

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions govern all agreements, quotations, other transactions, etc., between AquaTruWater B.V. and the other Party, entered into or performed in whatever form (orally, by phone, post, fax, email, etc.).

Article 1. Scope

1. In these Terms and Conditions, the following terms shall have the definitions given below:
the Supplier: the private limited liability company under Dutch law ('BVBA') AquaTruWater B.V., having its registered office and place of business in Nijmegen;
Other Party: the Supplier's counterparty (e.g. a purchaser).
2. Any derogations from and/or addenda to these General Terms and Conditions shall only be valid if agreed in writing between the Supplier and the other Party, and further shall only apply to the specific agreement for which the deviating provisions are concluded and shall apply as an addendum to the General Terms and Conditions of the Supplier. Any and all other general terms and conditions or provisions, including any used by the other Party, are hereby expressly excluded, unless the Supplier expressly accepts said general terms and conditions or provisions in writing.
3. By way of supplement, the General Terms and Conditions of the suppliers of the Supplier shall also apply. In cases of deviations or conflicts between the General Terms and Conditions and those of suppliers, the Terms and Conditions used by the Supplier shall prevail.
4. The General Terms and Conditions shall also apply to other agreements, including follow-up or supplemental agreements, to which the Supplier and the other Party, or their successor(s) in title, are a party.

Article 2. Quotation, acceptance and formation of the agreement

1. All quotations are non-binding unless they include an acceptance timeframe. If a quotation contains a non-binding offer and the other Party accepts this, the Supplier shall be entitled to withdraw the offer within ten (10) working days after receipt of acceptance.
2. The Parties cannot under any circumstances conclude an agreement until after the Supplier has received an order from the other Party and accepted it in writing (by post, fax or email). If the order from the other Party deviates from the quotation from the Supplier, the Parties cannot under any circumstances conclude an agreement unless the Supplier approves this deviation from the quotation expressly and in writing.
3. Amendments to the order shall only be binding on the Supplier, even if the Supplier has submitted a quotation, after the Supplier accepts them in writing within eight (8) days after their receipt or commences performance of the work within eight (8) days after receipt. Obvious errors, including typographical errors, shall be disregarded and replaced with a correct formulation. These errors cannot give rise to any liability.
4. The dimensions, weights and technical data indicated in quotations, guides, catalogues, stock lists, circulars and other promotional materials of the Supplier, as well as the images appearing in these, serve for information purposes only and are non-binding, unless the Supplier extends an express guarantee for such in writing.
5. The other Party shall only be entitled to cancel the agreement in cases of major deviations between the products delivered and the images, drawings, etc.
Outside of the cases referred to in the preceding sentence, the Supplier shall not be liable for these errors or deviations, nor shall the other Party be entitled to cancel the agreement.
6. Unless agreed otherwise, all prices are as indicated on the quotations, without discounts and inclusive of VAT or exclusive of other taxes or duties.
7. If the product must be sent to a non-EU country, the price shall not include VAT or import duties. The other Party shall be responsible for settlement of VAT and import duties with local authorities.

Article 3. Delivery

1. The delivery timeframe shall start on the day on which the Supplier receives payment in full. Delivery times indicated by the Supplier are not strict deadlines, but rather are always non-binding. Nevertheless, the Supplier shall do everything in its power to respect them as much as possible.

2. Late delivery by the Supplier shall not under any circumstances entitle the purchaser to claim compensation for damages, refuse the goods or cancel the agreement in whole or in part.
3. The Supplier shall be entitled to perform the agreement in its entirety or in parts as the goods gradually become available. Once a part of an order has been delivered, the Supplier shall be entitled to receive payment for this delivery in accordance with the applicable payment terms.

Article 4. Acceptance

1. The other Party shall not be entitled to exchange goods delivered by the Supplier.
2. Unless agreed otherwise, the other Party shall take possession of the completed order immediately after it is ready or becomes available to the other Party. This shall also apply to parts of orders.
3. If the Supplier places all or part of an order into storage due to non-acceptance as referred to in the preceding paragraph, the Supplier shall be entitled to charge the other Party for the costs associated with storage.
4. If the other Party still fails to take possession of the order after a period of no more than fourteen (14) days after receiving notice of default from the Supplier, the Supplier shall be entitled, at its discretion, to deliver the order or part thereof and, if payment is still outstanding, to invoice it in the customary manner or, to the extent that the order still needs to be completed, to cancel the order, without prejudice to its right to cancel the agreement and/or claim compensation for damages.

Article 5. Force majeure

1. In the event of shortcomings not attributable to the Supplier and in the event of other circumstances of such a nature that the Supplier cannot reasonably be expected to perform the agreement (including if the Supplier is unable to deliver due to its own suppliers, regardless of the reasons for such), the delivery obligation shall be suspended and the delivery timeframe shall be extended by a period of time equal to the duration of these circumstances.
2. If the delivery timeframe extension will exceed three (3) months, the Supplier shall be entitled to cancel the agreement for the part not yet performed (in whole or in part), without the other Party being entitled to any compensation.
3. The meaning of 'non-attributable shortcoming' shall also include business disruptions (such as due to war, riots, flooding, traffic congestion, rationing by public utilities, lack of means to generate energy, fire, broken machinery and other accidents, strikes, government measures and similar circumstances, which disrupt normal operations and delay or reasonably render impossible the completion of the order, as well as any and all circumstances, whether foreseeable or not, beyond the control of the Supplier that temporarily or permanently hinder delivery of the orders, in whole or in part).

Article 6. Right of withdrawal

1. When purchasing products from the Supplier, the other Party shall have the option to cancel the agreement, without indication of reasons, within fourteen (14) days. This cooling-off period shall begin on the day after receipt of the product by the other Party or a representative designated in advance by the other Party and reported to the Supplier.
2. The other Party shall treat the product and packaging with care during the cooling-off period. The other Party shall only unpack or use the product to the extent necessary in order to assess whether it wants to keep the product. To exercise the right of withdrawal, the other Party shall return the product to the business owner, complete with all supplied accessories, undamaged, unused and in the original packaging with undisturbed seal, in accordance with the clear and reasonable instructions provided by the business owner.
3. To exercise the right of withdrawal, the other Party shall inform the Supplier of such within fourteen (14) days after receipt of the product. The consumer shall inform the Supplier of this intention by email. Once the other Party has reported its intention to exercise the right of withdrawal, the other Party shall return the product within fourteen (14) days. The other Party shall demonstrate timely return delivery of the delivered goods, such as with proof of posting.
4. If the other Party has not reported its intention to exercise the right of withdrawal or returned the product to the Supplier after the periods of time indicated in paragraphs 2 and 3, the purchase shall be deemed complete.
5. Return deliveries valued at over €50.00 shall be sent by registered post.
6. The other Party shall cover the costs and risks for any products that are incomplete or damaged on receipt by the Supplier.

Article 7. Costs of the right of withdrawal

1. If exercising its right of withdrawal, the other Party shall cover the costs of return delivery.
2. If the other Party has already paid the purchase price for the product sold, the Supplier shall repay this amount as soon as possible, and in any case within no more than fourteen (14) days after withdrawal. Before remitting repayment, the Supplier must first receive the product back. The Supplier shall not be liable for any product or packaging damage, including theft or loss, occurring during return delivery. If the product is not received in accordance with the Terms and Conditions, the purchase price shall not be repaid.
3. If the other Party makes improper use of the right of return, the business owner shall be entitled to charge all associated costs to the consumer.

Article 8. Exclusion of right of withdrawal

1. The Supplier may exclude the other Party's right of withdrawal for products as defined in paragraph 2 of this Article. Exclusion of the right of withdrawal shall only apply if the Supplier indicates this clearly in the offer, and in any case in a timely manner before conclusion of the agreement.
2. Exclusion of the right of withdrawal shall only be possible for:
 - a. products manufactured according to the instructions of the other Party (custom products);
 - b. agreements concluded during a public auction. The term 'public auction' shall mean a method of sale where the business owner offers products, digital content and/or services to the consumer, who is personally present or has the opportunity to be personally present at the auction, under the direction of an auctioneer, and where the successful bidder is obligated to purchase the products, digital content and/or services;
 - c. agreements related to leisure activities, if the agreement provides for a specific date or period for performance;
 - d. products that spoil quickly or have limited shelf life;
 - e. sealed products that are unsuitable for return due to health or hygiene concerns or whose seal is broken;
 - f. products that are irrevocably mixed with other products after delivery, due to their nature;
 - g. sealed audio/video recordings and software whose seal was broken after delivery;
 - h. newspapers, journals or magazines, with the exception of subscriptions to these;

- i. delivery of digital content other than on a physical carrier, but only if: - performance began with express prior approval from the consumer; and
 - the consumer has declared that he or she has lost the right of withdrawal for this.

Article 9. Warranty

1. The Supplier guarantees, for a fixed period of one (1) year after delivery, that the goods delivered by the Supplier are free of manufacturing and material defects. This warranty does not cover defects externally visible at the time of delivery.
2. In any case, the warranty does not cover defects occurring in, or resulting in whole or in part from:
 - a. failure to adhere to operation and maintenance requirements;
 - b. use of the product that is improper or not in accordance with its foreseeable normal use;
 - c. normal wear;
 - d. assembly, modification, installation and/or repair of the product by the other Party and/or third parties;
 - e. electrical damage due to improper use of the product;
 - f. application by the Supplier of any government regulation related to the nature and quality of the materials used;
 - g. goods, materials and/or working methods applied or provided for processing at the request of the other Party.
3. The Supplier shall receive ownership of replaced goods and parts.
4. The Supplier shall repair or replace defective or nonconforming goods or parts thereof that are detected during the warranty period of one (1) year after delivery, provided the defect can be characterised as a technical defect. In all cases, the Supplier shall determine whether the defect is a technical defect. In the event of a defect, the other Party shall first contact the Supplier. If the other Party cannot resolve the defect following the advice of the Supplier, the other Party may return the product to the Supplier, in which case the other Party shall pay the transport costs in advance. If a defect appears to a technical defect (in the opinion of the Supplier), the Supplier shall repair or replace the product, at no additional charge and with reimbursement of transport costs. The other Party shall package the product properly for transport. In all cases, the risk of transport shall fall to the other Party.
5. The warranty shall expire if the other Party fails to meet its obligations under the agreement and/or these General Terms and Conditions.
6. Invocation of the warranty shall not release the other Party from its obligations under the agreement and/or these General Terms and Conditions.
7. The other Party hereby waives any and all claims and theories of liability, including but not limited to those arising from the contract, a tort, strict liability, product liability, laws or otherwise, to the extent permitted by law. Replacement or repair by the Supplier shall not result in any new warranty.
8. Neither the other Party nor third parties shall have any right to compensation for consequential damages or incidental damages, or to supplemental compensation or compensation for pain and suffering. This restriction shall apply regardless any shortcoming on the part of the Supplier to meet its warranty or other obligations. Any legal incapacity to restrict the right of the other Party or a third party to such compensation for damages shall not affect the right of the Supplier to indemnification under this agreement, and under no circumstances shall the other Party receive more than the purchase price.

Article 10. Deviations

Material:

Minor deviations in quality, colour, hardness, thickness, etc., shall not entitle the other Party to reject the product.

Other raw materials:

Subordinate deviations (such as model deviations) from/on articles forwarded by the Supplier shall not entitle the other Party to reject the product.

Delivery errors:

If the Supplier delivers the wrong products, the other Party shall report this to the Supplier immediately and allow it to retrieve the incorrect products, or have them retrieved, and deliver the correct products. The other Party shall store the incorrect products with care.

Article 11. Limitation of Supplier liability

1. Without prejudice to the provisions of this Section, the Supplier shall never be held liable for any shortcomings or misconduct with respect to the other Party or third parties in excess of the amount paid out by its liability insurer for the claim.
2. The Supplier shall never be liable for loss of income or for costs associated with interruption, shutdown and/or resumption of operation of a business or work or a part of a business or work or stagnation of and/or damage to the work, caused by any defect in the product sold.
3. The Supplier shall never be held liable for direct or indirect damage, whether tangible or intangible, arising from use of the products of the Supplier.

Article 12. Complaints

1. Any complaints shall be submitted in writing within eight (8) days after receipt of the products, along with the necessary evidence that the complaint is related to the delivery/performance of the Supplier. If the other Party fails to inspect the delivered product properly within eight (8) days after receipt, the delivery shall be deemed duly completed. The Supplier shall not be responsible for the ultimate suitability of the products and/or performance or of individual applications, or for its advice.
2. Under no circumstances shall the other Party assert claims against the Supplier after the other Party has started using the product or part thereof, has modified or processed it, has arranged the start of its use, provided it to third parties and/or broken/disturbed its seal.
3. Complaints shall never entitle the other Party to withhold funds (by offsetting or other means) or to partial payment, even by means of prejudgment attachment against the other Party.
4. Defects in part of the delivery shall not entitle the other Party to reject the entire delivery.
5. If the provided products and/or services come with a manufacturer warranty or feature any kind of warranty or liability of third parties, by whatever name, the Supplier shall not bear any liability for the soundness of the delivery/performance and all warranties on the part of the Supplier are hereby excluded.
6. If the Supplier accepts a complaint for processing, this shall not constitute proof of the merits or timely submission of the complaint.

Article 13. Severability, jurisdiction, governing law

1. If any provision of these General Terms and Conditions is declared null and void due to a conflict with mandatory provisions of the law, the Parties shall supplement or amend the Agreement in a way that does justice, to the greatest extent possible, to the intent of the Parties as indicated in the Agreement.
2. Any and all disputes arising between the Supplier and the other Party due to the Agreement shall be resolved in the first instance by the competent court in the District of Arnhem.
3. All transactions with the Supplier shall be governed exclusively by Dutch law, to the express exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).