



4-STAR Hose & Supply, Inc.

Terms and Conditions of Purchase

Last Updated: August 9, 2019

These Terms and Conditions of Purchase (the “**Terms**”) control 4-STAR Hose & Supply, Inc.’s (“**4-STAR Hose**”) purchases of goods and services from any manufacturer, supplier, distributor, or retailer (“**Supplier**”).

- Supplier’s Acceptance of Terms:** If there is a conflict between the provisions of a purchase order (“**PO**”), invoice, or any other contracts, representations, or agreements (whether written or oral), the provisions of these Terms shall control. These Terms may not be waived or modified except as specifically set forth in writing by 4-STAR Hose. By accepting any PO from 4-STAR Hose or by selling any goods or services to 4-STAR Hose, Supplier acknowledges these Terms and agrees that they are incorporated by reference into any PO, and Supplier agrees to comply with these Terms, and 4-STAR Hose hereby rejects any additional, different, or inconsistent terms, conditions, or limitations.
- Pricing:** All pricing on a PO is final. Pricing may not be changed on a PO without 4-STAR Hose’s prior written approval. Supplier shall furnish the goods or services in strict accordance with the terms and delivery schedule stated in the PO. Time is of the essence with respect to all of Supplier’s performance requirements in these Terms.
- Payment:** Supplier shall issue an invoice to 4-STAR Hose only after delivery of the goods and/or completion of the services ordered by 4-STAR Hose in the associated PO. Supplier’s invoices shall include the PO number, part numbers and descriptions, the recipient 4-STAR Hose branch, item quantities, per item prices, applicable taxes, and extended totals. Supplier agrees to invoice 4-STAR Hose no later than one hundred eighty (180) days after shipment of goods or performance of the services set forth in a PO. 4-STAR Hose will not be obligated to make payment against any invoices submitted after such 180-day period. 4-STAR Hose may reject any invoice that fails to comply with any provision of this paragraph. 4-STAR Hose shall issue payment within 45 days after its receipt of a correct and conforming invoice.
- Inspection:** Supplier, at its cost, shall inspect all goods prior to shipment to 4-STAR Hose and all services prior to completion. If requested by 4-STAR Hose, Supplier shall immediately provide 4-STAR Hose with a copy of the inspection results or other related records. 4-STAR Hose reserves the right to conduct its own inspection and testing wherever such goods or services are located. If 4-STAR Hose conducts such inspection or testing on Supplier’s premises, Supplier shall provide, without additional charge, all reasonable facilities and assistance for such inspection and tests. Final inspection and acceptance by 4-STAR Hose shall be at the 4-STAR Hose location designated in the PO unless otherwise specified in the PO.



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In the event that the goods do not conform with the PO or these Terms, 4-STAR Hose may, at its election (in addition to any other remedies set forth in these Terms or available under common law, statute, or otherwise): (a) reject and refuse delivery or return the nonconforming goods at Supplier's expense to Supplier for full credit; or (b) unless directed otherwise by Supplier, undertake reasonable commercial efforts to sell such non-conforming goods and pay Supplier the price obtained from the sale of such goods, less any expenses or damages incurred by 4-STAR Hose in selling same and any damages resulting from the nonconformance; or (c) (in the event of services) require Supplier, at Supplier's sole expense, to re-perform or repair the services to make the services conforming.

5. **Warranty:** IN ADDITION TO ANY WARRANTY IMPLIED BY LAW, SUPPLIER WARRANTS FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF ACCEPTANCE OF GOODS BY 4-STAR HOSE THAT: (A) ALL GOODS OR SERVICES PROVIDED HEREUNDER ARE NEW, OF THE GRADE AND QUALITY SPECIFIED, FREE FROM DEFECTS IN DESIGN, MATERIAL, AND WORKMANSHIP AND ARE OF QUALITY WORKMANSHIP; (B) SUPPLIER HAS GOOD AND MARKETABLE TITLE TO THE GOODS AND SERVICES AND HAS CONVEYED SUCH TITLE TO 4-STAR HOSE FREE FROM ANY ENCUMBRANCES, LIENS, SECURITY INTERESTS, OR OTHER DEFECTS IN TITLE; (C) THE GOODS OR SERVICES PURCHASED HEREUNDER CONFORM TO APPLICABLE SPECIFICATIONS, DRAWINGS, SAMPLES, AND OTHER DESCRIPTIONS, IF ANY, REFERENCED HEREIN; AND (D) THE GOODS OR SERVICES PURCHASED HEREUNDER ARE MERCHANTABLE AND SUITABLE FOR THE PURPOSES INTENDED. All warranties set forth herein shall survive any inspection, delivery, acceptance, payment, expiration, or early termination of a PO, and such warranties shall run to 4-STAR Hose, its successors, assigns, customers, and any end users of the goods. Any goods repaired or replaced and services re-performed shall be warranted for the remaining period of the one (1) year term, or six (6) months, whichever is longer. If Supplier offers a warranty on any item or service that is more generous than the warranty stated in this paragraph, then the more generous portions of such manufacturer's warranty shall apply.

In the event of a breach of any warranty set forth above for goods or services provided under any PO, Supplier agrees to repair or replace at its own expense all said goods or services. Payment for and inspection, tests, acceptance, or use of the goods furnished hereunder shall not affect Supplier's warranty obligations, and such warranties shall survive inspection, tests, acceptance, and use.

6. **Set-Off:** 4-STAR Hose may set off from any Supplier invoice any amount owed by Supplier to 4-STAR Hose.
7. **Remedies:** 4-STAR Hose's remedies provided in these Terms are cumulative and in addition to any other remedies provided by law or in equity. Any waiver by 4-STAR Hose of Supplier's breach of a PO or any term or condition set forth in these Terms must be in writing and shall not operate or be construed as a waiver by 4-STAR Hose of any subsequent breach by Supplier. Any delay or omission by 4-STAR Hose in exercising any right, power, or remedy shall not impair any right, power, or remedy that 4-STAR Hose may have with respect to that or any other future breach or default.



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8. **Delivery; Title; Risk of Loss:** Unless otherwise noted on a PO or stipulated in a contract, goods shall be shipped by Supplier "F.O.B. Destination - Freight Prepaid." Regardless of FOB terms of sale, title and risk of loss shall pass and acceptance of goods shall take place when such goods have been delivered to 4-STAR Hose's specified destination and passed 4-STAR Hose's inspection and test. Supplier shall enclose a packing list for all shipments showing the PO number, Supplier's name, and the exact quantity and description of goods shipped. Supplier shall not charge 4-STAR Hose for boxing, crating, handling damages, carting, storage, or other packaging or hauling requirements. All packaging must meet commercial standards and accepted industry practices to ensure against damage to and for full protection of the goods. If delivery or performance is not made by Supplier within the time stated in the PO (or, if no time is stated, within a reasonable time), 4-STAR Hose may, in addition to 4-STAR Hose's other rights and remedies, purchase the goods elsewhere or retain substitute performance of the services, charge Supplier for any resulting expense, loss or damage and/or cancel the applicable PO.
9. **Indemnification:** Supplier shall release, indemnify, defend, and hold 4-STAR Hose and its affiliates and its shareholders, directors, officers, and employees harmless from and against all liability, loss, costs, attorney's fees, penalties, and expenses, and damages (collectively, "Losses"), resulting from or arising out of (i) any claim that Supplier's goods or services are defective, negligently designed or manufactured in any manner, or otherwise determined to be the cause of injury or death to persons, or damage to property, or both; (ii) any claim that Supplier's goods or services or the manufacture, sale, or labeling of the goods or services fails to comply with any governmental requirement, or the labeling on any goods, or on or within the packaging for any goods (including any instructions or warnings thereon), is inadequate in any manner; (iii) any claim that the goods should have been recalled pursuant to any governmental requirement; (iv) Supplier's negligence or willful misconduct in supplying the goods or services; (v) any claim that the goods or services violate or infringe on any patent, trademark, copyright, or other intellectual property right; or (vi) any claim, action, suit, or proceeding by any person, firm, governmental agency, or business resulting from or arising out of (i) through (v) above. 4-STAR Hose shall have no duty to indemnify Supplier for any reason not expressly undertaken elsewhere in these Terms, and in no event will 4-STAR Hose indemnify Supplier for Supplier's acts or negligence.
10. **Compliance with Law:** Supplier shall comply with all federal, state, and local laws, ordinances, and regulations governing the manufacture, transportation, import, export, and sale of goods and services anticipated in any PO.
11. **Choice of Law; Venue:** The PO and these Terms and shall be governed by the laws of the State of Texas, without regard to conflict of law principles. Any lawsuit or other action arising out of the transaction between 4-STAR Hose and Supplier shall be filed in a state or federal court of Dallas, Texas and the parties expressly submit to the exclusive jurisdiction of, and consent to venue in, those courts.



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12. **Assignment:** Supplier shall not assign, delegate, or subcontract a PO, or any obligations thereunder, without 4-STAR Hose's prior written consent. Any such attempted assignment or delegation without 4-STAR Hose's prior written consent shall be void and have no force or effect, and, at 4-STAR Hose's option, shall be cause for 4-STAR Hose's termination of any and all POs.
13. **Force Majeure:** 4-STAR Hose shall not be responsible for any delay in its acceptance of the goods or services or for any loss or damage which is incurred or suffered by Supplier in relation to any PO as a result of a strike, lockout, or other industrial disturbance, act of terror or insurrection, any government action, any civil or military action, riot, landslide, hurricane, drought, fire, earthquake, explosion, flood, storm, act of God, or any other cause or event not reasonably within 4-STAR Hose's control. Supplier shall immediately notify 4-STAR Hose in writing if its performance hereunder is delayed due to any such event and 4-STAR Hose may either (a) extend the time of performance, or (b) terminate the uncompleted portion of the PO at no cost to 4-STAR Hose.
14. **Termination:** 4-STAR Hose may terminate any PO without penalty by giving notice to Supplier, effective immediately upon such notice, on the happening of any one or more of the following events: (a) breach of any term or condition set forth in these Terms or set forth on any PO; (b) any applicable statute, law, ordinance, or regulation prevents full compliance with any PO by Supplier or 4-STAR Hose; or (c) commencement of any voluntary or involuntary proceedings under any bankruptcy, reorganization, or similar laws of any jurisdiction by or against Supplier, or if any order shall be made or any resolution passed for the winding up, liquidation, or dissolution of Supplier, or if a receiver is appointed for Supplier or its property. Additionally, 4-STAR Hose shall have the right at any time without cause to terminate all or any part of an undelivered portion of any PO, effective upon written notice to Supplier, provided that 4-STAR Hose shall be responsible for Supplier's actual and direct out-of-pocket costs reasonably incurred in reliance on the PO until the date of such termination (but 4-STAR Hose shall have no liability to Supplier or any third party for consequential, indirect, special, or exemplary damages based upon the PO termination, even if 4-STAR Hose is advised of the possibility of the same).
15. **General:** The PO and these Terms constitute the entire agreement of Supplier and 4-STAR Hose with respect to the matters hereto. Each party agrees to perform all further acts and execute, acknowledge, and deliver any documents reasonably necessary, appropriate or desirable, to carry out the provisions of the PO and these Terms. If any one or more of the provisions of the PO or these Terms shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions will not in any way be affected or impaired thereby. The relationship between the parties hereto is that of independent contractors. Nothing in a PO shall be construed as creating any partnership, joint venture, or agency between the parties.