



TERMS AND CONDITIONS OF SALE

- 1. General.** These Terms and Conditions of Sale ("Terms") apply to all sales of tangible products (each, a "Product") by Mueller Systems, LLC and any of its subsidiaries (as applicable, "Mueller") to any purchaser (the "Purchaser") through any website or online ordering system maintained by Mueller or through any written sales order, purchase order or other contract that references these Terms (as applicable, "Sales Agreement"). Mueller may change these Terms at any time and any such change will be effective when posted to Mueller's website. These Terms supersede any prior written or oral agreement, understanding, representation or promise, and Mueller 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 Mueller communicates its acceptance of such Order through Mueller'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 Mueller's authorized representative and Purchaser's payment of Mueller's reasonable cancellation charges. Mueller may cancel, at its sole discretion, any Order prior to the scheduled delivery date with written notice to Purchaser. Mueller will provide Purchaser with a quotation for such cancellation charges upon request. The minimum Order amount is \$50.00 net per shipping point. 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) Mueller may increase prices if shipment is delayed beyond scheduled shipping date due to Purchaser's delay, and (b) Mueller may add to the price any applicable taxes or excises imposed by any governmental authority.
- 4. Shipping.** Unless the Order provides otherwise, Mueller will ship the Products EXW (Incoterms, 2010). Mueller will pay the cost of standard freight for each shipment having a net price of \$15,000 or more. Mueller will use commercially reasonable efforts to satisfy any written request of Purchaser regarding mode of shipment, but Mueller may, in its sole discretion, determine the mode of shipment. If an Order specifies a future shipping date, Mueller 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 Mueller 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.** Mueller is not liable for any delay or failure in performance due to any cause beyond Mueller'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 Mueller'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 Mueller without prior written consent of Mueller's authorized representative. Unless Mueller can locate an alternate purchaser, non-catalog or specially manufactured items, delivered as ordered, are not returnable. All returns authorized by Mueller are subject to inspection, and testing. Purchaser will pay costs to cover all inspection, testing, shipping and handling, as well as Mueller's restocking charges then in effect.

8. **Limitations of Liability.** MUELLER 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 MUELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In all cases, Mueller'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 Mueller under this Order. Neither party may commence a lawsuit or arbitration or other proceeding more than one (1) year after the cause of action accrues regardless of the nature of the cause of action.

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 Mueller 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 Mueller arising by way of subrogation.

11. **Governing Law, Jurisdiction and Venue.** The laws of the State of Georgia (without giving effect to conflict of law rules) will govern the construction and enforcement of these Terms and any dispute between the parties. The United Nations Convention on Contracts for the International Sales of Goods will not apply to any Order. The parties agree to submit any disputes arising hereunder to the United States District Court for the Northern District of Georgia or any court of general jurisdiction in the State of Georgia and each party hereby submits to the jurisdiction of such courts and waives any objection that any such court is an inconvenient forum.

12. **Export/Import.** 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.

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, Mueller 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 Mueller functional specifications for such software. Additional limitations and the "Warranty Period" for any Product will be as specified in Mueller's Product Warranty Statement (available on Mueller's website at <https://www.muellerwaterproducts.com/terms-conditions>).