

STANDARD TERMS AND CONDITIONS OF SALE

1. **DEFINITIONS.** "Hydro" is Hydro International Stormwater, Inc., with an address of 94 Hutchins Drive in Portland, Maine. "Buyer" is the party purchasing the goods from Hydro.
2. **GENERAL.** Hydro's agreement is based on these terms and conditions of sale. This document, together with any additional writings signed by Hydro, represents a final, complete, and exclusive statement of the agreement between the parties and may not be modified, supplemented, explained, or waived by parol evidence, Buyer's purchase order, any course of dealing, Buyer's payment or acceptance, or in any other way except in writing signed by Hydro through its authorized representative. These terms and conditions are intended to cover all activity of Hydro and Buyer hereunder, including sales and use of products, parts, and work, and all related matters (references to products include parts and references to work include construction and installation). Hydro's obligations hereunder are expressly conditioned on Buyer's assent to these terms and conditions. Hydro objects to any terms that are different from, or additional to, these terms and conditions. Any applicable detail drawings and specifications are hereby incorporated and made a part of these Terms and Conditions of Sale insofar as they apply to the material supplied hereunder. We reserve the right to alter, amend or replace any or all of these terms and conditions at any time and without notice. Please download or print a copy of this document for your reference.
3. **SPECIFICATIONS.** Products are supplied in accordance with information received by Hydro, or its duly authorized agent, from Buyer. Hydro shall have no responsibility for products created or sold based upon inaccurate and/or incomplete information supplied to it. Buyer shall ensure that Hydro receives all relevant information in time to enable it to supply the appropriate products.
4. **INSTALLATION AND APPLICATION OF PRODUCTS.** Products supplied hereunder shall be installed and used only in the particular application for which they were specifically designed. Buyer should not presume that any products supplied by Hydro may be utilized for any applications other than those specified; nor shall Hydro's obligations, including, without limitation, any warranty obligations, survive Buyer's transfer of products supplied hereunder to third parties unless the products are transferred with Hydro's consent. In addition, Buyer shall not use any product supplied hereunder at any location other than at the location for which Hydro has previously received notice from Buyer. Any breach of any of the foregoing restrictions may amount to an infringement of the patent for the products in question and will in any event void all express or implied warranties relating to the products supplied hereunder.
5. **PURCHASE PRICE AND PAYMENT TERMS.** All prices are in U.S. dollars and all payments shall be made in U.S. dollars. Payment terms are Net 30 Days from date of invoice according to the following schedule, unless otherwise stated in writing by Hydro:

	Incremental Payment	Cumulative Payment
Upon Approval of Shop Drawings	50%	50%
Upon Delivery of Equipment to Site	50%	100%

If payments are not made in conformance with the terms stated herein, any unpaid balance shall be subject to interest at a rate 1½% per month, but not to exceed the maximum amount permitted by law. If shipment is delayed by Buyer, the previously agreed date of readiness for shipment shall be deemed to be the date of shipment for payment purposes. If manufacture is delayed by Buyer, a payment shall be made based on purchase price and percentage of completion, with the balance payable in accordance with the terms as stated. If at any time in Hydro's judgment Buyer may be or may become unable or unwilling to meet the terms specified, Hydro may require satisfactory assurance or full or partial payment as a condition to commencing, or continuing manufacture, or in advance of shipment.

Until payment in full has been received by Hydro, this Standard Terms and Conditions of Sale shall constitute a security agreement and Buyer hereby grants Hydro a purchase money security interest in and to the products produced by Hydro hereunder, and any products or proceeds thereof. In particular:

- (i) Hydro will retain an express purchase money security interest in and to the products and all proceeds thereof.
- (ii) Until full payment for the products is received by Hydro, Hydro reserves the right to retake possession of the products at any time and for this purpose Buyer authorizes Hydro or its duly authorized agent to enter upon land or premises where it believes the product may be.
- (iii) Proceeds of any disposal of the products shall be held in trust for Hydro pursuant to the terms of the Maine Uniform Commercial Code.
- (iv) Buyer grants Hydro a power of attorney for the purpose of filing a UCC-1 financing statement in the name of Buyer to evidence Hydro's security interest in the products.

6. **BACKCHARGES.** In the event that Buyer is required to make repairs, corrections or modifications to the goods supplied by Hydro, it shall only do so upon written approval from Hydro. Backcharges shall be limited to the costs directly associated in making the repairs, corrections or modifications to the goods supplied by Hydro. The costs of such backcharges shall be subject to approval by Hydro and shall be limited to: (1) directly related labor and material costs, (2) directly related equipment and tool rental at prevailing rates in the project location and (3) Buyer's overhead & supervision costs to make repairs, corrections or modifications to the goods supplied by Hydro. Buyer shall submit complete documentation to Hydro's satisfaction including but not limited to labor time sheets, material lists, and rental fees detailing the nature of the back charges. Backcharges shall be in the form of an adjustment to the contract price or reduction in retained payments and not a direct payment. No incidental or consequential backcharges shall be allowed.
7. **DELIVERY.** The goods are sold F.O.B. manufacturing site, freight prepaid to Buyer at job site, unless otherwise stated in writing by Hydro. Except as outlined in Paragraph 8 below, the risk of loss passes to Buyer after Hydro delivers the goods to the carrier. Hydro reserves the right to select the method of shipment and carrier. Delivery dates are approximate only and are not a guarantee of delivery on a particular day. Hydro is not liable for failure or delays in deliveries of any cause whatsoever beyond the control of Hydro.
8. **TITLE & INSURANCE:** Title to the product(s) and risk of loss or damage shall pass to Buyer upon delivery to a carrier as outlined in Paragraph 7 above, or, in the event Buyer delays shipment, by the previously agreed date of readiness for shipment, except that a security interest in the product(s) or any replacement shall remain in Hydro's name, regardless of the mode of attachment to realty or other property, until the full price has been paid in cash. Buyer agrees to protect Hydro's interest by adequately insuring the product(s) against loss or damage from any external cause with Hydro named as insured or co-insured.
9. **INSTALLATION:** Unless otherwise stated in writing, the goods provided hereunder shall be assembled and installed by and at the expense of Buyer.

- 10. CANCELLATION & BREACH:** Orders placed cannot be canceled, nor shipments of goods made up, or in process, be deferred beyond the original shipment dates specified, except with Hydro's written consent and upon terms which shall indemnify Hydro against all loss. In the event of cancellation or the substantial breach of Buyer's obligations, as by failing to make any of the payments when due, the parties agree that Hydro will suffer a serious and substantial damage that will be difficult, if not impossible, to measure, both as of the time of entering into this purchase agreement and as of the time of such cancellation or breach. Therefore, the parties agree that, upon such cancellation or breach, Buyer shall pay to Hydro the sums set forth herein below, which sums the parties do hereby agree shall constitute agreed and liquidated damages in such event:
- If cancellation or breach shall occur after the acceptance of the purchase order but prior to mailing of submittal documents by Hydro to Buyer, liquidated damages shall be 10% of the selling price.
 - If cancellation or breach shall occur within thirty (30) days from the mailing of submittal documents by Hydro to Buyer, the liquidated damages shall be 20% of the selling price.
 - If the cancellation or breach occurs after thirty (30) days from the mailing of submittal documents by Hydro to Buyer, but prior to notification that the order is ready for shipment, the liquidated damages shall be the total of 30% of the selling price plus the expenses incurred, cost of material, and reasonable value of the work expended to fill the order involved herein by Hydro's engineers and other employees, agents and representatives after the mailing of general arrangement drawings by Hydro to Buyer, said sums to be determined at the sole reasonable discretion of Hydro; provided, however, that the total liquidated damages under this provision shall not exceed the total selling price.
 - If cancellation or breach shall occur after Hydro has notified Buyer that the order is ready for shipment, then the liquidated damages shall be the total selling price.
- 11. WARRANTY:** Any product that proves defective in material, workmanship or design within twenty-four (24) months after delivery (or entry into storage) will be, at the discretion of HYDRO, modified, repaired or replaced, or Buyer's payment for the products will be refunded. This shall be Buyer's sole remedy. HYDRO EXPRESSLY EXCLUDES AND DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHER WARRANTIES, EXPRESS OR IMPLIED.
- This warranty does not cover any defects or costs caused by: (1) normal wear and tear of equipment from designed operation. (2) modification, alteration, repair or service of the goods by anyone other than Hydro; (3) physical abuse to, or misuse of, the goods, or operation thereof in a manner contrary to Hydro's instructions; (4) any use of the goods other than that for which they were intended; (5) chemicals or components which were not disclosed to Hydro; (6) storage contrary to Hydro's instructions; or (7) failure to maintain the goods in accordance with Hydro's instructions.
- This warranty does not apply to component parts of the goods that were not both originally designed and manufactured by Hydro. These component parts do not carry any warranties by Hydro, and only carry the warranties, if any, of their manufacturers.
- In order for Buyer to make a claim under this warranty, Buyer must promptly, and within the warranty period, notify Hydro in writing of any defect(s) in the goods covered by this warranty. If any defect(s) in the goods covered by this warranty are visible at the time of delivery, Buyer must notify Hydro of the defect(s) in writing within five working days. To make any claim under this warranty, Buyer must also fully comply with written authorization and return instructions from Hydro.
- 12. FIELD SERVICE:** Installation Oversight/Field Service will only be scheduled upon written request. Buyer shall notify Hydro of schedule requirements at least ten (10) working days in advance, or additional charges may be added to cover late-scheduled travel costs. Additional costs will be limited to those arising out of late-scheduled costs. Buyer assumes all responsibility for the readiness at the jobsite when it requests field service. Should Hydro's Field Service Engineer arrive at the jobsite and determine that the system cannot be installed/serviced within a reasonable time, Hydro shall have the option to bring the Field Service Engineer home and bill Buyer for time, travel and living expenses. Additional field service is available from Hydro at the prevailing per-diem rate at the time of the request for service plus all travel and living expenses, portal-to-portal. A purchase order or change order will be required prior to scheduling this additional service.
- 13. LIMITATION OF HYDRO'S LIABILITY.** Hydro assumes no liability or responsibility for the misuse of its products by Buyer, Buyer's employees, agents or assigns, or other use inconsistent with the use appropriate to the performance specification requirements submitted to Hydro, and Buyer agrees to indemnify and hold harmless Hydro for any loss, costs, expense or liability that it may incur or be put to as a result of misuse or inconsistent use of the products. In addition, Hydro shall have no liability to Buyer for any consequential or incidental damages incurred by Buyer in connection with the contract documents or the products purchased by Buyer. Hydro shall not be liable for any loss which results from delay in delivery caused by any reason beyond its control, including, but not limited to, acts of God, casualty, civil disturbance, labor disputes, strikes, transportation or inability to obtain materials or services, any interruption of its facilities, or act of any governmental authority. The time for delivery shall be extended during the continuance of such conditions.
- 14. CONFIDENTIAL INFORMATION.** The information contained herein and in related contract documents is considered proprietary and confidential information. Buyer agrees to keep such information confidential and not to disclose such information to third parties.
- 15. INTERPRETATION OF CONTRACT.** This contract shall be construed according to the laws of the State of Maine.
- 16. CHOICE OF FORUM.** Buyer and Hydro hereby consent and agree that the United States District Court for the District of Maine or the District Court or Superior Court located in the City of Portland, County of Cumberland, Maine will have exclusive jurisdiction over any legal action or proceeding arising out of or relating to the contract documents, and each party consents to the personal jurisdiction of such Courts for the purpose of any such action or proceeding. Buyer and Hydro further hereby consent and agree that the exclusive venue for any legal action or proceeding arising out of or relating to the contract documents will be in the County of Cumberland, Maine. Each party hereby waives all rights it has or which may hereafter arise to contest such exclusive jurisdiction and venue.
- 17. ATTORNEYS' FEES.** If any judicial or non-judicial proceeding is initiated for the purpose of enforcing a provision of this contract, the prevailing party shall be awarded reasonable attorneys' fees in addition to all other costs associated with the proceeding, whether or not the proceeding advances to judgment.
- 18. SEVERABILITY.** If any provisions of this contract are held invalid by a court of competent jurisdiction, the remainder of this contract shall not be rendered invalid, and such invalid provisions shall be modified, in keeping with the letter and spirit of this contract, to the extent permitted by applicable law so as to be rendered valid.