

E/ONE TERMS AND CONDITIONS OF SALE

1. **DEFINITIONS.** "Seller" or "E/ONE" means Environment One Corporation. "Buyer" means the business entity that provides Seller with a purchase order or other procurement document. In this case, the "Buyer" will be the "City of Port St. Lucie", also referred to as "City" within this document.

2. **CONTRACT FORMATION.** These terms and conditions of sale (the "Seller Terms and Conditions") apply to all quotations and offers made by and purchase orders performed by Seller. To the extent that the Seller Terms and Conditions conflict with or are different from those contained in any Buyer purchase order or other procurement document, the Seller Terms and Conditions will control and any additional or inconsistent terms are rejected by Seller unless Seller's acceptance thereof is in writing and specifically refers to each such additional or conflicting term. Buyer's acceptance of or payment for goods will conclusively confirm Buyer's assent to the Seller Terms and Conditions. All orders shall be subject to rejection or acceptance by E/ONE and shall not be binding on E/ONE until and unless so accepted. Acceptance of any order by E/ONE is expressly made conditional on Buyer's assent to the Seller Terms and Conditions.

3. **PRICES.** All previous prices are withdrawn. All quotations are made for prompt acceptance and any terms or prices quoted are subject to change without notice unless specifically stated otherwise on the Scope of Supply or the quotation. Prices are subject to increases for changes requested by Buyer. All prices are quoted and payable in U.S. Dollars. All errors, clerical or otherwise, are subject to correction.

4. **PACKING, SHIPPING AND TAXES.** Unless otherwise specified in Seller's sales quotation, and in addition to the stated prices: (a) transportation charges will be based upon point of manufacture and will be paid by Buyer; (b) customs duties, consular fees, insurance charges and other applicable duties and fees will be paid by Buyer; and (c) any sales tax, value added, use, excise, import and retailers 'occupational taxes, and other taxes and charges imposed by law on the sale or production of goods or the performance of services will be paid by Buyer or if specifically required by law paid by Seller for Buyer's account and reimbursement. If Seller is registered to collect applicable sales or use taxes, it shall do so as an addition to the purchase price, unless Buyer furnishes an exemption certificate. Buyer shall reimburse E/ONE for all such taxes, duties and fees that E/ONE must, at any time, either pay or collect in connection with the material sold hereunder. Seller endeavors to pack or prepare shipments so that they are not damaged in transit, but Seller does not guarantee against such damage. Unless otherwise requested in writing by Buyer, no shipments are insured by Seller against damage or loss in transit. Claims for damage to or loss of material in transit shall be filed by Buyer direct with carrier. Any additional cost incurred in packaging or in making any special test or inspection which is requested by Buyer and is in addition to those regularly supplied by E/ONE, will be charged to the Buyer. Such tests and inspections will be made only at the factory before date of shipment.

4.A. **TAX EXEMPT STATUS.** The City of Port St. Lucie may be tax exempt. If the City wants to claim a tax-exempt status for any of their Orders, the City will provide its tax-exempt certificate upon request.

5. **TERMS OF PAYMENT.** Unless otherwise agreed, payment terms are net 30 days from the date of invoice; provided, however, that Seller may require full or partial payment in advance whenever advance payment is advisable, as reasonably determined by Seller. Amounts not paid when due may be subject to a late payment charge of the lesser of 1½% per month or the highest interest rate allowed under applicable law. All deliveries of goods are subject to the condition that all past due invoices have been paid or resolved in full. Material is subject to shipment in whole or in part at the option of E/ONE and each such shipment is subject to immediate invoicing. Neither party will have any rights of set-off except to the extent agreed.

6. **DELIVERY.** Prices are F.O.B. shipping point unless otherwise quoted. Freight charges will be prepaid for customer's account and indicated as a separate item on the invoice unless otherwise quoted. E/ONE endeavors to deliver orders at the time requested; however, no delivery delay will support a charge back, set off or claim for direct, indirect, incidental or consequential damages of any type. All claims for shortages or inaccurate filing of orders must be made in writing within ten (10) days from receipt of shipment and must be accompanied by the packing slips covering the shipment. E/ONE may deliver in partial shipments.

7. **TITLE AND RISK OF LOSS.** Title and risk of loss passes to the Buyer upon delivery of the products by E/ONE to the carrier at the shipping point.

8. **FORCE MAJEURE.** Seller will not be liable for failure or delay in manufacture or delivery that is related to or caused by or imposed by acts of God; orders bearing priority rating established pursuant to law; strikes or other labor disputes; fire, flood, explosion or other casualty or disaster; governmental regulations or requirements; shortages or failure of raw materials, supplies, fuel, power or transportation; breakdown of equipment; or any other cause or condition beyond Seller's reasonable control whether of similar or dissimilar nature than those enumerated. Seller will have such additional time within which to perform as may be reasonably necessary under the circumstances and will have the right to apportion its production among its customers in such a manner as it may consider equitable.

9. **ORDER MODIFICATIONS; RETURN POLICY.** No order may be cancelled or altered by Buyer except upon terms and conditions acceptable to E/ONE, as evidenced by E/ONE's written consent. Buyer must submit requested changes or cancellations to an order in

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writing. Orders for standard products or configurations (standard catalog items) cancelled with E/ONE's approval within 30 days of the acknowledged ship date, or already released to production, will incur a cancellation fee of 25% of the net price. All special orders (non-catalog items) will incur a 100% cancellation fee. Buyer may not return any material delivered by E/ONE without first obtaining E/ONE's written consent and a Return Merchandise Authorization (RMA). All returns are subject to inspection by E/ONE.

10. **WARRANTY.** E/One provides a limited warranty that its product will be free of defects in material and factory workmanship for the duration of the warranty period provided in the Warranty Guide (as defined below), provided that the product is properly installed, serviced and operated under normal conditions according to E/One's instructions. The specifics of E/ONE warranties with respect to products sold hereunder are as set forth in the E/ONE Sewer Systems Warranty Policy & Procedure Guide, as in effect on the date hereof and as amended from time to time (Warranty Guide). The Warranty Guide is incorporated in Seller Terms and Conditions by reference. All warranties of E/ONE products are subject to the terms, conditions, and limitations set forth in the Warranty Guide. Any alteration or modification of any E/ONE product provided under Seller Terms and Conditions without E/ONE's written approval and pre-authorization will automatically void any and all related warranties. Additionally, the failure to strictly conform to E/ONE's instructions for installation and use will also void any and all warranties provided herein. Seller's obligation for defective product within the applicable warranty period is expressly limited to repair or replacement of non-conforming goods without cost to Buyer or, at Seller's option, the repayment of the purchase price upon return of the goods. Buyer's sole and exclusive remedy will be limited to such repair, replacement or return. E/ONE reserves the right to require payment in full before beginning any warranty work. THESE WARRANTY PROVISIONS ARE IN LIEU OF ALL OTHER WARRANTIES OR OBLIGATIONS, EXPRESS OR IMPLIED. E/ONE EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. No person is authorized to give any other warranties on Seller's behalf.

11. **LIMITATION OF DAMAGES.** IN NO EVENT WILL E/ONE BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND SUSTAINED FROM ANY CAUSE OR ARISING OUT OF ANY LEGAL THEORY. In no event will Seller be liable to Buyer in an aggregate amount exceeding the total purchase price of the goods giving rise to the claim or claims of liability. These limitations also apply to any liability that may arise out of third-party claims.

The parties agree that the City is a municipal corporation bound by the laws of the State of Florida. The City's liability in all instances shall be limited to the monetary limits set forth in Section 768.28, Florida Statutes. Nothing contained in this agreement or related documents shall be deemed a waiver of the City's sovereign immunity, whether by contract or by law.

12. **GOVERNING LAW.** This agreement and any sales hereunder shall be governed by the laws of the State of Florida, without regard to conflicts of law rule. Both parties' consent to the jurisdiction of Florida courts, including as appropriate the federal courts located therein, over any matters arising out of this agreement or any sales hereunder. The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this agreement.

13. **PATENT INDEMNITY.** Seller and Buyer will defend and hold harmless each other against any liability or claim for patent, trademark or other intellectual property right infringement or misappropriation arising out of or resulting from each other's respective design, specifications or manufacturing processes or procedures.

14. **COMPLIANCE WITH LAWS.** Buyer acknowledges that products sold by Seller and any technical information related thereto, as well as any subsequent transfer thereof by Buyer, is subject to U.S. laws and regulations controlling the export and re-export of technical data and products. Buyer agrees that no products sold by E/ONE or data disclosed by E/ONE will be directly or indirectly transferred or disclosed to any non-U.S. person or firm, including non-U.S. persons employed by or associated with Buyer, nor shall any product sold by E/ONE or data provided by E/ONE be exported from the United States without first complying with all requirements of applicable law, including the requirement for obtaining an export license and/or technical assistance agreement. E/ONE shall not be liable for any expense or damages resulting from the failure to obtain or delays in obtaining any required U.S. government authorization. E/ONE shall not be obligated to take any action, if such action would cause E/ONE, in its sole discretion to be in violation of any law or regulation of the United States including, without limitation, any laws relating to international boycotts.

15. **MISCELLANEOUS.** These Seller Terms and Conditions (and any agreement under which an order is issued) constitute the entire agreement between the parties with respect to the subject matter herein and supersede all previous oral or written proposals, negotiations, representations, commitments, writings and all other communications between the parties in regard to such subject matter. No waiver, alteration, modification of or addition to these Seller Terms and Conditions will be binding unless expressly agreed to in writing and signed by duly authorized representatives of Buyer and Seller. A waiver of any of the terms or conditions hereof will not be deemed a continuing waiver but will apply solely to the instance to which the waiver is directed. In the event of litigation, each party will pay its own defense costs in order to focus litigation exposure on claim merit instead of attorney fees. None of the Buyer's rights under any order shall be assigned or otherwise transferred by the Buyer to any other person, whether by operation or law or otherwise, without E/ONE's prior written approval.