

**A.G.A. Group Consultancy (A.G.A. Group)**  
**A.G.A. Group Enviro-Fix Limited (A.G.A. Group)**

**Terms and Conditions of Sale and Delivery**  
**December 2013**

1. Acceptance – No Contract, Order or information (literature, drawings etc.) provided to or by the Purchaser shall be binding on A.G.A. Group unless confirmed in the A.G.A. Group Order Confirmation. Every Contract of Sale and business transaction is subject solely to the following conditions. These conditions shall supersede any conditions of the Purchaser, whether expressed in the Purchaser's order or otherwise. In the event of any discrepancy between the Purchaser's order and the A.G.A. Group Order Confirmation, the terms of the A.G.A. Group Order Confirmation along with these conditions must prevail. No alteration or variation to these conditions shall be made unless expressly agreed with written and signed consent from A.G.A. Group.

2. Prices – Unless otherwise specified in writing by A.G.A. Group, all quoted and printed prices for goods are ex-works, excluding packaging, freight or any other additional charges. Prices are subject to change without notice, except where any quotation provided by A.G.A. Group specifies that the price for the goods shall be fixed for a given period of time. A.G.A. Group reserves the right to invoice goods at the prices and at the VAT rates appropriate at the time of dispatch. Prices are exclusive of installation and commissioning unless specified otherwise.

3. Quotations and Invoices - The Quotation is the document which refers to the specification of goods / services, prices, availability and validity and is issued by A.G.A. Group to the Purchaser. A.G.A. Group reserves the right to correct any accidental errors or omissions on all quotations and invoices. Unless stated otherwise, prices will be firm for a period of 30 days from the issue date of the quotation. An Order placed by a Purchaser on the basis of a quotation, must be accepted by A.G.A. Group for a contract to arise.

4. Order - The acceptance of an Order by A.G.A. Group will be signified only by the issue to the Purchaser of an Order Confirmation or Pro-forma Invoice. The placement of an Order to A.G.A. Group will be signified by the receipt from the Purchaser of a formal written Purchase Order or a copy of the Order Confirmation or Pro-forma Invoice which bears the Purchaser's authorised signature and the date of signing. All Orders shall be executed by A.G.A. Group on the understanding that the placement of an Order by the Purchaser constitutes acceptance of these Conditions by the Purchaser.

5. Quality and Description - All goods / services shall conform to the description issued in the quotation and any written alterations made prior to the placement of an Order. Any changes or amendments notified to A.G.A. Group by the Purchaser after the issue of the quotation shall constitute an Amendment and, as such, shall be subject to final acceptance by A.G.A. Group and amendment of the quotation to cover the cost of the alteration. A.G.A. Group shall not be held liable for any failure to conform with specifications or requirements not notified to us prior to issuing of the Order Confirmation.

6. Delivery – Unless otherwise stated, goods are available ex-works to the Purchaser. A.G.A. Group are responsible for providing the goods in a deliverable state, such that the goods will reach the destination in good condition under normal conditions of transport, but A.G.A. Group shall not be liable for damage caused thereto by third parties (including carriers). The placement of an Order by the Purchaser implies acceptance of these Terms and Conditions and, therefore, where the Purchaser instructs A.G.A. Group to organise delivery of the goods the Purchaser does so in the understanding that the loading of the collection vehicle by A.G.A. Group will be undertaken as an agent acting on behalf of the Purchaser. Unless otherwise specifically agreed in writing, A.G.A. Group may effect delivery by whatever means it deems appropriate. Where A.G.A. Group undertake to deliver the goods to the Purchaser, the goods are free on the delivery vehicle for the purposes of the Purchaser to lift off or to take delivery. In all cases, the Purchaser must arrange for and accept full liability for all aspects of removing the goods from the delivery vehicle, including craning and forklifting. Every effort will be made to adhere to delivery dates. However, A.G.A. Group shall accept no liability whatsoever to delays in delivery irrespective of the cause, nor for delays in delivery due to circumstances beyond our control. Delay in delivery shall not entitle the Purchaser to cancel any Order or to refuse to accept delivery of the goods. Time for delivery shall not be of the essence unless previously agreed by A.G.A. Group in writing. Claims for errors, shortages or damage in transit will not be entertained unless notified to us in writing within 3 days of receipt of the goods. Claims for goods lost in transit must be notified to us within 10 days of the latest dispatch date given on the Order Confirmation. When the Purchaser collects the goods from Dryden Aqua Ltd, it is incumbent upon the Purchaser examine the goods before acceptance. Delivery period shall commence at the date that A.G.A. Group receive the final written and signed Order Confirmation, Purchaser's formal written Purchase Order or, where payment is required with Order, receive the payment from the Purchaser. Delivery period shall be deemed to have been complied with upon completion of the Order for collection or dispatch from A.G.A. Group premises within the stated period. In the event of any delay in delivery for which A.G.A. Group may be held liable, the liability to the Purchaser or any third party shall not exceed 1/2% per week, and in total 5% of the value of that part of the goods as a whole which, as a result of the delay, can not be put to use on time or as contractually agreed. In the event of delivery being delayed by causes attributable to the Purchaser, A.G.A. Group will charge and the Purchaser will pay for the storage of the goods from a date commencing one month after notification by A.G.A. Group of readiness for dispatch until the date of delivery. In the event of delivery being delayed by causes attributable to the Purchaser for an unreasonable period but in any event for 3 months after notification by A.G.A. Group of readiness for dispatch, A.G.A. Group shall have the right to re-sell Goods but without prejudice to any other right of action A.G.A. Group may have against the Purchaser.

7. Suspension and Cancellation - Should the Purchaser impose suspension of delivery or cancellation of Order, A.G.A. Group reserves the right to charge the Purchaser for : (1) Interest on the monies laid out by A.G.A. Group in the execution of the Order between the time of suspension and final delivery or (2) The cost of materials procured and work carried out on the goods up until the time of cancellation together with further costs incurred by A.G.A. Group as a result of the need to cancel sub-orders.

8. Warranty and Responsibility - Subject to the compliance to all installation, use, storage, maintenance and operating instructions, A.G.A. Group will repair or replace at our discretion any goods manufactured by ourselves in respect of defects arising solely from faulty materials or workmanship, provided the goods are returned carriage paid to us within 12 months from the original date of dispatch from our premises. Where it has been agreed by both parties in writing that the goods can not be returned to our premises, and the warranty claim is accepted as valid, A.G.A. Group will be liable for the parts only. Fair wear and tear or negligent use by the Purchaser or his agents are specifically excluded from the warranty. In the case of goods or parts not manufactured by A.G.A. Group, we will pass on to the Purchaser the benefit of any guarantee or warranty received by us from the manufacturer in respect thereof insofar as such guarantee or warranty is capable of assignment. After inspection of the returned goods, the Purchaser will be informed in writing by A.G.A. Group of our acceptance or otherwise of the warranty claim. Where the warranty claim is rejected, no work will be carried out without a Purchase Order being issued by the Purchaser to A.G.A. Group. Where there is disagreement in relation to the legitimacy of a warranty claim, A.G.A. Group agrees to accept the findings of an independent arbiter. Failure to pay for the goods in full within the settlement period will negate the warranty until such a time as payment has been discharged. A.G.A. Group shall not accept charges for work carried out on the goods by the Purchaser or his agents. Where the goods, which are the subject of a warranty claim, have been dismantled or interfered with by any party other than A.G.A. Group, without written permission from us, the warranty claim will be rejected.

9. Repairs / Return of Goods – The Purchaser may not return any goods supplied in accordance with the contract after the contract has been made. A.G.A. Group may, at its absolute discretion and following the Purchaser's prior written request, agree to the cancellation of an order and / or the return of any goods and it shall be a condition of A.G.A. Group exercising its discretion that : the goods to be returned form part of the A.G.A. Group normal stock holding. The Purchaser shall pay A.G.A. Group a sum equal to the greater of 15% of the price of the goods or  $i_c/15$  for each item comprising the goods. Any goods returned are to be in their original condition. The Purchaser shall, in addition, be liable for the costs of delivery or re-delivery. A.G.A. Group are not responsible for damage occurring to goods in transit to us for repair, servicing or examination. Prior to returning the goods the Purchaser should contact A.G.A. Group. Goods returned to A.G.A. Group should be sent carriage paid, clearly labeled with the sender's name and address, and should include a letter detailing the work required.

10. Drawings and Sketches - A.G.A. Group reserve the right to charge for the preparation of all drawings and sketches prepared for the submission of quotations or orders. All such drawings and sketches will remain the property of A.G.A. Group.

11. Catalogues, Leaflets, etc. - Illustrations and descriptions of goods in our catalogues and any other form of literature are believed to be correct at the time of going to press. However, with a policy of continuous improvement and development of our product range, the illustrations, descriptions and specifications are subject to change without notice. As for Clause 10 above, all specifications, performance figures, drawings and particulars of weights and dimensions made available by A.G.A. Group and not included in the Contract terms are approximate only and the descriptions and illustrations in A.G.A. Group publicity material are only intended to present a general idea of their subject matter and shall not form part of the Contract.

12. Copyright - The contents and arrangements of all literature published by A.G.A. Group and provided to the Purchaser are protected by copyright and may not be reproduced or used, in whole or in part, without our written permission. Such literature is returnable to A.G.A. Group upon request.

13. Property and Risk - The goods shall remain the property of A.G.A. Group until the price has been discharged in full, notwithstanding any right, as bestowed to the Purchaser by A.G.A. Group, to sell the goods in their possession in the usual course of the Purchaser's business and notwithstanding that the goods may be attached to, mixed with or affixed to other goods belonging to the Purchaser or third party. The price shall not be deemed to be discharged in full until such a time that all funds, cheques, etc. have been cleared through our bank. The Purchaser assigns to A.G.A. Group, already at the date of the Order Confirmation, his claims resulting from the re-sale or re-sales of goods purchased from A.G.A. Group. A.G.A. Group hereby accept such assignment. Until payment in full has been made for the goods, A.G.A. Group shall have the right to repossess them and to enter through its agents or servants on the premises of the Purchaser for this purpose and the Purchaser grants irrevocable license so to enter for such purposes to A.G.A. Group. Nothing in this clause shall be construed as a Sale on Approval or Return. The risk in the goods shall pass to the Purchaser on delivery or, if the Purchaser wrongfully fails to take delivery of the goods, the time when A.G.A. Group has tendered delivery of the goods. Delivery will be deemed as effected at the point that the Purchaser or its agents lift the goods from the delivery vehicle.

14. Insurance – A.G.A. Group undertake to effect insurance to cover the goods in transit solely for loss of or damage to the goods. A.G.A. Group shall be under no liability to take proceedings for recovery of any loss or damage and shall be limited to the amount received by us or the value of the goods, whichever is the less, from which deduction may be made for expenses. This insurance cover will apply only up to the point of entry to the Purchaser's premises or at the point that the goods will be removed from the delivery vehicle when this is outside of the Purchaser's premises. The Purchaser shall arrange for suitable insurance to be effective as of the arrival of the delivery vehicle at these points, whichever is appropriate, and immediately prior to the removal of the goods from the delivery vehicle. The Purchaser is in the best position to (a) determine the precise limit of any insurance cover required by them in respect of the goods supplied and (b) effect such insurance without prejudice to the generality of these Conditions to include: 1) consequential and other economic loss, 2) loss or damage to other physical property or persons. It is solely the responsibility of the Purchaser to ensure that such insurance is in place. A.G.A. Group accept no liability whatsoever for such insurance and will not accept any liability for failure of the Purchaser to effect adequate insurance cover.

15. Terms of Payment - Unless specified otherwise, A.G.A. Group offer credit terms of 30 days from invoice date (invoice date being the dispatch date) subject to satisfactory references being issued to and accepted by us, and subject to formal acceptance of these terms and conditions by the Purchaser as the sole basis for business transactions between the Purchaser and A.G.A. Group. Credit card payments are accepted.

16. Non compliance - Where the Purchaser determines that the goods supplied do not comply with the specification as laid out in the Quotation, the Purchaser must notify A.G.A. Group in writing within 3 working days of receipt. Failing this, the goods will be deemed by A.G.A. Group to meet the specifications in all respects.

17. Limitation of Liability - Save for liability for death or personal injury arising exclusively from negligence on the part of A.G.A. Group (which if proved is not excluded), A.G.A. Group shall not be liable to the Purchaser in respect of any loss or injury suffered by the Purchaser, the Purchaser's agents, property or any third party due to any defect in the goods. Without prejudice to this provision, A.G.A. Group shall not be liable to the Purchaser or any third party for any loss of profit, consequential or other economic loss suffered by the Purchaser arising in any way from the Purchase or from the terms of this Agreement. The liability of A.G.A. Group under these Conditions shall not exceed the Price of the faulty component. Any service or advice that may be offered by A.G.A. Group to Purchasers of its goods or products is rendered in all good faith and A.G.A. Group shall not be liable for any loss or damage arising there from. A.G.A. Group warrants that the goods supplied are in accordance with the Contract terms but will accept no liability for failure to attain any performance figures unless such are specifically guaranteed in the Contract terms. Where A.G.A. Group expressly warrants Goods sold as being fit for any specified purpose or specifically guarantees performance figures, the warranty shall be limited only to that specific purpose, performance or use specified in the warranty and for the period specified therein.

18. Force Majeure - A.G.A. Group shall not be liable for any default due to any circumstance beyond our reasonable control including, but not limited to, Acts of God, war, civil unrest, riot, strike, lock-out, acts of civil or military authorities, fire, flood, earthquake or shortage of supply or failure to deliver of the suppliers of A.G.A. Group.

19. Entire Agreement - The headings in these Conditions are for ease of reference only, and shall not affect the interpretation of any of the Conditions. Each of the parties involved agrees that, save in respect of statements made fraudulently, it shall have no remedy in respect of any untrue statement upon which it relied in entering this Agreement and that its only remedies shall be for breach of contract. Any condition set out in the Purchasers enquiries or Purchase orders are binding on the Company only insofar as they do not conflict with these Terms and Conditions of Sale. In the event of such conflict, these Terms and Conditions shall prevail.

20. Rights of the Consumer - Nothing in these Terms and Conditions shall affect the statutory rights of the consumer.

21. Applicable law - All agreements made between Dryden Aqua Ltd and the Purchaser shall be subject to and construed in accordance with Scottish Law. The Purchaser hereby submits to the jurisdiction of Scottish Courts.

22. No assignment - The Purchaser may not assign to a third party the benefit or burden of any contract without A.G.A. Group consent in writing.

23. Interest - A.G.A. Group reserve the right to charge interest on all monies owed by the Purchaser for a period in excess of 30 days. The rate of interest to be applied will be the official base rate ( as on the 30th day of the default period) plus 8%. This right may be exercised without prior notification.

24. Insolvency of Purchaser – This clause applies if the Purchaser makes any composition or voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes in to liquidation (otherwise than for the purposes of amalgamation or reconstruction); or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Purchaser; or the Purchaser ceases, or threatens to cease, to carry on business; or A.G.A. Group reasonably apprehends that any of the events mentioned above is about to occur in relation to the Purchaser and notifies the Purchaser accordingly. If this clause applies then, without prejudice to any other right or remedy available to A.G.A. Group, A.G.A. Group shall be entitled to cancel the Contract or any other contract or suspend any further deliveries under the Contract or any other contract without any liability to the Purchaser, and if the goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary. On termination of this Contract for any reason whatsoever, the Purchaser shall pay to A.G.A. Group all costs, expenses (including legal and other fees incurred), arrears, charges or other payments arising in respect of the goods under the Contract.

25. Legal Costs – A.G.A. Group reserve the right to charge any legal or other costs incurred in placing any outstanding accounts into the hands of our solicitors including any costs and disbursements charged to us on a solicitor and own Purchaser basis.

26. Export Terms - In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail. Where the goods are supplied for export from the UK, the provisions of these Export Terms shall (subject to any special terms agreed in writing between the Purchaser and A.G.A. Group) apply notwithstanding any other provision of these Conditions.

The Purchaser shall be responsible for complying with any legislation or regulations governing the importation of the goods into the country of destination and for the payment of any duties on them. Unless otherwise agreed, payment of all amounts due to A.G.A. Group shall be made by guaranteed, irrevocable letter of credit opened by the Purchaser in favor of A.G.A. Group and confirmed by a bank in England acceptable to A.G.A. Group.

27. General - Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal office of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. The notice may be forwarded to the other party by letter post or by fax machine. No waiver by A.G.A. Group of any breach of the Contract by the Purchaser shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected. The Purchaser is responsible for determining the suitability of products or goods for the Purchaser's use or re-sale, or for incorporating them into objects or for applications which the Purchaser designs, assembles, constructs or manufactures.

28. Hire - All equipment hired from A.G.A. Group shall be subject to our Conditions of Hire.

29. A.G.A. Group is a trading style of AGA Group Enviro-Fix Limited and A.G.A. Group Consultancy.

A.G.A. Group 2020 v1

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