



Conditions of Sale

1. **“Buyer”** means the customer to whom the Proforma Invoice (attached hereto) is addressed, who is not acting as a consumer, and buys the Goods from the Seller. Where the customer is a financing organisation or other organisation acquiring the Goods, for or on behalf of a distributor of the Goods, **“Buyer”** also means such distributor.

“Consumables” means components of point of use water dispensers or items used in conjunction with point of use water dispensers which by their nature are intended to be replaced or replenished from time to time as part of a routine maintenance programme or otherwise, including but not limited to filters, ultraviolet lamps, refrigerant gas and carbonation gasses.

“Contract” means the contract referred to in Clause 2(b) below.

“Goods” means point of use water dispensing machines supplied by the Seller excluding those components which are Consumables.

“Proforma Invoice” means the Buyer’s purchase order form attached, issued by the Seller, signed by the Buyer and returned to the Seller in respect of the Goods to be supplied by the Seller and which refers to these Conditions of Sale.

“Sale of Goods Act” means the UK Sale of Goods Act 1979 as amended from time to time.

“Seller” means WLI Trading Limited.

“Seller’s Warranty Policy” means the terms of the Seller’s Warranty Policy attached to these Conditions of Sale at Appendix 1 which constitutes an integral part of these Conditions of Sale.

“Service and Maintenance Manual” means the service and maintenance manual for the relevant Goods which is available at www.waterlogic.com.

2. (a) The issue by the Seller of the Proforma Invoice to which these Conditions of Sale apply shall constitute the Seller’s offer of the Goods described in the Proforma Invoice for sale to the Buyer and the receipt by the Seller of the Proforma Invoice signed by the Buyer shall constitute the Buyer’s acceptance of the Seller’s offer of such Goods.

(b) The terms of the Contract between the Buyer and the Seller for the sale and purchase of the Goods shall consist of the Proforma Invoice and these Conditions of Sale and, unless otherwise expressly agreed in writing to the contrary, no other terms contained in any document issued by either party or in any written or oral communication between the parties shall apply to the Contract nor shall these Conditions of Sale or the Proforma Invoice be modified without the written agreement of the Seller.

(c) The Goods referred to in the Proforma Invoice are those currently available at the date of issue of the Proforma Invoice and conform to the description in the Seller's List of Products. For the avoidance of doubt any specifications, descriptions and illustrations of the Goods submitted with any quotation or contained in any catalogue provided by the Seller or at its behest are only a general representation of the Goods and are not intended to be relied on with regard to details as changes and improvements in design and function of the Goods are constantly being made.

3. (a) Unless otherwise stated delivery of the Goods shall be 'ex works' from the Seller's relevant manufacturing plant. The Buyer will fully insure all Goods in transit for the benefit of the Buyer and the Seller.

(b) If the Seller agrees to arrange carriage or insurance on behalf of the Buyer, all charges and expenses in connection therewith shall be invoiced to the Buyer and paid within the period specified in the Proforma Invoice.

(c) Upon receipt of the Buyer's signed acceptance of the Proforma Invoice the Seller shall as soon as is practicable inform the Buyer of the Seller's estimated delivery date of the Goods. If, at the absolute discretion of the Seller, it becomes necessary to revise that estimated delivery date, then the Seller shall as soon as practicable inform the Buyer of the revised estimated delivery date. Time of delivery shall not be of the essence in this Contract and accordingly the Seller shall have no liability to the Buyer if there is any delay in delivery.

(d) Any delivery times specified shall be extended by any period or periods during which the manufacture or delivery of the Goods or other work by the Seller in connection with the Contract is delayed due to any causes outside the Seller's control. Such delay shall not operate to excuse any payment obligations owed by the Buyer to the Seller.

4. (a) If the Buyer fails to take delivery of any of the Goods when they are ready for delivery or fails to provide any instructions, documents, licences or authorisations required to enable the Goods to be delivered on time (except as a result of the Seller's fault) risk in the Goods will pass to the Buyer on the due date of delivery (including, without limitation, for loss or damage caused by the Seller's negligence); in such case the Goods will be deemed to have been delivered on the due date for delivery and (without prejudice to its other rights) the Seller may:

store or arrange for the storage of the Goods until actual delivery or sale and charge the Buyer for all related costs and expenses (including, without limitation, storage and insurance); and/or

following written notice to the Buyer sell any of the Goods at the best price reasonably obtainable in the circumstances and charge the Buyer for any shortfall below the price payable for the Goods under the Contract.

5. The Buyer will check the Goods upon delivery for conformity with the Proforma Invoice and for any damage or defect. Any non-conformity, damage or defect must be notified to the Seller (which notification shall include photographic evidence of the non- conformity, damage or defect) within five (5) days of delivery and thereafter the Seller will as soon as commercially practicable inspect the damaged or non-conforming Goods. Following such inspection and provided that the Seller accepts the claim, the Seller will at its sole option and at its own expense repair, refund or replace any such Goods or complete any short order. If non-conformity, damage or defect is not reported within five (5) days then the Buyer will be deemed to have unconditionally accepted the Goods "as is" on the date of delivery.
6.
 - (a) The risk in the Goods shall pass to the Buyer upon delivery in accordance with the Contract.
 - (b) Notwithstanding delivery and the passing of risk in the Goods, the Goods shall remain the Seller's property until the Buyer has paid for them in full and discharged all other sums which are due to the Seller from the Buyer on any account.
 - (c) Although the Goods remain the Seller's property, risk in them shall pass to the Buyer from the time of delivery to the Buyer and the Buyer shall keep them properly insured against loss or damage and shall hold the proceeds of any insurance on trust for the Seller
 - (d) In the event of the Buyer failing to pay any part of the Contract price when it becomes due, the Seller shall be entitled to recover possession of the Goods at any time thereafter and shall for that purpose be entitled to enter into any premises where the Goods may be situated. The Seller shall also be entitled to recover possession of the Goods if the Buyer, being a company, does or fails to do anything which would entitle any person to appoint a receiver of the whole or any part of the Buyer's assets or which would entitle any person to present a claim or petition for an administration order or the winding up of the Buyer or any equivalent act in the jurisdiction of the Buyer's country of incorporation.
 - (e) Notwithstanding the provisions of sub-paragraphs 6 (a) to (d) above the Buyer shall be permitted to sell the Goods to third parties in the normal course of business.
 - (f) The Seller shall be entitled at any time to waive the above provisions of this Clause 6 (or any of them) and to pass the property in the Goods to the Buyer by giving to the Buyer written notice to that effect.
7.
 - (a) Unless otherwise stated in the Proforma Invoice, prices for the Goods shall be ex-works and shall be exclusive of VAT and any other sales taxes, export and import duties, packing, carriage, insurance, storage, bank charges, duties, installation and any other ancillary costs in respect of all of which the Buyer shall be responsible. Otherwise, the Seller shall be entitled to make additional charges in respect thereof.

(b) Payment shall be made in US dollars and otherwise in accordance with the terms specified in the Proforma Invoice direct to the Seller and the Seller's receipt shall be the only acknowledged discharge of any debt. Time for payment shall be of the essence. The Buyer shall not be entitled to withhold payment of any amount due to the Seller by reason of any payment, credit, set-off, counter claim, discount, abatement, allegation of incorrect or ineffective quotation or for any other reason whatsoever which the Buyer may claim excuses him from performing his obligations under the Contract.

The Seller will have the right to charge interest at 5% above LIBOR on any sum due by the Buyer pursuant to the Contract from the due date for payment, accruing on a daily basis until payment is made, whether before or after any judgment.

(c) If the Seller agrees to arrange carriage or insurance on behalf of Buyer, all charges and expenses in connection therewith shall be invoiced to the Buyer and paid on the due date for payment of the price for the Goods and in the case of instalment payment on the due date for payment of the first instalment.

8. (a) All Goods provided to the Buyer under this Contract are sold subject to a limited **twelve (12) month** warranty against defects in material and workmanship. The period of twelve months shall run from the date of delivery of the Goods to the Buyer. If the Buyer is an authorised distributor of the Seller's products, the Buyer, (subject to Clause 8(b) below) agrees to extend its own warranty to its customers, which shall be no less onerous nor more extensive than the warranty given under this Clause 8 (a) by the Seller to the Buyer.

(b) The Goods are not intended for sale to consumers. Where the Buyer, acting as a distributor, sells Goods to a consumer and local legislation requires that either the Buyer provides to the consumer a more extensive warranty, or the customer acquires statutory rights which are more extensive than the terms of the warranty provided to the Buyer by the Seller, or where the Buyer for any other reason extends a warranty more extensive than that provided by the Seller the Buyer shall indemnify and hold the Seller harmless from any claims, costs, penalties, damages or expenses arising from such extended warranty or rights.

(c) All of the terms set out in the Seller's Warranty Policy shall apply to this warranty including, without limitation, the exclusions and limitations set out therein.

9. In the event that the Seller shall reasonably elect or shall be required to undertake a general or limited scope recall of the Goods, the Buyer shall immediately co-operate in all respects to implement such a recall. The Buyer shall take all such actions as may be reasonably requested by the Seller. The Seller shall promptly repair or replace all Goods which are recalled at no expense to the Buyer or, if unwilling or unable to do so at its sole discretion,

shall provide the Buyer with a reasonable credit or refund in respect of the recalled Goods. The Seller accepts no liability for loss or damage whatsoever caused in relation to any recall made or failure to make a recall except provided for in this Clause 9 and except in respect of any loss arising from death or personal injury arising from the Seller's negligence.

10. Subject to Clause 5.9 of the Seller's Warranty Policy:
 - (a) the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with the performance or contemplated performance of any Contract shall be limited to the value of the Contract; and
 - (b) the Seller shall not be liable to the Buyer for any loss of profit, whether direct or indirect, or for any indirect or consequential loss or damage (whether for, loss of business, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
11. The property and any copyright or other intellectual property rights in the word marks or logo owned by the Seller shall, unless otherwise agreed in writing between the Buyer and the Seller, belong to the Seller, subject only to a licence in favour of the Buyer to use the same in connection with the Contract.
12. (a) The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.
(b) The Seller may assign the Contract or any part of it to any person, firm or company.
13. The Seller reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Seller including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials provided that, if the event in question continues for a continuous period in excess of 90 days, the Buyer shall be entitled to give not less than 5 days' notice in writing to the Seller to terminate the Contract.
14. Failure or delay by the Seller in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.
15. To the extent permitted by law the parties to the Contract do not intend that any term of the Contract will be enforceable, by virtue of any rights of third parties legislation, by any person that is not a party to it.
16. The Contract may be cancelled by the Buyer only with the Seller's written consent. In the event of such cancellation the Buyer shall pay to the Seller a

cancellation charge commensurate with the Seller's costs incurred up to the date of cancellation, plus the Seller's loss of profit.

17. Any notice required or authorised to be given hereunder shall be in writing and may be served by facsimile copy, telex, email or first class letter sent to the address given above or any other address notified for the purpose and shall be deemed to be served in the case of the telex, facsimile copy or email at the time of sending and in the case of a letter three business days after proven despatch, provided that any other mode of service shall be valid if the said notice or other communications is actually received by the addressee and it shall be deemed received at the actual proven time of receipt.
18. This Contract will be governed by English Law and the Seller and the Buyer agree to submit to the non-exclusive jurisdiction of the English Courts to settle any disputes that may arise in connection with it.

Appendix 1

Seller's Warranty Policy

This is the warranty referred to in Clause 8 of the Seller's Conditions of Sale and is incorporated by reference into those Conditions of Sale which also apply.

All definitions used below shall have the meaning given to them in the Conditions of Sale to which this document is attached.

The Seller as the supplier of Goods warrants to the Buyer, on the terms set out below and in particular subject to the limitations and exclusions of Clause 5 below, that the Goods are free from defects in materials and workmanship at the time of supply and that the Goods shall, if serviced and used in accordance with the Seller's instructions and the relevant Service and Maintenance Manual, remain so (except in the case of spare parts and Consumables) for a period of twelve (12) months from the date of the date of delivery of the Goods to the Buyer , unless stated differently in the terms of the Contract.

1. The Seller warrants that (subject to the other provisions of this warranty and subject as may otherwise be agreed in writing) on delivery, and for a period of 12 months (except in the case of spare parts and Consumables) from the date of delivery of the Goods , the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act.
2. The Seller shall not be liable for a breach of this warranty unless:

(a) the Buyer gives written notice of the defect to the Seller (and if the defect is as a result of damage in transit, to the carrier) within 5 working 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 such notice, of examining such Goods; and

(c) copies of applicable service records for the Goods in question (showing that the Goods have been maintained in conformance with the Service and Maintenance Manual), and proof of purchase in the form of the original Proforma Invoice number(s) accompany the claim.

3. Subject to the above, if the Goods do not conform with the warranty the Seller shall at its option repair or provide replacement Goods (or replacement for the defective part) or refund the price paid for such Goods provided that, if the Seller so requests, the Buyer shall, at the Seller's expense, return the Goods or the part of such Goods which is defective to the Seller.

If the Seller complies with the provisions of this clause 3 it shall have no further liability for a breach of this warranty in respect of such Goods in accordance with Clause 10 of the Conditions of Sale.

4. Any Goods returned shall belong to the Seller and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the original 12month period.

5. Exclusions and Limitations

- 5.1 The Seller shall not be liable for a breach of this warranty if:

(a) further use is made of the Goods after notice of a defect has been given to the Seller and prior to repair; or

(b) the Seller's written instructions as to the storage, transportation, installation, commissioning, use, servicing or maintenance of the Goods (or if there are none good trade practice) were not followed; or

(c) alterations or repairs to the Goods have been carried out without the written consent of the Seller.

- 5.2 This warranty does not apply where any part of a product or the Goods has been installed, altered, serviced, repaired or misused in any way::

(a) that in the opinion of the Seller would affect the reliability or detracts from the performance of any part of the Goods; or

(b) that is not fully in accordance with the Service and Maintenance Manual; or

(c) using spare parts, Consumables or materials not supplied by or approved by the Seller; or

(d) that has not been previously approved by the Seller.

- 5.3 This warranty does not apply if any serial number on the Goods or any part of them has been removed, defaced or altered.

- 5.4 This warranty does not cover damage resulting from liming or other sedimentation.
- 5.5 In the case of loss of refrigerant gas the Buyer's sole remedy shall be a credit against future transactions to the value of \$50.00 (fifty US Dollars) and this remedy shall be available only:
- (a) for the first four months following the date of the Proforma Invoice; and
 - (b) where the loss of refrigerant gas is not caused by mishandling of the Goods in transport or installation or by misuse of the Goods after delivery to the Buyer.
- 5.6 Costs of removal from an installation and re-instatement of an installation, the shipping and delivery costs of replacement parts, and the labour costs of fitting of replacement parts are not covered by this warranty.
- 5.7 As specified in Clause 10(b) of the Conditions of Sale, the Seller shall not be responsible for or liable under this warranty for any consequential or indirect damage or loss arising from the use of, or performance or non-performance of, the Goods or for unavailability or inability to use them.
- 5.8 The Seller shall not be responsible or liable under this warranty for any replacement, repair or damage arising from any accidental damage, misuse, mishandling, defective installation, failure of supply utilities or connection to unsuitable or out of specification supply utilities, or any other similar factor outside the control of the Seller
- 5.9 **All warranties, representations, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the UK Sale of Goods Act), including those relating to merchantability, are, to the fullest extent permitted by law, excluded and there are no warranties beyond those described on the face hereof.**
6. The Seller reserves the right to make a charge for any Goods returned for warranty repair where satisfactory evidence of the reported fault or failure cannot be provided.
7. This warranty applies where Goods are supplied by the Seller on a business to business basis and it is not intended to nor shall it adversely affect any consumer's statutory rights.