

Wastewater Level LLC

Terms of Sale

These Terms of Sale specify the terms under which Wastewater Level LLC (WWL) sells its Products to Buyer and performs any Services for Buyer. **NO DIFFERENT OR ADDITIONAL TERMS, WHETHER CONTAINED IN BUYER'S PURCHASE ORDER OR IN ANOTHER AGREEMENT, WILL BE BINDING ON SELLER, UNLESS IT HAS EXPRESSLY AGREED, IN WRITING, TO THESE DIFFERENT OR ADDITIONAL TERMS.**

1. Defined Words and Phrases. Whenever used in this Contract, these words and phrases will mean:

Buyer—a person, firm, company, corporation, limited liability company, partnership, government or other entity or group that is a Buyer of WWL's Products.

Products—products WWL makes and sells to Buyer.

Services—services WWL performs for Buyer.

Software—WWL's software in the form of computer programming statements and instructions, source code before conversion into machine language by a compiler, assembler or interpreter and data.

Third Party—a person, firm, company, corporation, limited liability company, partnership, government or other entity or group that is not either WWL or Buyer.

Other defined words and phrases may be located elsewhere in this Contract.

2. Buyer's Purchase Order. By placing a purchase order with WWL for Products or Services, Buyer agrees to these Terms of Sale. Buyer **MUST NOT** insert any additional or different terms in its purchase order, unless Buyer has received WWL's written authorization to do so.

3. Quotations. If WWL has provided a sales quotation, Buyer must submit a written purchase order for WWL's acceptance, within time stated in quotation, but no later than 60 days from quotation's date. Additionally, Buyer must accept delivery of Products within time stated in WWL's quotation.

4. Cancellations and Product Returns

4.1. Buyer's Cancellation of Order. If Buyer wants to cancel an outstanding purchase order, it must contact WWL and will be liable for paying any costs associated with its cancellation. At the time the Buyer indicates its interest in cancelling an order, WWL will provide Buyer a cancellation price, taking into account its associated costs, lost profit, labor and time expended to date and costs of scrapping Buyer's order if manufacturing process has begun.

4.2. Product Returns. At its discretion, within 30 days of purchase, WWL may allow Buyer to voluntarily return conforming Product. WWL's decision on whether to allow Buyer to return or not return Products will be influenced by many factors, such as whether Product is a custom-made or regularly stocked Product and WWL's ability to sell returned Product to another Buyer. If WWL allows Buyer to return a Product, WWL will specify the price—one lower than the original sales price and less

any required restocking fee—that WWL will pay Buyer for returned Product and terms under which it must be returned. All returned Products must be unopened, in original packaging, not tampered with and in a resalable condition. Once WWL has approved a return, Buyer will bear all costs and have all risks of returning Product safely to WWL.

5. Prices and Payment

5.1. Prices in USA Dollars. Unless WWL has agreed otherwise, all prices quoted are in USA dollars.

5.2. Freight Charges. For deliveries of Products to USA locations, the cost of shipment is included in the price WWL quotes, unless expressly excluded. For deliveries of Products to locations outside USA, Buyer will be liable for all costs of special packaging, labeling and shipment.

5.3. Title to Products When Payment Made. WWL will retain ownership of Products until Buyer has paid WWL the full amount owing for Products delivered. After WWL has received full payment, ownership of Products will pass to Buyer. While WWL retains ownership of Products, Buyer must cooperate with WWL in protecting its ownership, including publicly and privately notifying Third Parties of WWL's ownership rights.

5.4. Payment Terms. Payment terms will be net 30 days from date of invoice, if WWL's sale of Products to Buyer is made on credit. Otherwise, Buyer must make payment in full before WWL ships Products to Buyer. Buyer must not make any claims against WWL and withhold any monies due WWL from amounts invoiced.

5.5. Required Deposit for Special Orders. For special orders, WWL, at its discretion, may require Buyer to make an upfront deposit. This required deposit may be part or all of purchase price for Products.

5.6. Late Fees. WWL, at its discretion, reserves the right to charge Buyer interest at the rate of 1.5% a month on all sums due WWL that are more than 30 days past the due date and add this interest charged to Buyer's balance owing WWL.

5.7. Nonpayment. If Buyer does not pay WWL any monies when due, WWL may notify Buyer, immediately stop work on Buyer's order and withhold shipment until Buyer has paid WWL all delinquent amounts and interest, if any has been charged.

6. Shipment and Risk of Loss. WWL will ship Products to its Customers under these terms:

6.1. Risk of Loss and Damage during Shipment on Buyer. Even though the cost of shipment may be included in WWL's sales price, Buyer will bear all risk of loss and damage to Products during shipment from WWL to Buyer, once WWL has delivered Products to shipper.

6.2. Estimated Delivery Date. Any delivery date WWL provides Buyer will only be an estimate of the date WWL will deliver Products to shipping carrier and shipper's estimate of time Products will be in transit to Buyer's delivery location. WWL will not be liable to Buyer for any delays in delivering Products to Buyer, unless WWL has expressly agreed otherwise. If WWL anticipates an unreasonable

delivery delay or Buyer has previously informed WWL of its need to receive Products by a specified date and WWL and shipper do not anticipate meeting this delivery date, WWL will inform Buyer and give it an opportunity to cancel its order and obtain comparable products from a Third Party.

6.3. Selection of Shipper. WWL will properly package and label Products and deliver them to a shipping carrier it has selected. Buyer, however, may specify, at any additional expense, specific packaging and labeling for shipment.

6.4. FOB Origin. WWL will ship Products FOB Origin, meaning that Buyer must pay all shipping costs, if not included in purchase price, and be responsible for delivery, including any delays in delivery, and risk of loss or damage to purchased Products once WWL has delivered them to the shipping carrier at origin. FOB Origin may mean WWL's location or the location of a Third Party it has contracted to make or ship Products.

6.5. Shipments to USA and Its Territories. WWL ships Products to locations within USA and its territories, including Puerto Rico, Guam, and the USA Virgin Islands.

6.6. Shipments to International Locations. WWL ships Products from USA to locations around the world where it is legal to do so. However, it is Buyer's responsibility, not WWL's, to determine whether Buyer can legally export or import a purchase of WWL's Products into a foreign country, to comply with all import and export laws and regulations and to obtain all required import licenses, permits and approvals.

6.7. Customer's Liability for Costs of Importing Product into Foreign Country. Buyer is responsible for all costs related to export of Products from USA into a foreign country, including customs, VAT, import duties and fees, taxes, tariffs, delays and confiscation.

7. Buyer's Inspection of Product on Receipt. On receipt of Products purchased, it is Buyer's responsibility to inspect its shipment and verify that it has received Products it has ordered from WWL. Buyer must notify WWL—within 15 business days after receipt of its order—about any Products that are missing from its order or are not conforming. If any Products are damaged or lost during shipment, Buyer must file any damage claims it has with shipping carrier, since it has the risk of loss or damage during shipment.

8. Buyer's Agreement to EULA Covering Accompanying Software. Along with its delivery of Products, WWL will deliver Software coupled with these Products, which Software may include associated media, printed materials, "online" or electronic documentation (Licensed Software). Under an attendant End-User License Agreement (EULA), WWL will grant Buyer a worldwide, limited, royalty-free, nonexclusive license to install and use Licensed Software with purchased Products only on terms and under restrictions as specified in EULA. By its actions of installing, copying, accessing or otherwise using all or part of Licensed Software, Buyer acknowledges that it has read EULA, understands EULA'S terms and agrees to be bound by these terms. If Buyer does not agree to EULA'S terms, it must

not install, copy, access or use any part of Licensed Software and must promptly return all of Licensed Software to WWL. This EULA is incorporated into and made a part of these Terms.

9. WWL’s Services. If WWL has agreed to perform Services, it will perform these Services in a commercially reasonable and workmanlike manner, using qualified workers. WWL does not assume any obligation to deliver particular results or deliverables when providing Services and disclaims all warranties, if any, for the provision of Services.

10. Technical Assistance and Information. If Buyer requests, WWL, at its discretion, will furnish Buyer readily available and publicly disclosed technical assistance and information about Products. Buyer acknowledges and agrees that WWL’s technical assistance and information is being furnished subject to the limitations on WWL’s liability under this Contract.

11. WWL’s Intellectual Property

11.1. Ownership of Intellectual Property. WWL owns, controls and licenses all designs, graphics, photographs, trademarks, service marks and logos (collectively, "WWL Intellectual Property" or "IP")

11.2. WWL’s Intellectual Property Rights. WWL’s Intellectual Property, whether patent, copyright or trademark, is protected by USA and foreign intellectual property laws and rights. WWL reserves all rights.

11.3. No IP Ownership Transfer. No right, title or interest in WWL’s Intellectual Property is transferred to Buyer or granted under a license, except as WWL has expressly stated.

12. LIMITED WARRANTY

12.1. Product Warranty Periods. Products will have these warranty periods from date WWL ships Product to Buyer (Warranty Period):

- .1. FOGRod—10 years.
- .2. Level Indicator Controller (LIT)—2 years.

12.2. LIMITED WARRANTY. SELLER WARRANTS THAT PRODUCT WILL BE FREE FROM MATERIAL DEFECTS IN MATERIALS AND WORKMANSHIP FOR LENGTH OF WARRANTY PERIOD. IF BUYER DISCOVERS ANY DEFECTS IN PRODUCT AFTER WARRANTY PERIOD HAS EXPIRED, THESE DEFECTS WILL NOT BE COVERED BY THIS LIMITED WARRANTY, UNLESS SELLER HAS EXPRESSLY AGREED, IN WRITING, TO EXTEND LENGTH OF ITS WARRANTY PERIOD. BUYER’S EXCLUSIVE REMEDY FOR ANY BREACH OF SELLER’S LIMITED WARRANTY WILL BE AS SPECIFIED BELOW.

12.3. BUYER’S EXCLUSIVE WARRANTY REMEDIES. SELLER’S ENTIRE LIABILITY TO BUYER AND BUYER’S EXCLUSIVE REMEDY FOR ANY BREACH OF THIS LIMITED WARRANTY WILL BE, AT SELLER’S OPTION, EITHER RETURN OF THE AMOUNT BUYER HAS PAID SELLER FOR PRODUCT OR REPAIR OR REPLACEMENT OF PRODUCT WITH THE SAME OR COMPARABLE PRODUCT OR A NEWER MODEL OR VERSION OF PRODUCT.

12.4. NO ADDITIONAL OR SPECIAL DAMAGES. IF SELLER ELECTS TO REFUND THE AMOUNT BUYER HAVE PAID, BUYER WILL NOT BE ENTITLED TO ANY OTHER MONIES, INCLUDING ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, LIQUIDATED, MULTIPLIED OR PUNITIVE DAMAGES THAT BUYER MAY HAVE INCURRED OR OTHERWISE ENTITLED TO RECEIVE.

12.5. WARRANTY SERVICE. IF BUYER BELIEVES PRODUCT IS COVERED BY SELLER'S LIMITED WARRANTY, BUYER MUST RETURN PRODUCT, AT ITS EXPENSE, INCLUDING ALL COSTS OF SHIPMENT AND INSURANCE, TO SELLER. AFTER SELLER HAS RECEIVED BUYER'S RETURNED PRODUCT, SELLER WILL MAKE A DETERMINATION WHETHER OR NOT PRODUCT IS ELIGIBLE UNDER SELLER'S LIMITED WARRANTY. SELLER WILL NOTIFY BUYER IF PRODUCT IS COVERED BY SELLER'S LIMITED WARRANTY AND, IF COVERED, WHAT REMEDY SELLER IS ELECTING TO PROVIDE BUYER—REFUND, REPAIR OR REPLACEMENT. IF SELLER DETERMINES THAT PRODUCT IS NO LONGER COVERED BY SELLER'S LIMITED WARRANTY, SELLER WILL RETURN PRODUCT TO BUYER AT BUYER'S EXPENSE. IF SELLER ELECTS TO REPAIR OR REPLACE PRODUCT, SELLER WILL USE COMMERCIALY REASONABLE EFFORTS TO PROVIDE REPAIRED OR REPLACEMENT PRODUCT WITHIN A COMMERCIALY REASONABLE TIME. SELLER WILL WARRANT ANY REPAIRED OR REPLACED PRODUCT FOR THE REMAINDER OF THE ORIGINAL LIMITED WARRANTY PERIOD OR 30 DAYS, WHICHEVER PERIOD IS LONGER.

12.6. WARRANTY EXCLUSIONS. THIS LIMITED WARRANTY IS VOID IF PRODUCT HAS BEEN:

1. DAMAGED BY ACCIDENT, NEGLIGENCE, TAMPERING, ABUSE, ABNORMAL USE OR EXPOSURE TO UNPERMITTED HAZARDOUS MATERIALS OR CONDITIONS;
2. IMPROPERLY HANDLED, STORED, INSTALLED OR USED;
3. REPAIRED OR ALTERED, EXCEPT AS SELLER HAS EXPRESSLY STATED; OR
4. USED IN A MANNER OR LOCATION OTHER THAN AS SELLER HAS SPECIFIED.

12.7. DISCLAIMER OF ANY OTHER WARRANTIES. BUYER EXPRESSLY UNDERSTANDS AND AGREES THAT ITS EXCLUSIVE WARRANTY AND SOLE REMEDY IS THE LIMITED WARRANTY SELLER PROVIDES IT. SELLER EXPRESSLY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS, OF ANY KIND WHATSOEVER, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABLE QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, TITLE, OR ANY WARRANTY OR CONDITION ARISING BY USAGE OF TRADE, COURSE OF DEALING, OR COURSE OF PERFORMANCE. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES THAT ITS PRODUCTS WILL MEET BUYER'S REQUIREMENTS OR THAT ANY PRODUCTS BUYER HAS PURCHASED WILL MEET ITS EXPECTATIONS OR ANY STANDARD OF QUALITY.

12.8. NO WARRANTY ON SAMPLES AND PROTOTYPES. ANY ENGINEERING SAMPLES OR PROTOTYPE PRODUCTS SELLER MAY FURNISH WILL BE FURNISHED TO BUYER IN “AS IS” CONDITION, WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER.

13. Limitation of WWL’s Liability

13.1. No Liability Above Amount WWL Has Received. Buyer expressly understands and agrees that WWL will not be liable to Buyer for an amount exceeding the total amount WWL has received from Buyer for Product, including any attorney’s fees and costs of resolving a Dispute. For example, if WWL has received \$5,000 from Buyer, WWL’s maximum liability to Buyer for all damages is \$5,000, including any attorney’s fees and costs of resolving a Dispute.

13.2. No Liability for Special Losses or Damages. Buyer expressly understands and agrees that WWL will not be liable to Buyer for any direct, indirect, incidental, special, consequential, exemplary, liquidated, multiplied or punitive damages that Buyer may incur or otherwise be entitled to receive, even though WWL may have caused them. These excluded losses or damages will include, but not be limited to loss of profits, goodwill or business reputation or Buyer’s cost of procuring alternative or substitute Products.

13.3. WWL’s Liability Is Limited under All Legal Theories. The limitations and exclusions of WWL’s liability to Buyer as specified above will apply regardless of the theory of liability proffered, including contract, warranty, product liability, strict liability, tort or other legal theory.

14. Termination

14.1. Material Breach Defined. A “Material Breach” means a Party’s failure to substantially perform its obligations or materially comply with those terms required of it under this Contract.

14.2. Party’s Termination for Cause. A Party may terminate this Contract, with written notice, if other Party has committed a Material Breach and has failed to remedy such breach within 15 days after Party sends written notice, detailing the circumstances of other Party’s Material Breach. If WWL terminates this Contract for Buyer’s Material Breach, WWL, at its discretion may pursue all rights and remedies granted it under Montana laws, including Uniform Commercial Code (UCC), such as repossessing Products that Buyer has not paid for, canceling this Contract, and recovering all its collection costs, including reasonable attorney fees.

15. Disputes

15.1. Dispute Defined. “Dispute” means a claim, controversy or dispute arising out of or related to this Contract or a Party’s performance of its obligations or a term required of a Party under this Contract.

15.2. Mandatory Arbitration of Parties' Dispute. If the Parties have a Dispute, the Parties waive any and all rights they might otherwise have and agree that any and all Disputes will be solely and finally resolved by arbitration. The Parties' arbitration will be conducted under these 7 conditions:

- .1. A single independent and impartial arbitrator will render a decision;
- .2. The arbitration will be conducted according to International Institute for Conflict Prevention & Resolution's Rules for Non-Administered Arbitration of International Disputes, currently in effect;
- .3. The International Institute for Conflict Prevention & Resolution (CPR) will act as the Neutral Organization to perform the functions specified for the Neutral Organization in CPR's rules;
- .4. The arbitration will be conducted in English;
- .5. The Parties agree that the arbitrator's award will be final and subject only to judicial review as permitted by applicable law;
- .6. When rendering an award, the arbitrator must not award any indirect, consequential, special, incidental, multiplied, exemplary, liquidated or punitive damages, including damages for lost profits, impairment of goodwill or business reputation.
- .7. An arbitration award, once rendered, will be enforceable in any U.S. or foreign country's court having jurisdiction, including any foreign country's court under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards—also known as the New York Convention.

15.3. Montana's Laws Governing Contract. Montana's laws will govern this Contract and be used to construe each Party's rights and obligations under this Contract and this Contract's terms, excluding conflicts of laws principles.

15.4. City Where Mandatory Arbitration Must Be Held. Parties acknowledge and agree that any mandatory arbitration must be held in Missoula, Montana.

15.5. City Where Any Legal Proceedings Must Be Held. Each Party agrees to the personal jurisdiction by and venue in the state and USA courts in Missoula, Montana and waives any objection to this jurisdiction or venue. Each Party agrees that any legal proceeding, other than mandatory arbitration, will be held in Missoula, Montana.

15.6. Prevailing Party Entitled to Attorneys' Fees. If Parties have a Dispute that must be resolved by arbitration or a legal proceeding or both, WWL and Buyer agree that the prevailing Party in this Dispute will be entitled to recover reasonable attorneys' fees and costs of such action, in addition to any other award or relief granted to the prevailing Party, subject to WWL's limitations liability to Buyer.

15.7. Statute of Limitations on Disputes. WWL and Buyer agree that, regardless of any contrary statute or law, a Party must initiate action on any Dispute within 2 years after this Dispute has arisen. If a Party does not do so, its Dispute with other Party will be forever barred from prosecution.

15.8. Party's Written Waiver. No Party's waiver, delay or failure to exercise any right it may have related to other Party's obligations or its breach of this Contract will constitute this Party's continuing

waiver or waiver of any later obligation or breach by other Party. For a Party's performance or obligation to be waived, the waiver must be in a writing that other Party has signed.

16. General Terms

16.1. Written Notice and Verified Delivery to Other Party. If a Party must send other Party a notice, this notice must be in writing and must be sent by 1 of 3 verified-delivery methods—electronically where receipt is verified; personally; or by reliable express delivery service for delivery on the next business day—to other Party's address specified in this Contract or in another document. A Party's written notice will be considered received by other Party:

- .1. On verification of receipt, including a reply from other Party, if electronically delivered;
- .2. On delivery, if personally delivered;
- .3. On the next business day, if sent by overnight express delivery service.

16.2. Event outside Party's Control. Except for a Party's obligation to pay monies when due, a Party's delay in performing or its failure to perform any of its obligations or required terms will not constitute a Material Breach, if Party's delay or failure is caused by an event outside its reasonable control, including natural or man-made disasters, adverse weather conditions, unforeseen government laws and actions, war, terrorism or civil unrest, utility and telecommunication fluctuations and shortages Third Parties have created. In this circumstance, Party's obligations will be temporarily or permanently or partially or entirely excused. If an event only partially impairs WWL's ability to perform this Contract, WWL, at its discretion, will have the right to allocate sale and delivery of Products among orders it currently has from its customers, including Buyer's orders.

16.3. Adverse Effects of Buyer-Caused Delay. WWL will not be liable to Buyer for any delays or increased costs that Buyer has caused by its actions, regardless of the circumstances. Rather, Buyer will be liable to WWL for any cost increases that WWL has experienced because of Buyer's adverse actions.

16.4. Written Contract Modification. This Contract may only be modified by a written Contract both Parties have dated and signed.

16.5. Entire Contract. This Contract constitutes the entire Contract of WWL and Buyer on the substance of this Contract. This Contract supersedes all previous understandings or Contracts between WWL and Buyer relating to this Contract's substance.

WWL's Address:

780 Conrad Drive
Kalispell, Montana 59901

WWL's Email Address:

sales@wastewater-level.com