

Wet Dog Glass, LLC Terms and Conditions effective 06/00

GENERAL

All orders shall be subject to the approval and acceptance of Wet Dog Glass, hereinafter referred to as the Company, at its office in Star, NC. Purchaser must express in writing to the Company any objection Purchaser has to the terms and conditions contained herein within five (5) days of receipt of this document, otherwise assent to the terms and conditions herein shall be conclusively presumed. All Company quotations or proposals, all acceptances of Purchaser's orders, and all sales by the Company are expressly limited to, and expressly made conditional upon, the Purchaser's acceptance and assent to the Standard Terms and Conditions of Sale as set forth herein, notwithstanding receipt of, or acknowledgment of, the Purchaser's order form or specifications containing additional or different provisions, or conflicting oral representations by any agent or employee of the Company. No waiver, change or modification of any terms or conditions on the face or reverse hereof shall be binding on the Company unless made in writing and signed by an officer of the Company.

PRICES AND TERMS

All prices are subject to change without notice. Quotations are subject to changes after a period of 30 days. Prepayment in full required on orders valued below \$50,000, unless agreement made otherwise. Any order valued at \$50,000 or more for non-standard material shall be subject to progress payment terms. Net 30 terms are subject to approved credit. Any order originating outside the contiguous United States, Alaska, Hawaii, or Canada may be subject to an Irrevocable Letter of Credit confirmed by a U.S. Bank or a sight draft. If, at Purchaser's option, completion of manufacturing is delayed beyond 180 days after receipt of an order, starting on that date a price escalation of 1% per month of the gross order amount will apply. Further, if at the Purchaser's option, shipment of an order is delayed more than ten days after completion of manufacturing, Purchaser will be invoiced at that date and will be responsible for any storage or other costs involved. The Company reserves the right to ship equipment and invoice for same even though minor components are backordered, if the missing items are late due to circumstances beyond the Company's control and said components will not prohibit initial installation work by the Purchaser. A finance charge at a rate of 2% per month (annual percentage of 24%), or the maximum allowable rate, whichever is less, will be added to unpaid invoices over 30 days old; said interest shall relate back and commence from the date of invoice.

PERFORMANCE GUARANTEE

The Company guarantees to the original purchaser that the equipment of its manufacture will perform at rated parameters as stated only when (1) properly installed, connected, started, operated and maintained in accordance with Company Instruction(s), and/or Information Guide(s), as revised from time to time, and (2) used for the applications specified and (3) used in the environments as specified or as limited. If equipment is part of a greater system, the Company accepts responsibility only for the equipment manufactured by it, and only when Purchaser complies with the restrictions herein. The Company shall not be responsible nor liable for any claims and/or losses, either direct, incidental, consequential, punitive or otherwise arising out of the selection of its products to fulfill the requirements of any plans and specifications not prepared or approved by the Company. Due to the nature of fuel fired equipment, its controls and accessories, there will always exist an explosion and fire hazard. To minimize such hazards, this equipment must be installed, operated, and maintained in accordance with the appropriate instruction(s) and/or information guide(s), as revised from time to time. Purchasers of the Company's equipment waive subrogation on all items covered under their own or other insurance.

LIMITED WARRANTY ON THE EQUIPMENT ITSELF

The Company, for a period of one year from shipment, warrants each product or system of its own manufacture, with the exception of burner blocks and other refractory materials (which the Company does not warrant), to the original purchaser to be free from defects in material and workmanship under normal use, service and maintenance. Normal use, service and maintenance means: a. Not in excess of the maximum temperatures, volumes or other parameters specified in the Company's Product Bulletins, Specification Sheets, and/or quotation(s). b. Using only fuels specified in the Company's Product Bulletins, Specification Sheets, and/or quotations. c. Operation and maintenance in compliance with the appropriate Instructions and/or Information Guides. Products or goods not of Company manufacture supplied in piece, or as components to a system designed or sold by the Company, are not covered by this warranty other than any adjustment or warranty obtained from the manufacturer of that component or product to the extent that such adjustment or assignment of warranty is not prohibited. This warranty does not apply to damage caused by any or all of the following circumstances or conditions: a. Freight damage, as Purchaser's remedy for any such damage shall be from the carrier. b. Parts and/or accessories or components not obtained from or approved by the Company. c. Any consequential or incidental damage arising from the use of the product, system or other goods manufactured or sold by the Company. d. Misapplication, misuse, abuse, and failure to follow the Product Instruction Sheets and/or Information Guides. The sole and exclusive remedy under this warranty for any claim of damage in connection with the sale or furnishing of materials by Company shall be limited to the repair or replacement, without charge for labor or materials, of any parts found upon examination by the Company to have been defective, and shall not include field erection costs, if any, involved in the exchange. The remedy shall be conditioned upon receipt of written notice by the Company of any alleged defects promptly after discovery thereof within the warranty period, and shall not be deemed to have failed of its essential purpose so long as Company is willing to repair or replace any defective parts or materials. Generally, consent for the return of items to Company, if given, will be upon the condition that the purchaser assumes and prepays all carrier charges. This warranty is exclusive. The Company expressly disclaims any and all other warranties, whether express or implied, including any implied warranty or merchantability or fitness for a particular purpose. No person, including any dealer or representative of the Company, is authorized to make any representations concerning the Company products or systems on behalf of the Company or to assume for the Company any obligations beyond those contained in this warranty. The Company reserves the right to

make design and other changes, modifications or improvements upon its products or systems, without any obligation to install same on any previously sold or delivered products or systems.

LIMITATION OF LIABILITY

It is expressly agreed that the Company's liability is limited as stated herein. If the Company should be found liable to anyone in any theory (except any express warranty where the remedy is set forth in this document) for loss, harm, or damage, the liability of the Company shall be limited to the lesser of the actual loss, harm, or damage, or the original purchase price of the involved equipment, system or service when sold (or when service performed) by the Company to its Purchaser. This liability is exclusive and regardless of cause or origin resulting directly or indirectly to person or property from: a. The performance or non-performance of any obligation set forth in this warranty; b. Any agreement, oral or written, including specifications, between the Company and the Purchaser. c. Negligence, active, passive or otherwise, of the Company or any of its agents, employees, or independent contractors. d. Breach of any judicially imposed warranty or covenant and, e. Misrepresentation or strict liability involvement. Purchaser shall indemnify and hold the Company harmless against any and all debts, obligations, costs and damages, including attorneys' fees, rising from any claims or causes of action, whether in law or equity, or arising in contract, tort or otherwise, which may be asserted against the Company by any person or entity not a party to this Agreement, resulting from the subsequent sale by Purchaser or the reinstallation by Purchaser, use, repair, maintenance or decision to purchase the goods and materials described herein, provided, however that this indemnity and hold harmless provision shall not apply to the Company's own acts of willful misconduct in the initial production thereof.

DELIVERY

The quoted time of delivery is understood to be from date of receipt of all necessary information including Purchaser's approval, if applicable. Any delay in delivery of any installment shall not relieve purchaser of its obligation to accept remaining deliveries. The Company shall not be liable for damages or for cancellation of the contract as a result of any delay due to any cause beyond the Company's reasonable control including, but not limited to, act of God, act of the purchaser, embargo, or other governmental acts, regulations or requirements, fire, accident, labor disputes, war, civil insurrection or riot, delay in transportation, or the inability to obtain necessary labor, materials, or manufacturing facilities. In the event of any such delay, the date of delivery may be extended for a period equal to the time lost by reason of the delay. All shipments, unless otherwise specified, shall be FOB shipping point (dock) and the Purchaser assumes responsibility for damage or loss in transit. Inspection of products shall occur at the Company's place of business, conducted by Purchaser's authorized representative. It is agreed that the Purchaser shall notify the Company of any shortage within fifteen (15) days from receipt of the material. In the event of loss or damage incurred in transit, claims for parts broken or lost in shipment are to be filed with the transportation company by the Purchaser. Purchaser bears the risk of loss during transit.

PACKAGING

All list prices representing products manufactured by the Company are subject to addition of crating fees.

CANCELLATION OF ORDERS

If, for any reason, the purchaser desires to cancel an order, such cancellation shall only be with the consent of the Company, and then only after payment is made to the Company in cash of the following cancellation charges: (i) 15% of the purchase price for any order cancelled before orders for materials are placed by Company; (ii) 50% of the purchase price for any order cancelled after orders for materials are placed by Company and before Company begins any fabrication of Product to fill such order; (iii) 100% of the purchase price for any order cancelled after Company begins such fabrication.

RETURNS AND RESTOCKING CHARGES

Because most of the Equipment sold by the Company is made to order, Equipment may be returned only upon prior written authorization of the Company. Generally, consent, if given, will be upon the condition the purchaser assumes all carrier charges, responsibility for damages in transit, and a restocking charge, and then only if the so authorized material is in new and unused condition and returned within one year from the original date of shipment. The credit will be based on the original invoice price or the current price, whichever is lower, less the applicable restocking charge.

SERVICE

Unless otherwise noted herein, the cost of the equipment does not include service or installation. All services performed by the Company are subject to purchaser's payment of the Company's prevailing charges plus necessary travel and living expenses. Wet Dog Glass technicians are not licensed electricians or plumbers and will not perform any duties that require professional licensing. Customer is responsible for hiring and expense of any licensed professional to connect/wire Wet Dog Glass systems or components to utilities. Wet Dog Glass offers technical support via phone and on-site for a fee, call for rates. Technical support does not include duties which require professional licensing.

TAXES

Any tax or taxes that may be imposed upon the goods that are the subject of this sale, or upon the sale or delivery shall be added to and become a part of the contract price.

GOVERNING LAW

The terms of this agreement shall be construed in accordance with the laws of the State of North Carolina and venue for all disputes shall be in Montgomery County, NC.