

## CleanAire, Inc. a MANN+HUMMEL Company - STANDARD TERMS AND CONDITIONS OF SALE

### CONTROLLING TERMS AND CONDITIONS.

CleanAire, Inc. ("CleanAire") provides the following Terms and Conditions of Sale ("Terms") which apply to all quotations, and sales made by CleanAire and to all purchases by customer, owner or agent ("Purchaser"). These Terms are the only conditions applying to the sale of CleanAire's products or services, except conditions relating to prices, quantities, delivery schedules, terms of payment, invoicing, shipping instructions, and the description and specifications of the goods, together with other written conditions which may be mutually agreed upon by the parties in writing. Acceptance by Purchaser of CleanAire's quotation is expressly and exclusively limited to the terms, conditions and limitations contained herein, with the exceptions described, which terms and conditions supersede all prior statements, proposals, negotiations, representations and agreements and shall constitute the entire agreement between CleanAire and Purchaser with respect to the subject matter hereof. This serves as written objection to and rejection of all inconsistent or additional terms, conditions and limitations contained on any form or writing of Purchaser. Purchaser's acceptance of these terms and conditions shall be deemed to have occurred unless written notice of rejection is received by CleanAire within five (5) calendar days of receipt of this document. In any event, Purchaser's acceptance of delivery of the goods sold hereunder shall manifest Purchaser's assent to the terms, conditions and limitations contained herein. CleanAire shall not be deemed to have waived the terms and conditions contained herein if CleanAire fails to object to the conditions appearing in, incorporated by reference, or attached to a purchase order. If Purchaser issues multiple purchase orders or makes other requests of CleanAire for goods or services, each such order or request shall be subject to these terms and conditions of sale regardless of Purchaser's other terms of any such order or request, and regardless of the method in which the order was placed.

**1. TIME LIMIT.** All quotations are valid for a period of sixty (60) days, unless otherwise specified in writing.

**2. SHIPMENT.** Pricing and shipping terms shall be Ex-works the manufacturing facility. Title, risk of loss and/or damage will pass to the Purchaser upon shipment of the goods. If the Purchaser has not issued inspection or shipping instructions by the time the goods are ready for shipment, CleanAire may select any reasonable method of shipment, without liability by reason of its selection. Shipments made on Purchaser's behalf shall be insured at Purchaser's expense. If CleanAire is required to arrange for shipment of the goods or any parts thereof, Purchaser shall reimburse CleanAire for all freight, insurance and other shipping related costs plus a 30% handling fee. Shipment of goods held by reason of Purchaser's request or inability to receive goods will be at the risk and expense of Purchaser. Claims for shortages in shipment shall be deemed waived unless made in writing to CleanAire within ten (ten) days from date of the invoice.

**3. PAYMENT TERMS.** Payments will be made in accordance with the specified payment schedule. All payments are due net thirty (N:30) days from the date of invoice, unless otherwise specified. A finance charge of 1.5% per month (18% per annum) or the legal maximum (whichever is less) will be charged on the unpaid balance of past-due accounts. Purchaser agrees to pay all costs of collection including reasonable attorneys' fees. All claims and returned goods must have prior written authorization. Purchaser's failure to make payment when due will be a material breach of the order and these Terms. CleanAire, at its sole option and without incurring any liability, may suspend performance, and shipments, until such time as the overdue payment is made, or CleanAire receives assurances, adequate in opinion of CleanAire, that payment will be promptly made. If in the judgment of CleanAire, Purchaser's financial position does not justify the terms of payment specified, CleanAire may require full or partial payment prior to shipment of the goods. Purchaser agrees to furnish CleanAire with required credit information. Payments for certain export shipments will be in accordance with the specified payment schedule included herein by way of an Irrevocable Letter of Credit, established in favor of CleanAire, drawn on and, if required, confirmed, by a prime US bank approved by CleanAire. The Letter of Credit is to be established at the time of the award of the order. All costs associated with the Letter of Credit will be for the Purchaser's account.

**4. TAXES / DUTIES.** Federal, State, or local indirect taxes, including but not limited to sales and/or use taxes, VAT taxes, GST taxes or any similar tax and any import or export duties, fees or taxes are not included in the prices set forth herein. Such taxes and any import and export duties, fees or taxes shall be the responsibility of Purchaser.

**5. WARRANTY.** CleanAire warrants title to product(s) and except as noted below with respect to items not of CleanAire's manufacture, also warrants the product(s) on date of shipment to Purchaser, to be of the kind and quality described herein, merchantable, and free of defects in workmanship and material. This warranty is expressly in lieu of all other warranties, including, but not limited to, implied warranties of merchantability and fitness, and constitutes the only warranty of company with respect to the product(s).

If within one year from date of initial operation, but not more than eighteen months from date of shipment by CleanAire of any item of product(s), Purchaser discovers that such item was not as warranted above and promptly notifies CleanAire in writing thereof, company shall remedy such nonconformance by, at CleanAire option, adjustment or repair or replacement of the item and any affected part of the product(s). Purchaser shall assume all responsibility and expense for removal, reinstallation, and freight in connection with the foregoing remedies. The same obligations and conditions shall extend to replacements furnished by company hereunder. CleanAire shall have the right of disposal of parts replaced by it.

Any separately listed item of the product(s) which is not manufactured by the CleanAire is not warranted by the CleanAire; and shall be covered only by the express warranty, if any, of the manufacturer thereof. This states purchaser's exclusive remedy against CleanAire and its suppliers in relation to the product(s), whether in contract or in tort or under any other legal theory; and whether arising out of warranties, representations, instructions, installation or defects from any cause.

CleanAire and its suppliers shall have no obligations as to any product which has been improperly stored or handled, or which has not been operated or maintained according to instructions in CleanAire or supplier furnished manuals.

EXCEPT FOR THE EXPRESS WARRANTY STATED HEREIN, CleanAire DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE GOODS, INCLUDING ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

**6. CONFIDENTIAL INFORMATION.** The information, drawings and specifications furnished by CleanAire have been developed at CleanAire expense and shall not be used or disclosed by Purchaser for any purpose other than to install, operate, and maintain the goods supplied hereunder.

**7. DELIVERIES.** The delivery date(s) quoted are based on CleanAire best estimate of a realistic time when delivery to the carrier will be made, and are subject to confirmation at time of acceptance of any resulting order. CleanAire reserves the right to make either early shipment or partial shipments and invoice Purchaser accordingly.

**8. CHANGE ORDERS AND PRICING.** Changes or cancellations to orders will only be processed within 24 hours from order entry date. If a cancellation is required more than 24 hours from the order entry date, a written request must be filed with the sales department for consideration. ([customer@mann-hummel.com](mailto:customer@mann-hummel.com))

Prices are subject to change without prior notice. Price changes are effective on the date specified by the sales department and all orders placed after the specified date will be billed at the revised price. All prices will be based on the current pricing portal unless otherwise stated by sales. All special quotes will need to be approved by management and will expire on a set date. If an order is received after the quote is expired, pricing will follow current portal pricing.

Purchase orders must amount to a minimum of \$100.00 net (this is the total amount for your entire order, any combination of CleanAire products). Total orders for less than this amount will be raised to the \$100.00 minimum, excluding taxes and shipping.

All sales, excise, and similar taxes which CleanAire may be required to pay or collect with respect to the goods covered by this order shall be for the account of the Purchaser, except as otherwise provided by law.

**9. EXCUSABLE DELAYS.** CleanAire shall not be liable for loss, damages, detention, or delays resulting from causes beyond its reasonable control or caused by but not limited to strikes, restrictions of the United States Government, or other governments having jurisdiction, delays in transportation, inability to obtain necessary labor, materials, or manufacturing facilities, or any other cause reasonably beyond its control, whether similar or dissimilar to those listed.

**10. SHIPPING DELAYS.** If the goods are ready to ship in accordance with the terms of sale and Purchaser is not ready to take possession of same, the goods will be "Shipped in Place" (as commonly defined by generally accepted accounting principles), and Purchaser will thereupon assume all responsibility for and risk of loss or damage to the goods. At Purchaser's option, Purchaser may obtain insurance coverage in case of loss or damage to the goods Shipped in Place. Title transfer to the goods will occur at time of invoice. Upon Shipment in Place, CleanAire will be entitled to receive payment due upon shipment in accordance with the Payment Terms. Upon Purchaser's request, CleanAire will arrange to deliver the goods to a freight forwarder or warehouse for storage. All transport and storage costs shall be the responsibility of Purchaser. Purchaser shall bear all risk of loss or damage during transport and storage.

**10. PATENT INDEMNITY.** If the goods furnished hereunder are specified in this Agreement as being "standard commercial products" of CleanAire, CleanAire agrees to indemnify Purchaser, its successors, assigns, agents, and users of its products against loss, damage, or liability, including cost and expenses, which may be incurred on account of any suit, claim, judgment or demand involving infringement or alleged infringement of any patent rights in the manufacture, use or disposition of any goods supplied hereunder, provided Purchaser shall promptly notify CleanAire of any suit instituted against it and, to the full extent of its ability to do so, shall permit CleanAire (at CleanAire's sole discretion) to defend the same or make settlement in respect thereto. In the event the goods furnished hereunder are produced to the special specifications of Purchaser, no liability under this paragraph shall arise against CleanAire. In like manner, Purchaser agrees to save CleanAire harmless from patent infringements resulting from CleanAire's compliance with designs and/or specifications not originating with CleanAire now or hereafter forming a part of this Agreement or with specific written instructions given by Purchaser for the purpose of directing the manner in which CleanAire shall perform this Agreement.

**11. USE OF PRODUCTS.** CleanAire grants no license or right, expressly or by implication, estoppel, or otherwise, beyond the right of Purchaser to use the specified goods in the form delivered by CleanAire. Further, CleanAire's products are offered for sale and are sold subject in every case to the condition that such sale does not convey any license, expressly or by implication, estoppel, or otherwise, under any patent claim with respect to which CleanAire could grant licenses covering any other product, or any method or process in which, or in the manufacturing or testing of which, any such CleanAire's products are used (notwithstanding that such CleanAire products may have been designed only for use in, or may only be useful in, such other patented products or such patented equipment, assembly, method or process, or in the manufacturing or testing thereof, and that CleanAire's products may have been purchased and sold for such use). CleanAire expressly reserves all its rights under such patent claims.

**12. PRODUCT CHANGES/IMPROVEMENTS.** CleanAire reserves the right to change materials/processes as deemed appropriate to facilitate product improvements. Therefore, product configuration may be slightly different than that depicted in product literature. Any changes made will be within the confines of industry specifications for each respective product.

**13. PROPRIETARY RIGHTS.** The prints, drawings or specifications of CleanAire furnished by CleanAire to Purchaser in connection with the obtaining or the performance of this Agreement are the property of CleanAire and represent a proprietary article with respect to which CleanAire retains all United States or foreign letter patent, trademarks or copyrights, including exclusive rights of use, manufacture and sale. Possession by Purchaser of such prints, drawings or specifications does not convey any permission to manufacture, use or sell any goods shown thereon, and such information is disclosed to Purchaser on a confidential basis.

**14. CONFORMANCE WITH LAW.** Purchaser assumes all responsibility for conformance of the goods with laws, rules, regulations and ordinances of any governmental or quasi-governmental agency applicable to the use or operation of the goods.

**15. INSTALLATION / FIELD SERVICE.** Installation of goods furnished hereunder will be by the Purchaser, unless otherwise agreed to in writing. Field service will be provided on a "per diem" basis upon written authorization by the Purchaser and will be at the rates in effect at the time such services are provided. Field service at the job site to diagnose problems with the goods will be provided on a per diem basis at the then current rates,

**16. CANCELLATION.** The cancellation of any order must be by written notice and will be subject to cancellation charges which will include all expenses incurred by CleanAire and a reasonable profit on the sale.

**17. RESTOCKING FEE.** If Purchaser orders the wrong goods, they may NOT be returned to CleanAire unless the following conditions have been met:

- a. CleanAire has authorized the return of the material and has issued a RETURN MATERIAL AUTHORIZATION
- b. the goods are unused and undamaged
- c. the goods are standard CleanAire products or parts
- d. the goods are returned with all freight costs paid
- e. the Purchaser pays a restocking fee of twenty-five percent (25%) of the original purchase price of the goods.

NOTE: CleanAire will not authorize the return of any chemical products under any circumstances.

**18. RETURN OF PRODUCTS.** The following conditions apply to return of products.

- a. The Purchaser must report concealed damages in writing within 30 business days of receipt of product. The report must include photographs.
- b. Visible shipping damages must be reported within 15 days following delivery. The report must include POD with signature and confirmation of damages at time of delivery, along with copy of notification to carrier.
- c. Quantity discrepancies and any errors in shipment must be reported within 10 days of delivery in writing with photographs and there must be proof by the carrier of the shortage.
- d. Purchaser is liable for any reconsignment charges due to Purchaser's error.
- e. CleanAire is not liable for any damages, shortages, errors for collect, 3rd party or will call shipments.
- f. Purchaser will have 30 days from the date of receipt of product to inspect such products for any other defects and nonconformance which are not due to damages, shortage, and errors from shipping to notify company in writing of any defects, nonconformance, or rejection of such products. If Purchaser does not notify company within 30 days in writing, Purchaser will be deemed to have irrevocably accepted products. The sole and exclusive remedy for the products alleged to be defective in workmanship or material shall be replacement of the products, subject to CleanAire's inspection and limited warranty.
- g. Purchaser shall have 30 days upon receipt of invoices to dispute any discrepancies that don't match their purchase order in writing. If any invoice is not disputed within 30 days of receipt in writing, Purchaser shall be deemed to have irrevocably agreed that the invoice(s) was billed correctly.
- h. Purchaser must report in writing to CleanAire any products that were not received by confirmed delivery date within 10 days of confirmed delivery. If Purchaser does not report receiving products within 10 days, Purchaser is deemed to have irrevocably agreed that they received shipment.
- i. Credit will be applied on Purchaser's open account, not via cash reimbursement
- j. Any approved credit memos received on accounts with a past due balance over 60 days late will remain pending until the past due balance is paid.

**19. CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY.** CleanAire will not be liable for any lost profits, indirect, special, incidental, or consequential damages of any kind, whether arising under warranty, contract, negligence, strict liability, indemnification, or any other cause or combination of causes whatsoever, and regardless of whether such damages are foreseeable. This limitation will apply notwithstanding any failure of essential purpose or any limited remedy. In no case will CleanAire liability exceed the amount paid to CleanAire by the Purchaser for the specific goods giving rise to such liability. Purchaser agrees to indemnify and hold CleanAire harmless from and against all liabilities, claims, and demands of third parties of any kind relating to the goods and their use arising after shipment of the goods. In no event shall Purchaser, its successors or assigns, commence any action arising out of the sale, delivery or use of the goods and regardless of the form of action, later than one (1) year after the cause of action has accrued.

**20. MODIFICATION.** No change, modification, or waiver to any terms or scope of the order will be binding and valid unless it is accepted in writing and signed by an authorized representative of CleanAire.

**21. ASSIGNMENT.** This order may not be transferred or assigned by Purchaser by operation of law or otherwise, without the prior express written consent of CleanAire. Any transfer or assignment of any rights, duties, or obligations hereunder without such consent shall be void.

**22. EXPORT SALES.** Customer agrees to comply with all export laws of the United States and of any country having jurisdiction over Purchaser. Specifically, Purchaser will not, directly or indirectly, sell, export, re-export, transfer, provide, divert, loan, lease, consign or otherwise dispose of goods received in connection with this order to any person, entity, or destination prohibited by the laws or regulations of the United States without obtaining prior authorization from the competent government authorities as required by those laws and regulations.

**23. ANTI-BRIBERY / ANTI-CORRUPTION.** The Purchaser represents and warrants that they understand and comply with the requirements of the United States Foreign Corrupt Practices Act and all other applicable anti-bribery and anti-corruption laws of the jurisdictions under which each party is or may be acting hereunder.

**24. SEVERABILITY.** If any provision in these Terms is declared invalid by any court or government agency, all other provisions shall remain in full force and effect.

**25. NON-WAIVER.** Either party's failure to insist upon strict performance of any provisions of these Terms shall not be deemed to be a waiver of that party's rights or remedies, or a waiver by that party of any subsequent default by the other in the performance or compliance with these Terms. In addition, delay in forcing compliance with these terms shall not be deemed a waiver.

**26. GOVERNING LAW, JURISDICTION, AND VENUE.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of North Carolina without giving effect to any choice or conflict of law provision or rule (whether of the State of North Carolina or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of North Carolina. Any legal suit, action, or proceeding arising out of or related to this Agreement or the matters contemplated hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of North Carolina, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding and waives any objection based on improper venue or *forum non conveniens*. Service of process, summons, notice, or other document by mail to such Party's address set out herein shall be effective service of process for any suit, action, or other proceeding brought in any such court.

**27. LIMITATION OF ACTIONS.** Any legal action brought hereunder must be commenced within one year after the cause of action has occurred.