

Terms and Conditions of Sale and Limited Warranty

RW Hardware Equine Products, (“Seller”)

Updated 5/12/20

RW Hardware, a division of Richards-Wilcox, Inc., has been in continuous operation since 1880, establishing itself as the oldest supplier of barn hardware in the United States. Our reputation is hinged on quality and forged by our customers’ satisfaction. To live up to these high expectations, we guaranty the following promise of satisfaction and craftsmanship.

1. General. These Terms and Conditions of Sale (these “Terms”) shall apply to any Sales Quotation or Sales Confirmation from RW Hardware (the “Sales Agreement”, and together with these Terms, the “Agreement”). The Agreement shall define and specify the product to be sold by Seller to Buyer (the “Product”). A copy of these Terms can be found on our website www.RWhardware.com. All purchases by Buyer of any items manufactured or sold by Seller, are expressly limited to and conditioned upon Buyer’s acceptance of these Terms, regardless of the conflicting or additional terms that may be contained in any purchase order or other writing delivered by Buyer, whenever delivered. These Terms along with the Sales Agreement are deemed an offer for sale by Seller. If Buyer does not accept the Sales Agreement by execution thereof, Buyer’s commencement of performance (including Buyer Approval) shall in all cases constitute Buyer’s unqualified and unconditional acceptance of the Agreement. Seller will not be obligated to commence performance until Buyer approves the Specifications by the signature or authorizing email of Buyer or its representative (“Buyer Approval”) and Seller receives the initial deposit. Upon Buyer Approval, Buyer accepts responsibility for verifying the type, size, and quantity as listed.

2. Delivery. The purchase price shall not include the Product packaging, freight, and other related costs unless expressly agreed otherwise. Buyer shall be responsible for unloading Product off of the delivery vehicle (and all related costs) and bear all costs of storage thereafter. Delivery personnel shall not assist in the unloading of Product. Seller will inform Buyer of an approximate delivery date upon Buyer’s acceptance of these Terms, and of the actual scheduled delivery date as soon as reasonably practicable thereafter. Deferral of shipment/delivery at the request of Buyer is subject to the approval of Seller. In the event of any such deferral of shipment/delivery, the full purchase price shall be invoiced and due on the originally designated Product completion date, and Seller may charge Buyer a storage fee for any deferral of delivery beyond ninety (90) days from the original invoice date.

3. Risk of Loss. Title, risk of loss of, damage to, or destruction of the Product shall pass to Buyer upon delivery in accordance with the applicable delivery term. Unless otherwise agreed to in writing, delivery terms are FOB Seller’s facility in Aurora, IL. Buyer has the right to inspect and reject the Product upon delivery. Buyer will be deemed to have accepted the Product upon the earlier of (a) any use, attempted installation or installation of the Product or (b) 30 days following delivery. Any rejection upon delivery must be noted on the carrier’s delivery

record in order for Seller to file a damage claim. Upon rejection, Buyer will promptly notify Seller, and Seller, at its option and expense, will either arrange for replacement, repair or return delivery to Seller of the Product.

4. Payment. Payment for Product requires a 50% deposit upon Buyer Approval. If Buyer also purchases items not manufactured by Seller, Buyer will pay 100% of price for such items upon Buyer Approval. As the Product reaches completion, Seller will issue an invoice with the final balance due. Seller will not be obligated to ship or deliver Product until the final payment is received and processed. All payments must be made by credit card, check or electronic funds transfer to an account designated by Seller and in US dollars. All prices are subject to change.

5. Taxes. With regard to all sales, "sales", "use", "VAT" or similar taxes imposed on this sale or transaction are not included in the quoted price. If applicable, such taxes will be added to Seller's invoice and shall be paid by Buyer. Seller will, where applicable and necessary, include taxes on its invoice to Buyer or on a separate invoice to Buyer at a later date should these taxes be assessed to Seller post sale.

6. Changes. After Buyer Approval, Buyer may request in writing changes in the Product's dimensions, design, delivery date, or additions to or deletions from the original order. Seller will then prepare a change order, incorporating all contract modifications resulting from such request, including, but not limited to, changes in price, change order fee, delivery schedule and warranties. Seller shall have no obligation to proceed with such request or change order until the parties have agreed in writing to the terms of such change order.

7. Cancellation & Returns. An order may only be terminated by Buyer upon prior written notice and upon payment of all reasonable and proper termination charges, including, but not limited to, all costs identified to the order or contract incurred prior to the effective date of notice of termination and all charges incurred by Seller in respect of the termination, overhead and other indirect costs, plus a reasonable profit thereon. Seller is authorized to deduct such costs from any deposit previously made by Buyer. Buyer shall NOT cancel an order if production has already begun. Seller does not accept returns or offer refunds on any Product manufactured by Seller and meeting Specifications. Seller may in its sole discretion accept returns on any Product not manufactured by Seller and meeting Specifications. Any returns so accepted will be subject to a restocking fee (will vary up to 40%), and Buyer shall be responsible for arranging and payment of return shipping. Any item returned must be in new condition with original packaging and in sellable condition.

8. Force Majeure. Seller shall not be liable for loss, damage, detention, or delay, nor be deemed to be in default from causes beyond its reasonable control ("force majeure"), including without limitation, fire, flood, storms, pandemics or other acts of God, strikes, labor difficulties, acts or omissions of any third party, any governmental authority or of Buyer, compliance with governmental regulations, insurrections or riots, acts of terrorism, embargoes, delays or shortages in transportation or inability to obtain necessary labor, materials or manufacturing facilities from usual sources, defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing enumerated causes or any other cause similar or dissimilar to the foregoing. In any event, Buyer's obligation to make payment shall not be affected due to any force majeure.

9. Limited Warranty.

a) Upon Delivery. Seller represents and warrants that all Products will (i) be delivered free and clear of all liens and (ii) upon delivery will conform to the design approvals and product specifications set forth on or attached to the Agreement approved by Buyer (the “Specifications”).

b) 5 Year Structural Defect Warranty. Subject to Sections 9(c) and 9(e) of these Terms, Product manufactured by Seller is warranted to be free from defects in material and workmanship which result in structural failure of any such Products for a period of five (5) years from the delivery date, and specifically, excludes without limitation, (i) damage to or defect in paint and finish, (ii) any Products not manufactured by Seller, or (iii) structural damage or failure caused by livestock, animals or other misuse of the Product. (the “Limited Warranty”).

c) Warranty Claim Procedures. In order to obtain the Limited Warranty, Buyer will do any or all of the following:

(i) notify Seller in writing promptly after Buyer’s discovery of any structural failure of the Product(s) provided by Seller. Written notice may include notice by e-mail, facsimile, or certified mail directed to Seller at the address of its principal place of business;

(ii) permit Seller or its designated agent to inspect the Product in question at Buyer’s location at a mutually agreeable date and time;

(iii) at Seller’s request and expense, promptly ship the Product in question to Seller for purposes of inspection; or

(iv) at Seller’s request, provide Seller with reasonable photographic documentation and other written or tangible documentation evidencing any structural failure of the Product in question.

Any warranty claim will be subject to Seller’s reasonable determination that the structural failure of the Product in question resulted from a defect in material or workmanship.

d) Exclusive Remedies – Seller Repair or Replacement. In connection with any Limited Warranty claim, any rejection pursuant to Section 3 of these Terms, or any other claim by Buyer, Seller will, as Buyer’s exclusive remedy and at Seller’s option and expense, undertake one of the following remedial actions: (i) repair or replace the defective Product or (ii) refund any amounts paid by Buyer. Following repair to a workmanship-related defect under this Limited Warranty, the Product will be warranted by Seller for the remainder of the original warranty period and is otherwise subject to the same terms and conditions. Seller agrees to prioritize the servicing of Limited Warranty claims over existing orders, to the maximum extent reasonably practicable.

e) Exclusions – Misuse/Unauthorized Modifications or Repairs/Third Party Damage. The Limited Warranty is contingent upon the proper use of the Product at all times after delivery to Buyer. The Limited Warranty shall not apply to Product(s) which Seller shall determine to have been misused, abused, used for any purpose beyond the ordinary and usual purposes for which such Product is intended or subject to accident. Furthermore, in the event that a Product is or was repaired or modified by any person or entity other than Seller or Seller’s authorized contractor, Seller may, at its option, declare the Limited Warranty null and void. The Limited Warranty shall not apply to any damage caused by Buyer or by any third party in the course of loading,

unloading or installation of the Products, nor shall the Limited Warranty apply to any other damage otherwise caused at any time by any third party. Due to the corrosive nature of an equine or livestock barn environment, painted surfaces on some of our products are prone to surface rust. Generally when surface rust appears on a painted steel product, it in no way affects the integrity or functionality of the steel. Therefore, we do not guarantee a length of time, after a painted surface is exposed to a horse barn environment before surface rust may appear. Damage resulting from accident, abuse, or neglect are conditions under which warranty cannot be claimed. Nor will warranty apply to damage resulting from failure to follow the manufacturer's instruction for operation and maintenance nor from the improper selection of a particular application.

f) Representations. The representations contained in Section 9(a) of these Terms and the Limited Warranty are exclusive and supersede any other representations or warranties made in any brochures, manuals, catalogs, product literature or other materials provided by or through Seller. Furthermore, no representations, whether oral or written, of any of Seller's representatives may be relied upon as a substitute or modification of Section 9(a) of these Terms or the Limited Warranty.

g) Exclusivity of Remedy. **THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. BUYER ACKNOWLEDGES THAT BUYER IS NOT RELYING ON SELLER'S SKILL OR JUDGMENT TO SELECT OR FURNISH PRODUCTS SUITABLE FOR ANY PARTICULAR PURPOSE AND THAT THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION HEREIN.**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, SELLER'S LIABILITY AND BUYER'S REMEDIES ARE HEREBY LIMITED EXCLUSIVELY TO THE TERMS SET FORTH HEREIN. IN NO EVENT WILL SELLER BE LIABLE TO BUYER OR ANY OTHER PERSON OR ENTITY FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OR LIQUIDATED DAMAGES (INCLUDING SUCH DAMAGES ARISING FROM STRICT LIABILITY, BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, TORT OR OTHER LEGAL THEORY), OR FOR INJURY TO PERSON OR PROPERTY, OR FOR LOST PROFITS, EVEN IF SELLER HAS BEEN ADVISED OF (OR KNOWS OR SHOULD KNOW OF) THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT TO THE CONTRARY, SHALL SELLER'S CUMULATIVE LIABILITY TO BUYER OR ANY OTHER PERSON OR ENTITY FOR ANY LOSSES, DAMAGES, CLAIMS, FINES OR EXPENSES OF ANY NATURE NOT DISCLAIMED ABOVE ARISING OUT OF OR WITH RESPECT TO THE PRODUCTS AND/OR THIS AGREEMENT EXCEED THE PURCHASE PRICE OF THE PRODUCT WHICH GAVE RISE TO THE LIABILITY, DAMAGE OR CLAIM. THE FOREGOING LIMITATIONS SHALL APPLY AND SURVIVE NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SELLER, ITS OFFICERS, DIRECTORS, AGENTS OR EMPLOYEES SHALL CREATE ANY DIFFERENT OR ADDITIONAL WARRANTIES OR IN ANY WAY INCREASE THE SCOPE OF THE LIMITED WARRANTY.

10. Laws and Regulations. Seller does not assume any responsibility for compliance with federal, state and local laws and regulations. Nothing contained herein shall be construed as imposing responsibility or liability upon Seller for the obtaining of permits, licenses or approvals from, or product compliance with, laws, codes or regulations of, any government or governmental agency required in connection with the supply, installation or operation of any Product.

11. Information Furnished by Buyer. Any designs, design approvals, software or other information or materials submitted to Buyer remain the exclusive property of Seller. Buyer shall not, without Seller's prior written consent, copy or disclose such information to a third party. Such information shall be used solely for the operation, installation or maintenance of the Product and not for any other purpose.

12. Choice of Law. The Agreement shall be governed and interpreted, and all rights and obligations of the parties shall be determined, in accordance with the laws of the State of Illinois, without regard to its principles of conflicts of law.

13. Dispute Resolution. Any dispute in connection with the Agreement shall be finally settled by arbitration in Aurora Illinois, in accordance with the Commercial Arbitration Rules of the American Arbitration Association as then in effect. The decision of the arbitrator shall be final and binding on the parties, and each party shall be entitled to seek enforcement of any such decision in any court of competent jurisdiction. Nothing contained in this Section 13, however, shall prevent Seller from seeking relief in court (including, without limitation, injunctive or equitable relief) with respect to any dispute arising hereunder. Any such legal proceeding shall be exclusively filed in either the Circuit Court of Kane County, Illinois, or the U.S. District Court for Aurora Illinois. The parties hereby submit to the exclusive jurisdiction of such courts and irrevocably waive any objection thereto.

14. Partial Invalidity. If any part of these Terms is held void or unenforceable by any court of competent jurisdiction, any such part, to the extent void or unenforceable shall be treated as severable, and the remaining terms and conditions hereof shall be deemed modified so as to remain enforceable to the maximum extent possible, consistent with any such holding.

15. Entire Agreement. Unless otherwise agreed in writing by a duly authorized representative of Seller, the Agreement constitutes the entire agreement between the contracting parties with respect to the subject matter hereof. All prior communications, agreements, discussions, representations, warranties and covenants are merged herein and are superseded by the Agreement. Any amendments or modifications of the Agreement shall be in writing and executed by Buyer and Seller. No course of dealing, course of performance, or usage of trade shall be considered in the interpretation or enforcement of the Agreement.

16. Attorney's Fees. In the event that any legal action or other proceeding (including arbitration) is brought by Seller to enforce Buyer's payment obligations hereunder, Seller shall be entitled to recover its reasonable attorneys' fees and all other costs and expenses incurred in that action or proceeding from Buyer, in addition to any other relief to which it may be entitled.

I confirm that I have read understand and agree to the above terms/conditions and warranty for RW Hardware Equine Products,

Signed

Date