



TERMS & CONDITIONS OF PURCHASE

1. These terms and conditions "(T&C)", and a Purchase Order are a contract. These T&C and a Purchase Order are incorporate the following definitions:

"Buyer" shall mean Johnson Marcraft Inc. or Johnson Heater Corp. or their affiliates. "Seller" shall mean the manufacturer or vendor furnishing the goods named in this Order. "Parties" means the Buyer and Seller. "Order" refers to the basic requirements set forth on the face of the Buyer's Purchase Order, these terms and conditions of sale, purchase or service, any subsequent modification or line items, requirements, or terms and conditions as may be mutually agreed upon by the parties. "Goods" as used throughout this Order shall describe the specific services, equipment and/or merchandise, including accessories, purchased by Buyer.

2. Acceptance of this Order is expressly made conditional on assent to the terms, provisions and conditions of this Order which cannot be altered by the shipment or receipt of any goods contemplated by this Order. Alterations or additions, to be binding on Buyer, must be in writing and bear the signature of Buyer's authorized representative, Buyer hereby giving advance notice of objection to any alterations or additions purported to be made by any written expression or confirmation of acceptance of this Order by Seller unless approved in writing by Buyer's authorized representative as aforesaid. Seller's shipment of the goods or its execution of the Acknowledgment copy of this instrument shall constitute acceptance of all of the terms, provisions and conditions herein set forth, and said terms, provisions and conditions shall constitute the entire contract between the parties, no additional or different terms, provisions or conditions contained in a written expression or confirmation of acceptance by Seller shall become a part of the contract between the Parties even though such expression or confirmation of acceptance states that it is expressly made conditional on assent to such additional or different terms, provisions or conditions.

3. Delivery shall not be deemed to be complete until the goods have been received and accepted by Buyer or if such goods are being drop-shipped, until the goods have been received by the party designated to receive such goods. Time of delivery is of the essence hereof. Buyer reserves the right to refuse any goods and cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions. Acceptance of any part of the order shall not bind Buyer to accept future shipments, nor deprive it of the right to return goods already accepted.

4. Shipments shall be made via the most economical route, and in a single shipment, unless otherwise instructed in this Order. Seller shall furnish a receipted bill of lading or other receipt from the carrier. Seller is responsible for taxes, packing, crating, storage, insurance, transportation and delivery expense. Buyer reserves the right to return over-shipments at Seller's expense. Buyer's count and weight shall be accepted as final and conclusive if a packing slip is not enclosed with shipment. All packaging, labeling, marking and the like shall comply with Federal, State and Local Laws and Regulations, and shall include MSDS and related packing information and instructions for further shipment and use.

5. In addition to any warranty implied by fact or law, Seller expressly warrants that the goods covered by this Order are free from defects in design, materials and workmanship, conform strictly to specifications, drawings and samples, if any, are fit and sufficient for the purpose intended and are merchantable. Any warranty of the Seller derived from a supplier or vendor of the Seller shall be effective as a limitation upon Buyer's rights ONLY if Seller provides a copy of such third party warranty to Buyer prior to the submission of this Order and Buyer agrees in writing to be bound thereby. Acceptance of this Order shall constitute an agreement upon Seller's part to indemnify and hold Buyer harmless from liability, loss, damage and expenses, including special, incidental and consequential damages, and including reasonable counsel fees, incurred or sustained by Buyer by reason of the failure of the goods to conform to such warranties. Such indemnity shall be in addition to any other remedies provided by law. Such warranty shall run to Buyer, its successors, subsidiaries, affiliates, assigns and customers. All warranties shall survive inspection, tests, acceptance of and payment by Buyer. In the event of breach of warranty, Buyer may at its option either return for credit or require prompt correction or replacement of the defective nonconforming goods. In the event Seller refuses to promptly correct the defective or nonconforming goods as required hereunder by Buyer, Buyer may upon reasonable notice to Seller make the repairs necessary to correct said goods and charge Seller with the costs of repair. All shipping costs and any reasonable travel, removal and installation costs incurred in connection with goods to be replaced or repaired or faulty work to be corrected, shall be borne by Seller. Any warranty provided shall be valid for a period of not less than two years from the date of installation or start-up, whichever is later, or, in the event goods are utilized on an hourly basis and for which such usage records are maintained, for not less than 3,000 operational hours.

6. Seller represents that the goods covered by this Order have been manufactured and sold in compliance with the requirements of the Robinson-Patman Act, the Fair Labor Standards Act, Federal Communications Commission, OSHA regulations and other federal, state and municipal laws, rules, codes and regulations for sale of such goods. All electrical appliances and devices covered by this Order will comply with the standards of any and all applicable state and local underwriters, boards and governmental authorities.



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7. Seller agrees to indemnify Buyer and hold it harmless from and against all liability, loss, damage and expense, including reasonable counsel fees, resulting from any actual or claimed trademark, patent or copyright infringement, or any litigation based thereon, with respect to any of the goods covered by this Order and such obligation shall survive acceptance of the goods and payment therefore by Buyer. Seller further agrees that all transactions, applications, drawings and uses of its goods by and with Buyer shall be confidential, and not used for any promotional or other purpose, especially with Buyer's competitors, with only those employees of Seller having knowledge of Buyer's purchase and use of Seller's goods as is strictly required to effectuate Buyer's Orders. Seller agrees that it shall not solicit, promote or participate in third party business that is competitive with Buyer, and Seller agrees to private label and maintain confidentiality that it is a vendor or supplier of Buyer's. Failure by Buyer to enforce any provision hereof in one or a pattern of instances shall not be a waiver of Buyer's rights herein.

8. All goods, wrappers and containers must bear markings and labels for sale, use and shipment required by applicable federal, state and municipal laws and regulations for the protection and safety of persons and property and Seller warrants that prices include all charges for packing, crating and transportation to F.O.B. point, excepting those for which Buyer has requested private branding or other nomenclature for labeling.

9. Seller shall not be liable for damages occasioned by any delay in performance or delivery due to causes beyond the reasonable control and without the fault or negligence of Seller, including, but not limited to, labor strikes and force majeure, provided that Seller promptly notifies Buyer in writing when such delay is apparent. However, if Seller for any reason not provided for above fails to proceed with the performance of this Order or to make deliveries within the time specified in this Order, or if Buyer shall have a reasonable doubt of Seller's ability to perform its obligation, Buyer in addition to its remedies at law may, at its option, approve the revised delivery schedules or terminate this Order or such part or parts hereof as to which there has been delay or any doubt, without liability to Buyer.

10. Buyer shall have the right to make changes within the scope of this Order. If any change causes an increase or decrease in price under this Order, or in the time required for performance, an equitable adjustment shall be made and this Order shall be modified in writing accordingly. Any claim for adjustment under this provision must be asserted within a reasonable time not to exceed thirty (30) days from the date the change is ordered, and the amount of such claim must be stated in writing; provided, however, nothing shall exclude Seller from proceeding with the Order as changed; and further provided, however, notwithstanding any other provision herein to the contrary, if Buyer designates the goods ordered hereunder to be delivered in multiple or staggered shipments, Buyer shall at any time have the right upon written notice to Seller to cancel and terminate this Order as to any such goods not then shipped without liability to Buyer on account thereof.

11. Buyer may terminate this Order in whole or in part at any time for any cause by serving upon Seller written notice, and will reimburse Seller for its reasonable and necessary expenses incurred directly incident to this order to the date of cancellation, but shall not be liable for any loss of profits on the portion thereof canceled. If Seller fails to make delivery in accordance with the agreed delivery date or schedule, except as provided in paragraph 9 hereof, or otherwise fails to observe and comply with any of the other instructions, terms, conditions, or warranties applicable to this Order or fails to make progress as to endanger performance of this Order or in the event of any proceedings by or against Seller in bankruptcy, or insolvency or for the appointment of a receiver or trustee, or an assignment for the benefit of creditors, Buyer may in addition to any other right or remedy provided by this Order or by law, terminate all or any part of this Order by written notice to Seller without liability to Buyer on account thereof. Buyer may purchase similar goods and services elsewhere on such terms and in such manner as provided for in Section 2-7 12 of the Uniform Commercial Code.

12. Buyer shall have the right to require Seller at any time to suspend performance of all or part of this Order for an indefinite period of time. In no event shall such period exceed twelve (12) consecutive calendar months. In the event Buyer exercises such right, Seller shall cease performance of this Order as directed by Buyer. Seller agrees to commence performance of the suspended Order within a reasonable time after receiving Buyer's notice to commence the suspended performance. An equitable adjustment in the purchase order price and/or in the delivery date shall be made in the event Buyer requires a suspension of an order under this paragraph.



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13. Failure of Buyer to insist upon strict performance of any of the terms or conditions of this Order or to exercise any right or privilege contained in this Order, or the waiver of any breach of the terms or conditions of this Order, shall not be construed as thereafter waiving any such terms, conditions, rights or privileges and the same shall continue and remain in force and effect as if no waiver had occurred. All rights and remedies reserved under the T&C hereof shall be cumulative and in addition to any further rights or remedies provided by law or equity. Seller shall not assign this Order or any rights thereunder or any monies due or to become due thereunder without the prior written consent of Buyer and no purported assignment by Seller shall be binding upon Buyer without its written consent thereto. Buyer shall at any time have the right, with or without notice to Seller, to assign all or any part of its rights hereunder. Payments to an assignee of Seller in respect of any claim arising under this Order shall be subject to reduction or set off for any present or future claim or claims which Buyer may have against Seller. This Order contains the complete and entire agreement between the parties hereto and **supersedes** any previous communications, representations or agreements whether verbal or written with respect to the subject matter hereof. No change, addition or modification of any of the terms or conditions hereof shall be valid or binding upon Buyer unless in writing and signed by an officer or designated purchasing agent of Buyer. This Order is to be governed by and construed and interpreted under the laws of the State of Missouri, and any litigation commenced by either party herein shall exclusively be in St. Louis County Missouri Circuit Court.

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