

# THE NEW YORK BLOWER COMPANY

## CONDITIONS OF SALE AND LIMITED PRODUCT WARRANTY

### 1. ENTIRE AGREEMENT/CHANGES

The terms on The New York Blower Company (**nyb**) acknowledgement of Buyer's order constitute the entire agreement between **nyb** and buyer. Any additional, different, or conflicting terms shall not become a part of this agreement unless expressly agreed to by an authorized employee of **nyb**, in writing. Stenographic or clerical errors are subject to correction.

### 2. PRICE PROTECTION

Prices on equipment of nyb manufacture are firm for shipment up to six months from the date of original order entry. If equipment is shipped after 6 months from the date of original order entry, prices will be adjusted to the price in effect at time of shipment. All complete component accessory material manufactured by others and furnished with nyb equipment such as motors, drives, vibration bases, controls or other completely assembled component structures are subject to adjustment to the price at time of shipment regardless of the date of original order entry.

### 3. RISK OF LOSS, INSPECTION AND DAMAGE

Goods are shipped FOB shipping point. The buyer agrees to inspect the goods shipped upon receipt thereof, and to immediately report any damage or shortage to nyb and to the carrier. Further, buyer agrees to file any claims for shortages or damage with the carrier.

### 4. CREDIT SALES

Payment is due within 30 days of the invoice date. nyb, at its option, reserves the right to withdraw credit, or change the terms thereof at any time. The buyer shall be responsible for all costs of collection incurred by nyb including attorney fees and expenses.

### 5. SHIPPING DATES

All dates of shipments are contingent upon strikes, accidents, shortage of materials, delays of carriers, or causes which are unavoidable or beyond the control of nyb.

### 6. CANCELLATIONS

All orders are for firm delivery and not subject to change or cancellation, without approval from nyb. In the event a cancellation or change is approved, buyer agrees to pay reasonable cancellation charges or any price increase applicable to such change.

### 7. LIMITATION ON DAMAGES

The buyer agrees that its sole and exclusive remedy, and the limit of nyb's liability for loss from any cause whatsoever, including warranty, shall be the purchase price of the goods

sold hereunder for which a claim is made. In addition, nyb shall not be liable for any consequential damages, such as damages for loss of use or lost profits.

### 8. TAXES

Federal, state or local taxes are not included in nyb's prices, and will be added to the purchase price, where applicable. In such event, buyer agrees to pay said taxes or furnish evidence of exemption.

### 9. ARBITRATION

The parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement shall be settled through binding arbitration in Chicago, IL, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures or International Rules, if applicable.

Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

### 10. MEDIATION

The parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement shall first be submitted to JAMS, or its successor, for mediation, and if the matter is not resolved through mediation, then it shall be submitted for final and binding arbitration pursuant to the arbitration clause set forth above. The mediation shall be administered by JAMS pursuant to its International Mediation Rules. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. The provisions of this Clause may be enforced by any Court or Tribunal of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the party against whom enforcement is ordered.

### 11. SAFETY ACCESSORIES

Buyer understands that nyb manufactures multi-functional goods that may or may not require safety devices, depending on the use and location of the goods. Buyer warrants to nyb that Buyer has determined what safety devices, including warning devices and notices of danger, should be placed on the goods sold hereunder, and has either purchased these with the goods sold hereunder or from another source.

## LIMITED PRODUCT WARRANTY

All products are warranted by nyb to be free from defects in materials and workmanship for a period of one (1) year after shipment from nyb, provided buyer demonstrates to satisfaction of nyb that the product was properly installed and maintained in accordance with nyb's instructions and recommendations and that it was not operated in excess of its design limits or operational standards set forth in nyb's order acknowledgement or quotation.

This warranty is limited to the replacing and/or repairing by nyb of any part or parts which have been returned to nyb with nyb's written authorization and which in nyb's opinion are defective. Parts not manufactured by nyb but installed by nyb in equipment sold to the buyer shall carry the original manufacturer's warranty only. All transportation charges and any and all sales and use taxes, duties, imports or excises for such part or parts shall be paid for by the buyer. nyb shall have the sole right to determine whether defective parts shall be repaired or replaced.

This warranty does not cover any customer labor charges for replacement of parts, adjustments or repairs, or any other

work unless such charges shall be assumed or authorized in advance, in writing, by nyb.

This warranty does not cover abrasion, erosion and wear, nor does it cover any product which, in the judgment of nyb, has been subject to misuse or neglect, or which has been repaired or altered outside nyb's plant in any way which may have impaired its safety, operation or efficiency, or any product which has been subject to accident.

This warranty shall be null and void if any part not manufactured or supplied by nyb for use in any of its products shall have been substituted and used in place of a part manufactured or supplied by nyb for such use.

**THERE ARE NO WARRANTIES, OTHER THAN THOSE APPEARING ON THE ACKNOWLEDGEMENT FORM INCLUDING NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, GIVEN IN CONNECTION WITH THE SALE OF THE GOODS SOLD HEREUNDER.**

*Effective July 1, 2016*