



GUARANTEE CONDITIONS OF SALE



GUARANTEE

- The guarantee is valid only if the equipment is properly and correctly used, by its first owner and if installed in accordance with the norms and instructions as stipulated in the instruction leaflet and the current practices.
- The guarantee only applies to the equipment and the spare parts. Jaga has the choice between repair and replacement of the equipment or the spare parts. If there has been a change in the model, Jaga is authorised to replace the guaranteed equipment with an equivalent equipment or equivalent spare parts. In those cases where the guarantee claim is received, during the first six months after the start of the guarantee, on all labour and transport costs.
- The period of guarantee is mentioned in this certificate. A repair or replacement does not change anything to the original period of guarantee.
- No guarantee is granted on equipment or spare parts lacking information concerning type or series, or on equipment where this information has been removed or altered, or on equipment that has been repaired or modified by persons not authorized by Jaga.
- The customer is responsible for the damage in the cases where the damage is due to errors of placement, fittings, electrical connections, faulty or damaged electrical installations or appliances, erroneous voltage or hydraulic pressure and all other errors not related to the product delivered by Jaga. The guarantee is also revoked when unsuited parts are applied. The guarantee for our heat exchangers is not valid if they are emptied at set times or during a certain period, or if they are heated by means of industrial water, steam or water saturated by great quantities of oxygen. The quality of the system water has to be in accordance with the VDI 2035-2 directives. The guarantee is also revoked when the heat exchangers are placed in aggressive atmospheric surroundings (ammonia, caustic substances).
- Jaga does not give a guarantee on faulty equipment due to incorrect handling and/or use of the equipment, the dropping of the equipment or the transport without the necessary precautions, or for all equipment that is built in, in a way that it cannot be reached normally.
- In all cases where the guarantee is granted but where the intervention occurs later than 6 months after the start of the guarantee, and in all other cases, labour and transportation costs are calculated according to scales set by Jaga. Customers can get information on those scales either from our sales administration personnel, or from the maintenance engineer.
- All interventions not covered by the guarantee have to be paid in cash to the maintenance engineer.
- The guarantee starts on the date of the invoice. If the invoice is not available, the number of the series or the date of production prevails.

Low-H ₂ O fin tube elements	Low-H ₂ O fin tube element	Other spare parts
Knockonwood	30 years	10 years
Play	30 years	10 years
Strada	30 years	10 years
Linea Plus	30 years	10 years
Tempo	30 years	10 years
Maxi	30 years	10 years
Mini	30 years	10 years
Basic	30 years	10 years
Build-In	30 years	10 years
Mini canal	30 years	10 years
Valves for Low-H ₂ O fin tube elements	---	3 years
Deco radiators	Deco radiator	Other spare parts
Iguana / Tetra / Accolade / Sani Ronda / Heatwave	10 years	--
Valves for Deco radiators	--	3 years

CONDITIONS OF SALE

1. These general conditions are binding between the Buyer and Vendor and the Vendor must otherwise agree in writing. Regarding orders to which the General Conditions of Sale are totally or partially applicable, the general conditions of the Buyer are rendered inoperative unless stipulated differently in writing. Subjects which are not being described in these Conditions of Sale will be determined under New York law.
2. **Orders.** An order shall be deemed to have been accepted only if confirmed Vendor by letter or fax. Once accepted, it cannot be cancelled without Vendor's express written approval. A customer may only modify or cancel an order of a standard item provided the Buyer accepts all costs arising from this medication or cancellation. Sums between ten percent (10%) and one hundred percent (100%) of the value of goods will be charged in addition to the normal price for all goods cancelled. An order placed by the customer for custom work or a nonstandard color cannot be cancelled or modified.
3. **Delivery Times.** Delivery times given are indicative. Unless otherwise agreed in writing, Vendor may not be held responsible if there is a delay in delivery.
4. **The Price.** The Products will be invoiced at the current prices and current exchange rates on the day of delivery unless otherwise agreed in writing.
5. **Quotations.** The prices indicated in quotations will only be binding when they have been confirmed in writing by Vincent Claes, or a person designated by him. In all other cases, they function only as information. The prices in the quotations will only apply to orders which refer to the particular quotation which are being placed within a period of four (4) months [?] after the date of the quotation unless otherwise provided.
6. **Payment.** Invoices are payable within thirty (30) days of the date of the invoice unless otherwise stated in writing on the invoice. When the goods are delivered in two (2) or more parts, each will be invoiced separately and shall be paid separately. The Vendor may discount payment which is made within ten (10) days of the date of the invoice. This discount will expire when the ten (10) days is exceeded. From their due date, all unpaid invoices shall bear interest at the rate of one and one half percent (1.5%) per month on the unpaid balance. Buyer's failure to make payment of any invoice on a timely basis shall allow Vendor to cancel orders which have not been delivered in its sole and absolute discretion.
7. **Product Modifications.** Vendor reserves the right to modify its Products to a limited degree (slight modifications) at any time after being ordered by the Buyer in order to bring about improvements that will benefit the Buyer. Even the instances of sale by sample, Vendor is not bound to deliver an absolutely identical Product.
8. **Complaint.** Complaints will only be accepted when communicated by the Buyer in writing by fax to the following: 347 438 3346 or by e-mail to the following: rmoors@jaga-usa.com. This complaint shall reference the invoice number and date and be accompanied by pictures, where possible.
9. **Returns.** Correctly executed orders may not be returned to Vendor, and returns may only be accepted by prior agreement and with the express written authorization of Vincent Claes. When requesting a return, the order or invoice number and date must always be quoted. Vendor shall consider a refund if goods are returned undamaged, in the original packaging, and suitable for re-sale. The Vendor shall be entitled to charge transport, handling and administrative costs.
10. **Risk.** Unless otherwise indicated on face of this Agreement, title, liability for and risk of loss to product sold hereunder ("The Product") passes to Buyer upon delivery of the Product to Buyer or loading on a carrier for shipment to Buyer.
11. **Warranty Limitation.** Vendor warrants only to Buyer that the Product delivered hereunder meets Vendor's standard specifications for the Product as in effect on the date of shipment or such other specifications as may have been expressly agreed to herein. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 13 HEREOF, VENDOR MAKES NO EXPRESS OR IMPLIED WARRANTY (INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FROM ANY COURSE OF DEALING OR TRADE USAGE) REGARDING THE PRODUCT. Buyer, having the expertise and knowledge in the intended use of the Product and any articles made therefrom, assumes all risk and liability for results obtained by the use of the Product, whether used alone or in combination with other materials. NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION OR ANY OTHER LOSS) UNDER THIS AGREEMENT, WHETHER OR NOT CAUSED BY OR RESULTING FROM THE NEGLIGENCE OF SUCH PARTY EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.
12. **Notice of Claim.** Failure to give notice of claim within ninety (90) days from date of delivery, or the date fixed for delivery (in case of non-delivery), shall constitute a waiver by Buyer of all claims in respect of the Product so delivered or not delivered, as the case may be. No Product shall be returned to Vendor without Vendor's prior written permission, and then only in the manner prescribed by Vendor. No claim shall be allowed for Product that has been processed in any manner. Claims include, without limitation, claims of any kind, whether or not (a) for loss, damage, expense or injury, (b) with respect to the Product delivered or for non-delivery of the Product, or (c) based upon Vendor's (i) breach of warranty, contract, statute, or regulation or (ii) negligence, strict liability or any tort.
13. **Remedy.** BUYER'S EXCLUSIVE AND SOLE REMEDY FOR ANY CLAIM SHALL BE A REFUND OF THE AMOUNT OF THE PURCHASE PRICE PAID FOR THE PRODUCT IN RESPECT OF WHICH DAMAGES ARE CLAIMED, AND IN NO EVENT SHALL VENDOR'S LIABILITY FOR ANY CLAIM BE GREATER THAN THAT AMOUNT.
14. **Force Majeure.** No liability shall result from delay in performance or non-performance, directly or indirectly caused by circumstances beyond the control of the party affected, including, but not limited to Act of God, fire, explosion, flood, war, act of or authorized by any Government, accident, labor trouble or shortage, equipment failure, inability to obtain fuel, power, material, equipment or transportation or commercial impracticability. Quantities so affected may be eliminated from this Agreement without liability, but this Agreement shall remain otherwise unaffected unless Vendor elects to terminate it. Vendor shall have no obligation to purchase supplies of the Products specified herein to enable Vendor to perform this Agreement.
15. **Specialty Products.** It is understood and agreed between Buyer and Vendor that if this Agreement covers Products that must be manufactured especially for Buyer and is suspended or terminated for any reason, Buyer will take delivery of and make payment for such Products as have been completed and such Products as are in process on the date notice of suspension or termi-

nation is received by Vendor. If Buyer for any reason cannot accept delivery of such Products, Buyer will make payment therefor as though delivery has been made and Vendor will store such Products for Buyer's account and at Buyer's expense.

16. Allocation. If, for any reason, including Force Majeure, Vendor is unable to supply the total demand for Products, Vendor may distribute its available supply among any or all purchasers as well as other businesses of Vendor, its business units, affiliates and subsidiaries, on such basis as Vendor may deem fair and practical without liability for any failure of performance that may result therefrom. Vendor shall have no obligation to purchase the Product to enable Vendor to supply Buyer under this Agreement.

17. Technical Information. At Buyer's request, Vendor may, at its option, furnish such technical information as Vendor has available with respect to the use of the Products. Unless otherwise agreed in writing, all such technical assistance and information will be provided gratis, and Buyer assumes sole responsibility for results obtained in reliance thereon.

18. Seller Information. Buyer acknowledges that it has received and is familiar with Vendor's labeling and literature concerning the Products and its properties. Buyer will forward such information to Buyer's employees and any others, including Buyer's customers, who may handle, process or sell the Product and advise such parties to familiarize with such information.

19. Reimbursement for Taxes. Buyer shall reimburse Vendor for all taxes, licenses, or other charges by whatever name, (other than taxes based upon Vendor's income) which Vendor may be required to pay to any Government (National, Foreign, State, or Local) upon the sale, production, or transportation of the Products sold hereunder.

20. Financial Responsibility. In the event Buyer fails to fulfill Vendor's terms of payment completely, or in case Vendor shall have any doubt at any time as to Buyer's financial responsibility, Vendor, without advance notice and at Vendor's sole option, may decline to make further deliveries, except upon payment of all arrearages and receipt of cash in advance or delivery of security satisfactory to Vendor.

21. Assignment. This Agreement is not assignable or transferable by Buyer, in whole or in part, except with the prior written consent of Vendor.

22. Waiver. Failure by either Party, at any time, to require performance by the other Party or to claim a breach of any provision of

this Agreement shall not be construed as a waiver of any right arising under this Agreement, including the right to require subsequent performance or contest any subsequent breach.

23. Special Conditions. In addition to the Conditions of Sale set forth herein, any Special Conditions of Sale set forth in the current price list for the Products or attached hereto shall apply and are incorporated by reference herein.

24. Partial Invalidity. If any term or provision of this Agreement shall be found to be invalid, illegal or unenforceable, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken.

25. Choice of Law and Forum. This Agreement is to be construed and the respective rights of Buyer and Vendor are to be determined according to the laws of the State of New York, without regard to choice of law or conflicts principles of any jurisdiction, including New York, and the courts of New York shall have exclusive jurisdiction over any disputes or issues under this Agreement. All disputes arising under or pursuant to this Agreement shall be brought and defended exclusively in the Supreme Court, County of Albany or the Federal District Court for the Northern District of New York, and both parties consent to the personal and subject matter jurisdiction thereof to the fullest extent allowed by law. Each party waives the defense of forum non conveniens. The United Nations Convention on Contracts for the International Sale of Goods shall not govern this Agreement or the performance thereof or any aspect of any dispute arising therefrom.

26. Amendment and Modification. This Agreement contains all of the terms and conditions with respect to the purchase and sale of the Products sold hereunder. These terms and conditions supersede any of previous date and no modification thereof shall be binding on Vendor unless separately contracted in writing and agreed to by a duly authorized representative of Vendor. No modification shall be effected by the acknowledgment or acceptance of purchase order forms stipulating different conditions. Unless Buyer shall notify Vendor in writing to the contrary as soon as practicable after receipt of this Agreement by Buyer, acceptance of the terms and conditions hereof by Buyer shall be indicated and, in the absence of such notification, Buyer's acceptance of the Product shall be equivalent to Buyer's assent to the terms and conditions hereof. Vendor shall have the right to amend, modify, or change this Agreement in case of legislation, government regulation, or changes in circum-

stances beyond the control of Vendor that might affect materially the relationship between Vendor and Buyer.

27. Expenses of Collection. Buyer agrees to pay on demand all costs and expenses incurred by Vendor in enforcing this Agreement, including attorneys fees, in realizing upon or protecting any collateral and enforcing and collecting any indebtedness or guaranty thereof including, without limitation, if Vendor retains counsel for advice, suit appeal, insolvency or other proceedings under the Federal Bankruptcy Code.

28. In connection with any installation of such custom product or special order Product, Vendor is entitled to assume that all existing structures are in sound condition at the time of installation of any Product. Any minor repair, required to be made by Vendor to allow the proper installation of the Product will be at an additional charge. Any such additional charge is due and payable at the time of such installation. A major repair, which is defined as any needed repair the cost to complete which is estimated to exceed 10% of the total contract price, shall not be performed by Vendor.

29. In the event that any default be made by Buyer under the terms of this Agreement or any part thereof, Vendor, under the provisions of the State of New York Uniform Commercial Code ("U.C.C.") is entitled to retain the Product, stop delivery and/or re-take possession of such Product. This Agreement is intended to be a continuing Agreement and shall remain in force and effect until terminated by the payment of all outstanding indebtedness either contracted or committed, together with interest accruing thereon.

30. Buyer grants and Vendor retains a purchase money security interest under the U.C.C. in the Product covered by this Agreement to until such time as payment has been made in full in accordance with the terms of this Agreement. Vendor is also hereby authorized by the Buyer to execute and file, without the signature of Buyer, a U.C.C. Financing Statement covering the Product.

31. In the event of default by Buyer under the terms of this Agreement, Vendor shall have, in addition to the other rights set forth herein, all rights and remedies of a secured creditor under the U.C.C. including, without limitation, the right, with or without legal process, and, with or without prior notice or demand, to take possession of the Product or any part thereof as well as the right to enter on any premises for the purpose of taking possession of the Product and Buyer and Vendor hereby waives and releases Vendor of and from any and all claims in

connection therewith or arising therefrom, including, without limitation, any claim for damage arising out of such repossession.

32. Vendor's election to retain/re-take possession of any such Product shall not relieve the Buyer of its obligations. Rather, any such Product may, in the sole discretion of Vendor, be disposed of in accordance with the provisions of the U.C.C., and the Buyer shall remain liable for any deficiency resulting therefrom.

33. Any notice to be given to either party shall be in writing, shall be addressed to the other party at the street address specified and shall be deemed to have been given on the day actually delivered, or the third day after it is deposited, postage pre-paid, in the United States mail, registered or certified, return receipt requested or on the day after delivery to a recognized overnight delivery service in time for next-day delivery. Without in any way requiring notice to be given in the following time and manner, Buyer agrees

that any notice by Vendor of sale, disposition or other intended action hereunder or in connection herewith, whether required by the U.C.C. or otherwise as previously provided in this Agreement which is made at least five days prior to such action shall be commercially reasonable.

