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TERMS AND CONDITIONS

This agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral. The laws of the State of California shall govern this agreement.

- 1. Form of Quotations and Proposals:** Purchaser's execution of this form of proposal shall be considered a firm order for the purchase of the products described herein, and shall be subject to approval and acceptance in writing by an authorized officer of American Hydroponics. Prices, terms and specifications stated verbally or on any quotation, price or proposal form are subject to change without notice and are not binding upon American Hydroponics, unless so accepted in writing by American Hydroponics. Upon final acceptance, American Hydroponics will commence fabrication and shipment of the materials in accordance with the terms hereof, and an executed copy of the agreement will then constitute the entire agreement between the parties and supersedes all prior and contemporaneous agreements and understandings between the parties. Any modifications, additions, or deletions shall not be binding upon American Hydroponics unless accepted in writing. All orders, representations, or agreements made by sales engineers or other agents of American Hydroponics shall be subject to final approval and acceptance in writing by American Hydroponics.
- 2. Terms of Sale:** Purchaser agrees to pay 50% of the price of goods as specified in the signed proposal at the time that the order for said goods is placed. Payments are to be paid by cash, money order or cashiers check. The second 50%, along with the entire cost of the shipment and handling, shall be paid one week before said goods are available to buyer for shipment. All shipping costs prior to shipping are only an estimate. Actual cost for shipping and handling will be assessed just prior to shipment and included in the final balance to be paid prior to shipment. It is agreed that the Purchaser shall pay the total contract price in the manner agreed above and this payment shall be made prior to any inspection. In the event of change of circumstances, American Hydroponics reserves the right to revise terms, or on demand to receive additional security from purchaser. In the event that the purchaser fails to make payment when due, American Hydroponics may suspend its performance under this contract until such payment is made.
- 3. International Shipments:** Customs and import fees are the responsibility of the Purchaser. For overseas shipments, American Hydroponics will ship to Purchaser's chosen Freight Forwarder and the Purchaser is responsible for all fees, charges, and other handling costs after the handoff to the Freight Forwarder.
- 4. Taxes:** Any and all Federal, State or local taxes now or hereafter imposed with respect to any sale made or work performed under this agreement shall be for the account of purchaser, or if required to be paid by American Hydroponics the amount thereof will be added to the contract sum.
- 5. Performance:** In the event American Hydroponics is delayed in making delivery of goods purchased hereunder due to any cause beyond the reasonable control of American Hydroponics including but not limited to strikes, fires, floods, wars, accidents, delays, or default of a supplier or subcontractor, government regulations or disruption due to failure of production facilities, the delivery date shall be extended for such reasonable time as may be required to allow for such delays, provided that American Hydroponics shall in no event be responsible for costs of production, materials, labor or overhead incurred prior to receipt of written notice from purchase of its desire to stop production of a delayed order. Under no circumstances will delay in performance by American Hydroponics excuse Purchaser from making prompt payment for goods delivered prior to such delay. Unless specified by Purchaser, American Hydroponics may make delivery by carrier in single or multiple deliveries.
- 6. Attorney's Fees:** In the event of any arbitration or litigation between the parties concerning the material or work hereunder described or any events related thereto, the party prevailing in such dispute will be entitled to reasonable costs and attorney's fees.
- 7. Responsibility For Installation:** Unless specifically covered by this proposal, or in an addendum hereon, Purchaser alone shall be responsible for the cost of and arrangements for installation of the product (s) sold hereunder, and conformance with all applicable laws and ordinances.
- 8. Damage and Loss Replacement Policy:** Unloading of all materials sold hereunder shall be the responsibility of purchaser. The Purchaser is responsible for inspecting all shipments and making any claims for damage with the carrier. As required by the shipping company, the customer will have to obtain a refund from the carrier to compensate for any shipping damages. Title and the risk of loss or damage to materials shall pass to Purchaser upon delivery to a carrier consigned to Purchaser. Purchaser shall

make note of any damage or lost materials on the bill of lading, secure the signature of the truck driver or freight forwarder, and file claim immediately. Purchaser will not be responsible for materials omitted in shipment, or back-ordered. American Hydroponics will render the assistance necessary to trace and recover lost goods and will work with Purchaser and the carrier in resolving damage claims. If deemed appropriate American Hydroponics will ship a replacement for damaged goods when possible, and charge Purchaser for product. This charge will be on a net/60 day terms.

9. **Returned Merchandise:** American Hydroponics will accept no returns without prior authorization. A restocking charge of 15% will be charged on all returns unless there was an error in our shipping or the product was defective. Defective products must be identified and written notice given to seller within ten (10) days of receipt of goods.
10. **Changes in Order:** In the event Purchaser authorizes, by way of submitting a written Change in Work Order Document signed by both parties, changes in the work will be performed. The contract sum shall be accordingly adjusted, provided that the parties shall agree upon the costs or credits to Purchaser before the change is put into effect.
11. **Security Interests:** American Hydroponics retains a security interest in the material and components described by this agreement until the purchase price agreed upon is paid in full. Until the purchase price is paid in full, Purchaser and American Hydroponics agree that all such material shall be considered personal property and shall not become a fixture, regardless of the method of construction or affixation of said material to any real property. Purchaser agrees to execute any and all documents, which are required by American Hydroponics to enable it to perfect its security interest under the California Uniform Commercial Code.
12. **Grower/Technical Support:** American Hydroponics may provide Purchaser grower/technical support regarding any phase of the Hydroponic System for a one-year period commencing the date the first seeds are planted. Grower/technical support will be provided through faxes, email, mail, and/or telephone communication. The grower/technical support provided for herein is specific to the growing site on which this system was originally installed. Any other type of support not mentioned herein will be subject to a separate agreement between the parties. If an onsite visit is necessary, this can be arranged at an additional cost of \$500 per person plus travel at \$250 per diem, plane fare and comfortable lodging expenses. Travel time pay will either be an hourly rate charge of \$50/hour, \$150 for half-day or \$250 per day of travel.
13. **Limited Warranty:** American Hydroponics warrants that the goods are as described in the agreement and any attached set of drawings, but no other express warranty is made with respect to the goods. American Hydroponics makes no warranty as to items and components furnished and warranted to by others. American Hydroponics does not join in any warranty or guarantee made by the manufacturer, distributor, jobber, dealer or broker of the material or other goods described herein.

The sole obligation of American Hydroponics under this warranty shall be to repair or replace at American Hydroponics' option any materials which American Hydroponics finds defective provided that Purchaser shall have given written notice to American Hydroponics specifying any defects in detail, within ten (10) days after delivery of goods. The warranty shall be effective for a period of one (1) year after the delivery of the materials. This warranty does not apply to products or materials which, in American Hydroponics' sole judgement, have been subjected to misuse, abuse, negligent handling or alteration.

American Hydroponics' obligations are strictly limited to the foregoing which is given in lieu of all other warranties, express, implied or statutory, including warranties of merchantability, quality, and fitness for intended purpose or use. American Hydroponics neither assumes nor authorizes any person to assume on its behalf any other obligation in connection with its materials. In no event shall American Hydroponics be liable for special or consequential damages, or for any delay in performance of this warranty due to causes beyond American Hydroponics control.

Purchaser recognizes that the goods supplied herein may be used under a great variety of conditions, combination of factors and for purposes which are unknown to American Hydroponics and, therefore; it is expressly understood that American Hydroponics liability under this warranty is limited to the furnishing of such replacement components set forth above and Purchaser will not otherwise hold nor attempt to hold American Hydroponics (and will indemnify and save American Hydroponics harmless from) any loss, damage or liability, including but not limited to the loss or damage to crops, structure or equipment, resulting from the use of supplied products for any reason whatsoever, including, but not limited to, nonconformity with installation or use specification, structural failure, damage caused to system, any other natural or man-made causes, or failure of customer to provide and maintain reasonable care of system.

Purchaser Authorization: _____ **Date:** _____