

## Terms and Conditions of use and sale

Last updated: 31/03/2022

### 1) Definitions of Terms

a) Aquatic Management Services Ltd and any affiliated companies will be referred to as 'AMS'.

i) Any reference to 'we', 'our', 'us' refers to AMS.

b) The purchaser, customer, consumer or user of this website or any sales and or service provided by AMS will be referred to as 'The Customer'.

i) Any reference to 'you' refers to The Customer

c) The term 'service' includes, but is not limited to:

i) The use of any AMS Website

ii) Any AMS Website

iii) The ordering/request of any product, return, delivery, shipment, sample, item, credit, invoice, instruction, email.

iv) Any purchases made from AMS

### 2) General Terms

a) The prices/products/offers listed on our website and in our catalogue are meant as an invitation to treat and not a guarantee of sale or a contractual offer.

b) Prices and products are subject to change and availability may be limited.

c) Images of products are only meant as an indication, the actual colours/appearance of the product compared to the image may vary.

d) AMS will not be responsible for the sending of incorrect goods if orders by email or by telephone do not use product codes. Only specifically stated product codes during the order process will allow The Customer any rights for replacement or refunds of goods sent that were not the goods The Customer intended to order. This does not apply to broken goods or affect any rights granted by statute.

e) Whilst we may refund any unused goods at our discretion, you will bear the charge for delivery and costs. This does not apply for goods not listed in our product catalogue or for orders made via our website.

f) AMS accept no liability for any advice given to The Customer, either during an electronic, phone, or face to face conversation. The Customer follows any and all advice strictly at their own risk.

g) Some of our products may require specialist installation, we recommend that any goods are used and/or installed by a professional and any instructions followed fully.

h) All livestock (live animals/creatures) must be paid for in full upon collection or prior to delivery.

i) Whilst AMS endeavour to ensure all livestock are in good health upon delivery to The Customer and advise that livestock undergo a quarantine period after purchase, AMS cannot accept any responsibility for damage, illness, fault or death of any livestock after they have been purchased from AMS by The Customer.

j) If The Customer registering with AMS is a business entity, you represent that you have the authority to legally bind that entity.

### 3) Delivery

- a) Our 'Next Day' delivery service is a next working day service (weekdays) and is not guaranteed. We endeavour to provide orders by next day but this is not always possible. AMS will not be liable for any losses due to late deliveries. AMS strongly recommend that if you need items before a certain date, The Customer should order as early as possible.
- b) Each time the customer places any order or any request to drop off or pick up any item, including by a third party, AMS must be given the explicit address that this request applies to. If no address is given, the address used will be the default address as agreed with the customer whilst setting up their account.
- c) Our delivery prices can be found by contacting us, or going to [www.pondandlake.co.uk/looking-for-pond-equipment-for-sale-in-swindon](http://www.pondandlake.co.uk/looking-for-pond-equipment-for-sale-in-swindon)

### 4) Accounts, Balances and Payments

- a) AMS do not offer credit. All orders must be paid for in full before they will be sent.
- b) AMS reserve the right to refuse the sale or dispatch of goods without prior warning or notice if an account has an overdue or unpaid balance.
- c) Where allowed by statute, AMS reserve the right to charge interest on any unpaid balances after 30 days.
- d) AMS reserve the right to refuse The Customer an account or the right to buy goods or use services provided by AMS.
- e) AMS reserve the right to remove account status of The Customer if The Customer has an overdue payment or bill for over 30 days.
- f) Any cheque provided by The Customer that does not clear on first presentation will incur a charge of £50 in order to cover our costs.
- g) Any charges incurred by AMS due to the recovery of debt by an outside agency will be paid by The Customer.
- h) All goods remain the property of AMS until the goods in question are paid for in full by The Customer.
- i) AMS reserves the right to remove any goods from The Customer and/or The Customer's premises that have not been paid for in full 30 days after the sale/provision.

### 5) Online Stores – Applies to Online Stores, but can also apply to any type of AMS Service.

- a) The placement of an order by The Customer shall not be taken as a legal contract. The Customer makes an offer in completing the order/checkout process on our website which will only become a binding contract at the point that AMS accepts the offer. Automatic/Online payment that has been made does not constitute acceptance.
- b) AMS will only have accepted the offer at the point that The Customer's order is notified as 'preparation in progress', 'shipped' or 'delivered'.
- c) Any notifications that payment has been accepted refers only to the payment process and not to the acceptance of an offer.

### 6) Returns

- a) When returning a faulty product to AMS, The Customer agrees that they will include enough written information inside of the sent package to enable AMS to

contact you. This must include at least:

- i) A working telephone number
- ii) A valid return postal address
- iii) Your account name if you have one
- iv) The fact that this is a return, a description of the fault and what you would like us to do.

v) Any returns sent to us without this information will not be processed as we will not have the details required to establish why the package has been sent to us.

b) AMS reserve the right to dismiss any claims of damage that are not covered by The Customer's statutory rights.

c) AMS may refuse to repair, accept, replace, refund, or otherwise act upon a returned product if any of the following reasons apply to the returned item:

- i) Have no fault with them
  - ii) The fault has been caused by the customer
  - iii) The fault has been caused by any third party the customer has supplied the product to.
  - iv) The product is out of guarantee and the fault is not covered by statutory rights.
- If the customer returns an item that it is not our duty to act upon and/or is not covered by statute, the customer must pay all carriage charges for getting the item to us and back from us.

AMS reserve the right to refuse a return if it has not been returned by The Customer that purchased the product.

d) AMS will make a "Re-stocking" charge of 30% of the original purchase price for items returned to us.

## 7) Customer Obligations

a) The customer agrees that they will not:

- i) Breach or circumvent any laws, third party rights of AMS' systems or our terms and conditions.
- ii) Infringe the copyright, trademark or other rights of AMS or its affiliates.
- iii) Use AMS' Services if you (The Customer) are not able to form legally binding contracts (for example if you are under 18), or are temporarily or indefinitely suspended from using our services.
- iv) Manipulate the price of any item or interfere with any website listings or services.
- v) Post false, inaccurate, misleading, defamatory, or libellous content on any AMS websites.
- vi) Take any action that may damage or undermine the features designed to allow user feedback on any AMS website.
- vii) Transfer your account or control of your account to another party, entity, business or person without our consent.
- viii) Distribute or post spam, unsolicited or bulk electronic communications, chain letters, or pyramid schemes on any AMS website or service.
- ix) Distribute viruses or any other technologies that may harm AMS or its users on any AMS website or service.
- x) Use any robot, spider, scraper or other automated means to access our Services or websites for any purpose.
- xi) Impose/cause disproportionate activity/traffic to/on AMS's websites/services.

- xii) Copy, modify, or distribute rights or content from AMS' copyrights and trademarks.
- xiii) Copy, reproduce, reverse engineer, modify, create derivative works from, distribute, or publicly display any content (including images) (except for your information) from our Services without the prior express written permission of AMS and any appropriate third party, as applicable.
- xiv) Harvest or otherwise collect information about users, such as email addresses, without their consent from any AMS website or service.
- xv) Circumvent any technical measures we use to provide the services and security on any AMS website.
- xvi) Distribute, copy or show our trade prices to any person/entity other than the holder of the trade account.
- xvii) Copy, use, distribute or modify any images or content from our publications or websites without our express consent. b) Important Warning: giving false, misleading or inaccurate information during the use of any AMS service that causes loss or damage to AMS may result in civil and/or criminal liability. You should contact a legal advisor should you have any questions.

#### 8) Exclusion of Liabilities

- a) AMS shall not be liable to you in contract, tort (including negligence) or otherwise for any business losses, such as loss of data, profits, revenue, business, opportunity, goodwill, reputation or business interruption or for any losses which are not reasonably foreseeable by us arising, directly or indirectly from:
  - i) Your use of or your inability to use AMS' services;
  - ii) Pricing, postage or other guidance provided by AMS;
  - iii) Delays or disruptions in our Services;
  - iv) Viruses or other malicious software obtained by accessing, or linking to, our services;
  - v) Glitches, bugs, errors, or inaccuracies of any kind in our services;
  - vi) Damage to your hardware device from the use of any AMS Service;
  - vii) A suspension or other action taken with respect to your account or breach of our terms and conditions;
  - viii) Deliveries which are later than expected where the cause is reasonable;
  - ix) Your need to modify practices, content, or behaviour or your loss of or inability to do business, as a result of changes to these terms and conditions.
- b) We try to keep AMS and its services safe, secure, and functioning properly, but we cannot guarantee the continuous operation of or access to our Services.

- #### 9) Scope of Agreement – General Statements and Terms
- a) Some jurisdictions do not allow the disclaimer of warranties or exclusion of damages, so such disclaimers and exclusions may not apply to you. This is especially so if you are a consumer.
  - b) Nothing in this User Agreement shall limit or exclude our liability for fraudulent misrepresentation, for death or personal injury resulting from our negligence or the negligence of our agents or employees or for any other liability that cannot be limited or excluded by law.
  - c) You will compensate AMS in full for any losses or costs, including reasonable legal fees, we incur arising out of any breach by you of these terms and conditions, your improper use of AMS' Services or your breach of any law or the rights of a third party.
  - d) The Customer's statutory rights are not affected.
  - e) Use of this or any AMS website or the purchase/use of

any goods/services by The Customer shall be considered acceptance of the above mentioned Terms and Conditions. f) Subject to your compliance with these Conditions of Use and applicable Service Terms, AMS or its content providers grant you a limited, non-exclusive, non-transferable, non-sub licensable licence to access and make personal and non-commercial use of the AMS Services. This licence does not include any collection and use of any product listings, descriptions, or prices; any derivative use of any AMS Service or its contents; any downloading or copying of account information for the benefit of another merchant; or any use of data mining, robots, or similar data gathering and extraction tools. All rights not expressly granted to you in these Conditions of Use or any Service Terms are reserved and retained by AMS or its licensors, suppliers, publishers, rights holders, or other content providers. No AMS Service, nor any part of any AMS Service, may be reproduced, duplicated, copied, visited, or otherwise exploited for any commercial purpose without our express written consent. You may not frame or use framing techniques to enclose any trademark, logo or other proprietary information (including images, text, page layout, or form) of AMS without our express written consent. You may not use any Meta tags or any other "hidden text" utilising AMS's names or trademarks without our express written consent.

11) Waiver a) If you breach these Conditions of Use and we take no action, we will still be entitled to use our rights and remedies in any other situation where you breach these Conditions of Use. b) If you breach these Conditions of Use and we take no action immediately, we will still be entitled to use our rights and remedies in the future to the extent allowed by law.

12) Communications a) When you use any AMS Service or send e-mails to us, you are communicating with us electronically. We will communicate with you by e-mail or by posting notices on the website or through the other AMS Services. For contractual purposes, you consent to receive communications from us electronically and you agree that all agreements, notices, disclosures and other communications that we provide you electronically satisfy any legal requirement that such communications be in writing, unless mandatory applicable laws specifically require a different form of communication. b) By holding any account with AMS you grant us the right to keep any information sent to us through any medium of communication. c) AMS may forward any emails or letters sent to us to an appropriate third party that AMS trade with in order to enable us to continue providing our services. d) AMS reject all statements of email confidentiality and offers to contract regarding email communications privacy. By sending us an email, you grant that we may store your emails and pass them on to relevant third parties.

13) Changes and Amendments to Terms a) We reserve the right to make changes to any AMS Service, policy, terms and conditions including these Conditions of Use, and Service Terms at any time. You will be subject to the terms and conditions, policies and Conditions of Use in force at the time that you use the AMS' Services. If any of these Conditions of Use are deemed invalid, void, or for any reason unenforceable, that condition will be deemed severable and will not affect the validity and enforceability of any remaining condition.

14) Our Contact Details a) Aquatic Management Services Ltd. Churchway, Blunsdon, Wiltshire. SN26 7DG. AMS reserve the right to terminate all contracts, account statuses, correspondence, sales and business relations (except those granted by statute) if the above terms and conditions are breached.