

# ***Important Paragraphs for your Credit Application***

## ***Part Two***

### **A More Detailed Paragraph for Collection Agency and Attorney Fees:**

- Should either party to this agreement be required to take legal action to enforce the payment obligations under this Agreement, the prevailing party shall be entitled to recovery of collection agency fees, a reasonable attorneys fee and all cost, including both “taxable” costs and non-taxable cost. Attorney’s fees to be awarded to the prevailing party shall include, without limitation, all fee and all costs (taxable and non-taxable) incurred in finalizing a supplemental judgment for attorneys fees, both as to entitlement, as well as establishment of the amount of fees to be awarded. The parties acknowledge that a reasonable fee may be greater, and in some instances several times greater, than the contract balances owed.

### **“Zipper Clause” When Dealing with Customers who issue Purchase Orders:**

- The undersigned acknowledges that orders pursuant to this agreement are controlled by the terms of this agreement. The undersigned further acknowledges that while orders may be placed by written purchase order, that the terms of such purchase order do not control. Rather, the terms of this credit agreement shall control. Seller shall treat any purchase orders given by the Buyer as a placement of an order, and the only terms within such purchase orders that shall be deemed to be a part of the sales contract shall be the description of the goods ordered, and the quantity of the goods ordered.

### **Disclaimer Clause: (conspicuous type REQUIRED)**

- SELLER WARRANTS THAT THE PRODUCT SHALL CONFORM TO THE DESCRIPTION ON THE DELIVERY TICKETS/INVOICES. NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE BY THE SELLER. BUYER ACKNOWLEDGES THAT THIS LIMITATION OF WARRANTIES IS COMMERCIALY REASONABLE, AND THAT THE PRICE OFFERED BY THE SELLER REFLECTS THESE LIMITATIONS. BUYER FURTHER ACKNOWLEDGES THAT THIS LIMITATION IS A “BARGAINED FOR” PROVISION OF THE SALES CONTRACT, AND THAT ABSENT THIS PROVISION, THE SELLER WOULD NOT HAVE ENTERED THIS CONTRACT.

### **Limitation of Damages Clause: (conspicuous type REQUIRED)**

- SELLER’S EXCLUSIVE REMEDY IN THE EVENT OF A BREACH BY BUYER IS AN ACTION FOR DAMAGES BASED ON THE UNPAID BALANCE, PREJUDGMENT INTEREST AND ATTORNEY’S FEES AND COST AS PROVIDED HEREIN. BUYER’S EXCLUSIVE REMEDY IN THE EVENT OF A BREACH BY SELLER IS AN ACTION FOR REFUND OF THE SALES PRICE PAID, TOGETHER WITH INTEREST AND ATTORNEY’S FEES AND COSTS AS PROVIDED HEREIN. BOTH PARTIES WAIVE ANY CLAIM FOR CONSEQUENTIAL DAMAGES. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION IS COMMERCIALY REASONABLE, AND THAT ABSENT THIS LIMITATION THEY WOULD NOT HAVE ENTERED INTO THIS SALES CONTRACT.

*Disclaimer: United Mercantile Company is not an attorney. This is not legal advice and you should consider a consultation with your attorney to confirm the implementation of any wording in your agreement, particularly as it relates to current and local jurisdictions.*

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