

## W.L. GORE & ASSOCIATES TERMS OF SALE

1. **IDENTIFICATION OF SELLER; ENTIRE AGREEMENT; ACCEPTANCE:** In the absence of an agreement signed by both parties to the contrary, these terms, together with those of Buyer's terms that are not inconsistent with them and do not: (i) require Seller to take any action besides the supply of its product and finished product test data; (ii) impose restrictions on Seller's activities in addition to those imposed directly by government statutes; or (iii) add to Seller's obligations, shall constitute the agreement between Buyer and Seller. Terms imposing any different or additional obligations are expressly rejected. These terms and conditions shall govern any changes made to the requirements of this Agreement.
2. **INSPECTION, CLAIMS FOR DEFECTS OR LATE DELIVERY:** Buyer shall inspect goods it receives within sixty (60) days after their delivery or within the period required by applicable law, whichever is shorter. Seller must be notified promptly in writing of any non-conformance. With respect to late delivery or defects discoverable upon reasonable inspection, all claims are waived if not made within sixty days from date delivered. Buyer is entitled to inspect goods purchased hereunder at any stage of their manufacture, but Seller reserves the right to restrict access to machinery, processes, and information that are considered proprietary by Seller. In the event of any claim by Buyer regarding the quality of the goods delivered, such goods must be promptly offered to Seller for examination. Seller shall have no obligation to replace or provide credit for goods claimed to be defective unless Seller receives representative samples of the goods and an opportunity to examine the goods at a place convenient to the Seller. Buyer's right to reject goods shall at all times be limited to that portion of the goods actually defective. No goods may be returned without Seller's prior authorization.
3. **DELIVERIES:** Seller's obligation with respect to each item and delivery date shall be separate and distinct. Delivery dates are to be treated as estimates only. Seller's failure to make delivery of any item or to meet any delivery date shall not affect either party's obligations with respect to any remaining items or deliveries specified in this Agreement. Buyer should confirm the suitability of Seller's standard manufacturing lead times when placing orders. Delivery required in advance of Seller's standard lead-time may require an expediting fee. With respect to each delivery obligation contained in this Agreement: (i) Tender of a shipment to any licensed carrier shall constitute delivery to Buyer; (ii) Seller shall use its best efforts to deliver in accord with the schedule specified in this Agreement. Any delivery not in dispute shall be paid for in accordance with that order's terms by Buyer, regardless of any dispute as to other delivered or undelivered goods. Seller is not obligated to package goods for outside storage. Deliveries of up to ten percent (10%) above or below quantities specified in the order shall be accepted by Buyer and the invoice price will be adjusted accordingly. Unless otherwise specified by Seller, delivery terms are to be Ex Works (Incoterms 2000) Seller's manufacturing site.
4. **TITLE; RISK OF LOSS:** Unless otherwise agreed by the parties, risk of loss or damage to the goods shall pass to the Buyer upon delivery to the carrier. Buyer shall take title to the goods upon Seller's receipt of payment for the goods delivered.
5. **PRICING OF BULK PURCHASE ORDERS:** Unless otherwise agreed by the parties, installment deliveries extending over six months from the original order date will be invoiced at Seller's then-prevailing unit price.
6. **WARRANTY:** Seller warrants that at the time of delivery, the products sold hereunder shall be free from defects in materials and workmanship and shall conform to Seller's specifications, and, if applicable, acceptance criteria to which Seller has agreed in writing. Buyer retains sole responsibility for determining whether the products are fit for the intended use, and for suitability of qualification and acceptance criteria. Claims for defects must be received by Seller within one (1) year from Seller's delivery of product on which the claim is based or such longer period as required by applicable law. Buyer's remedy will be limited to repair, replacement or refund for products which Seller verifies as defective. Except for this warranty, unless otherwise required by applicable law, SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, AND EXPRESSLY EXCLUDES ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
7. **INDEMNITY AGAINST INFRINGEMENT:** Seller will, at its expense, defend Buyer against any claim by a third party that the products delivered by Seller hereunder infringe any intellectual property right and will pay all costs, damages, and attorney's fees that a court finally awards as a result of such claim. To qualify for such defense and payment, Buyer must give Seller prompt written notice of such claim and allow Seller to control, and fully cooperate with Seller in, the defense and all related settlement negotiations. Seller shall have no obligation with respect to any claim of direct or contributory infringement based upon modification of the products furnished by Seller or their combination, operation, or use. Buyer shall hold Seller harmless against any such claim arising out of compliance with specifications furnished by Buyer. This Article 7 states Seller's entire obligation to Buyer regarding claims of infringement, whether direct or contributory, involving intellectual property rights of third parties. Neither party shall have the obligations set forth in this Article 7 if an infringement claim is brought against a party protected from such a claim pursuant to government regulations.
8. **EXCLUSION OF INDEMNITIES:** With the sole exception of obligations assumed by the Seller under the clause hereof entitled, "Indemnity Against Infringement", Seller shall not be required to indemnify Buyer or any third party for any reason.
9. **LIMITATION OF LIABILITY, INSURANCE:** With the sole exception of obligations assumed by Seller under the clause hereof entitled "Indemnity Against Infringement," Seller shall, to the maximum extent permitted by applicable law, not be liable for any incidental, consequential, or other damages, including but not limited to loss of business or profit, based on any alleged design or manufacturing defect, negligence, breach of warranty, strict liability, default, indemnity, or any other reason or legal theory arising out of the use or handling of its product or its performance hereunder, to the extent that such liability extends Seller's obligations beyond the price paid to Seller for the product on which such claim is based. Seller shall not be liable for any direct or consequential damages arising from delivery delay, whether or not arising from Seller's negligence, or from transit loss or damage. Seller is not obliged to obtain or maintain any insurance not required by applicable law.
10. **CHANGES:** Any changes to the specification or delivery will require agreement between the parties as to technological and logistical feasibility and price before Seller will be obliged to implement such change. Seller reserves the right to improve and make changes to products sold hereunder without notice or approval, except for changes that would affect the form, fit or function of the delivered product as outlined in applicable specifications. Changes may require additional charges, depending upon the stage of manufacturing completion at the time the change is received.
11. **CANCELLATION:** Buyer has no right to terminate or cancel without Seller's agreement unless Buyer's order is under a Government contract which is being terminated for convenience. Orders cancelled by Buyer other than for default of Seller will be subject to a cancellation charge based on the percentage of work completed as a percentage of the contract price or such other reasonable charge as Seller may apply. Buyer will be entitled to receive any products for which it pays. Seller has the option not to claim for work in progress that it is willing to absorb or redirect. Buyer's cancellation request(s) must be in writing.
12. **TECHNICAL DATA AND PROPRIETARY INFORMATION:** Seller has no obligation to provide technical data other than its standard finished product inspection data. Seller has no obligation to perform, and this is not an Agreement for, research, developmental or experimental work. Seller has no obligation to disclose, convey rights or allow access to technical, financial, or other information protected by it as proprietary or to indemnify Buyer for such refusal to disclose.
13. **PAYMENT:** Payment is due as stated on Seller's invoice or, if not stated thereon, net 30 days from the date that products were delivered. Buyer agrees to pay interest at Seller's prevailing interest rate as of the invoice date or, if lower, the highest rate allowed under applicable law. Buyer agrees to pay court costs, attorneys' fees, and any other reasonable expenses of collection. Seller reserves the right to alter Buyer's credit limit, if any, at any time, or to require payment for any order or prior order before delivery. Failure of Buyer to make any payments requested by Seller shall give the Seller the option to cancel this Agreement or to delay delivery without otherwise affecting Seller's rights hereunder. Payment shall be made in the currency specified by Seller. As partial payment of sums due hereunder, Seller may accept any check or other tender of payment without entering into an accord and satisfaction and without prejudice to the Seller's right to the remainder due or to become due hereunder notwithstanding any terms or conditions endorsed on or stated in any communication related to such check or other tender. Seller may apply any payment tendered by Buyer to any amount owed to Seller by Buyer whether under this Agreement or otherwise.
14. **TAXES:** All prices quoted are exclusive of taxes. VAT, GST or other sales taxes, as applicable, will be charged by Seller at the current rate at the time of delivery and remain the responsibility of the Buyer. Withholding tax, if applicable and deducted by the Buyer from its payment to Seller, will be assessed at the lowest applicable tax treaty rate and must be documented by written government tax receipt forwarded to Seller. Seller will provide a copy of its most-recent certification of its tax residency, upon request.
15. **FORCE MAJEURE:** Seller shall not be liable for any delay in delivery or for non-delivery, in whole or in part caused by the occurrence of any contingency beyond the control either of Seller or suppliers to Seller, including but not limited to war (declared or not), sabotage, insurrection, rebellion, riot or other act of civil disobedience, act of public enemy, failure or delay in transportation, act of any government or any agency or subdivision thereof, judicial action, labor dispute, fire, accident, explosion, epidemic, quarantine restrictions, storm, flood, earthquake, shortage of labor, fuel, raw material or machinery or technical failure, where Seller has exercised ordinary care in the prevention thereof. If any contingency occurs, Seller may allocate production and deliveries among Seller's customers.
16. **REPRESENTATIONS AND CERTIFICATIONS:** Seller makes no representations or certifications in connection with this Agreement except those which are expressly contained within these Terms of Sale and, if any, those provided separately which are signed and dated by the Seller and made exclusively applicable to this Agreement.
17. **APPLICABLE LAW; JURISDICTION:** The obligations deriving herefrom shall be interpreted, executed and enforced in accordance with the substantive law of Seller's registered place of business, excluding the application of any conflict of law or choice of law provisions. The parties hereby consent to the jurisdiction of the courts of the Seller's registered place of business for any legal proceedings relating hereto. However, Seller shall have the right, at its sole discretion, to bring legal action(s) against Buyer at the latter's registered place of business or that of one of its subsidiary(ies) at Seller's sole discretion. The provisions of the UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS shall not apply to this Agreement.