



## Terms and Conditions

**1. Taxes:** If applicable, prices on the specified goods may be subject to state or federal sales taxes. Whenever applicable, any tax or taxes will be added to the invoice as a separate charge to be paid by the Buyer.

**2. Payment Terms:** Unless prior arrangements have been agreed upon, invoices are payable within Net 30 days. Invoices will be dated on the earlier of the shipment date or the date the Buyer requested a delay in shipment, or on the date the Seller is prepared to ship the goods. There will be a finance charge of 1.5% of the total amount due for each thirty (30)- day period during which the payment is in arrears. Buyer's acceptance of this finance charge shall not be deemed a waiver of any other rights Seller may have in law or in equity resulting from Buyer's non-payment. Notwithstanding anything to the contrary contained herein, all new customers whose credit profile cannot be either established or verified, or at the sole discretion of the Seller, do not meet its minimum credit standards, are required to either (i) prepay the entire order for all orders up to the sum of Ten Thousand Dollars (\$10,000.00) and No Cents, or (ii) on order greater than Ten Thousand Dollars (\$10,000.00) and No Cents, a deposit equal to Fifty (50%) of the order upon the Seller's acceptance of the order and the balance payable before shipment. Failure by the Buyer to provide either the deposit listed in (ii) will void any purchase orders and will not obligate the Seller to begin fabrication. Failure by the Buyer to send the balance of an order does not relieve the Buyer of its obligation to pay the balance due and may be subject to storage fees, collection fees, as well as legal and other out-of-pocket costs that may be incurred by the Seller as outlined in Paragraph 17 below.

**3. Method of Transportation:** Buyer shall designate the method by which the goods will be transported. All transportation costs shall be the Buyer's responsibility. If the Buyer fails to establish a mode of transportation, the Seller shall select the mode of transportation at the Buyer's sole expense. Freight will ship collect unless prior arrangements have been made between the parties. If Buyer requests explicitly the use of a carrier that Buyer agrees to pay directly ("Ship Collect"), Seller will add a 20% or \$100.00 surcharge (whichever is lower) as a handling fee to the freight charges.

**4. Delivery:** All deliveries shall be made at the EXW Seller facility, with bills of lading addressed as directed by the Buyer.

**5. Change and Expedited Orders:** In the event Buyer requests changes in the specifications for the goods which (i) materially alter the cost of production or (ii) are received by Seller within one (1) week prior to the date Seller has scheduled to commence fabrication, Buyer shall be entitled to impose additional charges equal to the Buyer's additional costs of labor, material, production disruptions, standard overhead, and profit all of which Seller hereby agrees are rightly due and payable as if they had been part of the original confirmed Sales Order from Seller to Buyer. If the Buyer requests a "Rush" or Expedited Order that would affect or disrupt the Seller's production schedule or capacity, then the Seller may, at the Seller's sole and exclusive option, charge the Buyer an "Expedite Fee" in addition to the standard charges. Such Expedite Fee will be identified separately on the invoice if approved in writing by the Buyer.



**6. Cancellations:** If Buyer notifies Seller within seven (7) days of Seller's issuance of a Sales Order Acknowledgement that Buyer is canceling this Sales Agreement, Buyer shall be entitled to a refund of any deposit it has provided to Seller, less all costs and expenses related to the transfer of funds and other administrative expenses, not to exceed Two Hundred and Fifty (\$250.00) Dollars. If Buyer notifies Seller that it wishes to cancel its order at any time after the seventh day of the Seller's issuance of a Sales Order Acknowledgement, then Buyer shall be liable to Seller, as of the date of notification, for all raw materials acquired for Seller's order together with any material specially assembled by Seller to fabricate the Buyer's order, including but not limited to all labor, overhead and other costs incurred by Seller in connection with the fabrication of the goods plus the loss of profit assignable to the Buyer's order based upon the percentage completion of Buyer's order(s).

**7. Storage Charges:** Seller shall be entitled to charge a \$250.00 per day fee for any completed goods which are, at Buyer's request, not shipped upon completion of fabrication.

**8. Delays:** Seller will not be liable for any delay in the performance of orders or contracts, or in the delivery or shipment of goods, or for any damages suffered by Buyer because of such delay, if such delay is, directly or indirectly, caused by, or in any manner arises from fires, floods, accidents, civil unrest, acts of God, war, governmental interference or embargoes, strikes, labor difficulties, shortages of labor, fuel, power, materials or supplies, transportation delays, or any other cause or causes (whether or not similar to any of these hereinabove specified) beyond Seller's control.

**9. Limited Warranty:** Seller warrants that the goods will conform to the description and specifications and be free from defects in materials or workmanship for one (1) year from shipment for Industrial Silencers. Expressly excluded from this limited warranty are severe-duty saltwater and chemical applications. Seller does not warrant any painted surfaces, as the nature of the seller's products precludes any warranty against cosmetic appearance defects, such as paint burning or surface rust. **THE WARRANTY DESCRIBED IN THIS PARAGRAPH IS IN LIEU OF ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE**

**10. Limitation of Buyer's Remedies:** Buyer's exclusive remedy against Seller for any limited warranty claims or performance obligation shall be expressly limited to a refund of the purchase price of the goods or, at Seller's election, the repair or replacement of the goods. Buyer waives any and all of its rights with respect to any other remedy it may have, either in law or in equity, including, but not limited to, incidental or consequential damages, lost profits, lost sales, injury to person(s) or property or any other incidental, tangential or consequential loss. Buyer shall not be authorized to return any product claimed to be defective without Seller's prior authorization.

**11. Merge, Clause, All Prior Statements Not Binding:** Any statements, or written, made by any of Seller's sales representatives about the goods, which are the subject of this contract, that are not confirmed, in writing by Seller, cannot be relied upon by the Buyer, and are not part of the Contract for Sale. Only the executed written contract by and between Buyer and the Seller for each order shall be binding upon the parties.



**E.I. Williams Industries Inc.**  
Smarter, Cleaner, Quieter



**12. Amendment:** Any agreement between the Buyer and the Seller, including this statement of Terms and Conditions, can only be modified in writing, signed by the parties to any such agreement.

**13. Applicable Law:** This agreement shall be governed by the laws of the State or Province where the goods are manufactured.

**14. Acceptance Conditioned on Assent:** Acceptance of this offer is expressly limited to the exact terms contained herein. The issuance of a Purchase Order by the Buyer to the Seller for any of the items included in this Quotation shall be conclusively deemed to be an acceptance of the terms and conditions outlined in both the Quotation and these Terms and Conditions.

**15. Copies of Signatures to Be Treated as Originals:** Agreements may be signed in counterparts, and copies of signatures on documents transmitted by one party to the other. Any form of electronic transmission will be treated as original. At the request of one party, the parties shall confirm the transmitted signatures by signing and exchanging the original documents.

**16. EIW as Agent for EIWLA:** Buyer recognizes and accepts that E.I. Williams Industries, Inc. (EIW) is acting as an agent for E.I. Williams Industries, L.L.C. (EIWLA) and that all quotations are provided to the Buyer based on the currency of the Buyer's residency. Unless specifically requested by Buyer, EIW may choose to assign orders to be fabricated by EIWLA, in which case Buyer has provided a Purchase Order to EIWLA for the products identified in the quotation. All other terms and conditions in the quotation provided to Buyer or herein shall remain in full force and effect.

**17. Attorney's Fees:** If any suit or action is instituted to interpret or enforce the provisions of this Sales Agreement, including any addendum, appendix, or attachment thereto, the prevailing party shall be entitled to recover, in addition to all of its costs, reasonable attorney fees incurred in preparation, prosecution and/or defense of any such suit or action as determined together with any costs and reasonable attorney's fees required in the event the non-prevailing party appeals the decision of any mediation, arbitration or court of competent jurisdiction and such original decision is upheld.