

# General Terms and Conditions of Sale

The following terms and conditions shall apply to all sales agreements between Met-L-Flo, Inc. ("Seller") and the Buyer, (as indicated on the written order confirmation) such sales agreement hereinafter referred to as the "Agreement". These terms and conditions shall apply to Seller's sale to Buyer of the goods described in the Agreement (the "Product(s)").

**I. Applicability.** BUYER'S ACCEPTANCE OF PRODUCT(S) (IN WHOLE OR IN PART), BUYER'S SIGNATURE, SELLER'S COMMENCEMENT OF PERFORMANCE HEREUNDER, OR BUYER'S FAILURE TO PROVIDE WRITTEN NOTICE OF OBJECTION SHALL CONSTITUTE BUYER'S ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS HEREIN; INCLUDING SELLER'S LIMITATIONS OF WARRANTY AND LIABILITY, AND BUYER'S ASSUMPTION OF RISK, REGARDLESS OF ANY CONTRARY STATEMENTS OR REPRESENTATIONS NOT CONTAINED HEREIN.

**2. Entire Agreement.** Unless explicitly agreed otherwise, this Agreement shall constitute the entire agreement between the parties. SELLER HEREBY EXPRESSLY REJECTS AND REFUSES ANY GENERAL OR SPECIFIC PURCHASE CONDITIONS OR ANY ADDITIONAL OR INCONSISTENT TERMS OR CONDITIONS OFFERED BY BUYER AT ANY TIME AND IRRESPECTIVE OF SELLER'S ACCEPTANCE OF PAYMENT, DELIVERY OF PRODUCT, PERFORMANCE HEREUNDER, OR RECEIPT OR ACKNOWLEDGMENT OF RECEIPT OF ANY SUCH CONDITIONS. No change or addition to, or modification of, this Agreement, or the General Conditions of Sale shall be binding upon Seller unless signed by an authorized representative of Seller. Unless accepted by the Seller in writing, Seller shall be under no obligation to accept any notice of cancellation, change, hold, stop work, or other such notice or order by Buyer. NO SALESPERSON IS AUTHORIZED TO BIND SELLER. Notwithstanding the generality of the foregoing, however, this Agreement shall not be construed as superseding or replacing any obligations undertaken by Buyer for the benefit of Seller in any confidentiality or Nondisclosure agreement heretofore or hereafter entered into by Buyer and Seller

**3. Delivery.** Unless explicitly agreed otherwise, delivery shall be Ex Works (Incoterms); Seller's liability ceases upon delivery to the initial carrier. Unless specified in the Agreement for each shipment of products, Buyer shall, as condition precedent to delivery, notify Seller in writing of the quantity, preferred date of delivery, and shipping instructions. Seller shall have no obligation to deliver unless and until delivery times have been agreed upon. In no event shall Seller be responsible for non-delivery or for any delay in delivery, if Buyer does not timely or not adequately supply delivery, shipping and quantity information. Seller shall use its best efforts to observe the specified time of delivery. However, delays shall not entitle Buyer to cancel any order or terminate this Agreement or pursue any other remedies. For all purposes, quantity and quality of the Products shall be determined by Seller at the Seller's premises, and such determination shall be accepted as Conclusive evidence of the quantity and quality of the Products. Buyer or Buyer's representatives shall have the right to be present at the time of such determination, provided Seller has been timely informed of Buyer's intention to do so.

**4. Prices, Taxes and Levies.** All prices are Ex Works Seller's place of business identified herein and include Seller's standard packaging. Unless they are expressly designated in this Agreement as firm for a specified period of time, prices are subject to change without notification. Unless otherwise indicated, prices exclude any sales, excise or use taxes, and any other levies, whether of a general or special nature, applicable to the Products or the transaction evidenced by this Agreement and all such taxes shall be the obligation of Buyer. Also excluded from the prices are all shipping charges and all export, import and other duties, tariffs and customs charges.

**5. Payment.** Unless other terms are indicated in the Agreement, payment for each shipment of Products shall be due and payable within thirty (30) days of the date of invoice, without any discount, deduction or set off by Buyer being permitted. Seller reserves the right, in addition to other rights and remedies, to either cancel or suspend further deliveries or terminate this Agreement if Buyer fails to make any payment when due. If any payment due from Buyer has not been received by the due date, without prejudice to any other rights or remedies available to Seller, Buyer shall pay to Seller interest on all amounts due and payable at the greater of one-and-one-half percent (1.5%) per month or the highest rate permitted by applicable law. Seller shall have the right to confirm, from time to time, Buyer's financial condition and credit worthiness. If Seller determines, in its sole discretion, that Buyer's financial condition is not sufficient to meet Buyer's obligations under this Agreement, Seller may demand security for payment, impose other payment terms, or terminate this Agreement.

**6. Retention of Title/Risk of Loss.** Until Buyer has paid the full purchase price, title to the Products shall remain with Seller. If payment is not made in time or in full, Buyer shall, upon Seller's request return the Products to Seller. In the event of Buyer's failure to promptly return the Products to Seller, Seller shall be entitled, without prejudice to other rights and remedies, to take back the Products without service of process, notice of default or judicial intervention. As long as Seller retains title to the Products, Buyer shall not attempt to sell, or transfer possession of, the Products. From the time of Seller's delivery of Products to Buyer's carrier, all risk of loss, or damage to, the Products shall be borne by Buyer and Buyer shall, at its expense, insure the Products in favor of Seller until the purchase price is paid in full. In the event the Seller is unable to complete project due to unforeseen events at the time of order acceptance, Buyer will be notified and efforts made to find an amicable resolution.

**7. Default by Buyer.** Seller reserves the right to terminate this Agreement in whole or in part for default if, (i) Buyer fails to timely perform in strict compliance with the requirements of this Agreement or (ii) Buyer becomes insolvent or suspends any of its operations or if any petition is filed or proceeding commenced by or against Buyer under any state or federal law relating to bankruptcy, reorganization, receivership or assignment for the benefit of creditors. Any such termination shall be without liability on the part of Seller and Buyer will be liable to Seller for damages caused by, or resulting from, Buyer's default.

**8. Warranty.** Seller warrants exclusively that, on the date of delivery by Seller to Buyer's carrier, the Products shall be in conformity with Seller's standard Product specifications, which specifications may be modified from time to time by Seller in its sole and absolute discretion. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, SELLER MAKES NO GUARANTEE OR WARRANTY EXPRESS OR IMPLIED WITH RESPECT TO THE PRODUCTS SOLD HEREUNDER, INCLUDING (WITHOUT LIMITING THE GENERALITY OF THE FOREGOING) ANY WARRANTIES OF MERCHANTABILITY, WARRANTIES OF FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE, OR WARRANTIES WITH RESPECT TO THE PROCESSING CAPABILITIES, PROPERTIES OR POTENTIAL APPLICATIONS OF THE PRODUCTS. Without limiting the foregoing, Seller neither assumes, nor authorizes any person to assume on its behalf, any other obligation in connection with the Products or the sale of the Products. The Warranty provided in this Section shall not apply to any Products which: (i) have been modified or altered; (ii) have been subjected to misuse, negligence or accident; or (iii) have been used in a manner inconsistent with any instructions or recommendations of Seller.

**9. Product Returns and Seller's Liability.** The Products shall be deemed accepted by Buyer, and Buyer shall be deemed to have waived any claim with respect to such Products, unless Seller is notified of a claim, in writing, within fourteen (14) days of the date of Seller's delivery of the Products in question. Buyer's rights and Seller's liability in connection with any failure of the Products to meet Seller's warranty hereunder shall be strictly limited to either a replacement of such Products or a reimbursement of the purchase price of such Products, at Seller's sole option. No Products shall be returned by Buyer to Seller without Seller's written authorization.

In no event shall Seller be liable for any loss, cost of repairs, incidental or consequential damages of any kind, whether based on contract (except for the obligation accepted by Seller under "Warranty" section above), tort or otherwise, arising in connection with the design, manufacture, sale, use or repair of the Products, singly or in combination with other products or materials, or in connection with this Agreement. In no event shall Seller be liable for any loss or damage, whatever its nature, directly or indirectly arising from or relating to the use, processing, sale or distribution of the Products by Buyer and Buyer shall indemnify, protect and hold Seller harmless against any claim for such loss or damage. Except to the extent that any such loss or damage is due solely and directly to Seller's willful misconduct and gross negligence, Buyer agrees (i) to indemnify, defend and hold Seller, its officers, employees, agents and assigns harmless from any and all costs, losses, expenses, damages, claims, suits or any liability whatsoever, including attorney's fees, alleging to have resulted from any act or omission of Buyer, its agents, employees or subcontractors, including without limitation claims or damages arising out of the death or injury to any person, or damage to any property, and (ii) upon the tendering of any suit or claim to Buyer, to defend the same at Buyer's expense. The foregoing indemnification shall apply whether the death, injury or damage is caused by the sole or concurrent negligence of Buyer. In no event shall Seller have any liability for any indirect, special, consequential or punitive damages.

**10. Force Majeure.** For purposes of this Agreement "Force Majeure" shall mean all circumstances beyond the reasonable control of Seller, which affects Seller's ability to produce, acquire, sell or deliver the Products in the manner provided in this Agreement. These circumstances shall include, but not be limited to, circumstances such as compliance with any order, request or measure of any governmental, port, local or other competent authority (or any person purporting to represent any of these), wars, hostilities, public disorder, sabotage, strikes, lockouts, labor or employment difficulties, failures of suppliers, fires, acts of God, accidents, equipment breakdowns or other causes (whether or not similar to any of the foregoing) beyond control of Seller, resulting in any such case in an interruption of the supply of, or in the unavailability of the Products, raw materials, or any means or facilities for the production, manufacture, storage, transportation, distribution or delivery of the Products, which, but for such force majeure, would normally be available. Seller shall not be liable to Buyer for any loss or damage arising from noncompliance, or from failure to comply in time or in full, with any obligation, caused by a force majeure. Seller shall not be required to remove any such cause or to replace or provide any alternative to the affected source of supply, the affected facility or other element, if doing so would involve additional expense or a departure from Seller's normal practices, nor shall Seller be required to make up for any quantities not supplied or to extend the period of the Agreement as a consequence of an operation of this provision. If any of the events specified in this provision has occurred, Seller shall have the right to allocate, in a manner that Seller considers reasonable, the quantities of Product available to Seller among all of its customers and its own requirements.

**II. Patents.** The sale of Products shall not, by implication or otherwise convey any license under any patent relating to the Products or compositions thereof. Seller expressly disclaims any patent or intellectual property warranties; and Buyer expressly assumes all risks of patent infringement by reason of its use or sale of the Products, singularly or in combination with other materials, or in any processing, manufacturing, or other operation.

**12. Setoff.** Seller (which for purposes of this section shall mean and include all of Seller's parent, subsidiary and affiliated entities) shall have the right to set off any sums receivable from Buyer (which for purposes of this section shall mean and include all of Buyer's parents, subsidiary and affiliated entities) against any sums payable to Buyer.

**13. Applicable Law/Jurisdiction.** *The parties acknowledge that this agreement shall be deemed (i) to have been made and entered into in, and (ii) to be performed, in whole or in part in, the State of Illinois, USA. The parties therefore stipulate and agree that (i) this Agreement shall be governed by and construed according to the laws of the State of Illinois; (ii) any action related to or arising from this agreement may be brought only in a local, state or federal court located within the State of Illinois, and the parties each consent to the jurisdiction of any local, state or federal court located in the State of Illinois and waive any objection to such jurisdiction over any action related to or arising from this Agreement.*

**14. Severability.** These terms and conditions shall be deemed separable; and if any portion thereof is held to be invalid for any reason, the remainder shall not be deemed invalid but shall remain in full force and effect.

**15. Assignment.** Neither party may assign or otherwise transfer this Agreement or assign any of its rights or delegate any of its obligations hereunder, without the prior written consent of the other party, and any attempted or purported assignment by either party without such consent shall be null and void. Notwithstanding the foregoing, however, Seller may assign all of its rights and delegate all of its obligations hereunder, (i) to any parent, subsidiary or affiliated entity of Seller, or (ii) in connection with a merger, acquisition or sale of all or substantially all of its assets, without the consent of Buyer.

**16. Confidentiality.** Buyer shall not: (i) analyze, examine, reverse engineer, perform any qualitative or quantitative analysis, or in any other manner seek to discover the contents, composition or make-up of any of the Products (ii) reveal to any third party, any of the specifications or characteristics of the Products; or (iii) communicate any specifications or characteristics of the Products as being specifications or characteristics of any products, materials or work, performed, sold or furnished by Buyer.

06/01/16