

Terms and Conditions

1. General

The following conditions issued by Envirogen Water Technologies Ltd and all subsidiary companies, divisions and brands ("the Company") apply to any contract of which these conditions form part to the exclusion of any conditions of order or purchase of the Customer or any other standards, specifications, conditions or particulars of or adopted by the Customer, unless expressly accepted in writing by the company as part of the contract. "Goods" means the subject matter of the contract including (but not limited to) raw materials, finished or semi-finished materials or articles, machinery, parts, spares, commodities, etc, and whether one or a number of items, whether or not identical or similar. These conditions apply to services provided by the Company in the same way as they apply to goods supplied by the Company.

2. Prices

(a) The price of goods or services stated in the contract is based on the cost to the Company of materials, fuel & power, transport, tooling & labour at the date of acceptance of the order or quotation (whichever is earlier) if at the date of despatch of the goods or performance of the services there has been any increase in all or any of such costs, the price payable for the goods or services may at the request of the Company be increased accordingly, unless a fixed price contract has been agreed and accepted by both parties.

(b) Where the price for the goods is varied in accordance with this condition the prices as varied shall be binding on both parties and shall not give either party any option of cancellation.

(c) There shall be added to the price any value added tax and other tax or duty relating to the manufacture, transportation, export, import, sale or delivery of the goods or performance of the services (whether initially charged on or payable by the Company or the Customer).

(d) All goods are sold "ex works" unless otherwise stated. If the Company arranges or undertakes the carriage, freight, insurance and any other transport costs beyond the point of delivery such costs shall be for the Customer's account and shall not affect the provisions of the contract as to the passing of risk.

3. Terms of Payment

Prices quoted are net. Subject to credit being approved and unless otherwise expressly agreed accounts are due for payment as follows:

- (a) 30 days net
- (b) other agreed terms

When deliveries are spread over a period each consignment will be invoiced accordingly and each invoice will be treated as a separate account and be payable accordingly. Failure to pay for and goods or services or for any delivery or instalment shall entitle the Company to suspend further deliveries or work both on the same order and on any other order from the Customer without prejudice to any other rights the Company may have. The Company also reserves the right to charge interest on overdue accounts at the rate of 2% per month. The Company reserves the right where genuine doubts arise as to a Customer's financial position or in the case of failure to pay for any goods or services or any delivery or instalment as aforesaid to suspend delivery or performance of any order or any part of instalment without liability until payment or satisfactory security for payment has been provided.

4. Non-Standard Orders

Where the Customer orders goods or materials of a type size or quality not normally produced by the Company, the Company will use all reasonable endeavours to execute the order but, if it proves impossible, impracticable or uneconomical to carry out or complete the order, the Company reserves the right to cancel the contract or the uncompleted balance thereof, in which event the Customer will only be liable to pay for the part thereof actually delivered.

5. Delivery and Completion Dates

(a) The delivery or performance dates specified in the contract are approximate only and, unless otherwise stated, time is not of the essence for delivery or performance. The Company will not be liable in any circumstances for the consequences of any delay in delivery or performance or failure to deliver or perform if the duration of the delay is not substantial or if the delay or failure is due to act of God, fire, inclement or exceptional weather conditions, industrial action (whether at the Company's premises or elsewhere) hostilities, breakdowns, shortages of labour, materials, power or other supplies, late delivery or performance or non-delivery or non-performance by supplier or sub-contractors, governmental order or intervention (whether or not having through force of law) or any other cause whatever beyond the Company's control or of an unexpected or exceptional nature.

(b) No delay shall entitle the Customer to reject any delivery or services or any further instalment or part of the order from the Customer or to repudiate the contract of the order.

(c) The Company cannot undertake to meet any schedule of Customer's requirements supplied after the date of the contract and will have no liability whatever for delay in meeting or failure to meet all or any of such requirements

(howsoever such failure or delay may arise) unless and to the extent that the Company expressly agrees to meet such requirements. In which event paragraph (a) of this Condition shall apply.

6. Delayed Acceptance

If for any reason the Customer is unable to accept delivery of the goods when the goods are due and ready for delivery the Company may arrange storage of the goods and the Customer shall be liable to the Company for the reasonable costs (including insurance) of such storage. This provision is without prejudice to any other rights which the Company may have in respect of the Customer's failure to take delivery of the goods or to pay for them in accordance with the contract.

7. Retention of Title

a) The risk in the goods shall pass to the Customer

(i) When the goods are dispatched from the Company's premises, or

(ii) If the goods are appropriated to the Customer but kept at the Company's premises at the request of the Customer.

b) Notwithstanding sub clause (a) above legal and equitable ownership of the goods shall remain with the Company until payment for the goods has been received by the Company in full or until the Customer sells the goods to its customers by way of a bona fide sale at full market value whichever shall first occur.

c) At any time prior to full payment (whether or not payment is then overdue) the Company may (without prejudice to any of its other rights) retake possession of the goods or any part thereof and may enter on the Customer's premises by its employees or agents for that purpose.

d) Until the time of full payment for the goods the Customer shall be a bailee of the goods on behalf of the Company and shall store the goods in such a way that they are separately identifiable, nevertheless prior to the time of full payments the Customer is entitled to use the goods in the normal course of its business or to sell the goods to third parties in the normal course of its business. The Company shall have the right to trace the proceeds of the sale according to the principles in Hallett's Estate (1880) 13 CH D 696.

e) The Customer's right to use the goods or to resell them prior to full payment may be terminated forthwith by written notice given by the Company to the Customer and shall automatically terminate with or without such notice on the appointment of any receiver or liquidator of the Customer.

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8. Warranty, Limit of Responsibility Goods.

(a) The Company warrants in relation to goods manufactured to the Company's designs that it will (at the Company's choice) either repair or replace or refund the purchase price of any goods or an appropriate part thereof which are found within a period of 6 months from despatch of such goods ("the warranty period") to be defective or not in accordance with the contract or any express description or representation given or made on behalf of the Company in respect of the goods. The warranty under this clause does not apply to standard or proprietary components or items of equipment.

(b) The Company warrants in relation to goods not manufactured to the Company's design and in relation to standard or proprietary components or items of equipment that it will so far as it is able to do so give the Customer the benefit of any express guarantee or warranty by the manufacture or supplier of such goods and of any other rights which the Company has against the manufacture or supplier.

(c) In the event of any claim under any of the foregoing warranties or under any condition or warranty implied by law or under any other express condition warranty or guarantee the following provisions shall apply.

(i) The Company will require a reasonable period of time to carry out any repair or replacement.

(ii) All costs of dismantling, digging out and replacement and reassembly shall be for the Customer's account.

(iii) The goods to be repaired or replaced shall be delivered or returned at the Customer's expense to a location specified by the Company for repair or replacement and the expenses of redelivery shall also be for the Customer's account.

(iv) The Customer shall make such facilities (such as handling equipment, tools, labour and services, etc) as the Company reasonably requires available to the Company for the purpose of repair or replacement.

(v) Replaced items will become the property of the Company.

(vi) The goods must have been kept in good condition and must have been used properly by the Customer.

(d) The Customer's remedies in respect of any claim under the foregoing express warranty or against any manufacturer or supplier as aforesaid or any claim under any condition or warranty implied by law or any other claim in respect of the goods or any workmanship in relation thereto (whether or not involving negligence on the part of the Company) shall in relation to goods falling within paragraph (a) of this condition be limited to repair replacement or refund of the purchase price of a part thereof as aforesaid and any condition or warranty implied by law shall cease to apply after the expiry of the warranty period and in relation to goods falling within paragraph (b) of this condition be limited to the enforcement of the above mentioned liabilities of the manufacturer or supplier.

(e) The Company shall not in any circumstances be liable for any damages, compensation, costs, expenses, losses or other liabilities, whether direct or consequential, and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law.

(f) If the goods are found to be substantially not in accordance with the contract or any express description or representation given or made on behalf of the Company in relation to the goods within 3 days of the date of the contract of which these conditions form part or not in accordance with any condition or warranty implied by law and not hereby excluded then the Company will (at the Company's choice) either rectify the defect or accept a return of the goods and refund the purchase price (less a reasonable allowance for use, wear and tear and damage to the goods occurring between delivery and return thereof) or make an appropriate allowance in the purchase price.

(g) The Customer's remedies in respect of any claim in relation to the goods howsoever arising (whether or not involving negligence on the part of the Company) shall in all cases be limited to rectification of the goods or the return thereof or an allowance of the purchase price as aforesaid and the Company shall not in any circumstances be liable for any damages, compensation, costs, expenses, losses or other liabilities, whether direct or consequential and any other remedy which would otherwise be available in law is hereby excluded except to the extent that such exclusion is prohibited by any rule of law.

9. Confidentiality, Patent, etc.

(a) Any drawings, specifications or other technical information supplied to the Customer by the Company in connection with the contract are provided on the express understanding that the Customer will not give, loan, exhibit or sell such drawings, specifications or technical information to any third part and that the Customer will not use them in any way except in connection with the goods or services provided hereunder. The copyright in all documents provided by the Company will remain vested in the Company.

(b) The Customer shall indemnify the Company against all actions, costs (including the cost of defending any legal proceedings), claims, proceedings, accounts and damages in respect of any infringement or alleged infringement of any patent, registered design, copyright, trademark or other industrial or intellectual property rights resulting from use or sale by the Customer of any goods designed by the Company, except where paragraph (b) of this condition applies.

10. Loss or Damage in Transit.

The risk in the goods passes to the Customer when the goods are dispatched from the Company's works or loaded onto the Customer's transport or carrier (if appropriate), and the Company accepts no responsibility for any damage, shortage or

loss in transit. Claims for any damage, shortage or loss in transit should be made on the carrier, and any conditions imposed by the carrier in relation to claims for damage shortage or loss in transit should be complied with.

11. Packing.

The Company used its best endeavours to ensure, where necessary, suitability of packaging before despatch, but no claim will be accepted by the Company for breakage or damage in transit, on the grounds of alleged unsuitability of packaging, or when goods have been signed for as having been received in good condition by the Company.

12. Applicable Law

The contract shall in all respects be governed by and construed in accordance with English law and the Customer hereby submits to the non-exclusive jurisdiction of the English Courts.