

CRESTLINE SANITATION DISTRICT

*MEMORANDUM*

**DATE:** 09/14/2023

**TO:** BOARD OF DIRECTORS  
Crestline Sanitation District

**FROM:** DAWN GRANTHAM  
Assistant General Manager

**SUBJECT:** Huston Creek WWTP Muffin Monsters (2)

**A. RECOMMENDATION**

I recommend to upgrade the Muffin Monsters at Huston Creek WWTP Septic Offload Site and the Belt Press.

**B REASON FOR RECOMMENDATION**

The Grinders are an essential part of the plant operations. It is imperative to replace the damaged muffin monsters so we can reestablish proper pretreatment of the septic and holding loads and to reestablish pre-treatment to avoid costly pump rebuilds or replacements.

**C. OTHER INFORMATION**

This Septic Offload Site Muffin Monster has been in place since 1996 and never rebuilt. The Belt Press Muffin Monster has been in place since 1984 and rebuilt four times. Electrical wiring for the Septic Offload Site will be done in house and is not included in the cost.

**D. FISCAL INFORMATION**

The quote from JWC Environmental is \$34,175.23  
The 2023-24 CIP Budget for both Muffin Monsters is \$40,000.

**E. ATTACHMENTS**

Quote # C-118392-F6Z6-A  
Quote # C-118180-M4D0-B



Customer Service Center  
 2600 S. Garnsey Street  
 Santa Ana, CA 92707 USA  
 Phone: 949 833-3888  
 Toll Free: 800 331-2277  
 Fax: 714 242-0240

**Customer:** 5036998

Crestline Sanitation District  
 24516 Lake Drive PO Box 3395  
 Crestline, CA 92325-3395  
 US - UNITED STATES

909-338-1751

**Quote Number:** C-118392-F6Z6-A  
**Quote Date:** 08/15/2023  
**Terms:** NET 30 DAYS  
**Pricing:** Valid 60 Days  
**FOB:** Origin  
**Lead Time:** 8-10 Weeks ARO / Shipping & Handling Included  
**Grinder Serial #:** 11061  
**Ticket #:** C-118392-F6Z6

**Project:** Houston Creek Plant

Part Number	Description	Qty	Unit Price	Extended Price
EVAL_CA	30001-0804 11061	1	\$0.00	\$0.00
30004T-1204	30004T-1204-DI Muffin Monster 11T Cam Cutters 1:1 Stack Hardened Alloy STL Buna N Elastomers Cork & Rubber Gaskets Motor Type: Electric New 3HP 460V TENV XP IMM Motor, w/ 40' SOW cable New 29:1 Reducer New Spool New 4" Pipe Dia. Flanged Unibody Housing Standard Base Grinder SN: TBD Paint Epoxy Green	1	\$22,428.23	\$22,428.23
MANUALS	O&M MANUALS Included with equipment (2) Copies	2	\$0.00	\$0.00
Shipping	Shipping & Handling	1	\$0.00	\$0.00

*Please verify serial number is correct.*

**Sub Total** \$22,428.23  
**Tax**  
**Total** \$22,428.23

**Notes:**

**Thank-You for your Business!**

**JWC Environmental Inc**



Customer Service Center  
2600 S. Garnsey Street  
Santa Ana, CA 92707 USA  
Phone: 949 833-3888  
Toll Free: 800 331-2277  
Fax: 714 242-0240

Please provide the following information. Failure to do so may delay processing of order. Quote #: C-118180-M4D0-C

All orders will be billed the applicable sales tax, based on the "ship to address", unless a valid tax exemption certificate is provided prior to shipment.

Bill To Name & Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ship To Name & Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email Address: \_\_\_\_\_

PO# \_\_\_\_\_

Payment terms: Net 30 FOB: Origin

Preferred Shipping Method (Required to Process Your Order):

Prepay & Add to Invoice

Collect Account #: \_\_\_\_\_

Carrier: \_\_\_\_\_

JWCE will add shipping and handling charges to invoices unless otherwise specified.

Credit cards:

I authorize JWCE to process this order on my credit card and add shipping and handling charges.

Credit card orders are processed after order ships. You will be contacted by JWC Accounting for payment.

Please fax or email your PO and most recent tax certificate to:

Fax (714) 242-0240

Email [servicesales@jwce.com](mailto:servicesales@jwce.com)

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



Customer Service Center  
2600 S. Garnsey Street  
Santa Ana, CA 92707 USA  
Phone: 949 833-3888  
Toll Free: 800 331-2277  
Fax: 714 242-0240

## JWC ENVIRONMENTAL TERMS AND CONDITIONS OF SALE

Unless otherwise specifically agreed to in writing by the buyer ("Buyer") of the products and or related services purchased hereunder (the "Products") and JWC Environmental (the "Seller"), the sale of the Products is made only upon the following terms and conditions. Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is conditioned on Buyer's assent to these terms. Seller rejects all additional, conditional and different terms in Buyer's form or documents.

### PAYMENT TERMS

Subject to any contrary terms set forth in our price quotation, order acceptance or invoice the full net amount of each invoice is due and payable in cash within 30 days from the date of the invoice. If any payment is not received within such 30-day period, Buyer shall pay Seller the lesser of 1 ½% per month or the maximum legal rate on all amounts not received by the due date of the invoice, from the 31st day after the date of invoice until said invoice and charges are paid in full. Unless Sellers documents provide otherwise, freight, storage, insurance and all taxes, duties or other governmental charges related to the Products shall be paid by the Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller for said charges. In all cases, regardless of partial payment, title to the Products shall remain the Sellers until payment for the Products has been made in full. All orders are subject to credit approval by Seller. All offers by Seller and/or acceptance of Buyer's order shall be nullified by any failure of Buyer to obtain credit approval. Furthermore, Buyer shall not assert any claim against Seller due to Buyer's inability to obtain credit approval. Irrevocable Letter of Credit from Buyer in form and term acceptable to Seller is required for Product orders delivered outside the United States of America

### DELIVERY

Unless otherwise provided in our price quotation, delivery of the Products shall be made F.O.B. place of manufacture. Any shipment, delivery, installation or service dates quoted by the Seller are estimated and the Seller shall be obligated only to use reasonable efforts to meet such dates. The Seller shall in no event be liable for any delays in delivery or failure to give notice of delay or for any other failure to perform hereunder due to causes beyond the reasonable control of the Seller. Such causes shall include, but not be limited to, acts of God, the elements, acts or omissions of manufacturers or suppliers of the Products or parts thereof, acts or omissions of Buyer or civil and military authorities, fires, labor disputes or any other inability to obtain the Products, parts thereof, or necessary power, labor, materials or supplies. The Seller will be entitled to refuse to make, or to delay, any shipments of the Products if Buyer shall fail to pay when due any amount owed by it to the Seller, whether under this or any other contract between the Seller and Buyer. Any claims for shortages must be made to the Company in writing within five calendar days from the delivery date and disposition of the claim is solely subject to Seller's determination

### PRICES

Prices of the Seller's Products are subject to change without notice. Quotations are conditioned upon acceptance within 30 days unless otherwise stated and are subject to correction for errors and/or omissions. Prices include charges for regular packaging but, unless expressly stated, do not include charges for special requirements of government or other purchaser. Prices are subject to adjustment should Buyer place an order past the validity period of the quotation or delay delivery of Products beyond the quoted lead time for any reason.

### RETURNS

No Products may be returned for cash. No Product may be returned for credit after delivery to Buyer without Buyer first receiving written permission from the Seller. Buyer must make a request for return of Product in writing to Seller at its place of business in Costa Mesa, California. A return material authorization number must be issued by the Seller to the Buyer before a Product may be returned. Permission to return Product to Seller by Buyer is solely and exclusively the Seller's. Product must be returned to Seller at Buyer's expense, including packaging, insurance, transportation and any governmental fees. Any credit for Product returned to Seller shall be subject to the inspection of and acceptance of the Product by the Seller and is at the sole discretion of the Seller.

### LIMITED WARRANTY

Subject to the terms and conditions hereof, the Seller warrants until one year after commissioning (written notification to Seller by Buyer required) of the Product or until 18 months after delivery of such Product to Buyer, whichever is earlier, that each Product will be free of defects in material and workmanship. If (a) the Seller receives written notification of such defect during the warranty period and the defective Products use is discontinued promptly upon discovery of alleged defect, and (b) if the owner ("Owner") forwards the Product to the Seller's nearest service/repair facility, transportation and related insurance charges prepaid. The Seller will cause any Products whose defect is covered under this warranty to either be replaced or be repaired at no cost to the Owner. The foregoing warranty does not cover repairs required due to repair or alteration other than by the Seller's personnel, accident, neglect, misuse, transportation or causes other than ordinary use and maintenance in accordance with the Seller's instructions and specifications. In addition, the foregoing warranty does not cover any Products, or components thereof, which are not directly manufactured by the Seller. To the extent a warranty for repair or replacement of such Products or components not manufactured directly by the Seller is available to Buyer under agreements of the Seller with its vendors; the Seller will make such warranties available to Buyer. Costs of transportation of any covered defective item to and from the nearest service/repair center and related insurance will be paid or reimbursed by Buyer. Any replaced Products will become the property of the Seller. Any replacement Products will be warranted only for any remaining term of the original limited warranty period and not beyond that term.

### DISCLAIMER OF WARRANTIES AND LIMITATIONS OF LIABILITIES

THE SELLER'S FOREGOING LIMITED WARRANTY IS THE EXCLUSIVE AND ONLY WARRANTY WITH RESPECT TO THE PRODUCTS AND SHALL BE IN LIEU OF ALL OTHER WARRANTIES (OTHER THAN THE WARRANTY OF TITLE), EXPRESS, STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY STATEMENTS MADE BY EMPLOYEES, AGENTS OF THE SELLER OR OTHERS REGARDING THE PRODUCTS. THE OBLIGATIONS OF THE SELLER UNDER THE FOREGOING WARRANTY SHALL BE FULLY SATISFIED BY THE REPAIR OR THE REPLACEMENT OF THE DEFECTIVE PRODUCT OR PART, AS PROVIDED ABOVE. IN NO EVENT SHALL THE SELLER BE LIABLE FOR LOST PROFITS OR OTHER SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF THE SELLER TO BUYER AND OTHERS ARISING FROM ANY CAUSE WHATSOEVER IN CONNECTION WITH BUYER'S PURCHASE, USE AND DISPOSITION OF ANY PRODUCT COVERED HEREBY SHALL, UNDER NO CIRCUMSTANCES, EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT BY BUYER. NO ACTION, REGARDLESS OF FORM, ARISING FROM THIS AGREEMENT OR BASED UPON BUYER'S PURCHASE, USE OR DISPOSITION OF THE PRODUCTS MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES, EXCEPT THAT ANY CAUSE OF ACTION FOR THE NONPAYMENT OF THE PURCHASE PRICE MAY BE BROUGHT AT ANY TIME

The remedies provided to Buyer pursuant to the limited warranty, disclaimer of warranties and limitations of liabilities, described herein are the sole and exclusive remedies.

Unless specifically agreed to in writing by the Seller, no charges may be made to the Seller by Buyer or any third party employed by buyer for removing, installing or modifying any Product.

The Seller and its representatives may furnish, at no additional expense, data and engineering services relating to the application, installation, maintenance or use of the Products by Buyer. The Seller will not be responsible for, and does not assume any liability whatsoever for, damages of any kind sustained either directly or indirectly by any person through the adoption or use of such data or engineering services in whole or in part.

### CONFIDENTIAL INFORMATION

Except with the Seller's prior written consent, Buyer shall not use, duplicate or disclose any confidential proprietary information delivered or disclosed by the Seller to Buyer for any purpose other than for operation or maintenance of the Products.

### CANCELLATION AND DEFAULT

Absolutely no credit will be allowed for any change or cancellation of an order for Products by Buyer after fabrication of the Products to fill Buyer's order has been commenced. If Buyer shall default in paying for any Products purchased hereunder, Buyer shall be responsible for all reasonable costs and expenses, including (without limitation) attorney's fees incurred by the Seller in collecting any sums owed by Buyer. All rights and remedies to the Seller hereunder or under applicable laws are cumulative and none of them shall be exclusive of any other right to remedy. No failure by the Seller to enforce any right or remedy hereunder shall be deemed to be a waiver of such right or remedy, unless a written waiver is signed by an authorized management employee of the Seller and the Seller's waiver of a breach of this agreement by Buyer shall not be deemed to be a waiver of any other breach of the same or any other provision.

### CHANGES IN PRODUCTS

Changes may be made in materials, designs and specifications of the Products without notice. The Seller shall not incur any obligation to furnish or install any such changes or modifications on Products previously ordered by, or sold to, Buyer.

### APPLICABLE LAW, RESOLUTION OF DISPUTES AND SEVERABILITY

This agreement is entered into in Costa Mesa, California. This agreement and performance by the parties hereunder shall be construed in accordance with, and governed by, the laws of the State of California. Any claim or dispute arising from or based upon this agreement or the Products which form its subject matter shall be resolved by binding arbitration before the American Arbitration Association in Los Angeles, California, pursuant to the Commercial Arbitration Rules, excepting only that each of the parties shall be entitled to take no more than two depositions, and serve no more than 30 interrogatories, 10 requests for admissions and 20 individual requests for production of documents, such discovery to be served pursuant to the California Code of Civil Procedure. Any award made by the arbitrator may be entered as a final judgment, in any court having jurisdiction to do so. If any provision of this agreement shall be held by a court of competent jurisdiction or an arbitrator to be unenforceable to any extent, that provision shall be enforced to the full extent permitted by law and the remaining provisions shall remain in full force and effect.

### ASSIGNMENT

This agreement shall be binding upon the parties and their respective successors and assigns. However, except for rights expressly provided to subsequent Owners of the Products under "Limited Warranty" above, any assignment of this agreement or any rights hereunder by Buyer shall be void without the Company's written consent first obtained. Any exercise of rights by an Owner other than Buyer shall be subject



Customer Service Center  
2600 S. Garnsey Street  
Santa Ana, CA 92707 USA  
Phone: 949 833-3888  
Toll Free: 800 331-2277  
Fax: 714 242-0240

to all of the limitations on liability and other related terms and conditions set forth in this agreement.

**EXCLUSIVE TERMS AND CONDITIONS**

The terms and conditions of this agreement may be changed or modified only by an instrument in writing signed by an authorized management employee of the Seller. This instrument, together with any amendment or supplement hereto specifically agreed to in writing by an authorized management employee of the Seller, contains the entire and the only agreement between the parties with respect to the sale of the Products covered hereby and supersedes any alleged related representation, promise or condition not specifically incorporated herein.

SELLER'S PRODUCTS ARE OFFERED FOR SALE AND SOLD ONLY ON THE TERMS AND CONDITIONS CONTAINED HEREIN. NOTWITHSTANDING ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS CONTAINED IN BUYER'S SEPARATE PURCHASE ORDERS OR OTHER ORAL OR WRITTEN COMMUNICATION, BUYER'S ORDER IS OR SHALL BE ACCEPTED BY THE COMPANY ONLY ON THE CONDITION THAT BUYER ACCEPTS AND CONSENTS TO THE TERMS AND CONDITIONS CONTAINED HEREIN. IN THE ABSENCE OF BUYER'S ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED HEREIN THE SELLER'S COMMENCEMENT OF PERFORMANCE AND/OR DELIVERY OF THE PRODUCTS, OR THE SELLER'S STATEMENT OF ACKNOWLEDGMENT OF THE RECEIPT OF BUYER'S PURCHASE ORDER, SHALL BE FOR BUYER'S CONVENIENCE ONLY AND SHALL NOT BE DEEMED OR CONSTRUED TO BE ACCEPTANCE OF BUYER'S DIFFERING TERMS OR CONDITIONS, OR ANY OF THEM. ANY DIFFERENT OR ADDITIONAL TERMS ARE HEREBY REJECTED UNLESS SPECIFICALLY AGREED UPON IN WRITING BY AN AUTHORIZED MANAGEMENT EMPLOYEE OF THE SELLER. IF A CONTRACT IS NOT EARLIER FORMED BY MUTUAL AGREEMENT IN WRITING, BUYER'S ACCEPTANCE OF ANY PRODUCTS COVERED HEREBY SHALL BE DEEMED ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS STATED HEREIN. THE SELLER'S FAILURE TO OBJECT TO PROVISIONS INCONSISTENT HERewith CONTAINED IN ANY COMMUNICATION FROM BUYER SHALL NOT BE DEEMED A WAIVER OF THE PROVISIONS CONTAINED HEREIN.

F360JWCE0107



Customer Service Center  
2600 S. Garnsey Street  
Santa Ana, CA 92707 USA  
Phone: 949 833-3888  
Toll Free: 800 331-2277  
Fax: 714 242-0240

**Customer:** 5036998  
Jason Fogel  
Crestline Sanitation District  
PO Box 3395  
24516 Lake Drive  
Crestline, CA 92325-3395

US - UNITED STATES  
909-338-3245

jfogel@crestlinesanitation.com

**Project:** Crestline Sanitation District

**Quote Number:** C-118180-M4D0-B  
**Quote Date:** 08/03/2023  
**Terms:** Net 30 Days  
**Pricing:** Valid 60 Days  
**FOB:** Origin  
**Lead Time:** 8-10 Weeks ARO / Shipping & Handling Included  
**Grinder Serial #:** 2273  
**Ticket #:** C-118180-M4D0

Part Number	Description	Qty	Unit Price	Extended Price
30001-0800	30001-0800-DI Muffin Monster CC Renew 7 Tooth Cam Cutters 1:1 Stack 4130 Alloy Steel Buna N Elastomers Cork & Rubber Gaskets Standard Siderails Drilled End Housings Motor Type Electric Less Motor Less Reducer Less Spool Less 04" Flanges Grinder SN: TBD Paint: Epoxy Green	1	\$11,747.00	\$11,747.00
Shipping	Shipping & Handling	1	\$0.00	\$0.00

*Please verify serial number is correct.*

**Sub Total** \$11,747.00  
**Tax**  
**Total** \$11,747.00

**Notes:**

**Thank-You for your Business!**

**JWC Environmental Inc**  
**Jared Reynolds**  
**Customer Service**



Customer Service Center  
2600 S. Garnsey Street  
Santa Ana, CA 92707 USA  
Phone: 949 833-3888  
Toll Free: 800 331-2277  
Fax: 714 242-0240

Please provide the following information. Failure to do so may delay processing of order. Quote #: C-118180-M4D0-B

All orders will be billed the applicable sales tax, based on the "ship to address", unless a valid tax exemption certificate is provided prior to shipment.

Bill To Name & Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ship To Name & Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email Address: \_\_\_\_\_

PO# \_\_\_\_\_

Payment terms: Net 30 FOB: Origin

Preferred Shipping Method (Required to Process Your Order):

Prepay & Add to Invoice

Collect Account #: \_\_\_\_\_

Carrier: \_\_\_\_\_

JWCE will add shipping and handling charges to invoices unless otherwise specified.

Credit cards:

I authorize JWCE to process this order on my credit card and add shipping and handling charges.  
Credit card orders are processed after order ships. You will be contacted by JWC Accounting for payment.

Please fax or email your PO and most recent tax certificate to:

Fax (714) 242-0240

Email [servicesales@jwce.com](mailto:servicesales@jwce.com)

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



Customer Service Center  
2600 S. Garnsey Street  
Santa Ana, CA 92707 USA  
Phone: 949 833-3888  
Toll Free: 800 331-2277  
Fax: 714 242-0240

## JWC ENVIRONMENTAL TERMS AND CONDITIONS OF SALE

Unless otherwise specifically agreed to in writing by the buyer ("Buyer") of the products and or related services purchased hereunder (the "Products") and JWC Environmental (the "Seller"), the sale of the Products is made only upon the following terms and conditions. Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is conditioned on Buyer's assent to these terms. Seller rejects all additional, conditional and different terms in Buyer's form or documents.

### PAYMENT TERMS

Subject to any contrary terms set forth in our price quotation, order acceptance or invoice the full net amount of each invoice is due and payable in cash within 30 days from the date of the invoice. If any payment is not received within such 30-day period, Buyer shall pay Seller the lesser of 1 1/2% per month or the maximum legal rate on all amounts not received by the due date of the invoice, from the 31st day after the date of invoice until said invoice and charges are paid in full. Unless Sellers documents provide otherwise, freight, storage, insurance and all taxes, duties or other governmental charges related to the Products shall be paid by the Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller for said charges. In all cases, regardless of partial payment, title to the Products shall remain the Sellers until payment for the Products has been made in full. All orders are subject to credit approval by Seller. All offers by Seller and/or acceptance of Buyer's order shall be nullified by any failure of Buyer to obtain credit approval. Furthermore, Buyer shall not assert any claim against Seller due to Buyer's inability to obtain credit approval. Irrevocable Letter of Credit from Buyer in form and term acceptable to Seller is required for Product orders delivered outside the United States of America

### DELIVERY

Unless otherwise provided in our price quotation, delivery of the Products shall be made F.O.B. place of manufacture. Any shipment, delivery, installation or service dates quoted by the Seller are estimated and the Seller shall be obligated only to use reasonable efforts to meet such dates. The Seller shall in no event be liable for any delays in delivery or failure to give notice of delay or for any other failure to perform hereunder due to causes beyond the reasonable control of the Seller. Such causes shall include, but not be limited to, acts of God, the elements, acts or omissions of manufacturers or suppliers of the Products or parts thereof, acts or omissions of Buyer or civil and military authorities, fires, labor disputes or any other inability to obtain the Products, parts thereof, or necessary power, labor, materials or supplies. The Seller will be entitled to refuse to make, or to delay, any shipments of the Products if Buyer shall fail to pay when due any amount owed by it to the Seller, whether under this or any other contract between the Seller and Buyer. Any claims for shortages must be made to the Company in writing within five calendar days from the delivery date and disposition of the claim is solely subject to Seller's determination

### PRICES

Prices of the Seller's Products are subject to change without notice. Quotations are conditioned upon acceptance within 30 days unless otherwise stated and are subject to correction for errors and/or omissions. Prices include charges for regular packaging but, unless expressly stated, do not include charges for special requirements of government or other purchaser. Prices are subject to adjustment should Buyer place an order past the validity period of the quotation or delay delivery of Products beyond the quoted lead time for any reason.

### RETURNS

No Products may be returned for cash. No Product may be returned for credit after delivery to Buyer without Buyer first receiving written permission from the Seller. Buyer must make a request for return of Product in writing to Seller at its place of business in Costa Mesa, California. A return material authorization number must be issued by the Seller to the Buyer before a Product may be returned. Permission to return Product to Seller by Buyer is solely and exclusively the Seller's. Product must be returned to Seller at Buyer's expense, including packaging, insurance, transportation and any governmental fees. Any credit for Product returned to Seller shall be subject to the inspection of and acceptance of the Product by the Seller and is at the sole discretion of the Seller.

### LIMITED WARRANTY

Subject to the terms and conditions hereof, the Seller warrants until one year after commissioning (written notification to Seller by Buyer required) of the Product or until 18 months after delivery of such Product to Buyer, whichever is earlier, that each Product will be free of defects in material and workmanship. If (a) the Seller receives written notification of such defect during the warranty period and the defective Products use is discontinued promptly upon discovery of alleged defect, and (b) if the owner ("Owner") forwards the Product to the Seller's nearest service/repair facility, transportation and related insurance charges prepaid. The Seller will cause any Products whose defect is covered under this warranty to either be replaced or be repaired at no cost to the Owner. The foregoing warranty does not cover repairs required due to repair or alteration other than by the Seller's personnel, accident, neglect, misuse, transportation or causes other than ordinary use and maintenance in accordance with the Seller's instructions and specifications. In addition, the foregoing warranty does not cover any Products, or components thereof, which are not directly manufactured by the Seller. To the extent a warranty for repair or replacement of such Products or components not manufactured directly by the Seller is available to Buyer under agreements of the Seller with its vendors, the Seller will make such warranties available to Buyer. Costs of transportation of any covered defective item to and from the nearest service/repair center and related insurance will be paid or reimbursed by Buyer. Any replaced Products will become the property of the Seller. Any replacement Products will be warranted only for any remaining term of the original limited warranty period and not beyond that term.

### DISCLAIMER OF WARRANTIES AND LIMITATIONS OF LIABILITIES

THE SELLER'S FOREGOING LIMITED WARRANTY IS THE EXCLUSIVE AND ONLY WARRANTY WITH RESPECT TO THE PRODUCTS AND SHALL BE IN LIEU OF ALL OTHER WARRANTIES (OTHER THAN THE WARRANTY OF TITLE), EXPRESS, STATUTORY OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY STATEMENTS MADE BY EMPLOYEES, AGENTS OF THE SELLER OR OTHERS REGARDING THE PRODUCTS. THE OBLIGATIONS OF THE SELLER UNDER THE FOREGOING WARRANTY SHALL BE FULLY SATISFIED BY THE REPAIR OR THE REPLACEMENT OF THE DEFECTIVE PRODUCT OR PART, AS PROVIDED ABOVE. IN NO EVENT SHALL THE SELLER BE LIABLE FOR LOST PROFITS OR OTHER SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EVEN IF THE SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL LIABILITY OF THE SELLER TO BUYER AND OTHERS ARISING FROM ANY CAUSE WHATSOEVER IN CONNECTION WITH BUYER'S PURCHASE, USE AND DISPOSITION OF ANY PRODUCT COVERED HEREBY SHALL, UNDER NO CIRCUMSTANCES, EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT BY BUYER. NO ACTION, REGARDLESS OF FORM, ARISING FROM THIS AGREEMENT OR BASED UPON BUYER'S PURCHASE, USE OR DISPOSITION OF THE PRODUCTS MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES, EXCEPT THAT ANY CAUSE OF ACTION FOR THE NONPAYMENT OF THE PURCHASE PRICE MAY BE BROUGHT AT ANY TIME

The remedies provided to Buyer pursuant to the limited warranty, disclaimer of warranties and limitations of liabilities, described herein are the sole and exclusive remedies.

Unless specifically agreed to in writing by the Seller, no charges may be made to the Seller by Buyer or any third party employed by buyer for removing, installing or modifying any Product.

The Seller and its representatives may furnish, at no additional expense, data and engineering services relating to the application, installation, maintenance or use of the Products by Buyer. The Seller will not be responsible for, and does not assume any liability whatsoever for, damages of any kind sustained either directly or indirectly by any person through the adoption or use of such data or engineering services in whole or in part.

### CONFIDENTIAL INFORMATION

Except with the Seller's prior written consent, Buyer shall not use, duplicate or disclose any confidential proprietary information delivered or disclosed by the Seller to Buyer for any purpose other than for operation or maintenance of the Products.

### CANCELLATION AND DEFAULT

Absolutely no credit will be allowed for any change or cancellation of an order for Products by Buyer after fabrication of the Products to fill Buyer's order has been commenced. If Buyer shall default in paying for any Products purchased hereunder, Buyer shall be responsible for all reasonable costs and expenses, including (without limitation) attorney's fees incurred by the Seller in collecting any sums owed by Buyer. All rights and remedies to the Seller hereunder or under applicable laws are cumulative and none of them shall be exclusive of any other right to remedy. No failure by the Seller to enforce any right or remedy hereunder shall be deemed to be a waiver of such right or remedy, unless a written waiver is signed by an authorized management employee of the Seller and the Seller's waiver of a breach of this agreement by Buyer shall not be deemed to be a waiver of any other breach of the same or any other provision.

### CHANGES IN PRODUCTS

Changes may be made in materials, designs and specifications of the Products without notice. The Seller shall not incur any obligation to furnish or install any such changes or modifications on Products previously ordered by, or sold to, Buyer.

### APPLICABLE LAW, RESOLUTION OF DISPUTES AND SEVERABILITY

This agreement is entered into in Costa Mesa, California. This agreement and performance by the parties hereunder shall be construed in accordance with, and governed by, the laws of the State of California. Any claim or dispute arising from or based upon this agreement or the Products which form its subject matter shall be resolved by binding arbitration before the American Arbitration Association in Los Angeles, California, pursuant to the Commercial Arbitration Rules, excepting only that each of the parties shall be entitled to take no more than two depositions, and serve no more than 30 interrogatories, 10 requests for admissions and 20 individual requests for production of documents, such discovery to be served pursuant to the California Code of Civil Procedure. Any award made by the arbitrator may be entered as a final judgment, in any court having jurisdiction to do so. If any provision of this agreement shall be held by a court of competent jurisdiction or an arbitrator to be unenforceable to any extent, that provision shall be enforced to the full extent permitted by law and the remaining provisions shall remain in full force and effect.

### ASSIGNMENT

This agreement shall be binding upon the parties and their respective successors and assigns. However, except for rights expressly provided to subsequent Owners of the Products under "Limited Warranty" above, any assignment of this agreement or any rights hereunder by Buyer shall be void without the Company's written consent first obtained. Any exercise of rights by an Owner other than Buyer shall be subject





Customer Service Center  
2600 S. Garnsey Street  
Santa Ana, CA 92707 USA  
Phone: 949 833-3888  
Toll Free: 800 331-2277  
Fax: 714 242-0240

to all of the limitations on liability and other related terms and conditions set forth in this agreement.

**EXCLUSIVE TERMS AND CONDITIONS**

The terms and conditions of this agreement may be changed or modified only by an instrument in writing signed by an authorized management employee of the Seller. This instrument, together with any amendment or supplement hereto specifically agreed to in writing by an authorized management employee of the Seller, contains the entire and the only agreement between the parties with respect to the sale of the Products covered hereby and supersedes any alleged related representation, promise or condition not specifically incorporated herein.

SELLER'S PRODUCTS ARE OFFERED FOR SALE AND SOLD ONLY ON THE TERMS AND CONDITIONS CONTAINED HEREIN. NOTWITHSTANDING ANY DIFFERENT OR ADDITIONAL TERMS OR CONDITIONS CONTAINED IN BUYER'S SEPARATE PURCHASE ORDERS OR OTHER ORAL OR WRITTEN COMMUNICATION, BUYER'S ORDER IS OR SHALL BE ACCEPTED BY THE COMPANY ONLY ON THE CONDITION THAT BUYER ACCEPTS AND CONSENTS TO THE TERMS AND CONDITIONS CONTAINED HEREIN. IN THE ABSENCE OF BUYER'S ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED HEREIN THE SELLER'S COMMENCEMENT OF PERFORMANCE AND/OR DELIVERY OF THE PRODUCTS, OR THE SELLER'S STATEMENT OF ACKNOWLEDGMENT OF THE RECEIPT OF BUYER'S PURCHASE ORDER, SHALL BE FOR BUYER'S CONVENIENCE ONLY AND SHALL NOT BE DEEMED OR CONSTRUED TO BE ACCEPTANCE OF BUYER'S DIFFERING TERMS OR CONDITIONS, OR ANY OF THEM. ANY DIFFERENT OR ADDITIONAL TERMS ARE HEREBY REJECTED UNLESS SPECIFICALLY AGREED UPON IN WRITING BY AN AUTHORIZED MANAGEMENT EMPLOYEE OF THE SELLER. IF A CONTRACT IS NOT EARLIER FORMED BY MUTUAL AGREEMENT IN WRITING, BUYER'S ACCEPTANCE OF ANY PRODUCTS COVERED HEREBY SHALL BE DEEMED ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS STATED HEREIN. THE SELLER'S FAILURE TO OBJECT TO PROVISIONS INCONSISTENT HERewith CONTAINED IN ANY COMMUNICATION FROM BUYER SHALL NOT BE DEEMED A WAIVER OF THE PROVISIONS CONTAINED HEREIN.

F360JWCE0107