

## **2022/2023 STANDARD POLICIES**

### **1. DEFINITIONS:**

1.1 ORDER(S) – A directive from a Swenson authorized retailer to purchase goods.

1.1.1 Distributor orders are not consignment sales; payment is expected according to terms outlined in the annually published Sales Program.

1.2 AUTHORIZED DISTRIBUTOR – A retailer who purchases directly from Swenson Spreader, LLC (“Swenson”, “Swenson Spreader”, “Swenson Products”) with responsibilities defined by Swenson for Sales, Service and Warranty. Distributor must have qualified service technicians. Service technicians may be required to attend a Swenson Service School online or in person.

1.3 AUTHORIZED DISTRIBUTOR – BRANCH – A retailer, subordinate to a main office, who purchases directly (or through main office) from Swenson Spreader, LLC, with responsibilities defined by Swenson for Sales, Service and Warranty. Distributor branch locations must have qualified service technicians. Service technicians may be required to attend a Swenson Service School online or in person.

1.4 AUTHORIZED DISTRIBUTOR – E-COMMERCE – Purchases directly from Swenson Spreader, LLC with responsibility for Web Development, Sales, Customer Service, Processing E-Commerce Orders, Shipping and Logistics. E-Commerce Distributors must hold annual product training meetings in order to review new products and services.

1.5 AREA OF RESPONSIBILITY – The region in which a Distributor is permitted to market products, which is defined at dealer setup.

1.5.1 Swenson distributors are not permitted to directly or indirectly market products to other resellers or end users outside their Area of Responsibility without the written consent of Swenson Spreader, LLC.

1.6 TERMS OF SALE – The terms of sale as defined in the Swenson Spreader, LLC Standard Policies will govern all sales of products to the Distributor. Any purchase order, other offer, or continuation of purchase containing additional or different terms is hereby expressly rejected, and the Distributor’s acceptance of any products and/or placement of any order with Swenson Spreader, LLC indicate the Distributor’s assent to the terms of sales

1.7 PROGRAM YEAR – The time period when the current annually published Sales Program is valid. A Swenson Spreader, LLC Program Year runs from May 2 through February 28 of the following calendar year. The beginning of each Program Year coincides with the release of the annually published sales program.

1.8 NON-EXCLUSIVITY – Although Swenson Spreader, LLC selects its Authorized Distributors in a methodical process, the Distributor agrees that their approval as an Authorized Distributor in no way constitutes the grant of a franchise, other exclusive or special right to purchase or sell the products of Swenson Spreader, LLC. There is no franchise fee or other charge to the Distributor other than the cost of goods sold.

Swenson Spreader, LLC reserves the right to sell to others and to decline selling to the Distributor for any or no reason, at its sole discretion, at any time.

1.9 FORCE MAJEURE – Swenson Spreader, LLC shall not be liable to the Distributor for any delay in delivery or other non-performance caused by discontinuing or substantial interference with its business, in whole or in part, by reason of fire, flood, earthquake, tempest, labor dispute, war, act of God, embargo, civil commotion, governmental regulations or any other cause beyond its reasonable control.

1.10 Swenson Spreader, LLC reserves the right to change program details, product design, construction, prices and specifications, without notice and without obligation.

## **2 ACCOUNT STATUS:**

2.1 Swenson Spreader, LLC reserves the right to refuse shipment to any Distributor.

2.2 Distributors who comply with the procedures and policies set forth by Swenson Spreader, LLC in this program book and with a current account balance are considered to be in Good Standing. Distributors who fail to comply with the procedures and policies set forth in this program book, or with a past due account balance, are considered to be not in Good Standing.

2.2.1 Swenson Spreader, LLC reserves the right to refuse shipment to any Distributor with an account not in Good Standing.

2.3 Continued failure to comply with Swenson policies and/or delinquent payments may result in actions including, but not limited to: removal from the Swenson Distributor Locator, access blocked to the Distributor Extranet, forfeiture of any discounts and sales programs (e.g., Pre-Season Discount programs), Distributor's account placed on automatic status review, or termination of that Distributor or Dealer.

2.4 At its sole discretion, Swenson Spreader, LLC may enforce the following requirements in order for a Distributor to be featured on the Swenson Distributor Locator.

2.4.1 Distributors must purchase whole goods or parts within a 12 month period to be featured on the Swenson Distributor Locator.

2.4.2 Distributors who fail to meet this minimum requirement may, at Swenson's sole discretion, be reclassified as Parts and/or Service only providers on the Swenson Distributor Locator or be removed from the locator.

2.5 Any Distributor who exceeds 6 months without a purchase from Swenson may, at Swenson's sole discretion, have their account deactivated. Once an account has been deactivated, a distributor must go through the New Distributor application process in order to reestablish a direct buying relationship with Swenson Spreader, LLC.

2.6 Any Distributor whose purchases from Swenson in an 12 month period total less than \$2,500.00 may, at Swenson's sole discretion, have their payment terms adjusted to Cash in Advance.

2.7 All Distributors, regardless of account standing, are subject to a Status Review before any and all orders are released. This review can take up to two (2) business days. History of delinquent payments and/or lack of compliance with Swenson policies and procedures will result in an automatic Status Review before any and all orders can be released.

2.7.1 Swenson holds full authority to enforce the status review process and may opt not to review any or all orders for a distributor or distributors at its sole discretion without notice. Swenson, by opting against a status review for a particular order(s) or for a period of time, does not forfeit its right to enforce a status review prior to releasing any and all new shipments. Swenson Products can resume enforcing status reviews for a distributor or distributors at any time without notice.

2.8 Swenson Spreader, LLC is not responsible for any late shipments or orders delayed by an automatic Status Review. As such, Swenson Spreader, LLC will not credit shipping charges or expediting costs for any shipments delayed by the Status Review process.

### **3 PURCHASE PRICES:**

3.1 **Ice Control Equipment, Parts and Accessories:** Ice Control Equipment (whole goods) associated Parts, and Accessories will be invoiced at current List Price less the distributor's earned discount as defined by the annually published Sales Program. Details on the Sales Program and the Program Summary Chart are located in the Sales and Pricing Program. Distributor Discount qualifications are published annually, see Program Summary Chart, section 3.2.1 of the Sales and Pricing Program.

3.2 Pre-Season and In-Season discounts may differ, but will be defined in the annually published Sales Program. See the Program Summary Chart, section 3.2.1 of this Sales and Pricing Program, for the current program year's Pre-Season and In-Season discounts.

#### **4. PRE-SEASON AND IN-SEASON PAYMENT TERMS:**

4.1 Pre-Season Order Payment Terms will be defined and governed by the annually published Sales Program(s), and become effective on May 2 of the program year. See the Sales Program Summary in section 3.2.1 of the Sales and Pricing Program section of this program book.

4.2 Prestige and Partner Level Distributor Standard In-Season Order Terms: Standard orders will qualify for Net 30 Day Payment Terms.

4.2.1 All invoices for Prestige and Partner level Distributor orders become past due after thirty (30) days.

4.3 Special Order Terms: Throughout the program year, Swenson, at its sole discretion, may offer various special buying programs with non-standard payment terms. Terms will be clearly defined for each program. Qualifying orders will receive the special program terms as defined by that particular program for qualifying program orders only.

4.4 No PSO or In-Season shipments will be made for a Distributor whose account is past due. In addition, Distributor accounts that are past due will be placed on automatic status review per Standard Policies, Section 2.

#### **5. ORDERS/SCHEDULING:**

5.1 Swenson Spreader, LLC will make every effort to ship orders in a timely fashion.

5.2 Swenson Spreader, LLC is not liable for Distributor order entry errors or incorrect shipping instructions.

5.3 Swenson Spreader, LLC reserves the right to prioritize single line Swenson Distributors when demand exceeds production of ice control equipment.

5.4 Unless otherwise specified, open order line items will ship as early as available. Items not initially available to ship will be back ordered and will ship when they become available. Separate orders placed on the same day may have different ship dates depending on product availability.

5.5 All Orders, as well as Order Changes, will be acknowledged via fax or email from Swenson Spreader, LLC. It is each Distributor's responsibility to review all acknowledgments and advise Swenson of any changes or discrepancies immediately.

5.6 Acknowledgements are considered final orders unless Swenson Spreader, LLC is notified in writing within 24 hours of a change by the Distributor. It is the sole responsibility of the Distributor to advise Swenson Spreader, LLC of any discrepancy **in writing** via fax: (866) 310-0300, or email.

5.6.1 Changes or additions to original purchase orders must be clearly marked. Swenson Spreader, LLC is not responsible for errors, duplicate orders and similar orders due to the receipt of a distributor purchase order multiple times. A Distributor purchase order sent to Swenson multiple times will be entered as a new customer order each time it is received.

5.7 The scheduled shipping date for each line item on an order acknowledgment is the estimated date when that item is projected to be ready to ship. This date is subject to change at any time due to lack of inventory or vendor's ability to adequately supply Swenson Products. Swenson Products is not responsible for any liability or claim due to delivery conditions.

5.8 Orders are scheduled to maximize freight savings, meet customer shipment expectations and balance production levels.

## **6 SHIPMENTS:**

6.1 Refused shipments are subject to a **30% Restocking Charge** plus all associated freight charges.

6.2 Flatbed trailer shipments are subject to the following conditions: availability of equipment and full trailer loads. If the flatbed trailer cannot accommodate the complete order, the balance of the order will be shipped via common carrier selected by Swenson Spreader, LLC.

6.3 Pre-Season and In-Season Distributor pickups will not receive a freight allowance.

6.4 Distributor pickup dates must be pre-arranged with Swenson Spreader, LLC at least one week in advance. No additions, substitutions or deletions to an order are permitted after the pickup date is arranged.

**6.5** Distributor pickups will be loaded between the hours of **7:00 a.m.** and **2:30 p.m.** Any truck arriving after **2:30 p.m.** may be held until the next shipping day for loading.

6.6 In cases where a Distributor fails to notify Swenson of a change in pickup schedule or fails to pick up orders on scheduled date, Swenson Spreader, LLC will ship orders via common carrier the following day.

6.7 Swenson Spreader, LLC will make every effort to use the Distributor's requested freight carrier as outlined in the Distributor Profile; however, Swenson Spreader, LLC reserves the right to make final carrier decisions.

6.8 Distributors must send an empty trailer for full truckloads. If space is not available to take the order as staged, the balance will be shipped by common carrier per a Distributor's carrier preferences as stated in the Distributor Profile within two (2) days.

6.9 A Distributor must have tarps and nylon tie-downs (no chains) to protect their property when picking up orders at Swenson. Swenson Spreader, LLC will not furnish any tie-downs or protective materials for Distributors.

6.10 Swenson Spreader, LLC reserves the right to refuse to load any trailer which, in our opinion, is unsafe (e.g., broken or missing floorboards, overloaded, etc.).

6.11 When picking up orders at Swenson products, the driver's signature verifies merchandise is listed, and is complete as listed, on Bill of Lading and acts as final acceptance by the Distributor.

## 7. **FREIGHT:**

7.1 Freight terms and charges for Pre-Season Orders (PSO) will be governed by the annually published Pre-Season sales program. See program summary chart Section 7.1.1 of the Pricing Program.

7.2 Swenson ships all parcel packages Prepaid and Add unless a distributor submits a written request to use different terms. Requests for Collect/Third Party Billed parcel shipments must include the billing address and the distributor's carrier account number.

7.2.1 The cutoff weight for parcel shipment is approximately 85 lbs. At its sole discretion, Swenson may choose to ship certain items via LTL carrier rather parcel, regardless of weight, to ensure safe arrival. Examples of these items include: drag chains, and hydraulic fluids.

7.3 Swenson Spreader, LLC will not provide binding rate quotes for either parcel or LTL shipments. Upon request, if time and resources permit, Swenson will attempt to provide simple freight estimates for the sole purpose of allowing a distributor to determine which freight option to designate. See Section 7.4 for available freight options.

7.4 Swenson Spreader, LLC offers the following In-Season freight options: Prepaid and Add, Collect, Own Pickup and Third Party Bill.

7.5 Distributors must complete a Distributor Profile to select a preferred LTL freight carrier, or submit a clearly stated routing guide for all Collect and Third Party shipments.

7.6 Distributors may elect to receive shipments from Swenson Products using our discounted freight rates by choosing the Prepaid and Add option on their Distributor Profile Form when placing their pre-season order. Specifics of this program are as follows:

7.6.1 The Swenson **Prepaid and Add** freight program applies to orders of whole goods and parts that are too big or too heavy to ship via parcel service.

7.6.2 The Prepaid and add program will be in effect throughout the program year. To withdraw from the **Prepaid and Add** program, notification, including an updated routing guide, must be emailed to our customer service department.

7.6.3 The **Prepaid and Add** program is available for in-season orders and for pre-season orders that do not meet program requirements for prepaid freight.

7.6.4 A Distributor's account must be in good standing to enroll in the **Prepaid and Add** program. Any distributor whose account is past due or goes past due **is not eligible** for this program.

7.6.5 Swenson Products, at its sole discretion, chooses the carrier on all Prepaid and Add shipments.

7.6.6 Freight charges will be added to the invoice of each **Prepaid and Add** shipment.

7.6.7 Any accessorial charges that may occur (e.g., weight change, change of address, re-delivery, residential delivery, inside delivery, lift gate services, and any other charges that may result from problems that can occur in transit or upon delivery) will be billed on a separate invoice up to 60 days after receipt of your order.

7.6.8 For In-Season LTL shipments when a carrier has not been designated, Swenson Spreader, LLC will ship the order using the **Prepaid and Add** freight option.

7.6.9 Swenson is not responsible for any collect freight charges assessed by carriers to distributors who fail to designate/update their preferred freight carrier or to enroll in the **Prepaid and Add** freight program.



7.7 **Swenson Freight Claim Policy:** In the event of freight loss or damage, distributors must adhere to the Swenson Spreader, LLC freight claim policy. Failure to follow this policy releases the carrier and Swenson Spreader, LLC from any and all freight claims.

7.7.1 Per freight company policies, the Distributor is solely responsible for filing freight claims in the event of damage or loss on all collect/third party bill shipments; no exceptions. All collect/third party bill shipments are Free on Board (FOB) Swenson warehouse. Swenson Spreader, LLC will only file freight claims on Swenson Prepaid and Prepaid and Add shipments.

7.7.2 It is the responsibility of the Distributor and/or customer's receiving personnel to check all shipping cartons for damage and discrepancies (e.g., dents, punctures, missing items). All damage to or discrepancies in shipped materials should be noted on the carrier's paperwork and documented. Failure to examine cartons at delivery, and signing the carrier's paperwork, releases the carrier and Swenson Spreader, LLC from responsibility on any and all freight claims.

7.7.3 In cases where Swenson Spreader, LLC is responsible for making a freight claim (Prepaid and Prepaid and Add shipments only), all damages must be reported to Swenson Spreader, LLC within 24 hours of delivery. Failure to report any damages will release Swenson Spreader, LLC from responsibility on any and all claims.

7.7.4 For instructions on submitting a freight claim to a carrier, please read the document *Swenson Freight Instructions* (Appendix A) included in this Swenson pre-season program.

## **8 PARTS:**

8.1 Distributors are required to order and to maintain an adequate stock of Genuine Swenson Parts. See item 3.2.1 of the Pricing Program for parts purchasing requirements on the Pre-Season Order Program.

8.2 A Minimum Parts Order is \$25.00. Orders totaling less than \$25 will automatically be billed at \$25 Net.

8.3 Standard Parts Shipments: Standard in-stock parts orders will be shipped within two (2) days of receipt of an order.



8.4 Expedited (Same Day) Parts Shipments: Orders must be received by 12pm Central Time to ship same day. Orders received after 12pm Central Time will ship the following day. This service is limited to items that can be shipped via parcel post (UPS). This service is also subject to carrier limitations such as availability of shipping to the Dealer's designated area.

8.4.1 A \$15 fee will be applied to all expedited orders.

## 9. **SHORTAGES:**

9.1 Freight Shortage claims are the responsibility of the Distributor and should be filed directly with the freight carrier on all collect shipments, see *Swenson Freight Instructions* document provided with this program book.

9.2 The Distributor is advised to institute proper policies and procedures to receive shipments. The Distributor must check all quantities prior to signing for receipt of goods. Shortage claims will not be accepted by the freight carrier unless the Bill of Lading is signed short.

9.3 Swenson is responsible for freight claims on Prepaid and Prepaid and Add shipments only. See section 7.7 through 7.7.4 for more information. Swenson Spreader, LLC must be notified within five (5) working days of any line item shortage on a Prepaid or Prepaid and Add shipment.

9.4 Inside of Carton Shortages: In this case, the Distributor must complete the appropriate form, **Shortage Claim Form #4-615R5**, and fax or email it to Customer Service according to the instructions listed on the form. Inside of carton shortage claims must be filed within one (1) year of receipt of product. The Shortage Claim Form must be completely filled out in order to ensure accuracy of replacement item(s).

## 10. **RETURNS:**

10.1 Distributors must contact Swenson Spreader, LLC to request authorization for all items they wish to return. If Swenson agrees to accept a return, a **Return Goods Authorization (RGA)** number will be issued.

10.2 An RGA number must be obtained from Swenson Spreader, LLC before any material may be returned.

10.2.1 RGAs must be obtained by contacting the Customer Service Department.

10.3 In addition to being subject to prior approval, **all returns will incur a 20% restocking charge**. Additional charges for product refurbishing and/or repackaging for goods returned under an RGA may be applicable.

10.4 Swenson Spreader, LLC will not authorize a return for any item built to order or for any special order items.

10.5 No return will be accepted without the Swenson issued RGA tag affixed to the returned goods and materials.

10.5.1 Merchandise that is returned without obtaining advanced authorization, or returned with authorized items and not listed on an RGA form, will be returned to the Distributor at the Distributor's expense.

10.6 Swenson Spreader, LLC reserves the right to make all decisions regarding whether or not to accept returned goods and issue credit.

10.6.1 Return goods are limited to: defective material, warranty items, incorrect shipments, packing damage or an issue pertaining to Swenson unless prior authorization has been given.

10.6.2 Swenson Spreader, LLC **WILL NOT** take back product resulting from the following: freight damage caused by the freight carrier, customer cancellations, distributor order errors, buyer's remorse, distributor overstock, or any other customer related return good circumstance.

10.7 All returns must be freight prepaid by the Distributor unless other arrangements have been made in writing prior to shipment.

10.8 A Distributor's account will not be credited until items are inspected. The issuance of an RGA does not guarantee that credit will be issued. RGA credits are not to be claimed until the respective Distributor's account shows that the credit has been issued by Swenson Spreader, LLC.

10.9 The following items are not eligible for return: electrical components, parts and accessories (e.g., controllers, modules, motors, harnesses, switches, and lights), hydraulic components, parts and accessories (e.g., hydraulic pumps, hoses, couplers, O-rings, seals and fluid) and paint.

10.10 All items eligible for return must have been purchased from Swenson Spreader, LLC within the last 60 days.

10.11 To receive full credit, returned product(s) must be new (i.e. current year's manufactured product), unused in original packaging, and in good salable condition. Merchandise that has been used, or is in need of service or repair may not be returned. These items must be taken to an authorized repair center. (See the Swenson Spreader, LLC Service and Warranty Policy for details.)

**11. WARRANTY:**

11.1 Swenson Spreader, LLC does not make and shall not honor any warranty claim other than the express warranties contained in the Warranty Policy included with this Sales and Program Book.

11.2 Distributors are required to honor all Swenson Product warranties. Failure to do so may result in actions including, but not limited to: removal from the Swenson Distributor Locator, access blocked to the Distributor Extranet, forfeiture of any discounts and sales programs (e.g., Pre-Season Discount programs), Distributor's account placed on automatic status review, or termination of that Distributor.

11.3 Use of parts other than Genuine Swenson Parts in repair or service of Swenson Spreader, LLC will result in the voiding of the Swenson Product Warranty.

11.4 Non-Genuine parts returned to the Swenson Spreader, LLC for warranty credit will be subject to a debit of 20% for handling charges plus the return freight charges. Distributors are required to utilize Genuine Swenson parts to fulfill warranty repairs. Any distributor providing warranty service with Non-Genuine parts is subject to termination.

11.5 Credit for Warranty Labor is issued at the Distributor's approved retail labor rate. To receive the posted shop labor rate, a Distributor's account must be in good standing and the Distributor must have provided Swenson with a current shop labor rate.

11.6 Warranty materials will be reimbursed per the Warranty Policy included with this Sales and Program book. See Section 5: Warranty Material Allowance in the Warranty Policy for complete reimbursement details.

**12 PROPRIETARY RIGHTS:**

12.1 Distributor hereby acknowledges that Proprietary Rights are the sole property of Swenson Spreader, LLC and, except as otherwise set forth herein, Distributor shall not acquire any title or interest to use the Proprietary Rights at any time. The use of said Proprietary Rights within the scope of this Agreement shall not constitute a presumption in favor of Distributor to be entitled to continue such use without any time limit. Distributor shall immediately discontinue the use of any and all Proprietary Rights of Swenson Spreader, LLC after the expiration or termination of Distributor's appointment to act as a dealer. Distributor agrees to notify Swenson Spreader, LLC of any misuse of the Proprietary Rights by any third party where Distributor has actual knowledge of such misuse.

12.2 Swenson Spreader, LLC hereby grants Distributors a license while it is an authorized dealer to use the Proprietary Rights, provided that they are used solely in connection with Distributor's status as an authorized Distributor of Swenson Spreader, LLC.

12.3 Throughout its tenure as a Swenson authorized retailer, a dealer may come into possession of certain confidential information including, without limitation, product information, pricing information and customer lists ("Confidential Information"). Distributor hereby agrees to maintain the confidentiality of such information in the same manner that it maintains its own confidential information and covenants and to use such Confidential Information solely in the performance of its duties as an authorized dealer. Upon the termination of Distributor's status as an authorized dealer, Distributor shall promptly return all such information, and not retain copies, to Swenson Spreader, LLC or destroy the same (and provide a certificate from an officer of Distributor certifying to such return or destruction).

12.4 For purposes hereof, "Proprietary Rights" shall mean: all intellectual property owned by Swenson Spreader, LLC, including all trade secrets, utility and design patents and patent applications, inventions, trademarks, service marks, trade names, websites, URLs and copyrights. For any new URL or website(s) created to market Swenson branded Products, Swenson Spreader, LLC is the sole and exclusive owner, and has all right, title and interest to, including all e-commerce domain names.