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## FLOWTECH WATER SOLUTIONS

### TERMS AND CONDITIONS OF SALE OF GOODS AND SUPPLY OF SERVICES

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#### 1. ABOUT US

- 1.1 **Company details.** FLOWTECH WATER SOLUTIONS LIMITED (company number 05125479) (**we and us**) is a company registered in England and Wales and our registered office is at Unit 7 Beverley Trading Estate, Garth Road, Morden, Surrey, England, SM4 4LU. Our main trading address is Unit 1, Lock Flight Buildings, Wheatlea Industrial Estate, Wigan, WN3 6XP. Our VAT number is 836802419 We operate the website <https://www.flowtech.org.uk/>.
- 1.2 **Contacting us.** To contact us, telephone our customer service team at 0333 200 1756 or email [info@flowtech.org.uk](mailto:info@flowtech.org.uk). How to give us formal notice of any matter under the Contract is set out in clause 16.2.

#### 2. OUR CONTRACT WITH YOU

- 2.1 **Our contract.** These terms and conditions (**Terms**) apply to the order by you and supply of goods and/or services by us to you (**Contract**). No other terms are implied by trade, custom, practice or course of dealing.
- 2.2 **Entire agreement.** The Contract is the entire agreement between us in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.
- 2.3 **Language.** These Terms and the Contract are made only in the English language.
- 2.4 **Definitions.** The following definitions apply in these Terms:

**Contract:** the contract between us and you for supply of Goods and/or Services in accordance with these Terms.

**Customer:** the person or firm who purchases the Goods and/or Services from us.

**Delivery Location:** has the meaning given in clause 5.3.

**Goods:** the goods (or any part of them) set out in the Order.

**Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by you and us.

**Order:** your order for the supply of Goods and/or Services, as set out in your purchase order form, your written acceptance of our quotation, or overleaf, as the case may be.

**Services:** the services supplied by us to you as set out in the Service Specification.

**Service Specification:** the description or specification for the Services provided in our quotation or otherwise in writing by us to you.

**Terms:** these terms and conditions as amended from time to time in accordance with clause 17.2.

**Warranty Period:** means the period during which the Goods should adhere to the warranty set out in clause 11, which will be confirmed on our site.

### 3. YOUR ORDER AND ITS ACCEPTANCE

3.1 **Your Order.** The Order constitutes an offer by you to purchase the Goods or Services or Goods and Services in accordance with these Terms. You are responsible for ensuring that the terms of the Order and any applicable Goods Specification and/or Service Specification submitted by you are complete and accurate. Orders must be submitted to us in writing. Verbal orders will not be accepted.

3.2 **Quotations.** A quotation for the Goods and/or Services given by us shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue.

3.3 **Accepting your order.** Our acceptance of your order takes place when we send the email to you to accept it, at which point the Contract between you and us will come into existence.

3.4 **If we cannot accept your order.** If we are unable to supply you with the Goods and/or Services for any reason, we will inform you of this by email and we will not process your order. If you have already paid for the Goods and/or Services, we will refund you the full amount including any delivery costs charged as soon as possible.

3.5 **Descriptive matter.** Any samples, drawings, descriptive matter or advertising produced by us and any descriptions or illustrations of the Goods and/or Services contained on our website, in our catalogues, brochures or other advertising materials are produced for the sole purpose of giving an approximate idea of the Goods and/or Services referred to in them. They shall not form part of the Contract nor have any contractual force.

3.6 **Performance figures.** Any performance figures given by us or contained on our website, in our catalogues, brochures or other advertising materials are estimates only. We provide no warranty and accept no liability for the accuracy of such figures. You assume responsibility for the capacity and performance of the Goods and/or Services being sufficient and suitable for your purpose.

3.7 **Goods and/or Services.** All of these Terms shall apply to the supply of both Goods and Services except where application to one or the other is specified.

### 4. OUR GOODS

4.1 The Goods are described on our website or social media pages, or in our catalogues, data sheets or brochures, as modified by any applicable Goods Specification.

4.2 To the extent that the Goods are to be manufactured in accordance with a Goods Specification supplied by you, you shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other

reasonable professional costs and expenses) suffered or incurred by us in connection with any claim made against us for

- (a) actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with our use of the Goods Specification; and
- (b) any loss, injury or damage wholly or partly caused by the Goods or their use.

This clause 4.2 shall survive termination of the Contract.

- 4.3 Although we have made every effort to be as accurate as possible, all sizes, weights, capacities, dimensions and measurements indicated on our site or in our literature have a 2% tolerance. All performance measurements indicated on our site or in our literature have a 10% tolerance. If you have any queries regarding the sizes, weights, capacities, dimensions and measurements of our Goods, please contact us before you place your Order.
- 4.4 The packaging of your Goods may vary from that shown on images on our site.
- 4.5 We reserve the right to amend the Goods Specification and/or the specification of the Goods if required by any applicable statutory or regulatory requirement.

## 5. DELIVERY OF THE GOODS, AND TRANSFER OF RISK AND TITLE

- 5.1 We will contact you with an estimated delivery date or collection date, once your Goods are ready for delivery or collection. Occasionally our delivery to you may be affected by an Event Outside Our Control. See clause 15 (Events outside our control) for our responsibilities when this happens.
- 5.2 We will ensure that:
  - (a) each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
  - (b) if we require you to return any packaging materials to us, that fact is clearly stated on the delivery note. You shall make any such packaging materials available for collection at such times as we shall reasonably request. Returns of packaging materials shall be at our expense.
- 5.3 We will deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after we notify you that the Goods are ready. Alternatively, we may agree that you may collect the Goods from our premises at Unit 1, Lock Flight Buildings, Wheatlea Industrial Estate, Wigan, WN3 6XP or such other location as may be advised by us prior to delivery (**Delivery Location**) within 5 days of us notifying you that the Goods are ready.
- 5.4 Delivery is completed on the completion of unloading of the Goods at the Delivery Location where we are delivering the Goods, or on the completion of loading of the Goods at the Delivery Location where you are collecting the Goods. The Goods will be at your risk from that time.

- 5.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Goods that is caused by an Event Outside our Control (see clause 15) or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 5.6 You own the Goods once we have received payment in full, including of all applicable delivery charges. Until title to the Goods has passed to you, you shall:
- (a) store the Goods separately from all other goods held by you so that they remain readily identifiable as our property;
  - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - (d) notify us immediately if it becomes subject to any of the events listed in clause 14.1(c) or clause 14.1(d); and
  - (e) give us such information as we may reasonably require from time to time relating to:
    - (i) the Goods; and
    - (ii) your ongoing financial position.
- 5.7 At any time before title to the Goods passes to you, we may:
- (a) by notice in writing, terminate your right under clause 5.6 to use the Goods in the ordinary course of its business; and
  - (b) require you to deliver up all Goods in your possession that have not been resold, or irrevocably incorporated into another product and if you fail to do so promptly, enter any premises of yours or of any third party where the Goods are stored in order to recover them.
- 5.8 If we fail to deliver the Goods, our liability is limited to the cost of obtaining replacement goods of a similar description and quality in the cheapest market available, less the price of the Goods. However, we will not be liable to the extent that any failure to deliver was caused by an Event Outside Our Control, or because you failed to provide adequate delivery instructions or any other instructions that are relevant to the supply of goods.
- 5.9 If you fail to collect the Goods or take delivery within 10 days after the day on which we notified you that the Goods were ready for delivery or collection, we may at our discretion store your Goods (and charge you reasonable storage costs) and/or we may resell part of, or all the Goods and after deducting any reasonable storage and selling costs, charge you for any shortfall below the price of the Goods. You will be responsible for all applicable delivery charges for any re-attempted or aborted deliveries.
- 6. NO INTERNATIONAL DELIVERY**
- 6.1 Unfortunately, we do not deliver to addresses outside the UK.

6.2 You may place an order for Goods from outside the UK, but this order must be for delivery to an address in the UK.

## 7. SUPPLY OF SERVICES

7.1 We will supply the Services to you in accordance with the Service Specification in all material respects.

7.2 We will use all reasonable endeavours to meet any performance dates for the Services specified in the Service Specification, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 We reserve the right to amend the Service Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and we will notify you in any such event.

7.4 We warrant to you that the Services will be provided using reasonable care and skill.

## 8. YOUR OBLIGATIONS

8.1 You shall:

- (a) ensure that the terms of the Order and any information you provide in the Service Specification and the Goods Specification are complete and accurate;
- (b) co-operate with us in all matters relating to the Services;
- (c) provide us, our employees, agents, consultants and subcontractors, with access to your premises, office accommodation and other facilities as reasonably required by us to provide the Services;
- (d) provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) prepare your premises for the supply of the Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) comply with all applicable laws, including health and safety laws;
- (h) keep all materials, equipment, documents and other property owned by us (**Supplier Materials**) at your premises in safe custody at your own risk, maintain the Supplier Materials in good condition until returned to us, and not dispose of or use the Supplier Materials other than in accordance with our written instructions or authorisation; and
- (i) comply with any additional obligations as set out in the Service Specification and the Goods Specification.

8.2 If our performance of any of our obligations under the Contract is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation (**Customer Default**):

- (a) without limiting or affecting any other right or remedy available to us, we shall have the right to suspend performance of the Services until you remedy the Customer Default, and to rely on the Customer Default to relieve us from the performance of any of our obligations in each case to the extent the Customer Default prevents or delays our performance of any of our obligations;
- (b) we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause 8.2; and
- (c) you shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Customer Default.

## 9. PRICE OF GOODS AND/OR SERVICES AND DELIVERY CHARGES

9.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in our published price list in force as at the date of delivery.

9.2 The charges for Services shall either be:

- (a) the price set out in the Order or otherwise confirmed in writing by us to you; or
- (b) calculated on a time and materials basis, where:
  - (i) the charges shall be calculated in accordance with our daily fee rates, as set out in the Order;
  - (ii) our daily fee rates for each individual person are calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days;
  - (iii) we shall be entitled to charge an overtime rate as confirming in writing by us to you, on a pro rata basis for each part day or for any time worked by individuals engaged on the Services outside the hours referred to in clause 9.2(b)(ii),
- (c) and we shall be entitled to charge you for any expenses reasonably incurred by the individuals whom we engage in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by us for the performance of the Services, and for the cost of any materials.

9.3 We may, by giving notice to you at any time up to 10 days before delivery or the commencement of the Services, increase the price of the Goods and/or Services to reflect any increase in the cost of the Goods and/or Services that is due to:

- (a) any factor beyond our control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by you to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- (c) any delay caused by any instructions given by you or your failure to give us adequate or accurate information or instructions.

9.4 The price of the Goods and/or Services:

- (a) excludes amounts in respect of value added tax (**VAT**), which you shall additionally be liable to pay to us at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- (b) includes the costs and charges of packaging, insurance and transport of the Goods.

9.5 We may invoice you for the Goods on or at any time after your Order is accepted by us.

9.6 We may invoice you for Services on completion of the Services.

9.7 You must pay each invoice submitted by us:

- (a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by us and confirmed in writing to you; and
- (b) in full and in cleared funds to a bank account nominated in writing by us, and

time for payment shall be of the essence of the Contract.

9.8 If you fail to make a payment due to us under the Contract by the due date, then, without limiting our remedies under clause 14.1, you shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 9.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%. We may also, in our sole and absolute discretion, cancel any discount which we applied to your Order, in which case the full price shall be payable immediately.

9.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## 10. MANUFACTURER'S GUARANTEE

Some of the Goods we sell to you come with a manufacturer's guarantee. For details of the applicable terms and conditions, please refer to the manufacturer's guarantee provided with the Goods.

## 11. OUR WARRANTY FOR THE GOODS

11.1 The Goods are intended for use only in the UK. We do not warrant that the Goods comply with the laws, regulations or standards outside the UK.

11.2 Each of the Goods that we supply have different warranty periods, which are displayed on our site. We provide a warranty that on delivery and for the Warranty Period, the Goods shall:

- (a) subject to clause 4, conform in all material respects with their description;
- (b) be free from material defects in design, material and workmanship; and
- (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

11.3 You may reject any Goods delivered to you that do not comply with clause 11.2, provided that notice of rejection is given to us, in the case of a defect that is apparent on normal visual inspection, within 48 hours of delivery or

collection in accordance with clause 5.3 and provided that none of the events listed in clause 11.5 apply. If you fail to give notice of rejection in accordance with this clause, you shall be deemed to have accepted the Goods. We will, at our option, repair, replace or refund any Goods rejected under this clause 11.3.

11.4 Subject to clause 11.3 and clause 11.5, if:

- (a) you give us notice in writing within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 11.2;
- (b) we are given a reasonable opportunity of examining the Goods; and
- (c) we ask you to do so, you return the Goods to us at your cost (such costs to be refunded by us if the warranty claim is accepted by us),

we will, at our option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

11.5 We will not be liable for breach of the warranty set out in clause 11.2 if:

- (a) you make any further use of the Goods after giving notice to us under clause 11.4;
- (b) the defect arises because you failed to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of us following any drawing, design or specification supplied by you;
- (d) you alter or repair the Goods without our written consent;
- (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- (f) the Goods differ from their description or Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

11.6 We will only be liable to you for the Goods' failure to comply with the warranty set out in clause 11.2 to the extent set out in this clause 11.

11.7 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

11.8 These Terms also apply to any repaired or replacement Goods supplied by us to you.

## **12. OUR LIABILITY: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

12.1 References to liability in this clause 12 include every kind of liability arising under or in connection with the Contract including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

12.2 Nothing in these Terms limits or excludes our liability for:

- (a) death or personal injury caused by our negligence;



- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or
- (d) any other liability that cannot be limited or excluded by law.

12.3 Subject to clause 12.2, we will under no circumstances be liable to you for:

- (a) any loss of profits, sales, business, or revenue;
- (b) loss or corruption of data, information or software;
- (c) loss of business opportunity;
- (d) loss of anticipated savings;
- (e) loss of goodwill; or
- (f) any indirect or consequential loss.

12.4 Subject to clause 12.2, our total liability to you for all losses arising under or in connection with the Contract will in no circumstances exceed the price of the Goods and/or Services actually supplied by us.

12.5 We accept no liability for any loss or damaged caused to your premises or goods during the provision of the Services, other than arising solely out of our negligence.

12.6 Except as expressly stated in these Terms, we do not give any representations, warranties or undertakings in relation to the Goods and Services nor the suitability of the Goods and Services for your requirements. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In particular, we will not be responsible for ensuring that the Goods and Services are suitable for your purposes and will not accept any liability in the event that the Goods and/or Services are unsuitable for your purposes

### 13. CANCELLATIONS

13.1 Any cancellations and/or refund requests shall be at our sole discretion and we are not obliged to accept any request made by you to cancel an Order or return Goods (other than in accordance with the warranty provisions in clause 11). Any cancellation and/or refund acceptance may be subject to Goods being returned to us in a resaleable condition, and the payment of restocking and administration charges at our discretion.

13.2 Any enquiries for cancellation shall be sent to [info@flowtech.org.uk](mailto:info@flowtech.org.uk).

### 14. TERMINATION

14.1 Without limiting any of our other rights, we may suspend the supply of Services or delivery of the Goods to you, or terminate the Contract with immediate effect by giving written notice to you if:

- (a) you commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 14 days of you being notified in writing to do so;

- (b) you fail to pay any amount due under the Contract on the due date for payment;
- (c) you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business; or
- (d) your financial position deteriorates to such an extent that in our reasonable opinion your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy.

14.2 On termination of the Contract for any reason you shall immediately pay to us all of our outstanding unpaid invoices and interest and, in respect of Goods and/or Services supplied but for which no invoice has been submitted, we shall submit an invoice, which shall be payable by you immediately on receipt.

14.3 Termination of the Contract shall not affect your or our rights and remedies that have accrued as at termination.

14.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

## 15. EVENTS OUTSIDE OUR CONTROL

15.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract that is caused by any act or event beyond our reasonable control (**Event Outside Our Control**).

15.2 If an Event Outside Our Control takes place that affects the performance of our obligations under the Contract:

- (a) we will contact you as soon as reasonably possible to notify you; and
- (b) our obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our delivery of Goods to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.

15.3 You may cancel the Contract affected by an Event Outside Our Control which has continued for more than 60 days. To cancel please contact us. If you opt to cancel, you will return (at our cost) any relevant Goods you have already received and we will refund the price you have paid, including any delivery charges.

## 16. COMMUNICATIONS BETWEEN US

16.1 When we refer to "in writing" in these Terms, this includes email.

16.2 Any notice or other communication given under or in connection with the Contract must be in writing and be delivered by hand, sent by pre-paid first class post or other next working day delivery service, or email.

16.3 A notice or other communication is deemed to have been received:

- (a) if delivered by hand, at the time the notice is left at the proper address;
- (b) if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second working day after posting; or

(c) if sent by email, at 9.00 am the next working day after transmission.

16.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.

16.5 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## 17. GENERAL

### 17.1 Assignment and transfer.

(a) We may assign or transfer our rights and obligations under the Contract to another entity.

(b) You may only assign or transfer your rights or your obligations under the Contract to another person if we agree in writing.

17.2 **Variation.** Any variation of the Contract only has effect if it is in writing and signed by you and us (or our respective authorised representatives).

17.3 **Waiver.** If we do not insist that you perform any of your obligations under the Contract, or if we do not exercise our rights or remedies against you, or if we delay in doing so, that will not mean that we have waived our rights or remedies against you or that you do not have to comply with those obligations. If we do waive any rights or remedies, we will only do so in writing, and that will not mean that we will automatically waive any right or remedy related to any later default by you.

17.4 **Severance.** Each paragraph of these Terms operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

17.5 **Third party rights.** The Contract is between you and us. No other person has any rights to enforce any of its terms.

17.6 **Governing law and jurisdiction.** This Contract is governed by English law and each party irrevocably agrees to submit all disputes arising out of or in connection with this Contract to the exclusive jurisdiction of the English courts.