

**General Terms and Conditions  
for Deliveries, Construction, and Assembly Work  
by AQUARENA GmbH, Am Mühlweg 8, 71131 Jettingen**

## 1. Scope of Application

We shall render our deliveries and performances based exclusively on the following General Terms and Conditions in their currently valid version. All diverging regulations shall be excluded. Other regulations than the ones contained here shall only be valid if we have accepted these regulations through prior written approval by an authorized representative from Management. Our General Terms and Conditions shall apply exclusively even if we unconditionally carry out the delivery to the Customer while being aware of the divergent provisions of the Customer. These GBTC shall also apply for other orders without it being necessary to specifically refer to them another time.

## 2. Offer

Unless explicitly referred to as binding, all aspects of an offer shall be subject to change. An agreement shall only be concluded once we have confirmed the order in writing or electronically or the goods have been shipped to the Customer. Our order confirmation or, if none exists, our offer shall govern the content of the agreement. With offers designated as binding, acceptance of the offer by the orderer within a period of two weeks after the date the offer was made shall constitute the conclusion of the agreement. Once this period has elapsed, we shall no longer be bound to the offer made.

## 3. Prices

The agreed-upon prices shall apply. Unless a price agreement has been made, our valid prices on the day the agreement is concluded, which are available for review via the Internet, shall be definitive. It is understood that the applicable statutory value added tax will be added to our prices. They are valid ex works and therefore do not include costs for packaging, freight, postage, or insurance or other shipping costs. We shall have the right to make an appropriate adjustment to the contractual prices for increased costs of labor and materials, rates, taxes, and charges, including price hikes by preliminary suppliers, if the goods are delivered more than four months after the agreement is concluded and the cost increase occurs after the agreement was concluded.

Additional services are to be paid for separately. No extra work shall be included in the offer or in the order unless it has been separately itemized with quantities and prices. If we are to perform it anyway, it will need to be paid for separately. Design suggestions and other suggestions, drafts, drawings, and tools supplied by us shall continue to be our property and, as with other documents that we have provided, may not be made accessible to third parties –even in part – without our approval or duplicated. We shall retain proprietary rights and copyrights to drawings, drafts, sketches, calculations, etc.; Such documents may not be made accessible to third parties and shall be returned to us free of charge at our request or if the order is not issued.

## 4. Execution

The Customer shall procure at its expense and in a timely manner the approvals required for executing the agreement, along with any needed for operating the installation. If we help with this, the Customer shall also bear the resulting costs incurred. The order shall be executed as described in the order confirmation. Design drawings shall only be definitive if both we and the Customer have countersigned them. Performance shall be subject to production tolerances. Any specified dimensions are to be regarded as approximate unless they are referred to explicitly as functional dimensions.

It is essential for the functional dimensions to already be expressly noted in the order. If the Customer stipulates which material to use, the Customer shall be liable for the correctness of the material selected. Any chemical or other influences occurring in the Customer's operation for the intended use are to be thoroughly investigated by the Customer and disclosed to us when the Customer selects the material quality.

## 5. Orderer Obligation

The Customer shall guarantee that the proprietary rights of third parties have not been violated by the delivery of items produced by us according to the Customer's specifications, drawings, descriptions, drafts, models, etc.

## 6. Delivery Conditions

- The times of delivery shall be non-binding and subject to our being supplied correctly and in a timely fashion unless we have agreed in writing to binding times of delivery. Our obligation to deliver shall be suspended for as long as the Customer has not submitted the required execution documents and approvals to be produced by the Customer is to produce or has not disclosed information.

Times of execution must be agreed upon in a timely fashion. To begin assembly, it is required that work on the building or at the construction site be advanced enough so that assembly can be carried out unimpeded. The time of execution shall only begin when all commercial and technical requirements for executing the order have been established and not until all approvals that the Customer is to procure have been provided.

Raw material and energy shortages, strikes, lockouts, traffic congestion, official ordinances, missed times of delivery by preliminary suppliers, and operational disruptions, provided that the above-mentioned circumstances are not our responsibility, including acts of nature, shall release us from our delivery obligation for as long as they persist, insofar as they adversely affect our ability to deliver. In the above-mentioned cases, we shall also have the right to withdraw from the agreement if our performance is made impossible or unreasonable for us or if an end to the impediment to performance cannot be foreseen.

If we are in default for a delivery, our liability vis-à-vis the company shall be limited to 0.5% – up to a total of max. 5% – of the value of the (partial) delivery affected for each completed work week of the delay. Our delivery obligation shall be suspended for as long as the Customer is in default with us due to an overdue payment liability. If we become aware of facts or circumstances that justify doubts concerning the ability of the Customer to pay (e.g. nonpayment of overdue invoices after reminders have been sent) and the Customer is not prepared to provide sufficient securities despite our demand for it, we shall have the right to withdraw from the agreement fully or in part.

## 7. Shipping and Passing of Risk

The risk involved with the delivery item shall be transferred to the Customer at the time notification is made that the item is ready for shipping, but no later than when it leaves the manufacturer's plant, even if partial deliveries are made or if we have assumed other services, e.g. shipping or deliveries and setup at the construction site. If acceptance is necessary, this shall be definitive for the passing of risk. It must be conducted promptly on the acceptance date, or alternatively after we given notice concerning readiness for acceptance. However, fully completed parts of the performance must be accepted by the Customer on demand. The Customer may not refuse acceptance due to the presence of a non-significant defect.

Transport insurance or other insurance shall only be concluded at the express wish and expense of the orderer. If shipping is delayed at the request or due to the fault of the buyer, the goods shall be stored at the Customer's expense and risk. In this case, notification of acceptance readiness shall be regarded as equivalent to shipping. Otherwise, the risk shall pass to the Customer once the goods have been transferred to a forwarding agent or carrier, but no later than once they leave the warehouse. For free delivery to the application site, the unloading point must be easily accessible by vehicles under their own power.

Workers and/or suitable machines must be promptly provided by the recipient for unloading. Waiting times will be invoiced. Any additional costs incurred due to slippery conditions, ice, snowfall, or trailer hookup must be borne by the Customer.

If the delivery item is to be set up on foundations or base plates built at the construction site, the Customer shall be responsible for ensuring that these installations on the construction site are ready for use. If unloading is not possible upon delivery as specified in the agreement for reasons that are not our responsibility, the Customer must immediately decide what is to happen with the delivery. If the Customer comes into default of acceptance or culpably violates other obligations to cooperate, we shall have the right to demand compensation for any damage incurred in this respect, including any additional expenditures. We reserve the right to make further claims.

If the Customer is in default of acceptance, the risk of accidental destruction or deterioration of the goods shall be transferred to the Customer at the time the Customer comes into default.

## 8. Payment

All prices are to be regarded as ex works and excluding freight, packaging, and value added tax if no other arrangement has been made. Our invoices shall be payable without deduction at the headquarters of our company; discounts and other abatements shall require a special arrangement (currency exchanges or checks shall not be considered as payment until they have been converted). If no special arrangement has been made, the payment shall be due no later than 30 days after shipment/acceptance and the invoice date (or within 14 days of the acceptance date).

If, after an order has been accepted, circumstances become apparent that – according to our best judgment – lead to doubts with respect to the Customer's fulfillment of the agreement, we shall have the right to refuse to provide the performance incumbent upon us until the counter-performance has been rendered or security has been provided. All outstanding payment claims arising from the business relationship shall become payable once this notification has been made. Notwithstanding other claims, we may invoice the customary bank interest in case of default of payment, yet no less than interest of 8% above the respective prime lending rate of the European Central Bank. Furthermore, we may withhold our deliveries or other performances arising from all orders by the Customer until all outstanding payment claims have been completely fulfilled and may demand reasonable security provisions. Only claims that are recognized or finally adjudicated shall be admissible for asserting rights of retention or offsets against our claims.

## 9. Reservation of Proprietary Rights

The delivered goods shall remain in our possession as conditional goods until all existing payment claims arising from the business relationship have been fulfilled. This shall also be true if individual or all payment claims have been included in a current account and the balance has been struck and recognized. If the conditional goods are joined to other items to form a single entity, and if the other entity is to be regarded as the main entity, then the Customer shall be obligated to transfer a portion of the joint ownership to us to the extent that the main entity belongs to the Customer. If the Customer resells the delivered goods as intended, the Customer shall already at this time assign to us any payment

claims against the purchaser arising from the resale, along with all ancillary rights, until all payment claims have been paid off. If justified reasons exist, the Customer shall be obligated on our demand to inform third-party buyers of this assignment, give us the information necessary for asserting its rights, and provide us with documents. The Customer shall commit to only selling the goods delivered by us with the stipulation that it will reserve proprietary rights of these goods until the purchase price has been paid in full and agrees that, if the reservation of proprietary rights ceases due to reselling, joining, processing, or commingling, the Customer will arrange for ownership of the new entity or the resultant payment claim instead.

In the event of default of payment or an application to initiate insolvency proceedings against the Customer's assets, we shall have the right to demand the immediate return of the conditional goods. This retraction shall not constitute withdrawal from the agreement. At the same time, all payment claims shall be immediately payable. If the realizable value of the securities procured for us exceeds our secured claims by more than 10% due to this reservation of proprietary rights alone or in conjunction with other securities, then we shall be obligated to release securities in this respect at our discretion if the Customer so demands.

The Customer shall be obligated to insure the conditional goods against all insurable damage. The Customer shall assign to us ahead of time its receivables from the insurance agreements and shall provide us with proof of having concluded the agreements at our request. Access to the conditional goods by third parties or payment claims taking their place shall be disclosed to us by the Customer along with documents.

## 10. Liability for Defects

Our products are subjected to quality monitoring. Prototypes or samples shall constitute non-binding viewing objects. Slight deviations from them shall not justify lodging complaints. Similarly, deviations, changes, or tolerances within the limits of DIN standards shall not entail defects, such as product or material-related deviations or changes. The use of natural additives may also result in variations in the configuration of our products. Such variation within the corresponding DIN standards shall not constitute a deviation from the agreed-upon, contractually prescribed, or customary configuration. If the Customer is a merchant, it must inform us in writing immediately after delivery of any obvious defects in the goods or as soon as any hidden defects are discovered. Otherwise, the delivery shall be regarded as approved. For material defects and defects of title in the delivery, we guarantee the following, excluding any other claims: At our discretion, we shall rectify or redeliver free of charge any parts that turn out to be defective due to circumstances taking place before the transfer of risk. The discovery of such defects must be reported to us in writing immediately. Replaced parts shall become our property.

After reaching an agreement with us, the Customer must give us the necessary time and opportunity to conduct all repairs and/or replacement deliveries that we consider necessary. Otherwise, we shall be released from liability for the resultant consequences. Only in urgent cases involving a threat to operational safety or for preventing disproportionately severe damages, in which case we must be contacted immediately, shall the Customer have the right to eliminate the defects itself or commission third parties to do so and demand reimbursement from us for necessary and reasonable expenditures

For replacement deliveries, we will bear the cost for the replacement part, including delivery to the original, contractually arranged delivery location. However, we shall not cover costs for disassembly and installation or other expenses unless the original assembly was conducted by us. Replaced parts shall become our property and must be returned to us. If, at the Customer's request, the shipment is sent to another location or we perform work on location, the Client shall assume the resultant additional costs incurred.

If rectifications or a replacement delivery are impossible or fail at least twice or are not performed by us despite a reasonable deadline, the customer may abate the price, withdraw from the agreement, or demand compensation. Asserting compensation for damages shall require the orderer to prove our guilt. If there is only a non-significant defect,

the Customer shall merely have the right to abate the contractual price. Our liability shall be excluded for defects and damages due to unsuitable or improper handling, use, or processing, faulty assembly or initial operation, excessive load, natural wear, faulty or negligent handling, or unsuitable equipment for which we are not to blame. The same shall be true if the object of agreement was produced according to the Customer's specifications (drawings, descriptions, sketches, drafts, models, etc.) and the defect is attributable to errors or the incompleteness of these documents.

To the extent legally permissible, material defects shall lapse for contractors within one year. The guarantee period begins at the time of acceptance, or, if acceptance is not carried out and there is no justifiable reason for it, at the time readiness for acceptance is announced. For the replacement part and repair work, the guarantee shall be 3 months; however, it shall continue at least until the originally agreed-upon guarantee period for the object of agreement lapses. For the elimination of rightly criticized defects, we may either repair them or deliver a replacement at our discretion. We must immediately exercise this right to choose – no later than one week after clarifying the situation – by stating our choice to the Customer.

— If replacement deliveries or rectifications fail, or if they require disproportionate time and expenses, the Customer shall have the right to demand an abatement in the purchase price after installation takes place. Liability for damages shall be excluded to the extent legally permissible. We shall not be liable for damages attributable to intent or gross negligence unless the guilt lies with a cardinal obligation and/or an owner or executive of the company. This exclusion of liability shall not apply to cases in which material defects or defects of title due to negligent breach of duty lead to loss of life, physical injury, or detriment to health. Our liability shall be limited to the net merchandise value of the delivery of which the defective object was part. It shall invariably be limited to typically foreseeable damage. If our liability for damage is excluded or limited, this shall also apply to the personal liability for damage of our employees, workers, staff, representatives, and vicarious agents.

## 11. Other

The place of fulfillment and place of jurisdiction shall be Böblingen. German law shall exclusively apply. The validity of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly excluded. If a provision of these Terms and Conditions should be ineffective, this shall not alter the effectiveness of the remaining provisions. The ineffective provision is to be replaced by one that comes closest to achieving the economic purpose originally intended. Jettingen, 2014