

Terms and Conditions

1. **Terms and Conditions Shall Control** – These terms and conditions will apply to all goods, labor, and/or services (collectively the “**Goods**”) furnished by Eagle Distribution Group, LLC d/b/a Eagle Disinfection Group (“**Eagle**”) to the buyer of such Goods (“**Customer**”). Customer and Eagle will collectively be referred to as the “**Parties**.” In addition, these terms and conditions will control in the event of a conflict between these terms and conditions and any terms and conditions contained in any purchase order, master service agreement, or any other agreement or document between Customer and Eagle.
2. **Acceptance and Termination of Order** – Acceptance of any order is subject to Eagle’s approval of Customer’s credit and Customer’s acceptance of these terms and conditions. If Customer’s credit becomes unsatisfactory to Eagle at any time, Eagle may, in its sole discretion, terminate an order of Customer. If Customer terminates an order, Customer will be responsible for the price and cost of all goods ordered (whether delivered or not) and all labor and/or services provided by Eagle up until the time the order is terminated.
3. **Price and Shipment** – Unless otherwise stated in the order and agreed to by Eagle in writing, prices shall be those in effect at the time of shipment, which shall be made F.O.B. shipping point, prepaid, and included in Eagle Pipe’s initial invoice or billed to Customer after shipment. Payment shall be due prior to shipment of the Goods. All payments by Customer to Eagle shall be made by check or wire transfer, in immediately available funds, to the bank account designated by Eagle in the invoice. **CUSTOMER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS EAGLE AND ITS PAST, PRESENT AND FUTURE OFFICERS, DIRECTORS, STOCKHOLDERS, MEMBERS, MANAGERS, ATTORNEYS, AGENTS, SERVANTS, REPRESENTATIVES, EMPLOYEES, SUBSIDIARIES, PARENTS, AFFILIATES, PARTNERS AND PREDECESSORS AND SUCCESSORS IN INTEREST AND ASSIGNS FROM ALL FINES, COSTS, PENALTIES, LIABILITIES AND CLAIMS OF EVERY KIND, INCLUDING ATTORNEYS’ FEES, COSTS OF SUIT, SETTLEMENTS, JUDGMENTS, AND OTHER EXPENSES TO WHICH EAGLE MAY BE SUBJECT ARISING OUT OF THE SHIPMENT OF GOODS TO CUSTOMER.** Customer’s obligation to defend, indemnify and hold Eagle harmless under this Section 3 shall not in any manner be limited by any limitation on the amount or types of damages, compensation or benefits payable by Eagle, its agents or subcontractors under applicable worker’s compensation acts, disability benefit acts or other employee benefit acts, and Customer specifically waives any immunity it may have under such acts.
4. **Taxes** – Prices shown may not include sales or other taxes imposed on the sale of the goods, labor, and/or services. Taxes now or hereafter imposed upon such sales or shipments will be added to the purchase price, and Customer will be invoiced for such taxes. Customer agrees to reimburse Eagle for such taxes or provide Eagle with an acceptable tax exemption certificate.
5. **Force Majeure** – If performance by Eagle is prevented or made more difficult or less profitable or desirable to Eagle due to circumstances arising out of earthquakes, floods, hurricanes, named tropical storms, lightning strikes, ice storms, blizzards, icebergs, air and sea disasters, piracy, explosions, fire, epidemics, pandemics, public health emergencies, acts of God or public enemy, war, terrorism, national emergency, invasions, insurrections, riots, strikes, theft, lockouts, blockades, any laws, rules, regulations, orders, directives of, or interference by any government or government agency, failure of its suppliers to ship or deliver on time, or any other circumstance beyond Eagle’s reasonable control, Eagle shall be relieved of its obligations under any agreement between Eagle and Customer.
6. **LIMITED WARRANTIES – EAGLE WARRANTS ITS GOODS SHALL CONFORM TO THE CUSTOMER’S ORDER. EAGLE DISCLAIMS AND MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES REGARDING ANY GOODS, LABOR, AND/OR SERVICES FURNISHED BY EAGLE, AND EAGLE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND AGAINST DEFECTS. HOWEVER, THE GOODS ARE SUBJECT TO THE MANUFACTURER’S WARRANTY SET FORTH IN EXHIBIT “A” TO THESE TERMS AND CONDITIONS AND ON THE WARRANTY CARD PROVIDED TO CUSTOMER WITH THE PURCHASE OF THE GOODS. EAGLE HEREBY ASSIGNS SUCH MANUFACTURER WARRANTIES TO CUSTOMER.** Customer shall inspect all Goods for damage or other non-conformities, and to the extent of any such damage or non-conformity, provide Eagle with written notice of the same, reasonably describing such damage or non-conformity within fifteen (15) days of delivery of such Goods or five (5) days from Customer’s discovery of such damages or non-conformities, whichever is earlier. Any notices of allegedly damaged Goods must be accompanied by photographs of the same. If Eagle does not actually receive this written notice within the time provided herein, any and all claims Customer may have with respect to such damaged or non-conforming Goods are irrevocably waived.
7. **LIMITATIONS OF LIABILITY – EAGLE’S LIABILITY SHALL BE LIMITED TO EITHER THE REPAIR OR REPLACEMENT OF THE NONCONFORMING GOODS, LABOR, AND/OR SERVICES FURNISHED OR A REFUND OF THE PRICE THEREOF. IN THE EVENT SOME, BUT NOT ALL, OF THE GOODS DELIVERED ARE DAMAGED OR NON-CONFORMING, CUSTOMER SHALL REMAIN LIABLE FOR PAYMENT FOR ALL UNDAMAGED AND CONFORMING GOODS AND SHALL HAVE NO RIGHT TO REJECT THE UNDAMAGED AND CONFORMING GOODS. EAGLE SHALL NOT BE LIABLE FOR AND CUSTOMER WAIVES ALL CLAIMS FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES. EAGLE’S MAXIMUM CUMULATIVE LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS OR SERIES OF CLAIMS IN THE AGGREGATE ARISING OUT OF OR IN CONNECTION WITH ANY GOODS, LABOR, AND/OR SERVICES FURNISHED BY EAGLE SHALL NOT EXCEED 100% OF THE PRICE OF SUCH GOODS, LABOR, AND/OR SERVICES. THE LIMITATIONS OF LIABILITY DESCRIBED HEREIN SHALL APPLY TO ANY AND ALL CLAIMS (WHETHER ARISING IN TORT, INCLUDING NEGLIGENCE OR GROSS NEGLIGENCE, CONTRACT, OR OTHERWISE) EVEN IF CAUSED BY THE SOLE, JOINT, OR CONCURRENT NEGLIGENCE OR FAULT OF EAGLE.**
8. **Interest and Attorney Fees** – Interest shall accrue on amounts past due at a monthly rate of 1.5% or the maximum rate permitted by law, whichever is higher. In the event that customer breaches these terms and conditions, or a legal action is otherwise required to collect money due from Customer for goods, labor, and/or services, Customer shall pay all reasonable costs, including without limitation, collection agency costs, attorneys’ fees and court costs incurred by Eagle in connection with such action.
9. **Liens** – Eagle expressly reserves all lien and bond rights. Customer agrees to provide Eagle, upon request, information relevant to Eagle’s lien and bond claims or the perfection thereof.
10. **Assignment** – Customer shall not assign its rights or delegate its duties hereunder, or any interest herein, without the prior written consent of Eagle. Any such assignment will be void.
11. **Waiver** – The failure of Eagle to insist upon the performance of any of these terms or conditions, or to exercise any right hereunder, shall not be deemed a waiver of such terms, conditions, or rights in the future, nor shall it be deemed to be a waiver of any other term, condition, or right hereunder.
12. **Severability** - If any provision herein is partially or completely void or unenforceable pursuant to applicable law, then such provision shall be deemed amended to the extent necessary to make it enforceable. If such an amendment is not possible, then such provision shall be deemed deleted. If any provision is so deleted, the remaining terms and conditions will remain in full force and effect.

13. **Entire Agreement and Amendment** - These terms and conditions constitute the entire understanding between the Parties and replace any previous oral or written agreements, representations, or statements. No modification or amendment to these terms and conditions will be effective unless it is in writing and signed by an authorized representative of both Parties. Any proposed modifications or additional terms are specifically rejected and deemed a material alteration hereof. If this document or Eagle's provision of Goods or services to Customer shall be deemed an acceptance of a prior offer by Customer, such acceptance is expressly conditional upon Customer's assent and agreement to any additional or different terms set forth herein.

14. **Disclaimer of Reliance** - Customer acknowledges that it agrees to these terms and conditions by its own free choice and without any inducement offered in any way other than the express terms and conditions contained herein. Customer warrants and represents that no promise, agreement, representation, inducement or condition not set forth in these terms and conditions has been made or relied upon by Customer in agreeing to these terms and conditions. Customer is relying solely upon its own judgment in agreeing to these terms and conditions.

15. **Law / Forum / Arbitration** - These terms and conditions and the relations between the Parties shall be governed by the procedural and substantive laws of the state of Texas, irrespective of conflict of laws rules which would direct the application of the substantive or procedural law of another jurisdiction. ALL CLAIMS WHICH ARISE BETWEEN THE PARTIES SHALL BE SUBMITTED TO BINDING ARBITRATION BEFORE A SINGLE ARBITRATOR UNDER THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION. THE PARTIES ARE BOTH REQUIRED TO PARTICIPATE IN MANDATORY, BINDING ARBITRATION AS THEIR SOLE REMEDY, AND BOTH WILL GIVE UP THEIR RIGHT OF A TRIAL BY JURY OF ANY LEGAL CLAIM THAT EITHER MAY HAVE AGAINST THE OTHER— EXCEPT AS EXPRESSLY PROVIDED HEREIN. The parties agree that Eagle's business involves interstate commerce. The Parties disclaim application of state arbitration law and desire this Section be governed by the Federal Arbitration Act and ask that: (a) this Section be read to the greatest extent possible in favor of arbitration; and (b) that the agreement be reformed if necessary to the greatest extent possible provide for arbitration. The Parties agree that this Section does not excuse a party from complying with and exhausting any administrative remedy or process through the EEOC or equivalent state agency. The arbitration shall be conducted in Houston, Texas. The Parties further agree that the selected arbitrator shall have full authority to determine: (a) the enforceability and validity of this Section and this Agreement (including, but not limited to, whether the agreement to arbitrate fails for lack of consideration, whether the agreement is subject to a state law defense, whether an oral agreement affects the validity of this agreement to arbitrate, and whether a valid agreement to arbitrate was formed between the Parties); (b) whether a particular claim or controversy between the Parties is covered by this Section; and (c) procedural questions concerning whether a claim should go forward in arbitration, including, but not limited to, compliance with notice, time limits, and other prerequisites. The Parties hereby agree that the arbitration award may be appealed pursuant to the AAA's Optional Appellate Arbitration Rules ("Appellate Rules"); that the award rendered by the arbitrator shall, at a minimum, be a reasoned award; and that the award shall not be considered final until after the time for filing the notice of appeal pursuant to the Appellate Rules has expired. Appeals must be initiated within thirty (30) calendar days of receipt of an award, as defined by Rule A-3 of the Appellate Rules, by filing a Notice of Appeal with any AAA office. Following the appeal process the decision rendered by the appeal tribunal may be entered in any court having competent jurisdiction.

16. **CUSTOMER ACKNOWLEDGMENT** - CUSTOMER HAS READ ALL OF THESE TERMS AND CONDITIONS. CUSTOMER HAS HAD THE OPPORTUNITY TO ASK ANY QUESTIONS CONCERNING THE TERMS AND CONDITIONS BEFORE AGREEING TO THEM. CUSTOMER FURTHER STATES THAT IT HAS BEEN ADVISED BY AN ATTORNEY OF ITS CHOICE AND SELECTION, OR HAS HAD THE OPPORTUNITY TO CONSULT WITH SUCH ATTORNEY REGARDING THE BENEFITS AND DETRIMENTS OF AGREEING TO THESE TERMS AND CONDITIONS. CUSTOMER HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS. CUSTOMER HAS BEEN ADVISED TO KEEP A COPY OF THE TERMS AND CONDITIONS.