

TERMS AND CONDITIONS OF SALE

- 1. General.** These Terms and Conditions of Sale (“Terms”) apply to all sales of tangible products, equipment, and parts manufactured or sold (each, a “Product”) by Echologics, LLC or Echologics, a Division of Mueller Canada Ltd. (as applicable, “Echo”) to any purchaser (the “Purchaser”) through any website or online ordering system maintained by Echo or through any written sales order, purchase order or other contract that references these Terms (as applicable, “Sales Agreement”). Echo may change these Terms at any time and any such change will be effective when posted to Echo’s website. These Terms supersede any prior written or oral agreement, understanding, representation or promise, and Echo rejects any pre-printed or standard terms and conditions contained in Purchaser’s request for quote, purchase order, invoice, order acknowledgement or similar document to the extent inconsistent with these Terms.
- 2. Order.** An order (each, an “Order”) takes place when Echo communicates its acceptance of such Order through Echo’s website, facsimile, email or as provided in the Sales Agreement. Once an Order is so accepted, Purchaser may not cancel the Order without the prior written consent of Echo’s authorized representative and Purchaser’s payment of Echo’s reasonable cancellation charges. Echo may cancel, at its sole discretion, any Order prior to the scheduled delivery date with written notice to Purchaser. Echo will provide Purchaser with a quotation for such cancellation charges upon request. Any such Order provided must contain the following information: Order number, date of Order, customer legal entity, customer address containing city, state, and zip code, customer contact person, phone and email address, end user legal entity, contract name/number or quotation reference, shipping instructions, delivery address containing city, state and zip code, delivery contact person, item part number, item description, item unit price, Order total amount, sales tax amount, and requested delivery date.
- 3. Prices.** The price for each Order is as specified in the Order, provided, however, that (a) Echo may increase prices if shipment is delayed beyond scheduled shipping date due to Purchaser’s delay, and (b) Echo may add to the price any applicable taxes or excises imposed by any governmental authority.
- 4. Shipping.** Unless the Order provides otherwise, Echo will ship the Products EXW Echo’s facility (Incoterms, 2020). In the event Echo will be responsible for freight, Echo will use commercially reasonable efforts to satisfy any written request of Purchaser regarding mode of shipment, but Echo may, in its sole discretion, determine the mode of shipment. If an Order specifies a future shipping date, Echo will ship the Order on or near such date. Purchaser may not make any change in the shipping date fewer than 30 days prior to the specified shipping date. Purchaser must notify Echo in writing (a) within ten (10) days after receipt of Product with any claim of shortage or discrepancy, and (b) on the delivery receipt, signed by the driver, with respect to any alleged loss or damage on a truck shipment. With respect to any such notice of shortage or discrepancy, Purchaser will pursue claims directly with the carrier.
- 5. Force Majeure.** Echo is not liable for any delay or failure in performance due to any cause beyond Echo’s reasonable control, including, natural events, fires, labor disputes, boycotts, floods, changes in law, epidemics, quarantine, governmental orders, war, insurrection, terrorism, riot, civil or military authority, freight embargos, transportation shortages or delays, unusually severe weather or inability to obtain necessary labor, materials or manufacturing facilities due to such causes and any such delay or failure will not constitute a breach of these Terms.
- 6. Payment Terms.** Unless otherwise agreed in writing Purchaser must pay each Order in full net thirty (30) days from date of invoice. Purchaser’s obligation to pay is not contingent on payment from or approval of any third party. Purchaser must pay Echo’s costs of collection, reasonable attorney’s fees and expenses incurred in collecting payment, and interest on late payments at the maximum legal rate.
- 7. Returns.** Purchaser may not return any Product to Echo without prior written consent of Echo’s authorized representative. Unless Echo can locate an alternate purchaser, non-catalog or specially manufactured items, delivered as ordered, are not returnable. All returns authorized by Echo are subject to inspection, and testing. Purchaser will pay costs to cover all inspection, testing, shipping and handling, as well as Echo’s restocking charges then in effect.
- 8. Limitations of Liability.** ECHO IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LIQUIDATED OR PUNITIVE DAMAGES OR PENALTIES OF ANY NATURE, WHETHER BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY INCLUDING BUT NOT LIMITED TO, BUSINESS INTERRUPTION COSTS, LOSS OF PROFIT OR

REVENUE, LOSS OF DATA, LOSS OF USE OF SERVICES, COST OF CAPITAL, COST OF SUBSTITUTE SERVICES OR FACILITIES, DOWNTIME COSTS OR DAMAGES AND EXPENSES ARISING OUT OF PURCHASER OR THIRD-PARTY CLAIMS, EVEN IF ECHO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In all cases, Echo's total liability, including that of its affiliates, officers, employees, agents, subcontractors, suppliers and representatives (the "Protected Group") shall not exceed the total amount paid by Purchaser to Echo under any Order.

9. **Indemnity.** Purchaser agrees to indemnify, hold harmless and defend the Protected Group, against any and all claims, lawsuits, arbitration demands, judgments, losses, damages, expenses, costs, including costs and reasonable attorneys' fees, asserted by any third party against any member of the Protected Group relating to any act or omission of Purchaser or Echo in any way pertaining to this Order or the Products. To the extent the aforesaid obligation is prohibited by law, such obligation will automatically, to extent of such prohibition, be null and void and the remainder of such obligation will remain fully enforceable.

10. **Insurance.** Purchaser agrees to look exclusively to Purchaser's insurer to recover for injuries or damage in the event of any loss or injury and Purchaser releases and waives all right of recovery against Echo arising by way of subrogation.

11. **Governing Law, Jurisdiction and Venue.** In the event that Purchaser is located in Canada, these Terms will be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in Ontario, and will be treated, in all respects, as an Ontario contract. In the event that Purchaser is located in Australia or New Zealand, these Terms will be governed by and construed in accordance with the laws in force in the State of New South Wales. In the event that Purchaser is located in Europe (excluding the United Kingdom), these Terms will be governed by and construed in accordance with the laws in force in The Netherlands. In the event Purchaser is located the United Kingdom, these Terms will be governed by and construed in accordance with the laws of England. In the event that Purchaser is located in the United States or any other part of the world other than Canada, Europe, the United Kingdom, or Australia/New Zealand, these Terms will be governed by and construed in accordance with the laws of the State of Georgia. The parties agree to submit to the jurisdiction of the courts of (a) the Province of Ontario in cases where the Purchaser is located in Canada, (b) the State of New South Wales in cases where the Purchaser is located in Australia or New Zealand, (c) The Netherlands in cases where the Purchaser is located in Europe (excluding the United Kingdom), (d) the city of London in cases where the Purchaser is located in the United Kingdom, and (e) the federal court in the State of Georgia in cases where the Purchaser is located in the United States or any other part of the world other than Canada, Europe or Australia/New Zealand, and in each case waive any objection relating to improper venue or forum non conveniens to the conduct of any proceeding in any such court.

12. **Export/Import/Anti-Bribery.** Purchaser must comply with all applicable import and export control laws, including without limitation those of the U.S. and any other applicable jurisdictions. Purchaser may not use, transfer, release, import, export or re-export Products in violation of such laws. Additionally, Purchaser has not and will not offer, promise authorize or make, directly or indirectly, any payments (in money or any other item of value), contributions or gifts to any non-U.S. government agency, department official or government owned or controlled entity in order to obtain or retain business, or secure any other Improper business advantage, which would violate the U.S. Foreign Corrupt Practices Act and/or any other applicable anti-bribery laws.

13. **Time Limitation to Bring Action.** It is agreed that no suit or cause of action or other proceeding will be brought against either party more than 1 year after accrual of the cause of action or 1 year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract or any other legal theory.

14. **Limited Warranty.** Subject to the Limitation of Liability section in these Terms, Echo warrants that, for the duration of the Warranty Period: (a) each Product will be free from defects in materials and workmanship under normal use, installation and service conditions; (b) the media on which any software is furnished will be free of defects in materials and workmanship under normal use; and (c) any such software will substantially conform to the applicable published Echo functional specifications for such software. Additional limitations and the "Warranty Period" for any Product will be as specified in Echo's Limited Warranty located at <https://www.muellerwaterproducts.com/terms-conditions>.