

# AQUARISE® SPECIFIC TERMS AND CONDITIONS OF SALE AND LIMITED WARRANTY AND LIMITATION OF LIABILITY

## 1. Scope

All sales of AquaRise® products are subject to these product-specific terms and conditions ("Specific T&C's"), as posted on the Vendor's website at the time of sale. Purchaser's order is accepted subject to these Specific T&C's and to any terms and conditions agreed to in writing by the Vendor and Purchaser. It is expressly agreed that any terms and conditions contained in the Purchaser's order or otherwise stipulated will be deemed for the Purchaser's internal use only and will not be binding on the Vendor.

## 2. Orders

Purchaser's orders are conditional upon satisfactory credit approval by the Vendor. The Vendor will only accept orders in excess of \$100 before taxes or such greater amount as may be specified for certain products. Once confirmed by the Vendor, orders for custom-made products manufactured to the Purchaser's specifications and orders for large quantities of non-inventoried products cannot be cancelled, modified or returned, except with the Vendor's written consent and upon terms which provide for indemnification of the Vendor for the costs and expenses incurred.

## 3. Shipments

Delivery schedules stipulated in either the quotation ("Quotation") or the order confirmation ("Order Confirmation") are approximate only and shipment will be made within reasonable proximity thereto. Under no circumstances will the Vendor be responsible for any damage whatsoever caused by delays in shipment, whether resulting from causes within or beyond the control of the Vendor. All shipments are F.O.B. the Vendor's location per the American standard sales terminology or Ex Works per the Incoterms international rules applied to foreign trade contracts. The Vendor shall bear no liability for Products lost or damaged during transit. The Vendor may agree to different shipment terms as specified in the Quotation or in the Order Confirmation. Freight prepaid orders, when applicable, will be delivered by the carrier of the Vendor's selection, unless the use of other carriers is agreed to in writing with the Purchaser. Purchaser must verify quantities and report discrepancies within 2 business days of receipt.

## 4. Prices

All prices quoted or published are F.O.B. the Vendor's location or Ex Works. Published prices are subject to change without notice until orders are accepted by the issuance of an Order Confirmation, whereupon prices will remain firm for those shipments that take place within the 30-day period following the date of the Order Confirmation. For specific projects, contracts or Quotations, the Vendor may agree in writing to protect prices for an extended period of time. Each order may be shipped in whole or in part at the Vendor's discretion. Each shipment made will be immediately invoiced. Quoted or published prices do not include any sales, use, excise or any other tax or levy imposed by any present or future law, regulation or other order, on any of the Products. The Purchaser must provide the Vendor with tax exemption certificates or other documents, as required by the specific tax jurisdiction, in order not to be charged for any of the applicable taxes.

## 5. Terms of Payment

Unless other terms of payment are agreed to in writing by the Vendor, payment is due upon delivery of the Products. If applicable, cash discounts, expressed as a percentage, are calculated on the net invoiced prices before any taxes, freight or other charges and can only be deducted from payment if the

Vendor receives payment from Purchaser on or prior to the due date. Net 30 days means that payment is due within 30 days of the date of invoice and no cash discount is applicable. Overdue accounts shall bear interest at a rate of 18% per annum. The granting of credit by the Vendor is at all times based on its evaluation of the Purchaser's financial condition. If such financial condition does not justify continuance of shipment on credit, the Vendor may require full or partial payment in advance.

## 6. Title to the Goods Sold

The Purchaser acknowledges and agrees that so long as the Products are in Vendor's possession, title to the Products shall remain with the Vendor until full payment therefore is received by the Vendor. The Purchaser agrees to defend, indemnify and save the Vendor harmless from any and all costs, expenses and damages arising out of any claims asserted against the Vendor pursuant to the exercise of its ownership rights or any recourse in payment of purchase price.

## 7. Return of Products

The Vendor may accept the return of Products, subject to the following: a) prior to returning any Products, the Purchaser must obtain a Return Material Authorization (RMA) number from the Vendor, b) Products must be returned freight prepaid, unless otherwise authorized by the Vendor and c) Products must be received in good saleable condition and, if required, in full carton quantities and in their original packaging. A minimum return charge of 25% of the purchase price will be applied against any credit issued pursuant to the return of Products, except in the case of a Vendor shipping error. The Vendor may apply additional charges against the credit to cover remarketing costs or may refuse to issue any credit, but will advise the Purchaser accordingly. Certain Products, such as pressure pipe, custom-made configurations, obsolete products, excessive quantities or other specialty products cannot be returned. The Vendor may direct that Products be destroyed for credit rather than returned.

## 8. Changes to Products

The Vendor reserves the right to make changes or improvements to its Products without assuming any further obligation.

## 9. Patent Rights

If any claim is made against the Purchaser based on the allegation that any of the Products sold by the Vendor constitute an infringement of any U.S. or Canadian patent, the Purchaser shall notify the Vendor immediately. The Vendor shall have the right, at its own option and expenses, to take any actions to protect and defend its rights.

## 10. Force Majeure

The Vendor shall in no event be responsible or liable for any non-performance or delay in performance hereunder or any loss or damage of any kind or nature whatsoever, direct or indirect, suffered by the Purchaser, subsequent purchasers, ultimate users of the goods or any other person, as a result of any causes beyond the reasonable control of the Vendor including, without limitation, price alterations, delay in shipments, strikes, lock-outs, fires, floods, civil commotion, riots, wars, acts of God, embargos, labor shortages, walk-outs, work slowdowns, accidents, breakdowns, delays in manufacture, transportation or delivery of goods or materials, shortages of materials or supplies, government acts or regulations or licensing action.

## 11. Governing Law

This agreement and all rights and obligations hereunder shall be governed by the laws of the province of Ontario.

## 12. Non-waiver

No delay, failure, change or waiver by the Vendor to exercise any one or more of these terms and conditions of sale shall be construed or shall operate to be a waiver thereof or a continuing waiver of such terms and conditions.

## 13. Warranty and Limitation of Liability

13.1 The Vendor warrants that its AquaRise products are, at the time of their sale by Vendor, free from defects resulting from Vendor's faulty manufacturing.

13.2 THERE IS NO WARRANTY, CONDITION OR REPRESENTATION OF ANY NATURE WHATSOEVER, EXPRESSED OR IMPLIED, BY STATUTE OR OTHERWISE, EXCEPT AS HEREIN CONTAINED. ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS OF THE PRODUCTS FOR A SPECIAL PURPOSE AND ANY OTHER WARRANTY OF QUALITY ARE EXPRESSLY DISCLAIMED.

13.3 The Vendor will replace, free of charge, including shipping charges at the original point of delivery, any Product which is found to breach this limited warranty. Any such defective Product will be replaced with a Product of the same type and size as the defective Product.

13.4 THIS LIMITED WARRANTY IS VALID ONLY FOR THE PERIOD OF 10 YEARS FROM THE DATE OF THE SALE OF THE PRODUCT ALLEGED TO BE DEFECTIVE BY VENDOR AND WILL ONLY APPLY IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

13.4.1 The Product must have been used only in applications and under conditions (handling, installation, testing, use, water temperature, maintenance, repairs, etc.) that are strictly in compliance with the AquaRise Technical Manual currently available from the Vendor at the time of installation. The AquaRise system has specifically designed pipe, fittings, valves and sealants and is designed for operation using only genuine AquaRise products. The use of any non-AquaRise CPVC components within an AquaRise system is prohibited, voiding the warranty for the affected system, unless approved by IPEX in writing prior to installation.

13.4.2 The defect must not be due to faulty installation, misalignment of Products, vibration, ordinary wear and tear, corrosion, erosion, U.V. degradation, incompatible lubricants, pastes and thread sealants, unusual pressure surges or pulsation, water hammer, temperature shocking, or fouling.

13.4.3 The Product must have been installed in good and workmanlike manner consistent with the Vendor's latest published instructions and with the state of the art industry standards and plumbing practices, and in conformance with all applicable laws and regulations.

13.4.4 The Product must have not been altered or modified after leaving the Vendor's premises, and must have been used in no more than one installation, show no evidence of disassembly or tampering, and have not been subjected to abnormal operating conditions, accident, abuse, misuse, unauthorized alteration, or repair.

13.4.5 The Product must not have been subject to acts of nature such as earthquakes, fire, flood, or lightning, or any other event of force majeure.

13.4.6 The Product must not have been subject to water freezing inside any of its components.

13.4.7 If the Product is perishable, the Product must have been used prior to the expiration date as indicated on the Product.

13.4.8 The Claimant must notify the Vendor in writing within ten (10) days of when the defect was discovered, or should have been discovered in the exercise of ordinary care, and the defective Product must be promptly returned to the Vendor. Notice of a defective Product under this limited warranty should be directed to your local IPEX Customer Service representative. Claimant must provide documentary evidence of failure, as well as the failed components themselves or representative samples of Product that is alleged to have failed, and must agree to allow a meaningful and reasonable opportunity for Vendor to inspect the system in which the alleged defective Product was installed.

13.5 ANY LIABILITY IN RESPECT TO THE PRODUCTS IS STRICTLY LIMITED TO THEIR REPLACEMENT AS HEREINBEFORE SPECIFIED AND THERE SHALL NOT, IN ANY EVENT, BE ANY LIABILITY FOR ANY LABOUR CHARGES OR OTHER DAMAGES OR FOR ANY OTHER CLAIM FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.

13.6 Without limiting the generality of the foregoing, any liability or responsibility is disclaimed:

13.6.1 for labor, materials, and/or other expenses required to replace a defective Product;

13.6.2 for any damage to a person or property caused by a defective Product;

13.6.3 for expenses to repair any damage resulting from the use of a defective Product;

13.6.4 for calculations, product drawings, or engineering design specifications;

13.6.5 regarding the accuracy of any plans, drawings, or specifications furnished to the purchaser as part of the sale of any of its products;

13.6.6 for loss or damage resulting from failure to abide by manufacturer's warnings, safety instructions, or other precautionary guidelines.

13.7 ANY CLAIM, WHETHER IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, WITH RESPECT TO OR ARISING OUT OF THE SALE, DELIVERY, INSTALLATION, REPAIR OR USE OF ANY PRODUCTS SOLD TO BUYER SHALL NOT IN ANY EVENT EXCEED THE PURCHASE PRICE OF THE PRODUCTS FOUND TO BE DEFECTIVE. It is the responsibility of the owner to obtain and pay for emergency repairs.

13.8 No statement, conduct, or description by the Vendor, its affiliate, its representative, its distributor or its agent, in addition to or beyond this Limited Warranty, shall constitute a warranty. This limited warranty may only be modified in a writing signed by an officer of the Vendor.

13.9 ANY DISPUTE, CLAIM, OR CONTROVERSY ARISING OUT OF OR RELATING TO THE TERMS OR EFFECT OF THIS LIMITED WARRANTY SHALL BE RESOLVED BY BINDING ARBITRATION IN ACCORDANCE WITH THE COMMERCIAL ARBITRATION RULES OF ONTARIO. THIS ARBITRATION SHALL BE HELD IN TORONTO, ONTARIO. The obligation to arbitrate shall extend to any affiliate, subsidiary, officer, employee, shareholder, principal, agent, trustee in bankruptcy, or guarantor of a party making or defending any claim hereunder.