

Rochester Midland Corporation

Standard Customer Agreement Warranties, Indemnities and Limitations of Liability

Updated July 2026

1.1 Limited Product Warranty.

- (a) RMC warrants to Customer that, for a period of ninety (90) days beginning upon delivery of Products to Customer (the "Product Warranty Period"), such Products shall conform to RMC's standard specifications for such Products and to all information on any label or instructions provided by RMC to Customer with such Products (the "Limited Product Warranty").
- (b) The Limited Product Warranty shall not apply to any Product that has been subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper storage, improper handling, abnormal environmental conditions or use contrary to any instructions issued by RMC, altered by any person other than RMC or used with any third-party products or equipment that has not been previously approved in writing by RMC.
- (c) If, during the applicable Product Warranty Period, Customer determines that any Products do not conform to the Limited Product Warranty ("Defective Products"), Customer shall: (i) notify RMC, in writing, of any alleged claim or defect within five (5) days from the date Customer discovers, or upon reasonable inspection should have discovered, such alleged claim or defect (but in any event before the expiration of the applicable Product Warranty Period); (ii) shall ship, at its expense and risk of loss, such allegedly Defective Products to RMC's facility for inspection and testing by RMC. If RMC's inspection and testing reveal, to RMC's reasonable satisfaction, that such Products are Defective Products and any such defect has not been caused or contributed to by any of the factors described under Section 1.1(b), RMC shall in its sole discretion replace such Defective Products or provide Customer with a credit for such Defective Product. If RMC elects to replace any Defective Products, it shall, at RMC's expense and risk of loss, ship the replaced Products to Customer. THIS SECTION 1.1(C) SETS FORTH CUSTOMER'S SOLE REMEDY AND RMC'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED PRODUCT WARRANTY SET FORTH IN SECTION 1.1(a). Customer has no right to return for replacement, credit, or refund any Products except as set forth in this Section 1.1(c).

1.2 Limited Service Warranty.

- (a) RMC warrants that it shall provide the Services in accordance with this Agreement and with generally recognized industry standards for similar services and, to the extent that the Services include the development and/or implementation of a *Legionella* Water Safety Program, in accordance with those generally recognized industry standards and applicable federal, state and local regulations set forth on Schedule B (the "Limited Service Warranty").
- (b) If, within fifteen (15) days after any Service has been performed (the "Service Warranty Period"), Customer determines that any Service is in breach of the Limited Service Warranty, Customer shall notify RMC, in writing, of any alleged breach within five (5) days from the date Customer discovers, or upon reasonable inspection should have discovered, such alleged breach (but in any event before the expiration of the applicable Service Warranty Period). If RMC's inspection and testing reveal, to RMC's reasonable satisfaction, that such Service is in breach of the Limited Service Warranty, RMC shall in its sole discretion either refund the Customer the Fees paid to RMC by Customer directly related to such breaching Services or use reasonable commercial efforts to cure such breach promptly but in any event within thirty (30) days after Customer's written notice of such breach. If RMC cannot cure such breach within such thirty (30) days, then RMC shall refund the Customer the Fees paid to RMC by Customer directly related to such breaching Service. THIS

SECTION 1.2(B) SETS FORTH CUSTOMERS'S SOLE REMEDY AND RMC'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED SERVICE WARRANTY SET FORTH IN SECTION 1.2(A).

1.3 DISCLAIMER OF OTHER REPRESENTATIONS AND WARRANTIES: NON-RELIANCE.

- (A) EXCEPT FOR THE LIMITED PRODUCT WARRANTY SET FORTH IN SECTION 1.1(A) AND THE LIMITED SERVICE WARRANTY SET FORTH IN SECTION 1.2(A), NEITHER RMC NOR ANY PERSON ON RMS' BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY WHATSOEVER REGARDING ANY PRODUCT OR SERVICE, EITHER ORAL OR WRITTEN, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.
- (B) CUSTOMER ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATION OR WARRANTY MADE BY RMC OR ANY OTHER PERSON ON RMC'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN SECTIONS 1.1(A) AND 1.2(A) OF THIS AGREEMENT.
- (C) RMC MAKES NO WARRANTIES AS TO ANY EQUIPMENT OR OTHER GOODS PROVIDED BY RMC TO CUSTOMER IN THE PERFORMANCE OF ITS OBLIGATION UNDER THIS AGREEMENT NOT MANUFACTURED BY RMC AND THAT TO THE EXTENT PERMITTED, WARRANTIES OF THE ORIGINAL MANUFACTURER ARE PASSED THROUGH TO CUSTOMER.

1.4 Indemnification.

- (a) Each party (as "Indemnifying Party") shall indemnify, defend and hold harmless the other party and its officers, directors, employees, agents, affiliates, successors and permitted assigns (collectively, "Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers, incurred by Indemnified Party (collectively, "Losses"), arising directly out any claim, action, cause of action, demand, lawsuit, arbitration, proceeding or litigation a ("Claim") of any third party alleging: (i) any breach of this Agreement by the Indemnifying Party; (ii) any negligent or more culpable act or omission of Indemnifying Party or its personnel in connection with the performance of this Agreement; (iii) any bodily injury, death of any person or damage to real or tangible personal property to the extent directly caused by the negligent or willful acts or omissions of Indemnifying Party or its personnel; or (iv) or any failure by Indemnifying Party or its personnel to comply with any applicable laws.
- (b) Notwithstanding anything to the contrary in this Agreement, an Indemnifying Party is not obligated to indemnify or defend (if applicable) an Indemnified Party against any Claim if such Claim or corresponding Losses arise out of or result from, in whole or in part, the Indemnified Party's or its personnel's: (i) negligence or more culpable act or omission (including recklessness or willful misconduct); (b) bad faith failure to comply with any of its obligations set forth in this Agreement; or (c) use of Products or Equipment in any manner not otherwise authorized under this Agreement or that does not materially conform with any instructions/ provided by RMC.

1.5 Limitation of Liabilities.

- (a) IN NO EVENT SHALL RMC BE LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR ENHANCED DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT RMC WAS ADVISED OF THE POSSIBILITY OF SUCH

DAMAGES AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

- (b) IN NO EVENT SHALL RMC'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO RMC PURSUANT TO THIS AGREEMENT IN THE TWELVE-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE LIMITATIONS SET FORTH IN THIS SECTION 1.5 APPLY NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, INCLUDING THE INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 1.4, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.
- (c) WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, CUSTOMER ASSUMES ALL RISK AND LIABILITY FOR THE RESULTS OBTAINED BY THE USE OF ANY PRODUCTS OR EQUIPMENT OR ANY SERVICES, WHETHER IN TERMS OF GENERAL EFFECTIVENESS, SUCCESS OR FAILURE, AND REGARDLESS OF ANY ORAL OR WRITTEN STATEMENTS MADE BY RMC, BY WAY OF TECHNICAL ADVICE OR OTHERWISE, RELATED TO THE USE OF THE PRODUCTS AND EQUIPMENT. RMC SHALL NOT BE RESPONSIBLE FOR CONDITIONS ARISING FROM CUSTOMER'S OPERATION, MAINTENANCE, MODIFICATION, MONITORING OR USE OF ITS WATER SYSTEMS FOLLOWING PERFORMANCE OF THE SERVICES
- (d) WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TO THE EXTENT THAT THE SERVICES INCLUDE THE DEVELOPMENT AND/OR IMPLEMENTATION OF A *LEGIONELLA* WATER SAFETY PROGRAM, RMC MAKES NO WARRANTIES OR GUARANTEES WITH RESPECT TO WATER SYSTEM BIOHAZARDS FROM WATERBORNE PATHOGENS INCLUDING BUT NOT LIMITED TO LEGIONELLA BACTERIA. RMC DOES NOT AND CANNOT MAKE ANY REPRESENTATION, WARRANTY OR GUARANTEE THAT THE RISK OF THE PRESENCE OF LEGIONELLA OR OTHER WATERBORNE PATHOGENS, OR THE RISK OF LEGIONELLOSIS OR OTHER WATERBORNE DISEASE, HAS BEEN OR WILL BE REDUCED, ELIMINATED OR PREVENTED BY REASON OF ANY PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT. CUSTOMER ACKNOWLEDGES THAT NO WATER MANAGEMENT PROGRAM, TREATMENT PROGRAM, TESTING PROGRAM OR RELATED SERVICE CAN ELIMINATE THE RISK OF LEGIONELLA OR OTHER WATERBORNE PATHOGENS. CUSTOMER RETAINS SOLE RESPONSIBILITY FOR THE OPERATION, MAINTENANCE, MONITORING, TESTING, REMEDIATION AND REGULATORY COMPLIANCE OF ITS WATER SYSTEMS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, RMC SHALL NOT BE LIABLE FOR ANY CLAIM ARISING FROM THE PRESENCE, GROWTH, RELEASE, TRANSMISSION OR EXPOSURE TO LEGIONELLA OR OTHER WATERBORNE PATHOGENS EXCEPT TO THE EXTENT CAUSED BY RMC'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.
- (e) RMC ACCEPTS NO LIABILITY FOR ANY PENALTIES OR FINES ASSESSED BY THE CITY OF NEW YORK, THE STATE OF NEW YORK OR ANY OTHER FEDERAL, STATE, LOCAL OR OTHER GOVERNMENTAL AUTHORITY OR AGENCY.

Schedule B

- AIHA. 2015. American Industrial Hygiene Association (AIHA), Recognition. Evaluation and Control of Legionella in Building Water Systems.
- ASHRAE. 2015. American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc. Legionellosis: Risk Management for Building Water Systems. ASHRAE Standard 188.
- ASHRAE. 2000. American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc. Minimizing the Risk of Legionellosis Associated with Building Water Systems. ASHRAE Guideline 12.
- CTI. 2008. Cooling Technology Institute. Legionellosis Guideline: Best Practices for Control of Legionella. CTI-WTB-148(08).
- OSHA. 1998. Occupational Safety and Health Administration. Legionnaires' Disease. OSHA Technical Manual, Section III: Chapter 7.

and for New York State Customers only:

- The New York City (NYC) Council, (under Local Law No. 77). Effective August 18, 2015.
- The New York State (NYS) Governor, (under Emergency Regulation). Effective August 17, 2015.
- New York DOH, Health Advisory: Prevention and Control of Legionellosis (Legionnaires' disease) in Healthcare Facilities. August 10, 2015