

WATERWISE TECHNOLOGY - TERMS OF SALE AND SUPPLY

1 Definitions

- a) "We" means Waterwise Technology Limited, 1 Jefferson Way, Thame, Oxfordshire OX9 3SZ.
- b) "You" means you, the customer to whom the goods are sold or the services supplied.
- c) The "Goods" means the equipment and/or materials We supply You under a contract for the sale of the Goods and "Services" means the services We provide You under a contract in connection with the cleaning of water, maintenance of equipment, or the like.

2 General

- a) These Terms of Sale and Supply form the whole agreement between ourselves. No other express terms, written or oral, shall be incorporated into the contract. Only one of our directors may authorise a variation or change to these Terms, which must then be confirmed in writing.
- b) Where We have entered into a contract with You for the provision of Services on an agreed number of occasions to undertake water testing, and/or regular maintenance, and/or laboratory analysis, the specific terms endorsed on the face of that contract, which shall be signed by both of us, shall apply.

3 Quotations

Any quotation is an offer to supply and is only open for a period of sixty days from the date given, provided that We have not previously withdrawn it. If any offer is made by You, it must be in writing, and is subject to our acceptance. A contract will only be formed when We have accepted your offer in writing.

4 Drawings

- a) All specifications, drawings, descriptions or illustrations of goods contained in our catalogues, price lists and other advertising matter are intended only to present a general impression of the goods and services described therein and none of these shall form part of the contract between us.
- b) Where We provide You with an installation drawing and/or specification, it shall remain our property and You shall treat the said installation drawing and/or specification confidentially. You shall not copy or disclose the said installation drawing and/or installation specification to any person (other than to your employees in the normal course of your business), firm or corporation. You shall promptly return the said installation drawing and/or installation to us on demand.

5 Cancellation

You are not permitted to cancel the contract with us except with our written consent. If there is an agreed cancellation, You shall pay us twenty per cent, or such other sum as may have been incurred in connection with the order prior to cancellation if it exceeds 20% of the contract price, representing liquidated damages to compensate us against all losses incurred as a result of the cancellation.

6 Price and Payment

- a) Where goods and/or services are supplied by us by reference to our price lists, the price payable by You is the price ruling at the date of delivery.
- b) Unless otherwise stated, all prices quoted are exclusive of VAT and delivery charges.
- c) Where it becomes apparent, after a contract has been entered into between us, that You have provided us with insufficient or incomplete information to enable us to perform the contract, You shall promptly provide such further information as We request in writing to enable us to perform the contract, and shall pay any additional cost that We reasonably incur by reason of your default.
- d) If You fail to provide such further information within 14 days We may terminate the contract without prejudice to all other rights and remedies available to us.
- e) If You fail to return to us any sample or samples that We have supplied to You within one calendar month after the date of despatch of the said samples to You, then You shall pay for them at the current price ruling.
- f) Where the contract price includes installation and/or commissioning, and the time for installation and/or commissioning extends beyond six months from date of delivery or that provided for in the contract, whichever is the sooner, by reason of conditions on site outside our control, You shall pay any costs We incur as a result in addition to the contract price.
- g) Where the contract provides for installation and commissioning or for the supply of Goods with a price of £10,000 or more, excluding VAT, We reserve the right to require payment of the price in three equal instalments at the dates of order, delivery and commissioning respectively. If You default in payment of any one instalment We may terminate the contract without prejudice to our other legal rights.
- h) Subject to clause (g) above, payment of the price is due where We quote pro forma terms on the date of the pro forma invoice, or in all other cases, nett 30 days from the date of invoice.
- j) We reserve the right to charge interest on all overdue invoices at the statutory rate under the terms of the Late Payment of Commercial Debts (Interest Act 1998).

7 Suspension of Work

If We have to suspend work either on your instructions without good cause, or because You have failed to give instructions within 30 days of a written request for information or instructions, We may at our sole discretion deem the contract to have been repudiated by You by serving You with written notice to this effect, and We shall be entitled to recover any loss and damage occasioned by such suspension of work from You.

8 Delivery and Storage

- a) Delivery is deemed to occur on the date when the goods are delivered to your premises.
- b) Delivery dates indicated by us in any quotation, order or other document are approximate only. They are deemed to take effect only when We have accepted your written offer or, if later, the date on which We receive from You all the necessary information and drawings to enable us to carry out the contract. Time of delivery shall not be of the essence of the contract.
- c) Late performance of the contract does not entitle You to reject the goods and/or terminate the contract and/or withhold payment of any part of the contract price.
- d) You shall carefully examine the Goods immediately on receipt and before they are used to ensure that they correspond with their description and specification. You shall promptly notify us in writing within seven days of any short delivery or any defect reasonably discoverable on careful examination.
- e) You shall preserve intact any goods which are the subject of a claim under clause (d) hereof for a period of twenty-one days to afford us an opportunity to inspect them.
- f) Where You comply with clauses (d) and (e) hereof and We in our absolute discretion accept the claim We will credit You with the said goods or replace them. Where You fail to comply with clauses (d) and (e) hereof We shall not be liable for any claim for short delivery or defective goods.

- g) Where We are to supply You with Goods, and We serve You with notice in writing that such Goods are ready for delivery, and You fail, within fourteen days of such notice, to confirm your readiness to take delivery of the goods and to notify us of the delivery arrangements, then delivery shall be deemed to have taken place on the expiry of the said fourteen days, and We shall arrange storage of your goods at your risk and We shall not be held liable for any loss or damage to the goods howsoever arising, from and including the expiry of the said fourteen days. If the goods are stored on our premises, We shall charge You with five per cent of the contract price of the goods per week for storage, such charge to be paid by You monthly in arrears. Where We serve notice, and You fail to confirm your readiness to take delivery and the delivery arrangements within three calendar months, We may treat You as having repudiated the contract.

9 Risk and Property

- a) Where We supply You with goods, the goods shall be at your risk from and including the date of delivery.
- b) Notwithstanding risk in the goods passing in accordance with clause (9a) hereof, title in the goods shall not pass to You until payment in full is received by us for the goods and no other amounts are outstanding from You to us in respect of other goods that We have supplied to You.
- c) Before title passes to You under the terms of clause (9b) hereof, and without prejudice to any of our other rights, We have the right to recover or resell the goods or any of them and We may enter Your premises for that purpose.
- d) Where We incur any cost in recovering or selling the goods, We may recover the said cost from You as a debt.
- e) If You alter the goods by subjecting them to any manufacturing process or incorporating them into another product or mixing them in any way, the resulting product ("the altered goods") will pass into our ownership until payment due under all contracts between us have been made in full and all our rights here under shall extend to the altered goods.
- f) Until payment due under all contracts between us has been made in full You shall hold the goods and altered goods on trust for us.
- g) As the insurable risk in the goods passes to You as soon as the goods are delivered to You or to your order, You shall keep the goods insured against all insurable risks in the amount of the price at which the goods are sold to You. If goods are destroyed by an insured risk before you have paid us in full, You shall receive the proceeds of any such insurance as our trustee.
- h) If You become insolvent these Terms of Sale and Supply shall operate as your assignment to us of the benefit of any insurance claim.

10 Force Majeure

- a) We accept no liability for any failure to deliver goods or carry out services arising from circumstances outside our control, which might include Acts of God, war, riots, explosions, abnormal weather conditions, earthquake, fire, flood, strikes, lockouts, Government action or regulations (UK or otherwise) delay by suppliers and shortage of materials, labour or manufacturing facilities.
- b) If We are prevented from delivering or carrying out services in the above circumstances, We shall notify You of the fact in writing within 10 days commencing with the contractual delivery date.
- c) If the circumstances preventing delivery are still continuing after 3 months, either party may give written notice to the other cancelling the contract. Such written notice must be received while the circumstances are still continuing.
- d) If the contract is cancelled in this way, We shall refund any payment which You have already made on account of the price (subject to deduction of any amount properly due to or which We are entitled to claim from You) but We accept no liability to compensate You for any further loss or damage caused by our failure to deliver or to carry out services.

11 Breach of Agreement

- a) If You have a petition presented for your winding-up, or You pass a resolution for voluntary winding-up (other than for the purpose of a bona fide amalgamation or reconstruction), or You compound with your creditors, or You have a receiver or administrator appointed over all or any of your assets, or
- b) being an individual You become bankrupt or insolvent, or enter into any arrangement with your creditors; or
- c) in either case, You commit a breach of this contract which is not remedied promptly upon our notifying you of the breach or if any distress or execution shall be levied upon your property or assets, then We may terminate the Contract.

12 Tests

Where a contract provides for us to carry out a test or tests in your presence, We shall give You seven days notice in writing of our readiness to conduct the test or tests. If You fail to attend the test or tests after receipt of such notice, the test or tests will be carried out in your absence, and shall be deemed to have been carried out in your presence and to your satisfaction.

13 Commissioning

- a) Where commissioning attendance is included as part of a contract between us for the supply of Goods, installation work must be complete and in accordance with our diagrams and installation drawings and all services provided for by the contract specification must be connected and readily available, before We attend to commission the equipment.
- b) Where You fail to comply with the above clause, You shall pay any additional costs that We incur as a result.

14 Liability

- a) Where We supply You with goods in accordance with your design or specification, We do not hold out or warrant that the goods will be fit for the purpose for which You required them and We accept no liability for breach of contract or negligence arising out of the goods being unfit for the purpose for which they are required other than liability or negligence causing death or personal injury.
- b) Where We supply goods under clause (14a) above, You indemnify us against all liability arising out of our breach of contract, negligence or infringement of letters Patent, Registered design or trade mark.
- c) Where We supply goods and You do not have the opportunity to examine the goods on delivery and before installation and use, provided that You have stored or used the goods properly and in accordance with our written instructions and procedures, We will accept liability for loss, injury or damage caused by defects in the goods which arise during the period of 12 months after the installation of the goods, limited at our option either to the replacement or to the repair of the goods where the loss, injury or damage, is attributable to a defect in design, materials or workmanship but not further or otherwise.
- d) We will replace or repair parts under clause (14c) above, unless the cause of replacement or repair is attributable to misuse, excessive wear and tear, Your negligence, failure of expendable compounds, outside contamination or weather damage.
- e) We shall not be liable for any consequential or indirect loss suffered by You whether this loss arises from breach of a duty in contract or tort or in any other way (including loss arising from our negligence). Non-exhaustive illustrations of consequential or indirect loss would be loss of profits, loss of contracts, damage to Your property or anyone else and Your personal injury or death (but only so far as such injury is not caused by our negligence).
- f) It is not possible for us to detect obstructions in the internal surfaces or courses of pipes and equipment, or to detect or remove swarf or excessive quantities of jointing compounds or oils accumulated in the internal surface or courses of pipes and equipment, and We shall not be liable for any loss or damage in contract or tort arising by reason of the existence of any or all of the circumstances referred to above, except for liability for negligence causing personal injury or death. You acknowledge that it is not possible for us to detect or remove such substances and You are aware that We rely on inter alia these factors as showing that the terms herein contained as to exclusion of liability are reasonable and that with full knowledge thereof and having taken such advice as You think fit, You agree to contract on the terms herein including these terms as to exclusion of liability.
- h) You indemnify us against all liability in negligence for loss or damage causing personal injury or death in the circumstances referred to in clause (14f) above.

15 Pumps

Every care is taken to test dosing pumps prior to and during commissioning. Any failure of parts due to leakage or attack by aggressive fluids is not covered by warranty unless a separate agreement and indemnity has been arranged.