EX-10.39 15 g22358a2exv10w39.htm EX-10.39

**Exhibit 10.39**

**SUPPLY AGREEMENT**

     This SUPPLY AGREEMENT (this “Agreement”) is entered into as of **[•]**(the “Effective Date”), by and among P1 Sub, LLC, a North Carolina limited liability company**,**P2 Sub, LLC, a North Carolina limited liability company (each, a “Buyer”), and Culligan International Company, a Delaware corporation, with its principal place of business at 9399 West Higgins Road, Suite 1100, Rosemont, Illinois 60018 (“Culligan”).

**RECITALS**

     A. Culligan is engaged in the business of selling various types of water treatment products; and

     B. Culligan desires to provide certain products, and Buyer desires to procure certain products from Culligan in accordance with the terms of this Agreement.

**AGREEMENT**

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

     1. TERM. This Agreement will be for a term beginning on the Effective Date and continuing for a period of one (1) year (the “Initial Term”). Thereafter, it shall automatically renew for periods of one month (each, a “Renewal Term”) unless either party provides notice of termination to the other party at least thirty (30) days before the expiration of the Initial Term or any Renewal Term.

     2. PRODUCTS & PRICING — SALE. Culligan shall sell to Buyer any water treatment and filtration equipment and products described on Attachment A hereto (the “Products”), and Buyer may buy the Products, in each case at the pricing also set forth in Attachment A. The terms and conditions set forth on Attachment B shall also govern the sale of the Products to Buyer.

     3. ADDITIONAL TERMS & CONDITIONS. Any additional terms and/or conditions, whether or not conflicting with the terms and conditions herein and whether offered by Buyer on any purchase order or acknowledgement thereto or any other manner shall be void, unless such terms are agreed to in writing by each party. In case of a conflict between the terms and conditions in an attachment and the provisions of this Agreement, the provisions of this Agreement shall control. Each order accepted by Culligan will constitute a binding obligation under this Agreement for Culligan to sell, and for Buyer to buy and pay for the Products ordered.

     4. LIMITATION ON LIABILITY. Notwithstanding anything else to the contrary, the liability of Culligan arising out of the Agreement, including without limitation any claims for indemnity, shall not exceed the price paid by Buyer for the particular Product(s) that is or are the subject of such claim. The parties waive all claims against each other for any consequential, incidental, indirect, special, exemplary or punitive damages.

     5. DEFAULT; TERMINATION; REMEDIES.

          5.1 Default. The occurrence of any one or more of the following events shall constitute an event of default (“Event of Default”) under this Agreement:

          (a) If either party fails to perform in any material respect, any of the non-monetary obligations imposed upon it by the terms of this Agreement, unless such breach is cured within thirty (30) days after receiving written notice from the non-breaching party, or with respect to breaches not capable of being cured within such 30 day period, the breaching party commences cure within such thirty (30) day period and diligently completes such cure as soon as practicable thereafter (but in no event more than sixty (60) days thereafter);

          (b) If Buyer fails to pay any amounts due under this Agreement after receiving written notice from Culligan and a five (5) day opportunity to cure after receipt of such notice;

          (c) If a either party defaults under Subsection 5.1(a) or 5.1(b) more than twice during any twelve-month period;

          (d) If either party becomes bankrupt;

          (e) If either party becomes insolvent or is unable to pay its debts as they become due in the ordinary course of business;

          (f) If a either party ceases to function as a going concern or to conduct its operations in the normal course of business; or

          (g) If Buyer assigns this Agreement or any right granted under it or delegates any duty imposed by it, other than in accordance with Section 6.1 without Culligan’s prior written consent.

          5.2 Remedies. Upon the occurrence of any Event of Default, then, in addition to any other rights or remedies, pursuant to any applicable law, either party may terminate this Agreement after providing five (5) days written notice to the other party. Buyer’s sole and exclusive remedy against Culligan and its employees, agents, subcontractors, authorized representatives, subsidiaries and affiliates for Products furnished hereunder shall be to require Culligan (a) to repair or replace the Products; or (b) to repay Buyer the fees paid for the non-performing Product, with the remedy provided to be determined by Buyer at its sole option.

          5.3 Effect of Termination. Termination will neither relieve Buyer from paying in accordance with this Agreement, nor relieve any party in default under this Agreement of any of such party’s obligations owing with respect to Products sold or otherwise owing or arising under the Agreement prior to such termination.

     6. GENERAL PROVISIONS.

          6.1 Assignment. Except as provided in Section 6.6, neither party may assign this Agreement or any right granted under it and will not delegate any duty imposed by it without the prior written consent of the other party, which shall not be unreasonably withheld; provided, that Buyer may collaterally assign its rights hereunder to its lenders for security purposes. Any such assignment shall not relieve the assignor from any of its obligations under this Agreement.

          6.2 Relationship between the Parties. The relationship between Culligan and Buyer is that of independent contractors. This Agreement does not create a partnership, franchise or business opportunity under any applicable law. Neither party may incur liability on behalf of the other nor does either party have the authority to represent or bind the other as agent, or in any other capacity.

          6.3 Notices. All approvals and notices under this Agreement must be in writing and shall be deemed to have been duly given or made (i) the third business day after the date of mailing, if delivered by registered or certified mail, postage prepaid; (ii) upon delivery, if sent by hand delivery; (iii) upon delivery, if sent by prepaid courier, with a record of receipt; or (iv) the next day after the date of

dispatch, if sent by cable, telegram, facsimile or telecopy (with a copy simultaneously sent by registered or certified mail, postage prepaid, return receipt requested), to the parties at the following:

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|  |  |  |
| To Culligan: |  | Culligan International Company 9399 West Higgins Road, Suite 1100 Rosemont, IL 60018 Attention: General Counsel Facsimile: 847-430-2282 |
|  |  |  |
| To: Buyer: |  | Primo Water Corporation 104 Cambridge Plaza Drive Winston-Salem, NC 27104 Attention: Mark Castaneda Facsimile: 336-331-4247 |

or to such other place or places as the parties may designate in writing.

          6.4 Severability. If any term or provision of this Agreement is declared invalid by a court of competent jurisdiction in a final ruling from which no appeal is taken, it will be severable if the operation of the remaining terms and provisions are unimpaired, or if the court replaces the invalid term or provision by such valid term or provision reflecting the intention of the parties.

          6.5 Amendment and Waiver. This Agreement may only be amended by a written agreement signed by all the parties to this Agreement. The observation or performance of any condition or obligation imposed on a party under this Agreement may be waived only in writing by an authorized official of the other party and only to the extent stated in such writing.

          6.6 Culligan Entities. At Culligan’s option, this Agreement may be performed, and all rights hereunder against Buyer may be enforced, in whole or in part, by Culligan, its parent corporation or any one or more of its subsidiaries and affiliates (the “Culligan Entities”) so long as the applicable Culligan Entity is capable of performing such obligations and performs such obligations in accordance with this Agreement.

          6.7 Entire Agreement. This Agreement includes the following Attachments:

Attachment A: Products and Pricing — Sale  
Attachment B: Terms and Conditions of Sale

     This Agreement sets forth the entire understanding and agreement between the parties with respect to the subject matter hereof. Any oral or other written understandings or agreements relating to the subject matter of this Agreement are superseded by this Agreement. This Agreement shall inure to the benefit of, and be binding upon the parties and their respective successors and permitted assigns. Any terms which add to, vary from or conflict with these terms and conditions are void. This Agreement may be amended only by a written agreement signed by both parties.

          6.8 Force Majeure. No party shall not be liable to any other party for any breach hereunder, including for failure to deliver or delays in delivery, construction, erection or startup, occasioned by causes beyond the control of such party, its suppliers or subcontractors, including but not limited to unavailability of materials, strikes, labor slowdowns and stoppages, labor shortages, lockouts, fires, floods, earthquakes, storms, droughts, adverse weather, riots, thefts, accidents, embargoes, war (whether or not declared) or other outbreak of hostilities, civil strife, acts of governments, acts of God,

governmental acts or regulations, orders or injunctions, or other reasons, whether similar or dissimilar to the foregoing (each a “Force Majeure Event”). In the event of a Force Majeure Event, (a) the time for such party’s performance shall be reasonably extended; and (b) both parties shall take reasonable steps to adjust all affected dates in this Agreement.

          6.9 Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original and which together will constitute one and the same agreement.

          6.10 Headings. The headings and subheadings are for the convenience of the parties only and no special meaning will attach to the headings.

          6.11 Governing Law. This Agreement will be governed by the laws of the State of Illinois without giving effect to any choice or conflict of law principles of any jurisdiction.

          6.12 Survival. The terms of Sections 3, 4, 5.2, 5.3 and 6 shall survive the expiration or termination of this Agreement.

     IN WITNESS WHEREOF, the parties hereto, as of the date first written above, have caused this Agreement to be executed in their respective names by their duly authorized representatives.

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|  | **P1 SUB, LLC** | | |  |
|  | By: |  | |  |
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|  |  | Name: | |  |
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|  |  |  |  |  |
|  | **P2 SUB, LLC** | | |  |
|  | By: |  | |  |
|  |  | Title: | |  |
|  |  | Name: | |  |
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|  |  |  |  |  |
|  | **CULLIGAN INTERNATIONAL COMPANY** | | |  |
|  | By: |  | |  |
|  |  | Title: | |  |
|  |  | Name: | |  |
|  | | | | |

**ATTACHMENT A**  
PRODUCTS AND PRICING — SALE

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|  |  |  |  |  |  |  |
| Item Number |  | Description |  | Price | |  |
| 01019699 |  | 1 1/2" BRASS SWEAT CONNECTOR |  |  | 19.80 |  |
| 01017852 |  | 10" GOLD SOFT W/SMART SENSOR |  |  | 688.00 |  |
| 01019525 |  | 18 X 38 BRINE SYSTEM |  |  | 72.43 |  |
| 00162700 |  | 2 CU FT CULLAR D PLUS |  |  | 138.20 |  |
| 01018891 |  | 2" TURBINE METER |  |  | 216.46 |  |
| 01021402 |  | 20' EXTENSION CABLE W/CONN & BOX |  |  | 25.63 |  |
| 01019613 |  | 24 X 50 BRINE SYSTEM |  |  | 235.28 |  |
| 01019614 |  | 30 X 50 BRINE SYSTEM |  |  | 299.26 |  |
| 01019615 |  | 39 X 48 BRINE SYSTEM |  |  | 332.79 |  |
| 01004765 |  | 9 GALLON STORAGE TANK |  |  | 71.58 |  |
| D1018801 |  | AP-2 REVERSE OSMOSIS SYSTEM |  |  | 2,975.00 |  |
| 01018959 |  | AQUA-SENSOR PROBE KIT FOR FRP TANKS |  |  | 85.31 |  |
| 01013839 |  | BATTERY BACKUP, 3.6V 1/2AA LITHIUM |  |  | 6.58 |  |
| P1013677 |  | BELL CRANK/FOLLOWR (10 TO A PACK) |  |  | 37.89 |  |
| 01018711 |  | BLFC ELBOW 0.80 GPM |  |  | 5.84 |  |
| 00490106 |  | BOTTLES 4 OZ. CAPS AND MAILERS |  |  | 40.70 |  |
| D1018799 |  | BP4L PLUS RO SYSTEM |  |  | 2,875.00 |  |
| 01017164 |  | BRINE RECLAIM KIT HF 55E & CSM |  |  | 526.27 |  |
| 01018952 |  | BRINE RECLAIM KIT, CSM-UP TO 3 UNIT |  |  | 1,054.53 |  |
| 01018720 |  | BRINE SYSTEM 650 LB 24 X 40 |  |  | 101.37 |  |
| 01018706 |  | BRINE VALVE 40 TALL |  |  | 25.93 |  |
| 01019526 |  | BRINE VALVE FOR HI-FLO 2 |  |  | 25.93 |  |
| 01017242 |  | BRUNER VALVE BODY 3" ASSY |  |  | 1,544.09 |  |
| 00554710 |  | BUSHING, RED BR 1/2"NPTE X 3/8 NPTI |  |  | 2.53 |  |
| 01001750 |  | BUSHINGS |  |  | 0.34 |  |
| 01009930 |  | BXL FUSE, 1/2 AMP, 250V |  |  | 3.12 |  |
| 01019718 |  | BYPASS VALVE, HI-FLO 22 |  |  | 42.33 |  |
| 00162706 |  | CARBON |  |  | 69.13 |  |
| 01021486 |  | CARBON FILTER, HF-22 |  |  | 789.00 |  |
| 01009644 |  | CARTRIDGE (MEMBRANE) LC-200 |  |  | 203.83 |  |
| 00403304 |  | CARTRIDGE ASSY NORYL BLACK (HF-42) |  |  | 23.27 |  |
| 01009642 |  | CARTRIDGE FILTER BW TYPE LC 20" |  |  | 32.52 |  |

**ATTACHMENT A**  
PAGE 2

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|  |  |  |  |  |  |  |
| Item Number |  | Description |  | Price | |  |
| 00542709 |  | CHECK VALVE FOR BXL PLUS RO |  |  | 32.97 |  |
| D1013899 |  | CIRCUIT BOARD FOR BXL SERIES |  |  | 215.79 |  |
| 01020368 |  | CIRCUIT BOARD FOR MEDALLIST FILTER |  |  | 94.22 |  |
| 01020747 |  | CIRCUIT BOARD, GBE MODEM KIT |  |  | 55.35 |  |
| 01020404 |  | CONN. 1 1/2" BRASS NPT |  |  | 74.28 |  |
| 01019949 |  | CONTROL FOR HC-300 UNIT |  |  | 664.83 |  |
| 01020370 |  | CONTROL HEAD FOR 10" MED. SOFTENER |  |  | 299.10 |  |
| P1019782 |  | COPPER SWEAT ADAPTER KITS |  |  | 197.21 |  |
| P0330667 |  | COUPLING (PACK OF 10) |  |  | 5.92 |  |
| 01005015 |  | CUL RO-B3L PLUS (MEMBRANE) |  |  | 108.61 |  |
| 01019651 |  | DAUGHTER BOARD |  |  | 42.62 |  |
| 01019602 |  | DF-14 CARBON FILTER |  |  | 843.00 |  |
| 01014444 |  | FILTER CULLAR 8 X 44 FIBERGLASS |  |  | 382.00 |  |
| 01004858 |  | FILTER KIT FOR HOME RO |  |  | 14.66 |  |
| 01017504 |  | FILTER, GOLD 10" QH HH24 CULLAR |  |  | 609.00 |  |
| 00310501 |  | FLO CONTROL COUP CR PLT 1 |  |  | 53.37 |  |
| 00447382 |  | FLOW CONTROL FOR HC210 |  |  | 38.48 |  |
| D1006180 |  | FLOW METER, PRODUCT (XL) |  |  | 82.31 |  |
| 01010332 |  | FLOW RESTRICTOR |  |  | 6.15 |  |
| 01020626 |  | GOLD CONVERSION KIT |  |  | 170.15 |  |
| 01017503 |  | GOLD SERIES FILTER 9" |  |  | 522.00 |  |
| 01021501 |  | HI FLO 3E HCE-210-2NHWB |  |  | 1,665.00 |  |
| 01019605 |  | HI-FLO 22 CF-12 CARBON FILTER |  |  | 751.00 |  |
| 01019607 |  | HI-FLO 22 CF-16 CARBON FILTER |  |  | 1,113.00 |  |
| 01019603 |  | HI-FLO 22 CULLAR FILTER DF 16 |  |  | 985.00 |  |
| 01021483 |  | HI-FLO 22 DF-14 |  |  | 885.00 |  |
| 01019564 |  | HI-FLO 22 SOFT WS-060 |  |  | 967.00 |  |
| 01019565 |  | HI-FLO 22 SOFT WS-090 |  |  | 1,035.00 |  |
| 01021477 |  | HI-FLO 22 WS-060 SOFT W/GBE CONT. |  |  | 1,015.00 |  |
| 01021478 |  | HI-FLO 22 WS-090 SOFT W/GBE CONT. |  |  | 1,088.00 |  |
| 01021479 |  | HI-FLO 22 WS-120 SOFT W/GBE CONT. |  |  | 1,196.00 |  |
| 01021480 |  | HI-FLO 22 WS-150 SOFT W/GBE CONT. |  |  | 1,573.00 |  |

**ATTACHMENT A**  
PAGE 3

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|  |  |  |  |  |  |  |
| Item Number |  | Description |  | Price | |  |
| 01021481 |  | HI-FLO 22 WS-210 SOFT W/GBE CONT. |  |  | 1,681.00 |  |
| 01021496 |  | HI-FLO 3 HCE-210-2 |  |  | 1,665.00 |  |
| 01019963 |  | HI-FLO 3 SOFT HC-210 |  |  | 1,199.00 |  |
| 01021500 |  | HI-FLO 3E SOFTENER HCE-150-2T NHWB |  |  | 1,509.00 |  |
| 01019568 |  | HO-FLO 22 SOFTENER-WS-210 |  |  | 1,601.00 |  |
| 01004505 |  | HOME RO UNIT, AC30 3 GAL. TANK |  |  | 256.00 |  |
| D1018967 |  | HOUSING ASSY 2 1/2 X 21" (BP-2S+) |  |  | 127.66 |  |
| 01017389 |  | INJECTOR ASSY CL |  |  | 132.51 |  |
| 01017397 |  | INJECTOR ASSY. |  |  | 192.70 |  |
| 01017388 |  | INJECTOR BODY FOR BRUNER D180 |  |  | 144.16 |  |
| 00403130 |  | INLET MANIFOLD |  |  | 12.01 |  |
| 01013971 |  | KIT ADAPTER 2.5"-5 ACME FIBERGLASS |  |  | 26.88 |  |
| 01016565 |  | KIT, ELBOW COPPER ADAPTER-MED SOFT. |  |  | 19.72 |  |
| 01018621 |  | KIT-FLO-PAK NPT |  |  | 159.64 |  |
| 01013033 |  | KIT-SEALPACK/BRINE/CAM (SOFT) |  |  | 28.33 |  |
| 00401802 |  | LOWER PISTON |  |  | 91.23 |  |
| 00403126 |  | MANIFOLD |  |  | 15.65 |  |
| 00403128 |  | MANIFOLD ASSEMBLY |  |  | 13.51 |  |
| 01019618 |  | MANIFOLD KIT, 21" 24" 30" |  |  | 51.00 |  |
| 01015020 |  | MEDALIST SERIES SOFTENER 8" W/METER |  |  | 351.00 |  |
| 01014179 |  | MEDALLIST DRIVE MOTOR KIT |  |  | 52.64 |  |
| 01020366 |  | MEDALLIST FILTER CONTROL HEAD |  |  | 228.32 |  |
| 01018889 |  | METER CABLE - 5' |  |  | 16.66 |  |
| 01011188 |  | METER KIT ASSY. FOR 10" MED. SOFT. |  |  | 81.46 |  |
| 00156001 |  | MINERAL CULLEX 1.0CF BAG HI-FLO 52 |  |  | 63.77 |  |
| 00160702 |  | MINERAL CULLISAN 20 LB. BAG |  |  | 8.97 |  |
| 00160710 |  | MINERAL CULLISAN 50 LB BAG HF-52 |  |  | 8.27 |  |
| 00162110 |  | MINERAL CULLSAN MED 50 LB BAG |  |  | 9.29 |  |
| 00163006 |  | MINERAL CULLSAN MEDIA 78L |  |  | 70.24 |  |
| 00163811 |  | MINERAL CULLSAN U 50# BAG |  |  | 14.87 |  |
| 00401605 |  | MOTOR MOUNTS FOR B-SERIES |  |  | 6.77 |  |
| D1018969 |  | MOUNTING BRACKET WALL BP LONG STYLE |  |  | 108.78 |  |

**ATTACHMENT A**  
PAGE 4

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|  |  |  |  |  |  |  |
| Item Number |  | Description |  | Price | |  |
| 01016327 |  | MVP COMMUNICATION CABLE |  |  | 18.26 |  |
| 01016342 |  | MVP DUPLEX ALT COM CABLE |  |  | 35.47 |  |
| 00432821 |  | NIPPLE, BR, 1/2" NPT X 3" LONG |  |  | 5.43 |  |
| 00401858 |  | O-RING |  |  | 1.21 |  |
| 00308430 |  | O-RING APR#135 EP1.9 |  |  | 0.82 |  |
| P0308427 |  | O-RING BP COUPLING (PACK OF 50) |  |  | 14.21 |  |
| 01007377 |  | O-RING, BXL EXTERNAL |  |  | 3.58 |  |
| 01007378 |  | O-RING, BXL INTERNAL |  |  | 1.89 |  |
| 01003533 |  | O-RING. HI-FLO 52 WATER SOFT |  |  | 1.26 |  |
| 01018978 |  | PISTON |  |  | 67.09 |  |
| 00401803 |  | PISTON ASSM NO HD WTR #6 |  |  | 107.09 |  |
| 00443431 |  | PLUG, 1-1/4 THREADED PVC |  |  | 4.12 |  |
| 01016267 |  | POWER VALVE SEAL REBUILD KIT |  |  | 23.28 |  |
| 00472601 |  | PRES. GAUGE KIT 0-200PSI 0.25" NPT |  |  | 36.64 |  |
| D1006272 |  | PRESSURE GAUGE KIT |  |  | 28.19 |  |
| 01004938 |  | PRESSURE GAUGE, 0-400 PSI LOWER MNT |  |  | 29.04 |  |
| 01011831 |  | PRESSURE GAUGES AND SAMPLE COCKS |  |  | 50.67 |  |
| D1013880 |  | PRESSURIZED STORAGE KIT |  |  | 209.25 |  |
| 00304404 |  | RED BUSHING,BR, 3/8"NPTI X 1/4NPTE |  |  | 0.68 |  |
| 00449793 |  | RELAY, DPDT, 120/60 |  |  | 33.85 |  |
| SP01020553 |  | REMOTE MONITOR |  |  | 133.25 |  |
| 01018712 |  | RETROFIT BRINE VALVE |  |  | 25.93 |  |
| D1013843 |  | RO CONTROL BOX FOR BXL ASSY. |  |  | 519.10 |  |
| D1006055 |  | RO QUALITY MONITOR |  |  | 304.64 |  |
| 01009635 |  | RO SYSTEM, LC-200 |  |  | 506.00 |  |
| 00564806 |  | SAMPLE COCKS 0.25" NPT |  |  | 9.44 |  |
| 01005676 |  | SCREW |  |  | 0.05 |  |
| 00318530 |  | SCREW CAP |  |  | 0.34 |  |
| 01018977 |  | SEAL KIT |  |  | 68.52 |  |
| 01013083 |  | SEAL PACK ASSEMBLY REPLACEMENT |  |  | 22.87 |  |
| 01000825 |  | SEAT VALVE PLASTIC SNAP IN HI-FLO52 |  |  | 5.34 |  |
| D1018803 |  | SERIES AP4 RO |  |  | 4,127.00 |  |

**ATTACHMENT A**  
PAGE 5

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|  |  |  |  |  |  |  |
| Item Number |  | Description |  | Price | |  |
| D1018798 |  | SERIES BP RO BP-3L PLUS |  |  | 2,560.00 |  |
| 01008779 |  | SINGLE AQUA-SENSOR KIT |  |  | 85.31 |  |
| 01020447 |  | SMART BRINE TANK W/7' CABLE |  |  | 51.25 |  |
| 01021376 |  | SMF 245 |  |  | 2,051.00 |  |
| 01021377 |  | SMF 365-1 1/2 COMMERCIAL WATER SOFT |  |  | 2,699.00 |  |
| 01021375 |  | SOFT SMF - 185, 14 X 65 24/60 |  |  | 1,896.00 |  |
| 01021421 |  | SOFT. CSM 600-2NC SINGLE GBE |  |  | 4,464.00 |  |
| 01019959 |  | SOFT. HC-120-1.5T |  |  | 822.00 |  |
| 01019957 |  | SOFT. HF3 HC-60 1.5 |  |  | 725.00 |  |
| 01019960 |  | SOFT. HF3, HC-150-1.5T |  |  | 931.00 |  |
| 01018691 |  | SOFTENER CONTROL |  |  | 600.53 |  |
| 01019566 |  | SOFTENER HF-22 WS-120 DO NOT USE |  |  | 1,139.00 |  |
| 01019567 |  | SOFTENER HF-22 WS-150 |  |  | 1,499.00 |  |
| 01019974 |  | SOFTENER, HCE 300 DUPLEX |  |  | 1,780.00 |  |
| 01021865 |  | SOFT-MINDER TWIN 9100 |  |  | 728.00 |  |
| 01021864 |  | SOFT-MINDER TWIN 9100 (9") |  |  | 645.00 |  |
| 01013887 |  | SOLENOID VALVE, 120 V |  |  | 44.30 |  |
| 01019591 |  | SOLENOID VALVE, 3 WAY 120V |  |  | 46.48 |  |
| 01021249 |  | SSA INTELL-KIT |  |  | 164.00 |  |
| P0445244 |  | SWITCH (PACK OF 10) EACH |  |  | 5.10 |  |
| 01019962 |  | SYSEM HC-150-2T SINGLE |  |  | 1,096.00 |  |
| 01018715 |  | SYSTEM BRINE, 375 LB. W/.45 GPM |  |  | 85.90 |  |
| 01019964 |  | SYSTEM HC-300-2T |  |  | 1,398.00 |  |
| 01019958 |  | SYSTEM HC-90-1.5T |  |  | 746.00 |  |
| 01014573 |  | TANK & MANF FBRGL 12 X 52 |  |  | 207.22 |  |
| A2365030 |  | TANK 16 X 65 |  |  | 233.36 |  |
| A2365032 |  | TANK FRP21" DIA X 69"H 4"-8U EA |  |  | 531.93 |  |
| 00441897 |  | TANK REP. FIBERGLASS WITH MANIFOLD |  |  | 88.84 |  |
| 01016389 |  | TANK, 10X40, 1 CU FT. FOR MED SOFT |  |  | 216.03 |  |
| 01016390 |  | TANK, 10X54, 1.5 CU FT FOR MED SOFT |  |  | 274.93 |  |
| 01004776 |  | TANK, 3 GAL. FOR HOME RO SYS. |  |  | 37.34 |  |
| A2365033 |  | TANK-24X72 FIBERGLASS FOR HI-FLO 3 |  |  | 614.53 |  |

**ATTACHMENT A**  
PAGE 6

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |
| Item Number |  | Description |  | Price | |  |
| 00308415 |  | TETRASEAL |  |  | 0.28 |  |
| 00401748 |  | TIMER ASSEMBLY |  |  | 59.48 |  |
| 01020628 |  | UPGRADE KIT, GOLD 24V |  |  | 114.80 |  |
| 01003701 |  | VACUUM BREAKER PVC, 1.0" NPT |  |  | 155.05 |  |
| 01016388 |  | VALVE BRINE ASSY, COMMERCIAL REP. |  |  | 86.18 |  |
| 00401584 |  | VALVE VACUUM BREAKER BR 3/4" NPT |  |  | 70.79 |  |
| 01019948 |  | VALVE, HF3 2" HWB-16" |  |  | 642.87 |  |
| 01018425 |  | VALVE, MANUAL BYPASS |  |  | 24.46 |  |

All prices are in U.S. Dollars. In addition to the pricing set forth above, Buyer will be responsible for actual freight and taxes.

**Payment Terms:**Net 30 days

**Delivery:**FOB Culligan’s dock

**Product Changes:**Culligan may change its product offering only after sixty (60) days written notice to Buyer. Culligan shall not remove products from its product offering unless Culligan generally ceases to offer such products for sale; provided, however, that Culligan shall not remove products that it provides exclusively or primarily to Buyer from its product offering prior to the end of the Term.

**Price Changes:**Culligan may change its pricing only after sixty (60) days written notice to Buyer. Culligan shall not increase the pricing set forth above by a percentage that is greater than the percent change in the Index, as measured between the Effective Date and the order date for the applicable Products. The “Index” shall mean the Producer Price Index, Other Commercial & Services Industry Machinery Manufacturing (Industry and Product), NAICS # 333319, Series Id. PCU333319333319), as published by the Bureau of Labor Statistics for the most recent month.

**ATTACHMENT B**  
TERMS AND CONDITIONS OF SALE

Purchase Order Requirements — Equipment Sales

Each Purchase Order shall include:

|  |  |  |
| --- | --- | --- |
| i. |  | Description of the Product being ordered |
| ii. |  | Quantity being ordered; |
| iii. |  | Price of Product being ordered; and |
| iv. |  | Required delivery date (at least 5 Business Days after receipt of the Purchase Order). |

     1. Acceptance. By signing this Agreement, Buyer (“you” or “your”) agrees to be bound by the following terms and conditions for the purchase of the Products referenced in Attachment A. Whether these terms are included in an offer or an acceptance by Culligan, such offer or acceptance is conditioned on your assent to these terms. Culligan rejects all additional or different terms in any of your forms or documents, except to the extent agreed upon in writing and signed by both parties. No promise, statement or representation by any employee, agent, subcontractor or authorized representative of a Culligan Party will (a) be binding upon Culligan, or (b) relieve you of your obligations herein, unless it appears in a written document signed by you and Culligan. Waiver of any provision of this Order shall not be deemed to constitute a continuing waiver.

     2. Payment. You shall pay Culligan the full purchase price as set forth in Attachment A, including any applicable taxes (e.g. state, G.S.T., provincial, county, property, etc.), delivery charges and any fees for storage or insurance after delivery to the location you may specify, and you shall reimburse Culligan for any such payments. Payments are due within 30 days after the date of invoice. You shall be charged the lower of 1 1/2% interest per month or the maximum legal rate on all amounts not received by the due date and shall pay all of Culligan’s reasonable costs (including attorneys’ fees) of collecting amounts due but unpaid.

     3. Use; Maintenance. The Products are not for use with influent water which is (a) microbiologically unsafe, or (b) of unknown quality without adequate treatment and/or disinfection. You must maintain the Products according to manufacturer instructions using manufacturer-authorized service parts, including replacement of filters and other components. If your water quality, water consumption, water pressure or flow rate change, or if maintenance of the Products is affected by external factors such as sand or sediment or an inadequate water supply, different or additional Products may be required, and these Products should not be used if such quality, consumption, pressure, flow rate change or external factors are outside of specified ranges. You are responsible for all maintenance of and repairs to the Products, except to the extent covered by paragraph 4, below.

     4. Warranty. Culligan warrants to you that the Products shall be free from defects in material and workmanship. If you give Culligan prompt written notice of breach of this warranty within 12 months after delivery (the “Warranty Period”), Culligan shall, at your sole option and as your exclusive remedy, repair or replace the subject parts or refund the purchase price paid for the relevant Product. If Culligan determines that any claimed breach is not, in fact, covered by this warranty, you shall pay Culligan its then customary charges for any repair or replacement made by Culligan. Culligan’s warranty is conditioned on your (a) operating and maintaining the Products in accordance with Culligan’s instructions, (b) not making any unauthorized repairs or alterations, and (c) not being in default of any payment obligation to Culligan. Culligan’s warranty does not cover damage caused by chemical action or abrasive material, misuse or improper installation (unless installed by Culligan). WITH RESPECT TO THE PRODUCTS PURCHASED HEREUNDER, THE WARRANTIES SET FORTH IN THIS SECTION ARE CULLIGAN’S SOLE AND EXCLUSIVE WARRANTIES, AND CULLIGAN MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.

**ATTACHMENT B**  
PAGE 2

     5. Cancellation. If you cancel or suspend your Order for any reason other than Culligan’s breach, you shall promptly pay Culligan for work performed prior to cancellation or suspension and any other direct costs incurred by Culligan as a result of such cancellation or suspension.

     6. Liens, Insurance & Indemnity

|  |  |  |  |
| --- | --- | --- | --- |
|  | a. |  | Purchased Equipment. If you are purchasing the Products, title to the Products and risk of loss shall pass to you at the time the Products are delivered to the carrier for shipment, or when delivered to the location specified by you, whichever comes first. Prior to your full payment of the purchase price, you shall not permit any lien, encumbrance or security interest to attach to the Products or be levied upon the Products under legal process, or dispose of the Products or permit anything to be done that may impair the value of the Products and you shall insure the Products against risk of loss or damage by fire, including extended coverage, theft and such other casualties, in an amount equal to full replacement value. |
|  |  |  |  |
|  | b. |  | Indemnity. You shall pay, hold harmless, indemnify and defend Culligan, its officers, directors, employees, agents, affiliates, subsidiaries and franchisees (the “Culligan Parties”) from and against any loss, liability, claims, suits and costs caused by, arising out of, or relating to any damage to property or injury or death of persons arising out of the unloading, storage, application, handling, use, or disposal of the Products except for that portion of damages directly attributable to the negligence of the Culligan Parties. You agree to obtain insurance in amounts sufficient to cover your obligations hereunder. Your indemnity obligation will survive the expiration, termination or cancellation of this Order. |
|  | | | |