R.F. MacDonald Co.
hydronic, steam & pumping solutions
~ sales/service since 1956

SALE AND PAYMENT TERMS AND CONDITIONS

The following sets forth the sale and payment terms and condition policies of R.F. MacDonald Co. (the "Agreement"). It constitutes the general agreement between R.F. MacDonald Co. ("R.F. MacDonald", the "Company" or "we") and you ("Customer") under which products, services and parts are sold, credit is extended and payments are expected.

This policy supersedes all previous sales and credit, payment terms and conditions, and finance policies issued by R.F. MacDonald Co. and shall remain in effect until further notice. The Company reserves the right to change this policy and agreement at any time.

SCOPE OF WORK

The Scope of Work is fixed and defined as set forth in the proposal and as of the date of this signed Agreement. R.F. MacDonald shall have no obligation for additional scope of supply or to perform additional work outside of the defined Scope of Work unless and until the parties execute a written change order. Any change or modification to the Scope of Work, including without limitation changes resulting from revised specifications, drawings, regulations, site conditions, or Customer requests, shall entitle R.F. MacDonald to an equitable adjustment in price, schedule, and any other affected terms. R.F. MacDonald shall not be required to proceed with any such changes absent an executed written change order.

For the avoidance of doubt, any building permit, air district permit/Authority to Construct, permit to operate, or other permit or authorization required for completion of the project are the responsibility of the Customer and shall be obtained by Customer prior to R.F. MacDonald performing start-up or service.

EXTENSION OF CREDIT

Credit is one of the most important services R.F. MacDonald offers to you as a customer. An open line of credit is established for you based upon your needs, financial strength, and history of meeting your credit obligations.

In order to ensure you the best possible prices and service, we must enforce a credit and collections policy based upon sound business principals and good judgment.

INVOICING AND PAYMENT TERMS

Payment terms for equipment are 25% due upon order and the remaining balance due Net 30 from invoice date, subject to approval of credit, unless different payment terms are set forth in the proposal. Equipment shall be invoiced upon notification that it is ready for shipment. If shipment is delayed by the Customer, the date on which we notify you that the equipment is ready for shipment shall be deemed the date that the equipment is ready for shipment for invoicing purposes. Equipment held for more than 10 business days after the notification of readiness will be subject to a monthly storage fee of $2.50 per square foot. If shipment is delayed by the Customer, risk of loss or damage shall pass to the Customer upon notification that the equipment is ready for shipment, and the equipment shall thereafter be held at the Customer's risk and expense.

Labor shall be invoiced monthly based on the percentage of the labor scope performed through the applicable billing date, with each invoice due Net 30 from the invoice date. Labor invoices shall not be contingent upon completion of the overall project or any project-specific milestone unless expressly stated otherwise in the proposal. If the proposal sets forth a different or more specific schedule of progress payments, the payment schedule set forth in the proposal shall control. If achievement of a Company milestone is delayed, interrupted, or postponed for more than 10 business days due to the Customer or circumstances beyond the Company's reasonable control, the Company shall be entitled to invoice, and the Customer shall pay, the progress payment associated with such milestone to the extent the Company has performed the applicable work or has procured, fabricated, allocated, or otherwise committed the applicable materials or equipment.

The Company is not a party to, and shall not be bound by, any prime contract, subcontract, or other agreement between the Customer and any owner, general contractor, construction manager, or other third party, including any terms incorporated by reference or otherwise purported to flow down to the Company, unless the Company expressly agrees to such terms in a writing signed by an authorized representative of the Company.

The Customer's payment obligations to the Company are absolute and independent of payment to the Customer by any owner, general contractor, construction manager, or other third party. Payment to the Company shall not be contingent upon, conditioned upon, or delayed pending the Customer's receipt of payment from any third party. The Company expressly rejects any "pay-if-paid," "pay-when-paid," or similar provision.

When opening a new account with an order, the Company may require payment with the initial order so as not to delay shipments while credit references and financial information are being reviewed. The Company reserves the right to suspend or terminate further performance if any payment is not made when due. Any resulting suspension or delay shall not constitute a default by the Company, and the Company shall be entitled to an equitable adjustment to the project schedule and contract price for any delay, demobilization,

remobilization, escalation, or other costs resulting from such suspension. The Company's failure to suspend performance immediately upon nonpayment shall not constitute a waiver of its right to subsequently suspend or terminate performance.

Quotes are valid for 30 days. Equipment will not be started up unless 90% of the purchase price of the equipment has been paid.

Cancellations Terms:
Orders may not be canceled once released to the manufacturer or supplier. Products identified as special order, custom, engineered-to-order, non-stock, or procured specifically at the Customer's request are considered non-cancelable and non-returnable (NCNR) once R.F. MacDonald has committed to procurement.

Cancellation acceptance is at the sole discretion of R.F. MacDonald and/or the manufacturer. Customer shall be responsible for all costs incurred by R.F. MacDonald in connection with the order or its cancellation, including but not limited to:

- Engineering and submittal costs
- Manufacturer cancellation charges
- Restocking fees
- Material, fabrication or production costs
- Freight, shipping, handling, storage or return costs;
- Any other costs or expenses incurred by R.F. MacDonald or assessed by the manufacturer.

Notwithstanding the foregoing, if R.F. MacDonald's proposal expressly includes a project-specific cancellation schedule, the terms of that cancellation schedule shall govern and supersede these Cancellation Terms to the extent of any conflict or inconsistency. In all other respects, these Cancellation Terms shall remain in full force and effect.

No cancellation shall be effective unless and until approved in writing by R.F. MacDonald and all applicable cancellation charges have been agreed upon by the Customer.

Shipment Terms Unless otherwise specified in writing signed by an authorized representative of the Company, all equipment shall be delivered Ex Works at the manufacturer's factory or R.F. MacDonald Co. warehouse as applicable. Title to the merchandise shall pass to the buyer upon readiness to ship the equipment and thereafter all risk of loss or damage shall be the Customer's.

Service Charges We reserve the right to take action to collect any invoice which is not paid when due. We also assess a late payment SERVICE CHARGE on the day following the due date and monthly thereafter against all amounts remaining unpaid on each such date. Subject to any limitations that may be imposed by applicable law, the amount of this charge is 1½% of the amount remaining unpaid on each such date.

This policy will be applied to customers who permit their account to become delinquent. It is your responsibility to notify R.F. MacDonald Co. of any extenuating circumstances that may affect your payment and work out a solution. Please know that our interest lies not in collecting a service charge, but in receiving timely payments of your invoice.

Warranty on Equipment and Material Provided by Manufacturer:
You will rely solely on the warranty provided by the manufacturer. Your sole and exclusive remedy for breach of warranty shall be as provided in the manufacturer's standard warranty.

R.F. MacDonald Co. makes no warranty express or implied of any kind. We make no claim of fitness or merchantability or any other warranty, express or implied, nor is anyone else, whether employed by R.F. MacDonald Co., or not, authorized to do so on our behalf. We specifically disclaim the warranty of merchantability and the warranty of fitness.

You will be invoiced in the regular manner for all materials and parts even though it may be an in-warranty transaction. Credit will be issued promptly on our receipt of proof of return, and, as long as the return is within the prescribed time limit and has been properly authorized. Please note that withholding payment of any invoice in anticipation of an in-warranty credit is not allowed with our terms of sale.

For any items or components proposed as a substitute to specified items, it is understood that seller makes no guarantee that the products submitted will be accepted by the approving authority.

In no event shall R.F. MacDonald Co. be liable to you or any person, corporation or other type of legal entity for any special, direct, indirect, incidental, liquidated or consequential damage of any kind, including but not limited to, loss of products, loss of time, loss of use, loss of production, loss of savings or revenues, cost of replacement goods, labor costs or other charges in connection with product

use or malfunction, the repair or replacement of defective parts whether such claims are alleged in strict liability, negligence, tort, contract or otherwise and even if R.F. MacDonald Co. is informed in advance of the possibility of such damages.

Limited Warranty on R.F. MacDonald Labor (If Applicable):
If you are retaining the services of R.F. MacDonald Co.'s service department, R.F. MacDonald Co. warrants that labor performed will be free from defect for a period of one year from the completion of work. This limited warranty excludes remedy for damage or defect caused by accident, misuse, abuse, modifications not executed by R.F. MacDonald Co., improper or insufficient maintenance, or improper operation. Installation, operation, and maintenance shall be in accordance with the product manuals provided by the equipment manufacturer. R.F. MacDonald Co. shall be notified within ten (10) business days of first knowledge of defect by owner or its agent. R.F. MacDonald Co. shall be given first opportunity to make any repairs, replacements, or corrections to the defect within a reasonable period of time. R.F. MacDonald Co. makes no implied warranty of any kind. In no event shall R.F. MacDonald Co. be liable by virtue of this limited warranty or otherwise to you or any person, corporation or other type of legal entity for any special, indirect, incidental, liquidated or consequential damage of any kind.

CLAIMS
You are responsible for inspecting merchandise on receipt and for filing claims with the carriers for damage or loss. All claims for shortages and damages must be made in writing to the carriers within ten (10) days of receipt. We suggest you call the carrier immediately upon noticing any possible freight-related damage and arrange for inspection before proceeding with unpacking. Photographs taken while the delivery truck is still on sight are recommended if possible.

Under no circumstances may you withhold payment or charge the Company for freight or warranty related claims.

No claim for expenses incurred for corrective work done on merchandise provided by the Company will be considered or accepted unless specifically agreed to in writing, in advance of the work being done, by an authorized manager of the Company.

INFORMATION AND ASSISTANCE
If at any time you have a question on an invoice from the Company, a call or note to our accounting department will bring prompt action toward getting the problem resolved.

If it becomes necessary, at R.F. MacDonald Co.'s discretion, to take legal action in order to collect your account, R.F. MacDonald Co. shall be entitled to recover, in addition to any other recovery, its court costs, reasonable attorney's fees and all other collection expenses.

If you have any questions regarding this policy, please contact our office.

We appreciate your business and look forward to providing you with reliable equipment, parts and service.

Please acknowledge below your receipt and agreement to the provisions of this policy statement.

Return the original to:

R.F. MacDonald Co.
25920 Eden Landing Road
Hayward
Phone: 510-784-0110
Fax: 510-784-1004

APPLICABLE LAW: This agreement shall be governed by the substantive laws of the State of California

Acknowledged and Agreed To:
Company Name: _____
Signature: _____
Name/Title: _____
Date: _____