obtained.

11. WAIVER.

No failure to exercise nor any delay or omission in exercising any right, power or remedy by Seller operates as or constitutes a waiver. A single or partial exercise by Seller of any right, power or remedy does not preclude any other or further exercise by it of that or any other right, power or remedy. A waiver is not valid or binding on Seller unless made in writing. No failure by Seller to exercise, nor any delay or omission by Seller in exercising any right, power or remedy nor any representation made or conduct carried out by Seller under the Contract or in connection with the supply of Services or any of them shall constitute or provide grounds for a common law or equitable estoppel.

12. SEVERANCE.

If any provision of the Terms and Conditions or its application to any person or circumstances is or becomes invalid, illegal or unenforceable, the provision shall so far as possible be read down to such extent as may be necessary to ensure that it is not invalid, illegal or unenforceable. If any provision or part of it cannot be so read down, the provision or part of it shall be deemed void and severable and the remaining provisions of the Terms and Conditions shall not in any way be affected or impaired.