

For clarification purposes only, Water-Right Group references a group of Water-Right Inc. branded products. These branded products included but are not limited to Water-Right, Evolve, WaterCare and CustomCare.

## STANDARD TERMS AND CONDITIONS OF SALE

**1. The Agreement.** The agreement by Water-Right, Inc. (referred to herein as "Water-Right") to sell products to Customer is expressly conditioned upon Customer's agreement to all of these terms and conditions and the terms and conditions stated on Water-Right's order confirmation document (referred to herein as the "Agreement"). No additional or different terms and conditions will apply to any sale or be binding upon Water-Right. Water-Right objects to any terms or conditions which are in addition to or different from these terms and conditions. Customer agrees to and accepts all of these terms and conditions. Any additional or different terms or conditions contained in any document sent by Customer to Water-Right shall be of no effect. Customer specifically waives any terms or conditions in addition to or different from these.

Water-Right reserves the right to accept or reject orders for the protection of distributor or dealer territories, product branding or other distribution strategies.

**2. Delivery, Claims, and Delays.** Except as otherwise explicitly agreed and documented in the Water-Right order confirmation, all products are sold "Ex Works", Water-Right's plant, and Customer shall bear all risk of loss or damage in transit. Upon arrival of any delivery, Customer will note any damage to the packaging or products on the freight bill and give immediate notice of such damage to Water-Right. Where Water-Right agrees to ship product by prepaid freight, Water-Right will ship via the carrier of its choice. Any special instructions for delivery must be communicated by Customer in writing and documented on the Water-Right order confirmation. Additional delivery charges incurred to comply with Customer's special instructions for delivery will be Customer's responsibility. Where Water-Right's order confirmation specifies a drop-shipment location other than Customer's primary office, warehouse or other owned location, which must be specifically approved by Water-Right and comply with any applicable minimum-order requirements and distribution policies, all freight charges and risk of loss will be Customer's responsibility.

Water-Right may deliver products in partial shipments. Where this is necessary, Water-Right will make every effort to contact Customer to make acceptable arrangements for the back-ordered products. Since back-ordered products do not qualify for prepaid freight delivery, Customer may delay shipment of back-ordered products to the date of its next regular shipment of products which Water-Right has agreed to ship via prepaid freight.

Except as otherwise explicitly agreed and documented in the Water-Right order confirmation, Water-Right shall not be liable for any damage resulting from any cause beyond Water-Right's control, including, without limitation, an act of God, act of the Customer, embargo or other government act, regulation or request, fire, accident, strike, slowdown, war, riot, delay or damage in transportation, or inability to obtain necessary labor, materials, or manufacturing facilities. Where Water-Right has agreed to be responsible for any loss or damage in transit, claims for damage must be made in writing to Water-Right within ten (10) days from date of delivery. Failure to give such notice shall constitute Customer's unqualified acceptance of delivery and waiver of any such claims.

**3. Cancellation or Returns.** Any order of a Water-Right standard branded product (products listed in any of the Water-Right brand catalogs) may be canceled at any time prior to shipping. No order for any product which is not a Water-Right standard branded product may be cancelled or altered by Customer except upon Water-Right's prior written consent. In the event of cancellation, Customer agrees to pay a cancellation charge equal to (i) the labor and materials consumed or non-returnable materials ordered as of the date of acceptance by Water-Right of Customer's cancellation notice, plus (ii) the greater of a re-stocking fee of 20% of the cost of the products which Water-Right can return or similar cost paid to materials vendors. In the event of cancellation, Water-Right may, at its sole discretion, use any of such materials in other projects and will credit Customer's account in an amount equal to the cost of any materials so used.

No products may be returned without a Returned Merchandise Authorization ("RMA") from Water-Right. An RMA may be requested by calling 1-800-777-1426 or e-mailing our customer service department. All returns are to be freight pre-paid by Customer, unless the return is due to an error by Water-Right.

**4. Pricing.** The prices quoted are based upon Water-Right's anticipated costs of material, labor, and production, and are quoted in U.S. Dollars. If Water-Right experiences an increase in its anticipated costs for completing Customer's order due to Customer changes, then Customer shall pay those increased costs in addition to the price quoted. Reasons for potential increases include: changes in the delivery schedule by the Customer; changes requested by Customer in materials or design specifications; a delay of greater than ninety (90) days after the date of Water-Right's quote; and changes in materials, technologies or operations mandated by governmental authority, law, rule, regulation or order. Any sales or use tax, import or export duty, or other fee or charge of any nature whatsoever imposed by any government authority shall be paid by Customer in addition to the prices quoted.

**5. Payment.** Water-Right and Customer hereby explicitly agree that title to the products shall not pass to Customer until the total due for the products has been paid in full. Unless other payment terms are set forth in the order confirmation, then the following shall be the payment terms for the order confirmation: the total due for the products shall be due in full within 30 days after the invoice date. Amounts due and not paid within 30 days after the invoice date are subject to interest charges at the rate of 1.5% per month. Customer agrees to pay all of Water-Right's reasonable attorney fees, collection fees and costs arising out of any breach by Customer of this or any subsequent agreement between Customer and Water-Right.

**6. Customer's Grant of Security Interest to Water-Right.** To secure Customer's obligations to Water-Right, Customer hereby grants to Water-Right a security interest (a) in all products sold pursuant to this Agreement by Water-Right to Customer, (b) in all of Customer's products of which any Water-Right purchased products becomes a component or into which any such products is incorporated and (c) in Customer's proceeds from the sale of such products. Customer agrees that Water-Right may execute and file financing statements and other documents reasonably required to allow Water-Right to perfect this security interest. If any amount due Water-Right from Customer is past due, Water-Right may, until all past-due payments together with interest thereon are paid in full, suspend its performance of this Agreement and, if Water-Right is manufacturing products for Customer, retain possession of the products. Water-Right shall have all of the rights and remedies provided by law, including those of a secured creditor under Chapter 409 of the Wisconsin Statutes.

**7. Limited Warranty.** Water-Right warrants that products manufactured by Water-Right for Customer shall be manufactured free of defects in workmanship or materials. Products manufactured by Water-Right shall also conform to any design and manufacturing specifications which are explicitly specified by Customer and/or Water-Right in the applicable order confirmation. Except as explicitly stated on the product warranty card enclosed with a product, Water-Right provides no warranty that the products, as used by the ultimate user thereof, will meet any performance specifications, levels of performance

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## STANDARD TERMS AND CONDITIONS OF SALE

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or performance requirements and Water-Right hereby disclaims all such warranties. Water-Right makes no claim or warranty, to Customer or others, that the products (or the use thereof) will result in any particular health benefits. Any products manufactured by Water-Right, or any component parts thereof, which prove defective in material or workmanship or which fail to conform to any design or manufacturing specifications explicitly specified by Customer and/or Water-Right in the applicable order confirmation within the time periods for such products or components stated on the enclosed warranty card shall, at Water-Right's option, either be repaired or replaced or returned to Water-Right with a credit issued upon return of the defective products; in no case, however, shall Water-Right's liability exceed the price paid to Water-Right by Customer for the products. This remedy shall be Customer's exclusive remedy for breach of Water-Right's warranty. Customer shall give Water-Right written notice of any alleged defect within ten (10) days after discovery by Customer. Customer shall send the allegedly defective products, freight pre-paid, to the location designated by Water-Right. The cost of storage, return freight and any insurance of the products in transit shall be Customer's responsibility. No warranty provided hereunder shall be assignable or transferable by Customer, or shall be effective to the benefit of any third party.

Water-Right further warrants that any products manufactured by Water-Right in accordance with Water-Right specifications (but not specifications provided by Customer or by others on Customer's behalf) shall be free of the rightful claim of any third person for infringement upon any patent, trademark, trade secret or copyright and Water-Right will indemnify, defend and hold Customer harmless against any such claim. Customer warrants that any products, or any materials or component part thereof, manufactured by Water-Right in accordance with the designs or specifications provided by Customer, or by others on Customer's behalf, shall be free of the rightful claim of any third person for infringement upon any patent, trademark, trade secret or copyright and shall indemnify, defend and hold Water-Right harmless against any such claim.

If the products described on Water-Right's order confirmation document are articles manufactured by others, then Water-Right makes no warranties of any kind with respect to such products, but will (to the extent permitted by the manufacturer) pass through to Customer such warranties as are made by the manufacturer.

**THE FOREGOING WARRANTIES AND REMEDY ARE EXCLUSIVE AND IN LIEU OF ALL CONTRACT OR TORT LIABILITY AND ALL OTHER WARRANTIES OR RIGHTS OF REJECTION, EXPRESS OR IMPLIED BY LAW, EQUITY, CONTRACT, CUSTOM, USAGE, OR COURSE OF DEALING, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. WATER-RIGHT SHALL NOT BE LIABLE TO CUSTOMER OR ANY OTHER PERSON FOR ANY CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES WHATSOEVER.**

**8. Indemnity.** Water-Right and Customer (the "indemnitor") each agree to indemnify, defend, and hold the other (the "indemnitee") harmless against any and all losses, damages, and expenses (including attorney fees, and other costs of litigation) that the indemnitee may incur as a result of any claim made against the indemnitee by any person to the extent that such losses, damages or expenses arise out of the negligence or other wrongful conduct of the indemnitor under this Agreement. This obligation of indemnity shall include, without limitation, indemnity by Customer as to any claim which in whole or in part actually or allegedly arises out of danger or defect in any product manufactured by Water-Right to specifications or requirements of Customer.

**9. Termination.** If either party breaches a material provision of the Agreement and the breach is not cured within 60 days after receipt of written notice from the other party specifying the nature of the breach (or if a plan is not in place to expeditiously cure such breach) then the non-breaching party may terminate the Agreement by written notice to the party in breach. As used in this Agreement, the term "breach" shall include, but not be limited to the occurrence of any of the following events: the failure of a party to comply with a material provision of the Agreement; the insolvency of a party or the filing by a party of a petition in bankruptcy; any adjudication that the party is bankrupt or insolvent; the filing by the party of any petition or answer seeking reorganization, readjustment, or rearrangement of the business under any law relating to bankruptcy or insolvency; the appointment of a receiver for all or substantially all of the property of the party, or the making by the party of any assignment or attempted assignment of the benefit of creditors; or the institution of any proceedings for the liquidation or winding up of the business or for the termination of the corporate charter of the party. Termination or other expiration of this Agreement shall not affect the survival of any rights or obligations hereunder which by their nature are to survive and be effective following termination of this Agreement.

**10. Miscellaneous.** No provision of this Agreement and no breach of any provision of this Agreement shall be deemed waived by any previous waiver of that provision or any breach of that provision, by any previous custom, practice, or course of dealing or by Water-Right's failure to object to provisions contained in any communication or order from Customer.

Any molds, patterns, tools or related equipment provided by Water-Right for the manufacturing of products for Customer shall remain property of Water-Right following any termination of this Agreement, unless previously paid for by Customer.

This document (as updated from time to time and published by Water-Right on your respective brand website under policies), together with the Water-Right order confirmation document, constitutes the entire Agreement between Water-Right and Customer and may not be modified except in writing signed by a duly authorized representative of Water-Right. Water-Right sales representatives are not authorized to modify or amend this Agreement or to bind Water-Right to any terms or conditions in addition to or different from those contained in the order confirmation. All amendments or modifications are binding only when agreed to in writing by an authorized officer of Water-Right in its Appleton, Wisconsin, office. There are no oral representations, agreements or inducements pertaining to the transaction described in the order confirmation which are not contained herein or within the Water-Right order confirmation document. Neither of the parties hereto shall be bound by any conditions, warranties, understandings, or representations with respect to such subject matter other than as expressly provided herein or within the Water-Right order confirmation document.

This Agreement shall be governed by and be construed according to its terms and the internal laws of the State of Wisconsin, without regard to its conflict of laws rules. All disputes arising out of or relating to this Agreement or to any products provided by Water-Right pursuant to this Agreement shall be subject to the jurisdiction of the circuit courts of Outagamie County, Wisconsin, or the federal courts including such territory. Each party shall pay the fees and expenses of its own attorneys. Water-Right and Customer consent and submit to the exercise of personal jurisdiction by the Outagamie County, Wisconsin, Circuit Court (or, as applicable, the U.S. District Courts) for the purpose of enforcing this Agreement and for resolving any dispute between Water-Right and Customer.

Any provision of this Agreement prohibited or unenforceable under applicable law shall be ineffective only to such extent and without invalidating the remaining provisions of this Agreement.