

AMIAD WATER SYSTEMS LTD.

Terms and Conditions of Sale

These Terms and Conditions ("**Terms**") shall form an integral part of the Sale and Purchase Agreement (the "**Agreement**") entered into by Amiad Water Systems Ltd. (the "**Seller**") with the buyer (the "**Buyer**"), whose details are listed in the Agreement or relevant PO.

1. **AGREEMENT OF SALE:** Seller hereby agrees to sell the products and services specified in the purchase order (the "**PO**") or in any documentation attached to or referenced by the PO (the "**Goods**") ordered and purchased by the Buyer.

Once the Seller has accepted the PO in writing, the Terms, together with the PO, order confirmation and any documents attached thereto or referred to therein, such as a Proposal or any statement of work (collectively, the "**PO Documents**") shall form the agreement pursuant to which Seller shall manufacture, sell and deliver to the Buyer the Goods and the Buyer shall pay for and take delivery of the Goods (the "**Agreement**"). Unless other terms and condition are expressly accepted in writing by an authorized Seller's representative or unless the Seller and Buyer have entered into a separate written agreement governing the supply of the Goods pursuant to the signed PO, no other terms shall be construed as part of this Agreement and neither a PO acceptance nor receipt of payment by the Seller shall be construed as acceptance of any other term.

If these Terms are attached to or referred to in a proposal issued by the Seller (the "**Proposal**") then these Terms shall also form an integral and inseparable part of the Proposal. Seller may revoke or amend any Proposal at any time prior to Seller's actual acceptance of the PO issued by the Buyer in response to the Proposal. Applicable Proposals shall always be considered as one of the PO Documents.
2. **DELIVERY OF GOODS:** Except as otherwise specifically agreed in writing the Seller will execute delivery of the Goods to the Buyer Ex Works, Seller.

Following receipt of notice of the expected delivery date of the Goods, the Buyer may request, at its sole discretion, for such delivery be postponed for up to five (5) business days, thereafter the Buyer shall be liable for payment for the Goods and shall either accept the Goods or acknowledge in writing its request to place said Goods in storage. Such Goods shall be insured and stored in a secure location at the Buyer's sole expense and liability.
3. **RISK:** Except where specifically agreed otherwise in writing, the Seller will assume risk for damage to the Goods up to the time of delivery to the Israeli port of departure. The Buyer will assume all risks regarding the Goods from the time of delivery onward. If for any reason the Buyer will not accept delivery of any of the Goods when they are ready for delivery, or the Seller is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licenses or authorizations:
 - (a) risk in the Goods will pass to the Buyer (including for loss or damage caused by the Seller's negligence);
 - (b) the Goods will be deemed to have been delivered; and
 - (c) the Seller may store the Goods until delivery whereupon the Buyer will be liable for all related costs and expenses (including, without limitation, storage and insurance).
4. **DOCUMENTATION:** All documentation delivered by the Seller to the Buyer in connection with the Agreement shall be in English.
5. **PRICES:** The price of the Goods is as specified in the applicable Proposal, or in the absence of a Proposal, in the PO. Unless otherwise specifically stated in the Proposal or PO, as relevant, the price is quoted per the delivery terms stated in these Terms and does not include the costs of shipment, insurance and taxes, charges and duties all of which shall be borne by the Buyer.
6. **PAYMENT:** The terms of payment will be as stated in the Agreement. Unless payment is an irrevocable letter of credit in a form acceptable to the Seller, the Buyer shall secure the payment by providing other appropriate security for payment acceptable to the Seller. Exercise of the Seller's rights under such security for payment shall be made only if the Buyer has defaulted on payment of any delivery and did not rectify such default within 5 days as of the Seller's written notice of default. If the Buyer fails to pay the Seller any sum due pursuant to the Agreement the Seller may, without prejudice to any of the Seller's other rights:
 - (a) Suspend or cancel deliveries of any Goods or the supply of any services due to the Buyer and/or;
 - (b) Appropriate any payment made by the Buyer to such Goods as the Seller may in its sole discretion think fit.
7. **INTEREST:** In the event that payment is delayed for any reason whatsoever, the Seller will be able to add to the purchase price interest on the amount in default at the rate of Libor + 2% for every day of delay, from the due date until the outstanding sums are fully paid.
8. **ACCEPTANCE:** In the event that, within seventy-two (72) hours of receipt of the Goods, the Buyer fails to notify the Seller in writing designating the number of the relevant invoice of the Seller of the existence of purported non-conformity or damage, the Buyer will be deemed as having accepted the Goods. Upon acceptance of the Goods, the Buyer will have no future claim as to non-conformity or damage and subject to Paragraph 9, will in no circumstances be entitled to return the Goods, receive a refund of purchase price or any other remedy.
9. **WARRANTY AND DISCLAIMER:** The warranty shall be in accordance with the terms of the Seller's Limited Standard Warranty attached to the Goods and the operation manual. All warranties, implied or expressed, including without limitation any implied warranties of merchantability or fitness of purpose are hereby disclaimed. Subject to the Seller's limited warranty that the Goods are free of defect in design, materials and workmanship and subject to the Sellers promise to replace or repair the Goods, at its sole discretion, in the event that such defect becomes apparent in the course of normal use during the first twelve (12) months after the date upon which the Goods are delivered and is attached to the Goods, the Goods are sold as is. The Seller shall not be liable for a breach of any of the warranties unless:
 - (a) the Buyer gives written notice of the defect to the Buyer, and (if the defect is as a result of damage in transit) to the carrier, within 5 days of the time when the Buyer discovers or ought to have discovered the defect; and
 - (b) the Seller is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Seller) returns such Goods to the Seller's place of business at the Seller's cost for the examination to take place there.

The Seller shall not be liable for a breach of any of the warranties in if:

 - (a) the Buyer makes any further use of such Goods after giving such notice; or
 - (b) the defect arises because the Buyer failed to follow the Seller's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods; or
 - (c) the Buyer alters or repairs such Goods without the written consent of the Seller.
10. **LIABILITY AND INDEMNITY:** The Seller will bear no liability toward the Buyer or toward any third party for any bodily injury or death, for direct, indirect, consequential or incidental damages to property, or for any economic loss, including loss of profits, or damage to reputation or goodwill, employees' and agents' services, or interest, howsoever caused, arising out of the use of the Goods. Seller's liability is limited to the price of Goods actually paid to the Seller. The Buyer will indemnify the Seller and hold him harmless from and against any and all claims, liabilities, judgments, settlements, losses, damages, expenses and any other costs arising out of or resulting from any such or similar injury, death, damage or loss. The above indemnity shall include any claim brought against the Seller by any third party arising out of or in connection with the Goods unless and to the extent that such claim has been brought about by the Seller's own default or breach of duty.

11. **TRANSFER OF TITLE:** Title to Goods will remain with the Seller until the receipt by the Seller of the entire purchase price for the Goods (including all other sums which are or which become due to the Seller from the Buyer on any account); title will transfer to the Buyer only upon actual receipt by the Seller of the full purchase price. The Parties hereby acknowledge that the Seller retains a traceable ownership and/or security interest in the Goods subject to the receipt of the entire consideration for sale. Until ownership of the Goods has passed to the Buyer, the Buyer must:
 - (a) hold the Goods on a fiduciary basis as the Seller's bailee;
 - (b) store the Goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property;
 - (c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - (d) maintain the Goods in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller; and
 - (e) hold the proceeds of the above insurance on trust for the Seller and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.
12. **TAXES AND COMPULSORY PAYMENTS:** The Buyer will pay all present and future duties, taxes, levies, governmental charges, or other compulsory payments, of whatever nature, arising out of or associated with the sale of the Goods, and imposed by any country or territory through which the Goods may pass.
13. **CANCELLATION:** This Agreement may be terminated by either party immediately in the event that the other party (1) Breaches a provision of this Agreement and such breach is not corrected within fifteen (15) days after receipt of written notice specifying the breach; or (2) Becomes insolvent, or upon the filing by or against such other party of a petition in bankruptcy, winding up, insolvency, dissolution, reorganization, reconstruction, or similar type action according to the bankruptcy or company laws in its respective state of business, or the appointment of a liquidator or receiver and if such petition is not discharged nor such liquidator or receiver withdrawn within thirty (30) days, or such similar action. In the event that Buyer breaches a provision of this Agreement, he shall be required to pay the Seller the full price for the Goods, without prejudice to Seller's other rights.
14. **SPECIAL ORDERS:** Assuming that the Goods were not purchased from the shelf of the Seller, then the Buyer acknowledges that the Goods have been ordered and manufactured specifically in accordance with his requirements, needs, and specifications. Any cancellation of an order or delivery thereof, or breach of these Terms may cause the Seller extensive or even total loss regarding such Goods. The Buyer agrees to compensate the Seller for the full extent of such loss, including, without limitation, loss of profits.
15. **CONFIDENTIALITY:** The Buyer shall treat as strictly confidential all documentation and other information provided to the Buyer in connection with the Goods and the operations of the Seller, whether or not the same was provided in tangible or intangible form and regardless of when the same was provided (collectively, the "**Confidential Information**"). The Buyer shall not disclose any Confidential Information to any other party or use it in any manner other than as strictly permitted by Seller. If Seller and the Buyer have entered into a separate nondisclosure agreement that specifically relates to the sale of the Goods as described herein, then such non-disclosure agreement shall continue to apply and shall prevail over any discrepancies contained with this section.
16. **INTELLECTUAL PROPERTY:** Nothing herein shall be deemed to grant to the Buyer any rights in and to any of Seller's intellectual and other proprietary rights in and to the Goods, whether or not such are registered or registerable. Unless specifically provided otherwise in the Agreement, the price does not include the costs related to any development of intellectual property required to comply with the PO, but only time and materials. Accordingly, no intellectual property developed by Seller in connection with the PO shall be considered work-made-for-hire and all rights therein shall remain vested solely in Seller. All specifications, patterns, drawings, photographs, samples and information provided by the Seller to the Buyer shall remain the exclusive property of the Seller and shall not be disclosed by the Buyer to any third party without the Seller's written consent.
17. **FORCE MAJEURE:** The Seller will be fully and totally excused, without liability to the Buyer from performance under this Agreement to the extent prevented or delayed by fire, explosion, unavoidable breakdown of machinery, government acts or regulations, war, strikes, or labor disputes, or any act of God, or by any similar circumstances of any character reasonably beyond its control and unforeseen at the time that this Agreement was made.
18. **ASSIGNABILITY:** The Buyer may not assign its rights and obligations hereunder without the prior written consent of the Seller; any assignment for which consent was not obtained will not be considered valid. This Agreement will insure to the benefit of the Seller, its successors, and assigns.
19. **WAIVER:** The failure at any time of either party to enforce any of the terms or conditions or any right or to exercise any option of these Terms will in no way be construed to be a waiver of such terms, conditions, rights of options, or in any way to affect the validity of the Agreement. The acceptance by the Seller of any payment beyond the date on which it was due will not be construed as a waiver by the Seller of any rights which he may have, including the right to receive interest, or as a waiver of its right to receive from the Buyer future timely payments.
20. **LICENSES AND PERMITS:** This sale and the fulfilling of any order are contingent upon the receipt of all necessary licenses, permits, and standards approvals as required by any governmental or regulatory agency.
21. **SEVERABILITY:** Every delivery, or partial delivery, of an order, will be considered severable. Failure by the Seller to execute any said delivery or partial delivery will not alter the Buyer's obligations regarding any remaining deliveries, and will not abrogate the Buyer's obligations regarding payment of deliveries already executed.
22. **DISPUTE:** The parties will actively endeavor to equitably settle any dispute arising between them. In the event that the parties are unable to reach an equitable settlement of such dispute, any claim or lawsuit may be brought before only the Court of competent jurisdiction sitting in Israel. Israeli law will be applied to the Agreement.
23. **HEADINGS:** All headings, headlines, and/or numeration of articles, and the division of these Terms into paragraphs are for convenience purposes only and shall not have any legal meaning attributed thereto.
24. **AGREEMENT COMMENCES:** This Agreement will commence only upon issue by the Seller of notification of an official numbered invoice. Prior to such time, the Seller will be under no obligation to supply any order. After such time, the Buyer may not cancel or modify any order without the written consent of the Seller.
25. **NOTICES:** any notice authorized or required to be given in accordance with these Terms may be given by facsimile, or by registered or certified mail. Such notice shall be deemed properly given twenty four (24) hours after having been sent by electronic mail or facsimile and ten (10) days after having been posted by registered or certified mail to the address of the Parties as listed above.