

DESMOND POOLS & SPAS, INC

Standard Terms and Conditions

Obligations.

1. Except as provided for in the Contract, Customer shall obtain all required permits for services desired.
2. Except as provided for in the Contract, Customer is responsible for any necessary insect prevention.
3. Except as provided for in the Contract, Customer is responsible for any necessary chemical balancing.
4. Except as provided for in the Contract, Contractor will provide basic excavation services associated with the services and products provided herein. Customer shall pay for major, as deemed in Contractor's discretion, excavation, including but not limited to, large rock and ground water excavation, and any and all unforeseen barriers to excavation.
5. Except any extra charges for work provided other than listed in the contract

Payment.

Thirty-three percent (33%) of the agreed purchase price is due upon execution of the Contract. The final payment of any remaining balance is due upon completion. Customer agrees to pay interest on all past-due sums at the rate of 2% per month or the highest rate allowed by law. Customer shall be responsible for all costs of collection of past due amounts, including, but not limited to Contractor attorney's fees and costs, and interest.

If payments are not received as described above, Contractor reserves the right to suspend Services until payment is brought current. Customer shall pay for and will indemnify and hold Contractor harmless from, any applicable sales, use, transaction, excise, or similar taxes and any federal, state or local fees or charges (including but not limited to environmental or similar fees) imposed on, in respect of, or otherwise associated with this Agreement.

Warranty.

CUSTOMER AGREES AND ACKNOWLEDGES THAT CONTRACTOR MAKES NO WARRANTY WITH REGARD TO THE PRODUCTS SERVICED. CUSTOMER FURTHER AGREES AND ACKNOWLEDGES THAT ITS SOLE REMEDY WITH REGARD TO WARRANTY SHALL BE THROUGH THE MANUFACTURER OF THE PRODUCTS SERVICED. EXCEPT AS SET FORTH HEREIN AND SUBJECT TO APPLICABLE LAW, CONTRACTOR MAKES NO OTHER, AND EXPRESSLY DISCLAIMS ALL OTHER, REPRESENTATIONS, WARRANTIES, CONDITIONS OR COVENANTS, EITHER EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DURABILITY, TITLE, ACCURACY OR NON-INFRINGEMENT) ARISING OUT OF OR RELATED TO THE PERFORMANCE OR NON-PERFORMANCE OF THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY RELATING TO THIRD PARTY SERVICES, ANY WARRANTY WITH RESPECT TO THE PERFORMANCE OF ANY HARDWARE OR SOFTWARE USED IN PERFORMING SERVICES AND ANY WARRANTY CONCERNING THE RESULTS TO BE OBTAINED FROM THE SERVICES. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE. CUSTOMER AGREES AND ACKNOWLEDGES THAT NO REPRESENTATIVE OF CONTRACTOR OR OF ITS AFFILIATES IS AUTHORIZED TO MAKE ANY REPRESENTATION

OR WARRANTY ON BEHALF OF CONTRACTOR OR ANY OF ITS AFFILIATES THAT IS NOT IN THIS AGREEMENT EXPRESSLY AMENDING CONTRACTOR'S WARRANTY.

Contractor solely warrants that the Services will be performed in a good and workmanlike manner in accordance with reasonable commercial standards. Customer's sole and exclusive remedy and Contractor's entire liability with respect to this warranty will be, at the sole option of Contractor, to either (a) use its reasonable commercial efforts to re-perform or cause to be re-performed any Services not in substantial compliance with this warranty or (b) refund amounts paid by Customer related to the portion of the Services not in substantial compliance; provided, in each case, Customer notifies Contractor in writing within five (5) business days after performance of the applicable Services.

Limitation of Liability.

To the maximum extent permitted by applicable law, in no event shall Contractor, its affiliates, or their respective directors, shareholders, employees, agents and representatives be liable to customer for any incidental, consequential, indirect, special, or punitive damages (including, but not limited to, lost profits, business interruptions, loss of business information or other pecuniary loss) arising out of the use of the products or services, regardless of whether such liability is based on breach of contract, tort (including negligence), strict liability, breach of warranty, failure of essential purpose or otherwise, and even if the party has been advised of the possibility of such damages. Contractor's total liability for any claims brought by Customer regarding the products and services is limited to the amount of any payments made by Customer during the twelve months preceding customer's notice of the claim to Contractor. Customer expressly agrees that Contractor holds no responsibility, liability, or obligation with regard to diving, jumping, or any acts of horseplay in or around the products provided by Contractor.

Miscellaneous.

1. This Agreement shall be governed by Pennsylvania law, notwithstanding any conflict of laws rules.
2. The Court of Common Pleas of Northampton County, Pennsylvania shall have exclusive jurisdiction and venue of any dispute under this Agreement.
3. Contractor shall at all times remain an independent contractor pursuant to this Agreement.
4. The word "including" as used herein is intended to be exemplary only, and not limiting, of the word or phrase it modifies.
5. Captions used herein are for convenience only.