

PURE FLOW, INC.
STANDARD TERMS AND CONDITIONS

These “**Standard Terms and Conditions**” apply to the sales order or job quotation issued by PURE FLOW, INC. d/b/a Pureflow, Inc. (“**PFI**”) that references these Standard Terms and Conditions and has been accepted by the customer identified therein (“**Customer**”), as well as any subsequent sales orders or job quotations issued by PFI and accepted by Customer in the same calendar year (all such accepted sales orders or job quotations, an “**Order**” or the “**Orders**”). These Standard Terms and Conditions and the Orders together form a binding agreement by and between PFI and Customer (the “**Agreement**”) that governs the relationship pursuant to which PFI will provide to Customer the Products and the Services (as such terms are defined below). By accepting a sales order or job quotation to which these Standard Terms and Conditions apply, Customer confirms an Order and agrees to each of the terms and conditions set forth in these Standard Terms and Conditions.

(1) **PFI QUOTATIONS AND PROPOSALS.**

(a) Drawings and catalog data accompanying proposals and quotations are considered to be preliminary, and are meant to convey only general system configuration, equipment arrangement, and approximate system size. Piping and instrumentation (P&ID’s) and installation drawings will be completed after receipt of a purchase order from Customer, and, if requested, submitted to Customer for approval.

(b) Any dates noted on proposals and quotations, or otherwise included in the Order, for delivery, shipment, installation, or start-up represent PFI’s best estimate of probable dates based on conditions known at the time the applicable proposal, sales order, or quotation is prepared. Such dates are not guaranteed. In no event will PFI be liable for any delays to provide the Products or the Services howsoever caused.

(2) **PFI PRODUCTS AND SERVICES.**

(a) PFI will provide equipment, parts, and materials (such equipment, the “**Equipment**,” and together with such parts and materials, the “**Products**”) and installation, consulting, support, and/or professional services (the “**Services**”) according to the Order or, at PFI’s option, other Equipment and Services sufficient to meet Customer’s requirements for treated water or other fluids (“**Effluent Water**”).

(b) PFI will provide the Services to Customer’s influent water or other fluids (“**Influent Water**”) to the quality specified in the Order.

(c) PFI will grant Customer a nonexclusive, non-transferable license to use any application software written by PFI (“**PFI Software**”) that is incorporated as a component of any Equipment or other Products. PFI Software is licensed only for use with the Equipment or other Products into which such software is incorporated. Customer may not reverse engineer, decompile, or disassemble, or otherwise obtain or attempt to create, derive, or obtain the source code of, PFI Software, nor may Customer modify or copy PFI Software without authorization from PFI.

(3) **INFORMATION AND RESPONSIBILITIES REQUIRED OF CUSTOMER.** As a condition precedent to PFI providing the Services, Customer shall, without cost to PFI, throughout PFI’s performance of the Services:

(a) Provide PFI with all information, drawings, plans, and specifications in its possession which PFI may deem necessary or appropriate in connection with the performance of the Services.

(b) Secure and pay for all necessary approvals, permits, easements, assessments, and changes required for construction, installation, use, or operation of the Equipment, or occupancy of permanent structures or for permanent changes in existing equipment or facilities.

(c) Furnish PFI with information necessary for PFI to evaluate, give notice of, or enforce a mechanic’s or materialman’s lien. Such information must include a correct statement of the record legal title to the site on which the Services are performed (the “**Customer Site**”) and a correct property description for the Customer Site.

(d) Maintain a safe working environment for all PFI personnel working at the Customer Site.

(e) Provide a suitable location within the Customer Site for the Equipment, the necessary utilities (electricity, water, phone and data lines), fire hoses, fittings, drains, and other services and equipment as required by PFI, security for the Equipment, and reasonable access to the Equipment by PFI personnel.

(f) Maintain the minimum system requirements for PFI Software, including, but not limited to, any hardware and third party software specified by PFI.

(g) Provide Influent Water of the quality described in the Order (including on any schedule attached thereto), at the pressure and at the flow rate required by PFI.

(4) **PFI WARRANTIES.**

(a) **Products Warranty.** PFI warrants that the Products manufactured by PFI will be free from defects in material and workmanship under normal use and service for a period of one (1) year from the date of initial operation or eighteen (18) months from the date of shipment, whichever occurs first. PFI will repair or replace (F.O.B. point of manufacture), at its option, any such Products which PFI determines to be defective during the warranty period.

(b) **Software Warranty.** PFI warrants that PFI Software will perform functionally and be free of defects in all material respects for one (1) year from the date of delivery, provided that such PFI Software has not been abused, misused, or modified and incorporates all program updates, enhancements, and corrections made available by PFI. PFI will correct or replace, at its option, any PFI Software that PFI determines to be defective during the warranty period. PFI will not be responsible for erroneous or incomplete data files, for malfunctions in hardware, operating systems or third party software, or for problems caused by modifications to originally installed operating systems or configurations.

(c) **Installation Warranty.** PFI warrants that, for a period of one (1) year from the date of substantial completion or eighteen (18) months from the commencement of the performance of the applicable Services, whichever occurs first, PFI’s installation work will be free from defects not inherent in the quality required or permitted by the plans and specifications on which the Order is based and will materially conform to such plans and specifications. PFI will reperform or repair any installation work that PFI determines to be defective during the warranty period.

(d) **System Performance Warranty.** In jobs where PFI has exclusive control over design, furnishing of the Equipment and other Products, installation, and commissioning, PFI warrants that its systems will perform to PFI’s established standards for the variables (temperature, feed water make-up, flow rate, pressure, conductivity, etc.) and limits specified in the proposal document (the “**System Proposal**”), at the point of control, for a period of one (1) year from date of substantial completion or eighteen (18) months from the commencement of the performance of the applicable Services, whichever occurs first. PFI will make all corrections to the performance of the system that become necessary during the warranty period. This warranty will apply only if all items that affect system performance (such as feed water make-up, product water usage, etc.) are as represented to PFI at the time of design and Customer follows all recommendations (such as proper system maintenance, sequence of operations, etc.) made by PFI. No warranty, express or implied, shall exist for the performance of any variables or limits not specifically stated in the System Proposal. This warranty does not apply to system corrections necessitated by use of the system other than as described in the System Proposal. This warranty does not include testing or analysis of the system unless an out-of-limit condition caused by system performance is found by PFI. PFI shall not be liable for any design, materials, products, or services not included in the System Proposal.

(e) **Services Warranty.** PFI warrants that it will perform the Services in a workmanlike manner in accordance with generally accepted industry standards. The foregoing warranty is conditioned upon receipt by PFI of written notice of deficient Services from Customer promptly after discovery thereof, but in no event more than ninety (90) days after completion of such Services. PFI will, at its own expense, use commercially reasonable efforts to re-perform the deficient Services (or the deficient parts thereof) as to which it received timely notice. This warranty does not apply to: (i) Services covered by the warranties set forth in Section 4(c) or (d) above; or (ii) materials furnished in connection with the Services that are not manufactured by PFI, which materials are subject to the terms and conditions of Section 4(f) below.

(f) Repair and Maintenance Service. Except as provided above, PFI makes no warranty whatsoever, express or implied, relating to its performance of repair and maintenance services or the condition or operation of any Equipment or other Products repaired or maintained by it. Any repair, replacement, or maintenance performed by PFI does not extend the warranty periods set forth above. Further, during the applicable warranty period, Customer remains responsible for all charges for parts and services which fall into the general category of normal maintenance, are needed to make additions or modifications requested by Customer, or are needed to make repairs not covered by the warranties provided above.

(g) Assignment of Other Warranties. To the extent assignable, PFI assigns to Customer any and all warranties made by the manufacturer of any Equipment, other Products, or non-PFI Software that are furnished but not manufactured or developed by PFI. The warranty remedies offered by such third party manufacturers are Customer's exclusive remedies. PFI makes no warranty whatsoever, express or implied, relating to any such Equipment, other Products, or non-PFI Software.

(h) Limitation of Warranty. The warranties set forth in Sections 4(a), (b), (c), (d), and (e) above extend only to Customer and cannot be assigned without the express written permission of PFI. The foregoing warranties do not cover damage or defects caused by: (i) Customer's or any third party's negligence, abuse, misapplication, misuse, or unauthorized repair; (ii) modifications not executed by PFI; (iii) improper or insufficient maintenance; (iv) improper operation; or (v) normal wear and tear under normal usage. The foregoing warranties are null and void if the Equipment or other Products are: (A) relocated from the Customer Site without prior authorization from PFI; (B) not installed, commissioned, operationalized, used, or maintained by Customer (if and as applicable) in accordance with the documentation or instructions provided by PFI or applicable third party manufacturers; or (C) repaired in a manner not approved or recommended by PFI or applicable third party manufacturers. PFI will not be responsible for damage from water, chemicals, steam, freezing, voltage variations, electrical service interruptions, unsuitable process conditions, environmentally unsafe conditions, errors in Customer's drawings, plans, or specifications, or other causes not within the control of PFI. PFI makes no warranty whatsoever, express or implied, relating to any hazardous or toxic substances or environmentally unsafe materials.

(i) Limitation Of Remedies. In the event of defects, nonconformities, or other failures to meet a warranty set forth in Sections 4(a), (b), (c), (d), and (e) above, Customer's sole and exclusive remedy, and PFI's sole liability, will be the applicable remedy set forth in Sections 4(a), (b), (c), (d), or (e) above or, in limited circumstances where PFI determines such remedy is not feasible, PFI may opt to refund Customer's payments for the Products or the Services that are the subject of warranty. For the purpose of avoiding doubt, PFI's liability under this Section 4 is subject to the limitations set forth in Section 12 below.

(j) No Other Warranties. EXCEPT AS PROVIDED IN THIS SECTION 4, THE PRODUCTS AND THE SERVICES ARE PROVIDED "AS IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. THE LIMITED WARRANTIES PROVIDED IN THIS SECTION 4 ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, TITLE, OR NON-INFRINGEMENT, ALL OF WHICH ARE EXPRESSLY EXCLUDED OR DISCLAIMED. PFI DOES NOT WARRANT THE PRODUCTS OR THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR ACHIEVE ANY INTENDED RESULT. If any government entity imposes an implied warranty on PFI, it shall have the same time duration as the respective express warranty listed above.

(5) PLANS AND SPECIFICATIONS. PFI shall not be liable for damages of any kind resulting from errors, omissions, or inconsistencies in Customer's drawings, plans, or specifications, nor shall PFI have any responsibility to ascertain whether such drawings, plans, or specifications are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. PFI shall not be responsible for, and Customer shall indemnify PFI against, any claim or suit alleging infringement of any patent, copyright, design, trademark, or other proprietary right resulting from the manufacture or installation by PFI or the possession or operation by Customer of any product which is specially designed by PFI for Customer or specifically requested by Customer or required by Customer's drawings, plans, or specifications.

(6) PRICE, PAYMENT, AND CHANGE ORDERS.

(a) The price and payment terms for the Products and/or the Services shall be PFI's quoted price and other terms set forth in a valid written quotation provided by PFI to Customer. Unless expressly provided otherwise, all prices quoted are valid for thirty (30) days only or until earlier acceptance by Customer or revoked or revised by PFI as provided in Section 18 below. Unless otherwise set forth in the quotation, prices are F.O.B. destination, freight prepaid and added to the applicable invoice. All prices are exclusive of any applicable taxes, which Customer agrees to pay as provided in Section 8 below.

(b) All payments shall be due from Customer upon receipt of an invoice from PFI. Payments not made within thirty (30) days after the date of the invoice will bear interest at the rate of one and one-half percent (1.5%) per month or the maximum rate allowed by law, whichever is less. Customer shall pay such interest in addition to any collection costs incurred by PFI.

(c) Any cost incurred by PFI in the performance of any of Customer's responsibilities in Section 3 above shall be reimbursed by Customer. Temporary surcharges may be applicable for unusual increases in cost of production or distribution materials, including, without limitation, regenerant chemicals, filtration media, and fuel.

(d) Any changes, additions, or deletions in the work contemplated in the Order or in the plans and specifications on which the Order is based shall be set forth in a change order executed by PFI and Customer, which change order shall set forth the adjustment (if any) in price. Any such price adjustments shall be based on a quotation from PFI. Notwithstanding the foregoing, PFI has the right to make improvements or changes to the Products which do not materially impact form, fit, function, or regulatory status in an adverse manner. The plans and specifications on which the Order is based shall be deemed amended to the extent of any such improvement or changes.

(e) If Customer delays, postpones, or otherwise fails to timely take delivery of the Products and/or the Services, in whole or in part, from the time stated therefor in the Order, then, without prejudice to any other right or remedy available to PFI: (i) PFI may invoice Customer on a time and materials basis for work performed by PFI for Customer to date, notwithstanding any payment terms in the Order to the contrary, with such payment to be applied and credited to the contract price; and (ii) Customer shall, upon request by PFI, reimburse PFI for all costs and expenses reasonably and directly incurred as a result of such delay, postponement, or failure.

(7) TITLE AND POSSESSION.

(a) Risk of damage to, and loss of, the Products passes from PFI to Customer at the time and place of delivery to Customer. Title and rights to the Equipment sold by PFI to Customer shall remain vested in PFI until the contract price is paid in full. If Customer defaults in the payment or performance of its obligations to PFI or if Customer's credit, in PFI's sole judgment, is impaired at any time, then PFI shall have the right to suspend work, to withhold or delay shipments and repair and maintenance services, and to recall and repossess goods, whether in transit, stored with PFI for Customer's account, or in Customer's possession, until all outstanding defaults are cured and Customer's credit is restored. If and to the extent title is deemed to have passed prior to payment in full of the contract price, Customer hereby grants PFI a purchase money security interest in the Products to secure payment therefor and all other sums due to PFI from Customer. For the avoidance of doubt, title to PFI Software does not pass to Customer.

(b) At no time will PFI be deemed to have taken title to product water, feedwater, Influent Water, Nonstandard Substances (as defined herein), Hazardous Substances (as defined herein), or any other materials or substances processed at the Customer Site or treated by PFI pursuant to the Agreement. PFI does not take responsibility for or provide waste characterization, disposal facility selection, disposal, or payment of sewage or landfill fees. Customer is responsible for all wastes and waste disposal from the Customer Site. As used herein: (i) "**Nonstandard Substances**" means substances or materials which are not identified in the Influent Water Quality Window set forth in the Order or which were not or could not be reasonably anticipated by PFI as being a component of the Influent Water; and (ii) "**Hazardous Substances**" means toxic substances, hazardous substances, pollutants, contaminants, regulated wastes, or hazardous wastes as such terms may be defined or classified in any statute or ordinance or regulations promulgated by any notional, federal, state, provincial, or local governmental authority.

(c) PFI tools, service equipment, remaining expendables, hoses, connections and parts, vehicles, mobile systems, portable exchange deionization, and carbon tanks remain the property of PFI.

(8) TAXES. Customer shall pay all sales, use and excise taxes, customs, duties, and similar taxes and charges imposed by any governmental authority now or hereafter imposed on Customer or PFI based on the manufacture, sale, shipment, service, lease, rental or use of equipment, or the provision of any goods or services or goods hereunder.

(9) **INTELLECTUAL PROPERTY RIGHTS.** As between PFI and Customer, PFI is and will remain the sole and exclusive owner of all right, title, and interest in and to the Intellectual Property Rights (as defined herein) associated with the PFI-manufactured Products, PFI Software, and the Services. Accordingly, Customer agrees that any improvement, enhancement, or modification relating in any way to the PFI-manufactured Products, PFI Software, or the Services is owned by PFI without further consideration, regardless of which party is responsible for conception or development thereof. Except for licenses granted in PFI Software, no right, title, or interest in or to such Intellectual Property Rights is granted by PFI to Customer, whether by implication, estoppel, or otherwise; provided, however, subject to Customer's payment in full of all amounts due to PFI in connection therewith, PFI grants to Customer a personal, non-exclusive, non-transferable license to use the Intellectual Property Rights only in conjunction with, and to the extent incorporated in, the PFI-manufactured Products. Customer will not take any actions inconsistent with PFI's ownership of each of PFI's rights in and to the PFI-manufactured Products, PFI Software, or the Services or the Intellectual Property Rights associated therewith. As used herein, "**Intellectual Property Rights**" means all intellectual property rights throughout the world, including, but not limited to: (i) all patents, patent applications, patent rights and patentable subject matter, including any divisions, substitutions, continuations, continuations-in-part, renewals, reissues and extensions of the foregoing (as and to the extent applicable) now existing or hereafter filed, issued or acquired; (ii) all rights associated with drawings, notes, records, and other works of authorship, including copyrights, copyright applications, copyright registrations; (iii) all rights associated with the names or labels of products or services, including trademarks, service marks, trade names, domain names, logos, trade dress and product aesthetic features, including, without limitation, all registrations, applications for registration, and common law rights thereto, and all goodwill associated therewith; (iv) all design rights, whether registered, unregistered, patented, patentable or otherwise; (v) all trade secrets, methods, processes, show-how, know-how, ideas, inventions, and rights to enforce confidentiality or similar obligations; and (vi) any and all other forms of intellectual property or proprietary rights recognized anywhere in the world, whether or not registrable.

(10) **CONFIDENTIAL INFORMATION.** Each of Customer and PFI (in such capacity, the "**Receiving Party**") shall not, without the prior written consent of the other party (in such capacity, the "**Disclosing Party**"), at any time disclose to any third party or use for any purpose other than the performance of the Agreement, any information made available or provided by the Disclosing Party or on its behalf to, or which is otherwise accessible or viewable by, the Receiving Party, which is designated in writing and marked as "confidential" or with like marking, or which reasonably should be known by the Receiving Party to be confidential or proprietary to the Disclosing Party under the circumstances of disclosure or in light of the information disclosed ("**Confidential Information**"). Confidential Information does not include information which: (a) at the time of disclosure or thereafter becomes publicly known through no act or fault of the Receiving Party; (b) was otherwise in the Receiving Party's lawful possession prior to disclosure, as shown by the Receiving Party's written records; (c) is received by the Receiving Party from a third party without a restriction on disclosure or use or any violation of applicable law; (d) is released from confidential status by the Disclosing Party; or (e) has been independently developed by a person or entity not a party to the Agreement and such development can be proved by clear and convincing documentary evidence. For the purpose of avoiding doubt, PFI's Confidential Information includes: (i) any trade secrets or non-public business, financial, or technical confidential information of or relating to PFI; (ii) any information, data, methods, ideas, drawings, notes, records, or other work product arising out of PFI's performance of the Services; and (iii) PFI's quoted prices and the other terms and conditions set forth in the Agreement.

(11) **TERMINATION AND SUSPENSION.**

(a) Except as otherwise provided in the Order, no party has the right to terminate or cancel the Agreement for convenience. In the event the Agreement is terminated or canceled by Customer, PFI will be entitled to: (i) payment in proportion to the Products delivered and the Services completed as of the date of cancellation, including inventory held on behalf of the Agreement and work in progress related to the Agreement, (ii) the unamortized portion of the cost of Products, where such cost is amortized by PFI on a straight line basis over the contract term, (iii) allowances for overhead and profit, and (iv) reasonable costs of winding up the work, terminating subcontracts, and closing out the project, including, with limitation, a demobilization fee to be charged by PFI in its commercially reasonable discretion. No Products shall be returned to PFI without its prior written authorization.

(b) Either party may terminate the Agreement by providing the non-terminating party with written notice thereof if the non-terminating party: (i) is liquidated, dissolved, or adjudicated to be in a state of bankruptcy or receivership, (ii) makes an assignment to or for the benefit of its creditors, (iii) ceases to conduct business for any reason on an on-going basis; (iv) breaches any material term or condition set forth in the Agreement and fails to cure such breach within fifteen (15) days after receiving such written notice thereof; or (v) violates applicable law or regulation, provided that, in the event of a violation that is, by its nature, curable, such termination will become effective only if the non-terminating party fails to remedy the violation within fifteen (15) days after receiving such written notice thereof. PFI may terminate the Agreement by providing the Customer with written notice thereof if Customer: (A) if any payment hereunder is owed and outstanding more than thirty (30) days after the date on which payment is due; or (B) self-performs or engages any third party to perform services to the Equipment or other Products without the prior written consent of PFI.

(c) The termination of the Agreement for any reason does not release either party from any liability which, at the time thereof, has already accrued to such party, or which is attributable to a period prior to such expiration or termination; nor shall it preclude any party from pursuing all rights and remedies it may have hereunder or at law or in equity with respect to any breach of the Agreement.

(d) PFI shall be entitled to suspend any Products shipment or the Services if Customer is in breach of the Agreement or if any payment hereunder is owed and outstanding more than thirty (30) days after the date on which payment is due, without penalty or liability to PFI.

(12) **LIMITATIONS OF LIABILITY.** In no event will PFI be liable to Customer or to any other party for any indirect, incidental, consequential, special, punitive, or exemplary damages, or damages for lost profits, arising from or related to the Agreement and/or the Products and the Services, including, but not limited to, loss of revenue or anticipated profits or lost business, even if PFI was advised in advance of the possibility of such damages. In no event will the total cumulative liability of PFI for any claim, loss, or damage of any kind arising under the Agreement or in connection with the Products and the Services, whether based on contract, tort, negligence, indemnity, or otherwise exceed the actual amount paid to PFI hereunder for the Products and the Services. No claim may be asserted by Customer against PFI more than twelve (12) months after the date of the cause of action underlying such claim. CUSTOMER ACKNOWLEDGES AND AGREES THAT PFI HAS ENTERED INTO THE AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SPECIFIED HEREIN, WHICH ALLOCATE RISK BETWEEN PFI AND CUSTOMER AND FORM A BASIS OF BARGAIN BETWEEN THE PARTIES. SOLELY IF AND TO THE EXTENT REQUIRED IN ORDER TO MAKE THIS LIMITATION OF LIABILITY ENFORCEABLE, NOTHING SET FORTH HEREIN SHALL EXCLUDE OR LIMIT LIABILITY TO A GREATER EXTENT THAN PERMITTED BY APPLICABLE LAW OR EXCLUDE OR LIMIT LIABILITY FOR FRAUD, FRAUDULENT MISREPRESENTATION, OR FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE.

(13) **INDEMNITY.**

(a) Customer hereby indemnifies PFI against, and holds it harmless from, all claims, liabilities, damages, costs, and expenses (including reasonable attorneys' fees) incurred by PFI which arise out of or result from: (i) Customer's unauthorized or improper use of the Products or due to the Products being misused, abused, altered, or improperly maintained or repaired; (ii) the negligence or intentional misconduct of Customer or its employees, agents, or independent contractors or subcontractors; or (iii) the failure of Customer to perform its obligations to PFI. Customer agrees to be responsible for and to pay all reasonable attorneys' fees incurred by PFI in enforcing its rights against Customer hereunder and all court costs and expenses associated therewith.

(b) Subject to Section 13(a) above, PFI hereby indemnifies Customer against, and holds it harmless from, all claims, liabilities, damages, costs, and expenses (including reasonable attorneys' fees) attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property (except as required by the Services) incurred by Customer as a result of third party claims or actions related to the negligence or intentional misconduct of PFI or its employees, agents, or independent contractors or subcontractors or from the failure of PFI to perform its obligations to Customer.

(14) **INSURANCE AND BONDS.**

(a) Unless otherwise agreed by PFI in writing, PFI is not required to purchase or maintain any performance or payment bond, builders risk insurance, pollution liability, or product liability insurance covering PFI's work for Customer. PFI shall purchase and maintain such comprehensive liability insurance as it deems appropriate from time to time and may, if agreed in writing, add Customer as an additional insured.

(b) Customer shall purchase and maintain: (i) comprehensive liability insurance (including broad form contractual liability coverage) in an amount deemed appropriate by Customer from time to time (but in no event less than a commercially reasonable amount); (ii) such boiler and machinery insurance as may be required by PFI or by law; (iii) loss of use insurance in amounts deemed necessary by Customer; and (iv) all-risk fire and extended coverage insurance in a form acceptable to PFI covering the Customer Site and the Equipment for the full cost of replacement as of the time of any loss, insuring against the perils of fire and extended coverage and physical loss or damage including theft, vandalism, malicious mischief, collapse, transit, flood, earthquake, testing, and damage resulting from defective design, workmanship, or material. The foregoing boiler and machinery insurance and fire and extended coverage insurance shall name PFI as an additional insured. Customer shall provide PFI with certificates of all such insurance upon request.

(c) Customer and PFI waive all rights against each other and their respective employees, agents, and independent contractors for damages covered by the insurance maintained by them pursuant to this Section 14, except such rights as they may have to the proceeds of such insurance held by Customer as fiduciary. All insurance policies maintained by Customer and PFI shall provide for waivers of subrogation by endorsement or otherwise.

(15) FORCE MAJEURE. PFI shall not be liable for any damages suffered by Customer resulting from delay in the performance of orders or contracts or in the delivery or shipment of goods or repair and maintenance services, if such delay is directly or indirectly caused by: (a) the act or neglect of Customer or its employees, agents, or independent contractors; (b) changes ordered in the work to be performed by PFI for Customer; or (c) labor disputes, fire, casualty, unusual delays in deliveries, civil unrest, acts of God, governmental interference or embargoes, shortage of labor, fuel, power, materials, or supplies, or any other causes beyond PFI's control. In the event of any such delay, PFI shall not be deemed to be in default in its obligations to Customer, and the time for performance by PFI shall be reasonably extended.

(16) HAZARDOUS MATERIALS. In the event that, during the course of its work, PFI encounters material reasonably believed to be asbestos, PCB, or any other hazardous or toxic substance which has not been rendered harmless, PFI shall stop work in the affected area and report the condition to Customer. PFI shall not be required to perform, nor does PFI's job quotation include, any work relating to asbestos, PCB, or any other hazardous or toxic substance. To the fullest extent permitted by law, Customer shall indemnify and hold harmless PFI and its employees, agents, and subcontractors from and against any and all claims, damages, losses, and expenses (including reasonable attorneys' fees) arising out of or resulting from any asbestos, PCB, or other hazardous or toxic substance located at the Customer Site, including without limitation any such damages, losses, and expenses resulting from the removal thereof by PFI at Customer's request.

(17) PFI PERSONNEL. During PFI's performance of the Services and for a period of two (2) years after the completion or termination thereof, as partial consideration for PFI's performance of the Services, Customer agrees not to, directly or indirectly, solicit or hire, or attempt to solicit or hire, any employee or independent contractor of PFI, or otherwise cause any such employee or independent contractor to terminate its relationship with PFI, without first seeking and obtaining PFI's written consent thereto. If Customer hires any such personnel in breach of this Section 17, the Customer agrees to pay PFI a one (1)-time fee equal to two times such personnel's annual compensation when last employed or engaged by PFI.

(18) ACCEPTANCE. Although PFI generally keeps its quotations in effect for thirty (30) days, Customer should recognize that a job, repair and maintenance service, lease or rental quotation, sales order, or repair and maintenance service agreement by PFI does not constitute a firm offer and may be revised or revoked by PFI at any time prior to acceptance by Customer and agreement by PFI. All quoted work, services and prices are conditioned expressly upon acceptance by Customer of each and all of the terms and conditions contained in these Standard Terms and Conditions. If PFI's job, repair and maintenance service, lease or rental quotation, sales order, or repair and maintenance agreement is accepted and Customer's order form is used for this purpose, then it is expressly understood and agreed that these Standard Terms and Conditions shall override and prevail over any inconsistent terms and conditions contained in such order form, and the issuance of such order form by Customer shall be deemed to evidence Customer's assent and agreement to the foregoing.

(19) NOTICES. Any information or notices required to be given under the Agreement shall be in writing and shall be delivered either by: (a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid, in the U.S. mail; (b) a reputable messenger service or a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such messenger or courier; or (c) personal delivery with receipt acknowledged in writing, in which case notice shall be deemed delivered when received.

(20) GOVERNING LAW. The Agreement is governed by and construed in accordance with North Carolina law without regard to its conflict of law principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply. Any disputes, actions, claims, or causes of action arising out of or in connection with the Agreement entered into hereunder shall be subject to the exclusive jurisdiction of, and venue in, the federal and state courts located in North Carolina, and each party irrevocably consents thereto.

(21) MICELLANEOUS. The Agreement constitutes the entire agreement between PFI and Customer with respect to the subject matter thereof and supersedes all prior proposals, negotiations, conversations, discussions and agreements between the parties. The Agreement is binding upon and inures to the benefit of the parties and their respective successors and assigns; provided, however, neither the Agreement nor any rights, duties, or obligations hereunder may be assigned, delegated, or otherwise transferred in any way by Customer without PFI's prior written consent. Any attempted assignment by Customer in violation of the foregoing restriction is null, void, and of no legal effect. If any provision contained in the Agreement is for any reason held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision of the Agreement, but the Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained therein. No delay or omission by a party to exercise any right or remedy accruing pursuant to any of the terms of the Agreement will impair any such right or remedy or be construed to be a waiver thereof. A waiver by a party of any of the covenants and agreements of the Agreement will not be construed to be a waiver of the future enforceability of such covenants and agreements or any other covenant or agreement therein contained. No amendment or modification of any provision of these Standard Terms and Conditions will be effective against PFI unless the same shall be in writing and signed by an authorized representative of PFI. In no event shall the Agreement be modified, supplemented, qualified, or interpreted by any trade usage or prior course of dealing not made a part of the express terms hereof. Customer shall have no rights to any setoffs, abatements, or withholdings of any kind under the Agreement. Customer acknowledges and agrees that the terms, conditions, and restrictions set forth in Sections 9, 10, and 17 hereof are reasonably necessary for the protection of PFI's business and goodwill, and that any breach or threatened breach by Customer of any of such terms, conditions, and restrictions may cause PFI substantial and irreparable harm for which monetary damages alone may not be adequate; and accordingly, that in the event of such a breach or threatened breach, PFI will have the right to seek immediate injunctive relief and/or specific performance, in addition to any other remedies available at law or in equity.