Pioneer Water Tanks, Inc. DBA Pioneer Water Tanks America and DBA Aqualine Water Tanks (THE COMPANY)

TERMS & CONDITIONS OF SALE

1) Unless otherwise agreed in writing by The Company:
   a) This Contract supersedes all previous communications and negotiations (whether oral or written) between The Company and the Purchaser and the quotation and these terms and conditions constitutes the entire Contract between the parties. The Purchaser agrees to be bound by these terms and conditions and The Company is not bound by any other terms and conditions issued in any other document.
   b) The Company quotation is valid for thirty (30) calendar days from the date of issue, after which it is automatically void and The Company reserves the right to issue a new quotation.
   c) The Purchaser is to sign the acceptance of the quotation and return the same to The Company within thirty (30) calendar days along with payment of the amount stated in the quotation for validation of the quotation, for this Contract to commence and before Goods can be manufactured or Works commence under this Contract.
2) At any time prior to commencement of manufacture of Goods the Purchaser may, by notice in writing to The Company, terminate this Contract or request a variation to this Contract. Such termination takes effect upon The Company receiving the notice and confirming to the Purchaser that The Company has not commenced manufacturing the Goods. The variation takes effect upon being accepted in writing by The Company. Where the Purchaser seeks a variation to this Contract, The Company reserves the right to include ay administration levy or additional costs to the Contract sum as follows:
   a) Any variation after the Contract has been signed will incur a fee of $50.00 plus applicable sales tax per variation plus any addition or reduction to the Contract sum as determined by The Company.
   b) Any variation to the Contract after the design has been completed will incur a fee of $100.00 plus applicable sales tax per variation plus any addition or reduction to the Contract sum as determined by The Company.

If the Purchaser terminates the Contract in accordance with this clause 2, any reasonable costs or expenses incurred by The Company, up to date the termination takes effect including any costs rendered to date of termination, shall be paid by the Purchaser.

3) Where the Purchaser is responsible for application of any statutory approvals, or other legally required approvals from the government, local government, or other jurisdictions, the Purchaser is hereby obliged to make such application for approval:
   a) Where any plan or design is produced by The Company, within thirty (30) calendar days of the plans being produced by The Company and delivered to the Purchaser.
   b) Where any plan or design is produced by the Purchaser or its subcontractor, agent or consultant, then within (30) calendar days of the date of this Contract.

Where the Purchaser is in breach of this clause The Company may notify the Purchaser of the breach allowing the Purchaser 7 working days to remedy the breach. Subject to any dispute being notified pursuant to clause 29, failure to remedy the breach entitles The Company to either terminate this Contract or increase costs in accordance with the method set down in clause 4 of this Contract. If the Contract is terminated, then the Purchaser is liable to The Company for all reasonable costs to date of termination.

4) Where by reason of any delays due to an act or omissions of the Purchaser or any third party (not a party to this Contract), the manufacture and/or delivery of Goods or commencement of the Work is delayed beyond 45 calendar days after the Purchaser's acceptance of the quotation, The Company may by written notice, increase the price stipulated in this Contract to reflect any increase in costs to be incurred by The Company in the performance of this Contract and such price shall be substituted for the price stipulated in this Contract. If the Purchaser considers that the amount of the price increase is excessive or unjustified the Purchaser may notify The Company of a dispute pursuant to clause 29 or by written notice within 7 working days terminate this Contract, subject, however, to the Purchaser being liable to compensate The Company for the reasonable costs incurred by The Company up to the date of termination.

5) The Company reserves the right from the commencement of this Contract to suspend and / or terminate this Contract for any one of the following reasons:
   a) If, prior to commencement of erection of Goods on the site nominated by the Purchaser but no later than 21 days after the commencement of the Contract (or such other time as agreed between the parties), The Company has made a bona fide miscalculation or an error or mistake has occurred when pricing the quotation, The Company will notify the Purchaser in writing of the miscalculation, error or mistake and the Purchaser, upon receipt of such notice, shall within seven (7) calendar days, elect in writing to either accept the amended quotation or terminate the Contract. In the event of termination, the Purchaser shall receive a full refund of all monies paid.
   b) Where the Purchaser is in default in the performance of any of its material obligations under this contract, The Company may refuse, without prejudice to any other rights it may have under this contract or at law, to manufacture the Goods or perform the Works or to continue to manufacture the Goods or perform the Works until such time as the Purchaser has remedied that default. Where any default in payment by the Purchaser is not remedied within 14 days of receiving written notification from The Company of that default, or such other time as has been agreed by the parties, The Company may terminate the contract in relation to Goods that have not been manufactured or delivered or Work that has not been completed.
   c) If the Purchaser commences to be wound up or is placed under official management or into liquidation or has a receiver and/or manager appointed in respect of any of its assets or becomes insolvent, commits any act of bankruptcy or becomes subject to any other analogous event, The Company may at its option exercise the following rights in addition to any other rights it may have under this contract or at law:
      i) suspend manufacture of the Goods or performance of the Work whether under this contract or otherwise; or
      ii) terminate the contract in relation to the manufacture of Goods or Work that has not been performed.
   d) All costs relating to any action taken by The Company to recover monies due from the Purchaser (including, without limitation, legal or other debt collection costs) will be payable by the Purchaser.
   e) If The Company is prevented either directly or indirectly from performing any of its obligations under the contract including without limitation, manufacturing or making a delivery of the Goods or any part of the Goods or performing the Works or any part of the Works by reason for
   f) Force Majeure it shall be entitled, at its option, by notice to the Purchaser, either to:
      i) extend the time for the manufacture and / or delivery of the Goods or the performance of Works for a reasonable period; or
      ii) subject to refunding the Purchaser for any payment already made to The Company in respect to those particular Goods (if any), to terminate this contract, and the Purchaser shall not have any claim against The Company for damages or any other remedy for breach of contract. “Force Majeure” shall mean an act of God, war, fire, strike, lockout, trade or industrial disputes, government interference, transport delays, accidents, breakdown of plant or machinery, non-delivery or shortage of supplies or any other cause beyond The Company control.
6) This quotation
   a) does not include the cost of ANY site works whatsoever, nor does it include the removal of building waste from the site, which costs are to be the responsibility of the Purchaser;
   b) is for down pipes to ground only and does not include sub soil rainwater disposal, connections or fittings;
   c) does not include the removal, replacement or repairs to gutters, down pipes or flashings to the existing building structure;
   d) does not include the replacement/refitting of pavers removed by The Company, unless otherwise specified; and
7) is prepared SITE UNSEEN from information supplied by the Purchaser. Any additional costs associated with the delivery and erection of the product may be charged to the Purchaser. All Goods supplied or products sold will be of a similar quality and quantity as those used in The Company display centers. The Company however accepts no responsibility for any variation in color of the product attributable to the manufacture by a party other than The Company of any of the Goods used on site. The quotation is for The Company’s standard design for Region “A” Terrain Category (3) (see Australian Standard AS4055 regarding wind loads for housing or your customer service representative for more details) unless otherwise specified.
8) All products are manufactured to metric sizes. Where imperial dimensions are shown on the quotation or Contract, those dimensions are converted to the approximate metric equivalent for the purpose of supply of Goods and the Works. Building heights refers to wall sheet height only and is not indicative of actual clearance.
9) The Purchaser warrants that the Purchaser is entitled to build upon the site and that if the Purchaser is not the sole owner/s of the site, the Purchaser has complete and absolute authority to act on behalf of all the owner/s thereof, and that the Purchaser has entered into this Contract both in a personal capacity and for and on behalf

of and as the authorized agent for all of the owners thereof. In the case of the Purchaser entering into this Contract as the trustee of a Trust, the Purchaser represents, warrants and agrees with The Company that the Trust is duly constituted, and that the Purchaser is duly authorized by the Trust, and that The Company is entitled to be indemnified fully out of the Trust property before the claims of any beneficiaries, and in addition, the Purchaser agrees to be personally liable to The Company for the Trust's liabilities or liabilities of the owners under this Contract and that The Company can enforce such liabilities, at its discretion, jointly and severally, against the Purchaser, the owners of the site or the Trust.

10) The fee charged by The Company for any Building License, does not include any other applications or approvals that may be imposed by any authority, this will be met by the Purchaser. In the event that further approvals are required, the Purchaser agrees to pay any costs in relation to gaining such approval. Any special condition, or requirement that is imposed by any authority, that is not clearly written on the quotation as included, shall be an extra to the Purchaser under this Contract and a written variation must be completed and signed by The Company and the Purchaser.
11) While every reasonable endeavor will be made, no guarantee will be given by The Company to deliver Goods or complete this Contract on the day nominated (which if given, is an estimate only). To the extent permitted by law no responsibility will be accepted by The Company for any costs or consequential loss, damage or expenses to the Purchaser arising from delays in respect of the supply and/or erection of Goods, save to the extent that loss or damage is caused by the negligence or misconduct of The Company or any of its officers, employees or agents.
12) Where the quotation is for the supply of Goods only then:
    a) If due to the Purchaser or a third party, the Goods cannot be delivered to site or collected from The Company within fourteen (14) calendar days of the date specified in the quotation for delivery, The Company will charge a storage fee per day thereafter until the goods are delivered or collected from The Company and the Purchaser must immediately make full payment for the Goods and the works and upon such payment all risk transfers to the Purchaser despite the Goods being stored on The Company premises.
    b) It is the sole responsibility of the Purchaser to inform The Company if any product in the quotation is to be used in any other Terrain Category or conditions that do not comply with Region "A" Terrain Category (3). The Company is hereby indemnified by the Purchaser in the event that the Purchaser by an act or omission withholds terrain, weather and site-specific information.
13) The Purchaser acknowledges that it is the Purchaser's responsibility to ensure while Works are in progress that the Purchaser's nominated site is:
    a) Accessible (by single axle drive vehicle) to within 20 yards of the site. To the extent permitted by law, The Company does not accept any cost or consequential expenses to the Purchaser for damage to access paths/roads and the like, save to the extent that loss or damage is caused by the negligence or misconduct of The Company or any of its officers, employees or agents.
    b) Sand pad to be clear and level for at least 1 yard around the work site perimeter, with no obstructions within so as to make the site unsafe.
    c) Suitable for digging without mechanical aids.
    d) All animals should be restricted from site during Erecting and Maintenance.
    e) All swimming pools/spas/ponds and the like are covered to prevent metal swarf from entering and causing damage, and that The Company will not accept any liability whatsoever in the event any damage is caused due to the failure of the Purchaser to provide adequate cover.

In the event that the Purchaser has not complied with these conditions, the Purchaser acknowledges that a fee may be charged for the time spent in travelling to and from the site where the work cannot be performed on the day of attendance. In addition, the Purchaser may be charged for any machinery hire or extra labor required to complete the project.

14) Blue metal and sand for footings to be supplied by Purchaser unless specified otherwise.
15) Unless specifically brought to the attention of The Company by the Purchaser in writing at the time of the quotation being provided (or no later than prior to the commencement of the Works):
    a) the Purchaser warrants that the site is fit for purpose, appropriate, suitable, stable and immediately ready for the supply of the Goods and/or construction of the Works. This includes (without limitation) a warranty from the Purchaser that the site:
        i) will support the Works to be constructed by The Company, including (but not limited to) that the site has adequate and proper compaction of the ground and appropriate base and surface materials fit for the construction of the Works, and that the site is of Soil Type A or S as defined by Australian Standard AS 2870- 1996:

(1) A: Most sand and rock sites with little or no ground movement from moisture changes
(2) S: Slightly reactive clay sites with only slight ground movement from moisture changes;

ii) is not located in an area prone to flooding;

iii) does not contain and is not affected by underground aquifers, soil contamination (including without limitation asbestos or chemical contamination), septic systems, leach drains, or any other natural or manmade obstacles or structures (including without limitation current or obsolete electricity, water, gas or sewage service lines or building footings) or any other factor which could affect the site's fitness for purpose, appropriateness, suitability, stability or readiness for immediate supply of the Goods and/or construction of the Works.

b) The Company will not be liable for, and disclaims all liability for, any loss, costs or other damage suffered by the Purchaser due to the site not being fit for purpose, being inappropriate, unsuitable or not immediately ready for the supply of the Goods / and or construction of the Works including (but not limited to) any loss, costs or other damage incurred prior to or subsequent to completion of the Works which is caused by a breach of any of the warranties referred to in clause 16(a) above.

For the avoidance of doubt, the supply of Goods or commencement of Works on the site by The Company does not constitute an acceptance that the site is fit for purpose, appropriate, suitable, stable and/or immediately ready for the supply of the Goods and/or construction of the Works for the purposes of this clause 15.

16) To the extent permitted by law, any claim for damaged Goods or short supply of Goods must be made by the Purchaser in writing within ten (10) working days of pick up or delivery.
17) Payment for "Goods Only" purchases (i.e. without installation) is required prior to supply or pickup.
18) Final payment for the Goods and the Works which includes installation shall be made by the Purchaser to The Company per quoted terms, unless The Company agrees to accept 90% of the final payment until further works are undertaken. Practical completion of the works shall be deemed to have occurred when the same are structurally complete, and when it is and/or reasonably capable of being used for its intended purpose. Any omissions or defects in the Goods supplied or the Works performed shall not, in any manner, affect the Purchasers responsibility to make the final payment to The Company and The Company reserves the right to have no responsibility to rectify any omissions or defects until final payment has been received by The Company. Further, the Purchaser acknowledges that The Company shall be entitled to charge interest thereon (at the prevailing bank overdraft percentage rate per annum) as and from the date upon which the payment fell due until the payment is received by The Company. Any expenses, costs of disbursements incurred in recovering any outstanding monies including debt collection agency fees and legal costs shall be paid by the Purchaser.
19) The Company retains title to all Goods supplied until payment of the total Contract price has been made by the Purchaser notwithstanding that possession of the Goods may have been given to the Purchaser. In the event of nonpayment of the total Contract price by the Purchaser, The Company and/or its' agents are authorized by the Purchaser to enter on to the site nominated by the Purchaser in order to remove the Goods so delivered, whether fixed or unfixed.
20) To the extent permitted by law, if The Company fails to comply with a consumer guarantee which by law may not be excluded, then to the extent the law permits The Company to limit its liability in respect of such failure, The Company's liability is limited to:
    a) in the case of goods:
        i) replacement or the cost of replacing the goods or supply of equivalent goods; or
        ii) repair or the cost of repairing the goods; and
    b) in the case of services, supplying the services again or payment of the cost of having the services supplied again.
21) In addition, The Company provides a defects liability period of 4 months from the date of practical completion of the works and otherwise warrants, to the Purchaser (but not to any party who acquires the works or Goods from the Purchaser), all workmanship for the same period subject to the following conditions:
    a) the Goods must be assembled/constructed on the site warranted by the Purchaser as being fit for the purpose;
    b) the Goods must be assembled/constructed by The Company or by its authorized installer and in accordance with The Company procedures and specifications;
    c) where the Works are not undertaken by The Company or its nominated subcontractor then only the Goods manufactured by The Company are covered by the warranty, provided The Company is notified of any defects within 30 days of the Goods being delivered; and

d) this warranty is only valid where The Company has been paid in full for all Goods and, where applicable, all Works associated with the Goods.

22) To the extent permitted by law and without limiting the Purchaser's rights, subject to clause 21 and save to the extent that loss or damage is caused by the negligence or misconduct of The Company or any of its officers, employees or agents, The Company shall not be liable for, and this warranty does not cover:
    a) Injury to persons, animals, damage to property, landscaping, loss of income, profit or business, or any other indirect loss arising from or caused in any way by the defective Goods.
    b) Any consequential loss or indirect costs including loss of production or loss of profits.
    c) All manufactured components sourced from suppliers, although The Company will, where possible, transfer the benefit of supplier warranties to the Purchaser.
    d) Unauthorized modifications, alterations and/or additions or any damage caused by such unauthorized modifications and alterations.
    e) Damage caused by any act or omission of the Purchaser or any third party, accidental or malicious damage, Natural disaster (Force Majeure), corrosion caused by adverse conditions.
23) All other express or implied warranties are excluded to the extent permitted by law.
24) If the Purchaser falls within clause 5(b) and 5(c) above, then the Purchaser irrevocably authorizes and consents to The Company lodging an absolute caveat in respect of the site to protect The Company's interest herein and further agrees to pay for all legal costs and fees associated with the lodgment of the caveat, and withdrawal of the caveat.
25) Failure by The Company to insist upon the strict performance of any term of this Contract will not be deemed to be a waiver of rights that The Company may have and will not be deemed a waiver of any subsequent breach of any term or condition.
26) If any dispute or difference arises between the Purchaser and The Company in connection with the Contract, then:
    a) Either party may give written notice to the other of the existence of the dispute or difference.
    b) The notice must provide sufficient detail to identify the cause and nature of the dispute or difference and call on the other party to rectify the matters complained of or otherwise attempt to settle them.
    c) At the expiration of 14 working days following the giving of the notice, unless it shall have been otherwise settled, the dispute or difference may then be submitted for resolution.
27) Definitions, in this Contract have the following meaning:
    a) "Contract" means the quotation and these terms and conditions plus any specifications nominated by The Company as forming part of the Contract.
    b) "Goods" means the goods specified in The Company quotation and any purchase order submitted to The Company by the Purchaser in accordance with that quotation.
    c) "Purchaser" means the person(s) identified as the customer in the quotation.
    d) "Works" means the services specified in The Company quotation and any purchase order submitted to The Company by the Purchaser in accordance with that quotation.