

TERMS OF SALE

Effective Date: February 6, 2022*

The following Terms of Sale (these “**Terms**”) shall apply to the purchase and sale of products and/or related services (collectively, “**Products**”) offered by Flushmate LLC and its Affiliates (together Flushmate LLC and its Affiliates shall be referred to herein as, “**Flushmate**”). These Terms, along with the Flushmate order confirmation delivered to you upon submission of your purchase order (the “**Order Confirmation**”), and any other additional guidelines, terms, and agreements provided by Flushmate or executed by both parties that are applicable to such Products (collectively, the “**Other Agreements**”), constitute the entire integrated agreement between the purchaser of such Products (“**Buyer**” or “**you**”) and Flushmate, concerning such Products. No change, modification, amendment or other agreement with regard to these Terms shall be binding upon Flushmate unless made in writing and signed by an authorized officer of Flushmate. For purposes herein, the term “**Affiliate**” means Sloan Valve Company, Sloan Global Holdings, LLC and any entity that is controlled by, or is under common control or ownership with, Flushmate, or either of such Sloan entities, where the term “control” means possession, directly or indirectly, of fifty percent (50%) or more of the voting securities in the entity or the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract interest or otherwise.

1. **Construction and Order of Precedence.** Except with respect to those provisions in any written agreement signed by both you and Flushmate that govern the purchase and sale of the same Products described in an Order Confirmation and that are expressly contrary to these Terms (a “**Master Purchase and Sale Agreement**”), these Terms apply to, and are incorporated into, all Other Agreements, all purchase orders, order confirmations, quotations, bids, invoices, understandings, commitments, arrangements, and transactions between Buyer and Flushmate relating to the purchase or sale of Products. These Terms, any Flushmate's [Limited Warranty](#), [Terms of Use](#), order confirmations, product-specific terms, return policies, cancellation policies, and other terms or policies posted or referenced by Flushmate from time to time (collectively, the “**Flushmate Commercial Terms**”) are intended to be read together, but each applies only to the subject matter it addresses. Unless otherwise expressly agreed in a written agreement signed by an authorized officer of Flushmate, any ambiguity, conflict, or inconsistency among the Flushmate Commercial Terms shall be resolved in the following order of precedence: (a) any Master Purchase and Sale Agreement or other written agreement signed by both Buyer and Flushmate, solely with respect to the Products, transactions, or subject matter expressly covered by such agreement; (b) the applicable Order Confirmation; (c) any product-specific or transaction-specific terms expressly referenced in the applicable Order Confirmation; (d) these Terms, with respect to Product purchase and sale matters; (e) Flushmate's solely with respect to credit approval, credit limits, payment obligations, security interests, collateral, defaults, remedies, collections, credit reporting, and enforcement of amounts owed to Flushmate; (f) Flushmate's applicable Limited Warranty, solely with respect to warranty coverage, exclusions, claim procedures, and remedies; (g) Flushmate's Terms of Use, solely with respect to access to and use of Flushmate's websites, online content, accounts, design tools, and other non-purchase website functionality; and (h) any other Flushmate policy or online term, solely with respect to the subject matter it specifically addresses. All documents, forms, terms, or conditions provided by Buyer, whether before or after the date of these Terms, including any purchase order, vendor portal term, acknowledgment, invoice, remittance document, payment document, shipping instruction, or other Buyer communication, are not part of the agreement between Buyer and Flushmate

and shall have no effect unless expressly agreed in a written instrument signed by an authorized officer of Flushmate. Flushmate's acceptance, acknowledgment, fulfillment, or shipment of any order, acceptance of payment, or extension of credit does not constitute acceptance of any Buyer terms or conditions.

2. **Order Confirmation.** Our acceptance of your order will take place when we email you the Order Confirmation confirming the details of your, at which point a contract will come into existence between you and us. Once an Order Confirmation has been issued, **please** confirm that the Products listed on the Order Confirmation, as well as the fees, are accurate and complete. IF YOU FAIL TO NOTIFY US OF ANY INACCURACY IN THE ORDER CONFIRMATION WITHIN TEN (10) DAYS OF RECEIPT, YOU WILL BE DEEMED TO HAVE IRREVOCABLY ACKNOWLEDGED THE ACCURACY OF THE ORDER CONFIRMATION. The minimum order value is \$150.00 net. In the event an order is received under the stated minimum order value, a \$25.00 service charge will be applied to the order. All service charges are non-refundable. Any order cancellations shall be subject to Flushmate's cancellation policy found at: [Shipping and Return Policy](#).
3. **Prices.** You agree to pay Flushmate the purchase price set forth on the Order Confirmation together with all applicable sales taxes, use taxes, excise taxes, export duties and tariffs, and all freight, handling, and shipping charges. All prices, discounts, and promotions quoted by Flushmate are subject to change by Flushmate without notice. Unless expressly stated otherwise, prices for all Products are in US Dollars. Flushmate strives to display accurate price information, however we may, on occasion, make inadvertent typographical errors, inaccuracies or omissions related to pricing and availability. Flushmate reserves the right to correct any errors, inaccuracies, or omissions at any time and to cancel any orders arising from such occurrences.
4. **Payment.** Terms of payment are within our sole discretion. Unless stated otherwise in your Order Confirmation, payment shall be made within thirty (30) days of the date of invoice. Payments are to be made via "Electronic Funds Transfer" ("EFT"), ePayables (credit card settlement), in which case Buyer shall complete and deliver such applications and authorizations as Flushmate customarily requires for these purposes, or via check to Flushmate, strictly net, without any deduction, offset or discount other than as expressly stated in the relevant Order Confirmation or as otherwise authorized by Flushmate. Payments made via check shall be mailed to the following address:

5. PO Box 74008888 Chicago, IL 60674-8888

If reflected in the Order Confirmation, Flushmate shall provide Buyer with an early payment discount in the amount of two percent (2%) of the net invoiced amount (excluding taxes, freight, freight handling or shipping charges) if Buyer pays the full amount of the invoice within ten (10) days of the invoice date. Payments made after the thirty (30th) day from the invoice date shall be deemed late and subject to a late fee in the amount of the lesser of one percent (1%) of the unpaid balance per month or the highest amount permitted by applicable law, until the invoice has been paid in full.

5. **Shipment and Delivery.** Unless stated otherwise in the Order Confirmation, all prices are FOB Flushmate facility as such term defined in the Uniform Commercial Code. Products shall be shipped via Flushmate's designated carrier under the following terms:

- (i). For all orders shipping terms shall be freight prepaid, charged back to Buyer.
- (ii). For all international orders, the shipping term shall be ExWorks Flushmate's facility, as that term is defined in INCOTERMS 2020.

A one-time \$50.00 freight handling fee will be applied to all orders that qualify for prepaid freight.

Notwithstanding the foregoing, if Buyer chooses its own carrier, then delivery shall be ExWorks Flushmate's facility, as that term is defined in INCOTERMS 2020. Flushmate shall have no obligation or risk of loss of or damage to Products following delivery at the facility, even if Flushmate agrees to arrange for transportation as a courtesy to Buyer. Any such transportation shall be at Buyer's sole risk and expense.

Additional freight services, such as construction site delivery, lift gate delivery service, re-consigned freight or notification charges, are not included in FOB terms, and will result in additional freight charges. Buyer shall promptly notify Flushmate of any claims for damage in transit or non-delivery and any such claims must be filed against the carrier by Flushmate.

6. Lead Time. Any lead times are expressed in business days. Flushmate shall use its commercially reasonable efforts to meet such lead times. Notwithstanding the foregoing, stated lead times are based on normal production levels. Actual lead times may vary due to production schedules, quantities ordered, seasonality and higher than normal production levels. Accordingly, all lead times referenced in the Order Confirmation are subject to change by Flushmate, and failure by Flushmate to meet any delivery date does not constitute a cause for cancellation or a claim for damages of any kind. Buyer agrees and acknowledges that time for delivery shall not be of the essence.

7. Return and Refund Policy. For Flushmate's return and refund policy, please see [Shipping and Return Policy](#).

8. Modification. Flushmate may, at any time, delete, modify or supplement any of the Products without prior notice. Flushmate reserves the right, for any reason, at its sole discretion, to cancel any order, terminate, change, suspend or discontinue any Products or aspects thereof.

9. Intellectual Property. Certain Products or materials provided therewith may contain or incorporate trademarks, trade names, patents, designs, content, technology, features, functionality, video, audio, images, displays, works of authorship, text, files, photos, designs, and other materials of Flushmate ("**Flushmate Content**"). Flushmate Content and all intellectual property rights thereto are protected by United States and international copyright, trademark, patent, trade secret and other proprietary or intellectual property laws and Flushmate or its licensors is and shall at all times remain the sole and exclusive owner of the Flushmate Content and all intellectual property rights thereto. Flushmate hereby grants you a limited, revocable, non-sublicensable license to reproduce and display the Flushmate Content (excluding any software code) solely for your use of our Products. Except as expressly authorized by Flushmate, you agree not to modify, copy, frame, scrape, rent, lease, loan, sell, distribute or create derivative works based on the Products or the Flushmate Content, in whole or in part. Any rights not expressly granted herein are reserved by Flushmate. The name "**Flushmate**" and all other Flushmate marks, logos, product and service names, designs, and phrases that we use in connection with our Products are trademarks, service marks, or trade dress of Flushmate or licensors. You may not use such marks without the express written prior permission of Flushmate.

10. Limited Warranty. For information regarding any limited warranty that may be applicable to the Products, please see: <https://legal.eflushmate.com/#warranty-policy>.

11. Indemnification. You agree to indemnify and hold harmless Flushmate and their respective officers, directors, employees, managers, agents, successors and assigns from and against any claim or demand (including reasonable attorneys' and experts' fees and costs) made by any party due to or arising out of your (a) breach of these Terms, (b) improper use of the Products, or (c) breach of any law or the rights of a third party.

12. Compliance with Laws. Buyer agrees to comply with all laws and regulations applicable to the purchase, transport, use, storage, purchase, resale, lease and/or disposal of the Products, including, without limitation, to the extent applicable, the U.S. Export Administration Act and all regulations thereunder, and Buyer shall cause its employees and agents to comply with such laws and regulations.

13. Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL FLUSHMATE BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, COVER, INCIDENTAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE, ANTICIPATED PROFITS, BUSINESS OR SALES, ANY LOSS OF GOODWILL OR REPUTATION, OR THE COSTS OF SUBSTITUTE GOODS OR PRODUCTS, EVEN IF FLUSHMATE OR AN AUTHORIZED REPRESENTATIVE THEREOF HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, IN NO EVENT SHALL THE TOTAL LIABILITY OF FLUSHMATE TO YOU OR ANY THIRD PARTY FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, PRODUCT LIABILITY OR OTHERWISE) ARISING FROM

THESE TERMS OR YOUR PURCHASE OR USE OF THE PRODUCTS EXCEED, IN THE AGGREGATE, THE THEN-ACTUAL VALUE OF THE PRODUCTS THAT YOU PURCHASED FROM FLUSHMATE AND FULLY PAID FOR, WHICH PRODUCTS GIVE RISE TO THE LIABILITY.

14. Limitation on Time to File Claims. TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OR YOUR USE OF OUR PRODUCTS MUST BE COMMENCED WITHIN SIX (6) MONTHS AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

15. Governing Law. By purchasing any of the Products, you agree that these Terms and your use of the Products shall be governed exclusively by the laws of the State of Illinois without regard to conflict of laws principles, regardless of your location when purchasing the Products. These Terms are construed for all purposes as entered into and performed in Chicago (Cook County), Illinois (USA). These Terms do not give rise to personal jurisdiction over Flushmate, either specific or general, in jurisdictions other than Illinois.

16. Dispute Resolution. Dispute Resolution. Any dispute, controversy or claim arising under, out of, or relating to these Terms and/or any Purchase Orders, Order Confirmations or other documents entered into between the Parties in connection with the purchase of Products by you (the "Dispute"), including, without limitation, the formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall, if possible, be finally settled amicably by negotiation between the parties ("**Internal Dispute Resolution**").

17. Mediation. If the Parties are unable to reach an amicable solution to the Dispute pursuant to the Internal Dispute Resolution process within fifteen (15) days from the first notice of Dispute, then the Dispute shall be submitted to mediation, in Illinois, under the auspices of the American Arbitration Association ("**AAA**"), in accordance with the AAA's Mediation Procedures and, if applicable, Supplementary Rules for the Resolution of Patent Disputes then in effect. Each Party shall bear its own cost of mediation and shall share mediation costs equally. Notwithstanding the foregoing, the Parties shall not be required to first attempt to resolve a Dispute through mediation if such Dispute concerns an allegation that a Party has violated (or threatens to violate, or poses an imminent risk of violating): (i) any federally protected Intellectual Property Rights; (ii) any claims pertaining to or arising out of any warranty issue; or (iii) any restrictive covenants contained in this Agreement, if any.

18. Arbitration. If the Parties are unable to resolve any Dispute by mediation within sixty (60) days after the notice of Dispute, the Parties shall submit the Dispute to binding arbitration before a single arbitrator agreeable to both Parties, or if the Parties cannot agree, then an arbitrator shall be appointed by the AAA. Any arbitrator chosen hereunder shall have reasonable educational training, and industry experience relevant to the particular Dispute. All proceedings will be conducted at a suitable location chosen by the arbitrator in Cook County, Illinois. Judgment upon the arbitrator's award shall be final and binding and may be entered in any court of competent jurisdiction. The arbitration proceeding shall be conducted in English. Subject to Section 29 below, the arbitrator has the right to award or include in his or her award any relief which he or she deems proper, including, without limitation, money damages (with interest on unpaid amounts from the date due), specific performance, injunctive relief, and attorneys' fees and costs, provided that the arbitrator may not declare any Trademark generic or otherwise invalid or, award any punitive, exemplary, or multiple damages against any Party. Each Party further agrees that, in any arbitration proceeding, each must submit or file any claim that would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any claim, which is not submitted or filed as required, is forever

barred. For any Dispute in which the amount in controversy is Twenty-Five Thousand Dollars (\$25,000) or less, the arbitration shall be conducted on a documents-only basis without oral hearings or depositions, unless the arbitrator determines that an oral hearing is necessary for a fair resolution of the Dispute. The Parties agree that, in any arbitration, Buyer may, at its own election and subject to its own discretion, elect the following limitations and rules governing discovery: (i) requests for documents shall be limited to documents that are directly relevant to significant issues in the case or to the case's outcome; shall be restricted in terms of time frame, subject matter and persons or entities to which the requests pertain; and shall not include broad phraseology such as "all documents directly or indirectly related to"; (ii) there shall be no interrogatories or requests to admit; (iii) with respect to any electronic discovery, the Parties agree that: (A) production of electronic documents need only be from sources used in the ordinary course of business. No such documents shall be required to be produced from back-up servers, tapes or other media; (B) the production of electronic documents shall normally be made on the basis of generally available technology in a searchable format which is usable by the Party receiving the documents and convenient and economical for the producing Party. Absent a showing of compelling need, the Parties need not produce metadata, with the exception of header fields for email correspondence; (C) the description of custodians from whom electronic documents may be collected shall be narrowly tailored to include only those individuals whose electronic documents may reasonably be expected to contain evidence that is material to the dispute; and (D) where the costs and burdens of electronic discovery are disproportionate to the nature of the dispute or to the amount in controversy, or to the relevance of the materials requested, the arbitrator shall either deny such requests or order disclosure on condition that the requesting Party advance the reasonable cost of production to the other side, subject to allocation of costs in the final award as provided herein; (iv) each side may take three discovery depositions and each side's depositions are to consume no more than a total of eighteen (18) hours, provided that the arbitrator may authorize additional depositions or extend the time limits upon a showing that the complexity of the issues, the amount in controversy, or other circumstances warrant additional depositions; (v) there are to be no speaking objections at the depositions, except to preserve privilege; and (vi) the total period for the taking of depositions shall not exceed six weeks unless extended by the arbitrator for good cause. The provisions of this Section are intended to benefit and bind certain third party non-signatories and will continue in full force and effect subsequent to and notwithstanding this Agreement's expiration or termination.

19. Court Carveout. Notwithstanding the foregoing, Flushmate may bring any action or proceeding in any court of competent jurisdiction to collect amounts owed, enforce payment obligations, enforce or perfect any security interest or lien right, recover or repossess Products or collateral, obtain injunctive or equitable relief, protect or enforce intellectual property rights, prevent unauthorized use or disclosure of confidential information, or obtain any provisional, emergency, or creditor remedy. Buyer irrevocably submits to the jurisdiction of the state and federal courts located in Cook County, Illinois, for any such action or proceeding and waives any objection to personal jurisdiction, venue, or forum non conveniens in such courts.

20. Limitation of Action. No cause of action arising under these Terms may be maintained against Flushmate unless brought before the expiration of one year after the act, transaction or occurrence upon which such action is based or the expiration of one (1) year after you become aware of facts or circumstances reasonably indicating that you may have a claim against Flushmate hereunder, whichever occurs sooner, and that any action not brought within this period shall be barred as a claim, counterclaim, defense, or set-off.

21. Confidentiality of Dispute Resolution Proceedings. The Parties agree that all dispute resolution proceedings including but not limited to Internal Dispute Resolution, mediation, and arbitration, shall be strictly confidential.

Without limiting the foregoing, the Parties agree that the following shall be deemed Confidential Information: (i) the existence, content, and results of any dispute resolution proceeding, including the fact that a Dispute has been asserted or is being resolved; (ii) all documents, testimony, evidence, and information exchanged or produced in connection with any dispute resolution proceeding; (iii) all settlement discussions, proposals, offers, and agreements; (iv) all mediator or arbitrator deliberations, rulings, decisions, and awards; (v) the identities of witnesses and experts; and (vi) all written submissions, briefs, memoranda, and correspondence related to the dispute resolution proceeding. Each Party shall take reasonable measures to ensure that its representatives, witnesses, experts, consultants, and advisors maintain the confidentiality of such information. The confidentiality obligations of this subsection shall not prevent a Party from disclosing information: (A) to the extent required by applicable law, regulation, court order, or governmental authority, provided that the disclosing Party provides the other Party with prompt written notice of such requirement and cooperates in any effort to obtain a protective order or confidential treatment; (B) to the Party's attorneys, accountants, auditors, insurers, and other professional advisors who have a need to know and who are bound by confidentiality obligations; (C) to the extent necessary to enforce or challenge an arbitration award or settlement agreement in a judicial proceeding, provided that the Party seeking disclosure first petitions the court for a protective order; (D) if both Parties provide prior written consent to the disclosure; or (E) to the extent the information is already in the public domain through no breach of this Agreement. Any breach of this confidentiality provision may be enjoined by any court of competent jurisdiction, and the breaching Party shall be liable for all damages, costs, and attorneys' fees incurred by the non-breaching Party as a result of such breach.

22. Class, Collective, and Representative Action Waiver. To the fullest extent permitted by applicable law, you agree that any Dispute shall be brought and resolved only on an individual basis. You hereby waive any right to bring, maintain, participate in, or recover relief in any class, collective, consolidated, representative, private-attorney-general, or similar proceeding, whether in arbitration or in court. The arbitrator may not consolidate more than one person's claims and may not otherwise preside over any class, collective, consolidated, representative, private-attorney-general, or similar proceeding.

23. WAIVER OF JURY TRIAL. THIS WAIVER APPLIES SOLELY AND EXCLUSIVELY TO THOSE COURT PROCEEDINGS EXPRESSLY PERMITTED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION PROCEEDINGS TO SEEK EMERGENCY INJUNCTIVE OR EQUITABLE RELIEF, TO ENFORCE AN ARBITRAL AWARD, OR TO PURSUE CLAIMS CARVED OUT FROM THE MANDATORY DISPUTE RESOLUTION PROCESS. FOR THE AVOIDANCE OF DOUBT, THIS WAIVER DOES NOT EXPAND THE CATEGORIES OF DISPUTES THAT MAY BE BROUGHT IN COURT, AND ALL OTHER DISPUTES REMAIN SUBJECT TO THE ARBITRATION PROVISIONS OF THIS AGREEMENT. TO THE EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN CONNECTION WITH ANY SUCH PERMITTED COURT PROCEEDING. Each Party certifies that (a) this waiver is made voluntarily and with full understanding of its implications, (b) no Representative of the other Party has represented that such other Party would not seek to enforce this waiver, and (c) each Party has had the opportunity to consult with counsel regarding this waiver.

24. Attorneys' Fees and Costs. If any litigation or other court action, arbitration, or similar adjudicatory proceeding is commenced by any party against the other party to enforce its rights under these Terms or otherwise in connection with the Products or the purchase thereof, all fees, costs and expenses, including, without limitation, cost of arbitration, reasonable attorneys' fees and court costs, incurred by Flushmate, if it is the prevailing party in such litigation, action, arbitration or proceeding, shall be reimbursed by you; provided, that if Flushmate prevails in part, and loses in part, the court, arbitrator or other adjudicator presiding over such litigation, action, arbitration or proceeding shall award a reimbursement of the fees, costs and expenses incurred by Flushmate on an equitable basis.

25. **Severability.** If any provision of these Terms is held by an arbitrator or court of competent jurisdiction to be invalid or unenforceable, then such provision shall be enforced to the maximum extent permissible so as to not affect the intent of these Terms, and the remainder of these Terms shall continue in full force and effect.

26. **No Waiver.** The failure by Flushmate to exercise or enforce any rights or provisions of these Terms shall not constitute a waiver of such right or provision.

27. **No Partnership.** No partnership, joint venture, franchisor-franchisee, or agency relationship is intended or created by these Terms.

28. **Amendment.** Flushmate reserves the right to amend these Terms at any time and from time to time, upon providing you with reasonable notice, including by posting the revised terms on its website at the URL <https://legal.eflushmate.com/> which amended terms and conditions shall be binding upon you.

29. **Entire Agreement.** These Terms, the applicable Order Confirmation, the applicable Flushmate Commercial Terms, and, if applicable, any Master Purchase and Sale Agreement, contain the entire understanding between Flushmate and Buyer with respect to the subject matter thereof and may not be supplemented or modified by course of dealing, course of performance, usage of trade, oral communication, or any response by Buyer purporting to modify, supplement, or condition acceptance of such terms, unless expressly agreed in a written instrument signed by an authorized officer of Flushmate.

30. **Assignment.** You may not assign or transfer these Terms or your obligations hereunder in whole or in part, whether by sale, merger, change in control, by operation of law, or otherwise, without Flushmate's prior written consent. In the event of a permitted transfer, these Terms shall bind and inure to the benefit of the parties, their respective successors and permitted assigns. However, no other person shall have any rights to enforce any of its terms against Flushmate. To the extent any novation is required for Flushmate to assign these Terms, you hereby appoint the officers of Flushmate as your attorney-in-fact to execute all documents necessary to consummate such novation. Flushmate may assign or transfer these Terms or its obligations hereunder in whole or part, whether by operation of law or otherwise, without your consent.

31. **UCC and INCOTERMS.** The meaning of any trade term referenced in [Section 5](#), and the rights and obligations of parties with respect to shipment and delivery of the Products shall be, as applicable, determined in accordance with the current edition of Incoterms published by the International Chamber of Commerce, or the most recent iteration of the Uniform Commercial Code as ratified and adopted by a majority of states, to the extent such section references the specified terms covered by the UCC or INCOTERMS. In the event of any conflict between these Terms and the UCC or INCOTERMS, as applicable, these Terms shall govern.

32. **Force Majeure.** Flushmate's delay or failure to perform any duties or obligations will not be considered a breach of these Terms if such delay or failure is attributable to (each a "**Force Majeure Event**"): a labor dispute, market shortage of materials or equipment, fire, earthquake, flood, pandemic or any other event beyond the control of Flushmate, provided that Flushmate uses reasonable efforts, under the circumstances, to resume performance as soon as reasonably practicable. If Flushmate is unable to perform its obligations under any Order Confirmation due to a Force Majeure Event, then it may terminate such order upon notice to Buyer, without liability.

33. **Credit Inquiry.** Buyer hereby authorizes Flushmate from time to time to obtain Business and Consumer Credit Reports on Buyer or any principals of Buyer or to obtain credit and funding information from any other source. Flushmate shall have no obligation to commence or continue performance of its obligations until adequate credit and funding information has been provided, at any time upon the request of Flushmate. Flushmate may reduce any line of credit available to Buyer and/or stop the manufacture or supply of any Products when it, in its sole discretion, determines that Buyer is in breach of these Terms or any other contract with

Flushmate, or Flushmate reasonably believes that Buyer may be unable to make timely payments with respect to any ordered Products, until such time as payment has been made and any such payment insecurity has been resolved.

34. Bankruptcy, Insolvency. Flushmate shall have the right to terminate any Order Confirmation and cease delivery of any Products immediately if the Buyer becomes insolvent or bankrupt or makes arrangements with its creditors or suffers a receiver to be appointed or enters into liquidation (other than in connection with a reconstruction or amalgamation) in any of which cases Flushmate shall have no further obligation hereunder and the price for all Products delivered and work done shall become immediately due and payable.

35. Survival. Any provision of these Terms that by its nature or express terms is intended to survive completion, cancellation, expiration, or termination of any order, Order Confirmation, transaction, or relationship between Buyer and Flushmate shall so survive, including payment obligations, security interests, warranty disclaimers, limitations of liability, indemnification, intellectual property, confidentiality, governing law, dispute resolution, attorneys' fees and costs, order of precedence, rejection of Buyer terms, and any accrued rights, obligations, or remedies.

UPON SUBMISSION OF YOUR PURCHASE ORDER TO FLUSHMATE AND YOUR RECEIPT OF AN ORDER CONFIRMATION FROM FLUSHMATE, YOU ACKNOWLEDGE RECEIPT AND ACCEPTANCE OF THESE TERMS AND CONDITIONS.

* The effective date appearing in the header of this page under the version control block is system-generated and is only for administrative and versioning purposes. That date does not constitute or modify the Effective Date or effectiveness of these Terms or Policies.