

Nu-Tank - Terms and Conditions of Sale

These Terms and Conditions apply to all Nu-Tank Products supplied by Nu-Tank Pty Ltd (**Nu-Tank**).

1. Definitions

ACL means the Australian Consumer Law under Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Agreement means these Terms and Conditions, together with Nu-Tank's invoice.

Delivery Time means: (a) where Nu-Tank arranges delivery of Nu-Tank Products, the time the Customer receives the Nu-Tank Products; or (b) where the Customer arranges delivery of Nu-Tank Products, the time the Products leave Nu-Tank's premises.

Nu-Tank Product means any Nu-Tank product, including tanks, troughs and feeders that Nu-Tank offers for sale from time to time.

Order means a purchase order in which the Customer requests to purchase a Nu-Tank Product.

Customer means the individual or entity purchasing Nu-Tank Products.

Warranty means Nu-Tank's manufacturer's warranty that it provides to Customers of Nu-Tank Products.

2. Orders and Acceptance

2.1 An Order for Nu-Tank Products constitutes an offer by the Customer to purchase Nu-Tank Products pursuant to this Agreement.

2.2 All Orders are subject to acceptance by Nu-Tank. An Order will be deemed accepted upon Nu-Tank issuing a written confirmation or delivering Nu-Tank Products.

2.3 Customers will receive a Warranty.

2.4 Nothing in this Agreement or Warranty limits the Customer's rights under the ACL.

3. Price and Payment

3.1 The price of Nu-Tank Products is as stated on Nu-Tank's invoice. Prices are exclusive of GST unless otherwise stated.

3.2 Payment terms are as stated on the invoice. Unless credit terms have been agreed in writing, payment must be made in full prior to delivery.

3.3 Overdue amounts may incur an interest rate of 10% per annum, calculated monthly.

4. Delivery, Risk and Title

4.1 Delivery dates are estimates only. Nu-Tank will use reasonable endeavours to meet these dates but is not liable for delays caused by circumstances beyond its reasonable control.

4.2 Risk in Nu-Tank Products passes to the Customer at the Delivery Time.

4.3 Legal and beneficial ownership (Title) in Nu-Tank Products remains with Nu-Tank until the Customer has paid in full for those Nu-Tank Products.

5. Inspection and Acceptance

The Customer agrees to inspect Nu-Tank Products immediately upon delivery and notify Nu-Tank in writing within seven (7) days of any visible damage or defect.

6. Warranty & Australian Consumer Law (ACL)

All Nu-Tank Products are subject to our Warranty. The terms of this warranty are detailed in the Warranty Card that we provide to all Customers and that is published at this URL:

<https://nu-tank.com.au/warranty>

7. Limitation of Liability

To the maximum extent permitted by law, including the ACL:

- 7.1 each party's total liability for any loss or liability they suffer or incur under or in connection with this Agreement is limited to the price the Customer paid for the Nu-Tank Product(s) that gave rise to the claim;
- 7.2 neither party will be liable under or in connection with this Agreement for any indirect, special, or consequential loss (including loss of profit or business) except where such liability cannot be excluded by law.

8. Force Majeure

Nu-Tank is not liable for any delay or failure to perform its obligations where such failure is caused by circumstances beyond its reasonable control, including acts of God, strikes, supply chain interruptions, pandemics or government interventions.

9. General Provisions

- 9.1 If any provision of this Agreement is held to be invalid or unenforceable, it will be severed, and the remaining provisions will continue in full force and effect.
- 9.2 This Agreement constitutes the entire agreement between the parties regarding its subject matter.

10. Dispute Resolution

- 10.1 If a dispute arises between the parties (**Dispute**), the party claiming the Dispute must provide written notice to the other containing details of the Dispute and their proposed solution (which must be reasonable) to resolve the Dispute (**Dispute Notice**).
- 10.2 Within 14 days of receiving a Dispute Notice, senior representatives from each party must meet in person, over the phone or via video link to resolve the Dispute and in doing so, they must act and negotiate in good faith.
- 10.3 If the Dispute is not resolved through negotiation within 28 days of the Dispute Notice, either party may refer the Dispute to mediation. The mediator will be a person agreed upon by both parties. If the parties fail to agree on a mediator within a reasonable time, either party may seek to have a mediator appointed by the President of the Queensland Law Society. The costs of the mediator will be shared equally between the parties. The seat of the mediation will be Rockhampton. The parties will pay their own ancillary costs of the mediation, including for travel and sustenance.
- 10.4 A party may not commence court proceedings concerning the Dispute until it has complied with the negotiation and mediation steps above.
- 10.5 Nothing in this clause prevents a party from seeking urgent interlocutory or injunctive relief from a court.

11. Governing Law

This Agreement is governed by the laws of Queensland, Australia. The parties submit to the exclusive jurisdiction of the courts of Queensland.