

# WATER GATE SYSTEMS LLC

Fort Myers, Florida | Veteran-Owned | Aqua-Cade™ Flood Barrier Systems

## AQUA-CADE™ FLOOD BARRIER SYSTEM Performance Standards & Warranty Terms

<b>Document Number</b>	WGS-WAR-001
<b>Title</b>	Aqua-Cade Performance Standards & Warranty Terms
<b>Revision</b>	2.0 — Substrate Amendment
<b>Effective Date</b>	_____
<b>Supersedes</b>	WGS-WAR-001 Rev. 1.0 in its entirety
<b>References</b>	SOP-INS-002 Substrate Assessment & Pre-Install Sealing
<b>Approved By</b>	Kenny Roy, CEO   James McCoy, Co-Owner

### REVISION 2.0 — SUMMARY OF CHANGES

- Section 2 (Definitions):** The Seepage performance threshold is hereby measured per any continuous 36-inch span of installed barrier (matching panel module width), in lieu of the prior per-linear-foot measurement.
- Section 6 (Substrate-Specific Provisions):** New section establishing customer responsibility for absorbent substrate conditions, the substrate classification protocol under SOP-INS-002, and the warranty exclusion for substrate-conducted moisture.
- Schedule A (Substrate Disclosure & Acknowledgment):** New schedule incorporated by reference into all installations on Class B or Class C substrates as defined herein.

## 1. Application & Scope

**1.1** These Performance Standards & Warranty Terms (these “Terms”) are issued by Water Gate Systems LLC, a Florida limited liability company (“**WGS**”), and form an integral part of every installation, deployment, breakdown, sale, or service agreement entered into between WGS and a customer (“**Customer**”) for the Aqua-Cade™ Flood Barrier System (the “**System**”).

**1.2** These Terms are incorporated by reference into the WGS Service Contract, Installation Agreement, Quote, or other primary agreement signed by Customer (the “**Primary Agreement**”). In the event of a conflict between these Terms and the Primary Agreement on a matter of System performance, testing, or warranty, these Terms control.

**1.3** These Terms supersede and replace WGS-WAR-001 Revision 1.0 in its entirety. Customers with installations completed under the prior revision are entitled to elect, upon written notice to WGS within ninety (90) days of the Effective Date hereof, to retain the prior performance standard or to adopt the standard set forth herein.

## 2. Definitions

As used in these Terms, the following capitalized words have the meanings given below. Capitalized terms not otherwise defined herein have the meanings given to them in the Primary Agreement.

**"Active Water Flow"** means water passage through, beneath, or around installed barrier components that exceeds the Seepage Standard, characterized by continuous streaming, spurting, or accumulation at any point along the barrier exceeding 0.5 fluid ounces per minute over any continuous 36-inch span of barrier.

**"Aqua-Sill"** means the bottom seal component of the System that establishes a continuous water-resistant interface between the barrier and the Substrate.

**"Design Height"** means the maximum still-water flood height, expressed in inches above the installed Substrate, against which the System is rated to perform under these Terms, as specified in the Primary Agreement or accompanying engineering documentation.

**"Permeable Substrate"** means any Substrate that, by reason of its material composition, has a water absorption rate exceeding two percent (2.0%) by weight measured under ASTM C97, including without limitation travertine, marble, limestone, sandstone, brick pavers, stone pavers, and unsealed or weathered concrete. Permeable Substrates are further classified under Section 6 in accordance with WGS SOP-INS-002.

**"Seepage"** means minor water passage at the seal-Substrate interface that does not exceed the Seepage Standard, presenting as nuisance pooling or weeping that may be managed with towels, mops, or a wet/dry vacuum.

**"Seepage Standard"** means water passage at the seal-Substrate interface not exceeding 0.5 fluid ounces per minute (or 30 fluid ounces per hour) over any continuous 36-inch span of installed barrier, measured under the Testing Protocol set forth in Section 4.

**"Substrate"** means the surface upon which the Aqua-Sill is installed and against which the System forms its bottom seal, including without limitation concrete slabs, tile, natural stone, pavers, and any underlying bedding, grout, mortar, or thinset layer between such surface and the structural slab below.

**"Substrate-Conducted Moisture"** means water that is absorbed into the Substrate on the flood-exposed side of an installed barrier and that migrates laterally through the pores, channels, joints, bedding layer, or other internal structure of the Substrate to emerge on the protected side. Substrate-Conducted Moisture is a property of the Substrate and is not Seepage or Active Water Flow as those terms are defined herein.

**"Warranty Period"** means the period commencing on the date of substantial completion of installation, as evidenced by the WGS final inspection sign-off, and continuing for the duration specified in the Primary Agreement, or, if not specified, three (3) years.

### 3. Performance Warranty

**(a) Performance Standard.** WGS warrants that the System, when installed by WGS in accordance with WGS specifications and properly maintained by Customer, will perform within the Seepage Standard during the Warranty Period when subjected to flood conditions up to the Design Height.

**(b) Quantification.** The Seepage Standard is satisfied so long as water passage at the seal-Substrate interface, measured along any continuous 36-inch span of installed barrier under the Testing Protocol, does not exceed 0.5 fluid ounces per minute (equivalent to 30 fluid ounces per hour). Cumulative seepage across multiple non-contiguous spans of barrier is not aggregated for purposes of this measurement.

**(c) Scope.** This warranty applies to (i) the seal at the interface between the Aqua-Sill and the Substrate, (ii) the panel-to-panel and panel-to-post seals, and (iii) the structural integrity of WGS-manufactured components. This warranty does **not** apply to Substrate-Conducted Moisture, which is excluded as set forth in Section 6.

## 4. Testing Protocol

**(a) Final Installation Test.** Following installation, WGS shall conduct a hydrostatic test using a standard garden hose at full stream setting, directing water flow at all vertical and horizontal points where the barrier system meets the Substrate and adjacent wall surfaces of the protected opening.

**(b) Measurement Method.** Where water passage is observed on the protected side, WGS shall measure the rate of water passage by collecting all water emerging within any continuous 36-inch span of barrier over a measured one (1) minute interval. The volume so collected, expressed in fluid ounces, is the measured rate for that span.

**(c) Pass Criteria.** The System passes the Final Installation Test if the measured rate at every tested 36-inch span is equal to or less than 0.5 fluid ounces per minute. The presence of Seepage at or below the Seepage Standard is normal performance and does not constitute a failure.

**(d) Subsequent Testing.** Customer may request subsequent testing at any time during the Warranty Period upon reasonable advance notice to WGS. The Testing Protocol set forth in this Section 4 shall be used for all subsequent tests.

## 5. Remedy Procedure

**(a) Notice.** If Active Water Flow is observed during the Final Installation Test or during any subsequent testing, Customer shall provide written notice to WGS within forty-eight (48) hours of observation, identifying the location(s) and approximate measurement of the Active Water Flow.

**(b) Inspection & Cure Period.** WGS shall have thirty (30) days from receipt of written notice to inspect the System and perform such adjustments, sealant re-application, hardware replacement, or other remedial work as WGS determines necessary to bring the System within the Seepage Standard, at no additional cost to Customer.

**(c) Re-Test.** Following remediation, WGS shall conduct a re-test under the Testing Protocol to verify performance within the Seepage Standard.

**(d) Final Remedy.** If, after two (2) good-faith remediation attempts, the System cannot be brought within the Seepage Standard, WGS shall, at WGS's sole discretion, replace the components reasonably believed to be the source of the Active Water Flow at no additional cost to Customer. The remedies set forth in this Section 5 are Customer's sole and exclusive remedies for breach of the performance warranty in Section 3.

## 6. Substrate-Specific Provisions

### 6.1 Customer Acknowledgment

Customer acknowledges and agrees that the System forms a water-resistant seal at the interface between the Aqua-Sill and the Substrate. The System is engineered to resist water passage at that interface; it is not engineered to alter, remediate, or compensate for the inherent permeability of the Substrate itself. Customer further acknowledges that certain Substrates, including without limitation travertine and other natural stones, brick and stone pavers, and unsealed concrete, are Permeable Substrates that may absorb and laterally conduct water through their pore structure, joints, or bedding layers during sustained flood events.

### 6.2 Substrate Classification

Prior to installation, WGS shall classify the Substrate along the planned seal path in accordance with WGS Standard Operating Procedure SOP-INS-002 (Substrate Assessment & Pre-Installation Sealing). The classification determines the additional installation procedures and disclosures applicable to the installation:

Class	Substrate Description	Risk	Disclosure Required
<b>A</b>	Sealed concrete; porcelain; sealed granite	Low	No
<b>B</b>	Bare concrete; sealed marble; premium-grade sealed travertine	Moderate	<b>Yes</b>
<b>C</b>	Travertine (any grade w/ unknown or expired sealing); unfilled or tumbled natural stone; limestone; sandstone; brick or stone pavers	High	<b>Yes</b>
<b>D</b>	Wood, composite decking, painted/coated surfaces, or any condition not listed above	Special	Engineering review

*If the seal path traverses more than one Substrate type, the highest-risk class governs the entire installation.*

### 6.3 Customer Disclosure & Election

**(a) Disclosure Form.** For all installations on Class B or Class C Substrates, Customer shall execute the Substrate Disclosure & Acknowledgment Form attached as Schedule A prior to commencement of installation. Customer's execution of Schedule A is a condition precedent to WGS's obligation to perform installation services on a Permeable Substrate.

**(b) Pre-Installation Sealing Election.** On Schedule A, Customer shall elect one (1) of the following options:

- (i) Customer accepts WGS pre-installation sealing services performed in accordance with SOP-INS-002, at the additional cost specified in the Primary Agreement;
- (ii) Customer elects to provide independent substrate sealing prior to installation, in which case Customer shall produce documentation of product, application date, and applicator. WGS shall verify sealing function by water bead test prior to commencement of installation and may decline to proceed if sealing is determined inadequate; or
- (iii) Customer declines pre-installation sealing and accepts the substrate condition as-is, in which case Customer expressly acknowledges and accepts the risk of Substrate-Conducted Moisture during sustained flood events.

**(c) Ongoing Maintenance.** Penetrating substrate sealers degrade over time. Customer is solely responsible for maintaining substrate sealing in accordance with the sealer manufacturer's recommended re-application schedule (typically every one to three (1–3) years). Failure to maintain substrate sealing is not a defect in the System and does not give rise to a warranty claim against WGS.

### 6.4 Exclusion for Substrate-Conducted Moisture

**(a) General.** Notwithstanding any other provision of these Terms, the warranty set forth in Section 3 does not cover, and WGS shall have no liability for, Substrate-Conducted Moisture. Substrate-Conducted Moisture includes, without limitation:

- (i) moisture absorbed into a Permeable Substrate on the flood-exposed side of an installed barrier and migrating laterally through the Substrate to emerge on the protected side;

- (ii) moisture migrating through tile grout joints, paver joints, or sand-set or mortar-set bedding layers between the surface tile or paver and the structural slab below;
- (iii) damp staining, darkening, or surface dampness on a Permeable Substrate on the protected side that does not constitute active flow exceeding the Seepage Standard at the seal-Substrate interface;
- (iv) moisture passage attributable to substrate sealing that has degraded, expired, or was never properly applied; and
- (v) moisture passage through cracks, voids, fissures, unfilled holes, or other discontinuities in the Substrate that exist independent of the seal-Substrate interface.

**(b) Burden of Distinction.** Where water is observed on the protected side of an installed barrier, the determination of whether such water constitutes Seepage, Active Water Flow, or Substrate-Conducted Moisture shall be made by WGS through inspection and testing under the Testing Protocol. Water collected within any continuous 36-inch span at the immediate seal-Substrate interface is presumed to be Seepage or Active Water Flow (as quantified). Water emerging from the Substrate body, from grout or paver joints, or from a point not at the immediate seal interface is presumed to be Substrate-Conducted Moisture.

**(c) Voluntary Remediation.** WGS may, at its sole discretion and without admission of warranty obligation, offer remedial substrate treatment services to Customer at then-current rates. Acceptance of such services by Customer shall not be construed as a warranty claim or as an admission of warranty liability by WGS.

## 7. General Exclusions

In addition to the substrate exclusion set forth in Section 6, the warranty in Section 3 does not cover water passage or System impairment caused by:

- (a) Customer Acts.** improper storage, handling, or deployment of panels by Customer; failure to follow WGS deployment instructions; or unauthorized modification of the System.
- (b) Force & Debris.** physical damage from debris impact, vehicular impact, or other external force during a flood event or otherwise.
- (c) Conditions Exceeding Design.** flood conditions exceeding the Design Height, exceeding panel hydrostatic ratings, or involving wave action, current, or surge dynamics in excess of the still-water rating.
- (d) Property Conditions Outside Seal Path.** ground seepage, groundwater intrusion, drainage failure, foundation infiltration, or moisture entering the protected area through openings, penetrations, or pathways not within the seal path of an installed barrier.
- (e) Wear.** normal wear and tear, expected aging of consumable components such as gaskets and sealants, and ultraviolet degradation of components left exposed beyond manufacturer guidance.

## 8. Third-Party Components

Components incorporated into the System that are not manufactured by WGS, including without limitation fasteners, sealants, gaskets, and substrate sealers (whether supplied by WGS or by Customer), are warranted under the terms of the original manufacturer of the subject component, and not by WGS. Customer shall provide written notice to WGS of any defect believed attributable to a third-party component within ten (10) days of first knowledge.

## 9. Disclaimer of Other Warranties

EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS, WGS MAKES NO REPRESENTATIONS, GUARANTEES, OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY OF WORKMANSHIP BEYOND THAT EXPRESSLY STATED HEREIN, AND ANY WARRANTY ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED.

## 10. Limitation of Liability

In no event shall WGS be liable to Customer or any third party for any indirect, incidental, special, consequential, or punitive damages, including without limitation loss of use, loss of property, interior damage from flood waters, mold remediation costs, or business interruption, arising out of or relating to the System, its installation, or these Terms, regardless of the legal theory asserted. WGS's aggregate liability under or in connection with these Terms shall not exceed the amount paid by Customer to WGS for the System and installation services giving rise to the claim. The limitations in this Section 10 apply notwithstanding any failure of essential purpose of any limited remedy.

## 11. General

**(a) Governing Law.** These Terms are governed by the laws of the State of Florida, without regard to conflict of laws principles. Venue for any dispute shall lie exclusively in the state or federal courts located in Lee County, Florida.

**(b) Severability.** If any provision of these Terms is held unenforceable, the remaining provisions shall remain in full force and effect.

**(c) No Waiver.** No failure or delay by WGS in exercising any right under these Terms shall operate as a waiver of that right.

**(d) Entire Agreement.** These Terms, together with the Primary Agreement and any incorporated schedules, constitute the entire agreement between the parties with respect to the performance and warranty of the System and supersede all prior or contemporaneous understandings on the subject matter hereof.

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### CUSTOMER ACKNOWLEDGMENT

By signing the Primary Agreement, Customer acknowledges receipt of these Terms, has had a reasonable opportunity to review and understand them, and agrees that they form an integral part of the contract between Customer and WGS.

**Customer signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Customer printed name:** \_\_\_\_\_

**Property address:** \_\_\_\_\_

**WGS representative:** \_\_\_\_\_ **Title:** \_\_\_\_\_

## SCHEDULE A

### Substrate Disclosure & Acknowledgment Form

This Schedule A is incorporated into and made a part of the Aqua-Cade Performance Standards & Warranty Terms (WGS-WAR-001 Rev. 2.0). It is required for all installations on Class B or Class C Substrates as defined in Section 6 of those Terms.

#### Customer & Project

**Customer (printed name):** \_\_\_\_\_

**Property address:** \_\_\_\_\_

**WGS job number:** \_\_\_\_\_

**Substrate type along seal path:**  
\_\_\_\_\_

**Assigned class (per SOP-INS-002):**     Class B (Moderate)     Class C (High)

#### Customer Acknowledgments

By signing below, Customer acknowledges and agrees as follows:

**(1) Substrate behavior.** The Substrate at Customer's Property is a Permeable Substrate. Permeable Substrates are capable of absorbing water and conducting moisture laterally through their pore structure, joints, or bedding layers during sustained flood events. This is a property of the Substrate material and is not a defect in the Aqua-Cade System.

**(2) Seal interface vs. Substrate.** The Aqua-Sill is engineered to stop water passage at the interface between the seal and the Substrate, measured under the Seepage Standard set forth in Section 3 of the Terms (0.5 fluid ounces per minute over any continuous 36-inch span). The Aqua-Sill is not engineered to stop water that travels through the Substrate itself, and Substrate-Conducted Moisture is expressly excluded from the WGS warranty under Section 6.4.

**(3) Pre-installation sealing.** WGS has advised Customer of the option to apply a penetrating substrate sealer prior to installation to reduce absorption and capillary migration through the Substrate. Customer's election with respect to pre-installation sealing is set forth below.

**(4) Ongoing maintenance.** Customer is solely responsible for maintaining substrate sealing in accordance with the sealer manufacturer's recommended re-application schedule. Failure to maintain substrate sealing is not a defect in the System and does not give rise to a warranty claim against WGS.

**(5) Distinction at inspection.** In the event water is observed on the protected side of the barrier following installation or during a flood event, Customer agrees that WGS may inspect and test under the Testing Protocol set forth in Section 4 of the Terms to determine whether such water constitutes Seepage, Active Water Flow, or Substrate-Conducted Moisture, and that WGS's good-faith determination shall govern the warranty treatment of the observation.

#### Customer Election (initial one)

**OPTION 1 — WGS Pre-Installation Sealing.** I elect WGS pre-installation sealing per SOP-INS-002 at additional cost of \$ \_\_\_\_\_.

**OPTION 2 — Independent Sealing.** I will provide independent substrate sealing prior to installation and produce product documentation. I understand WGS will verify sealing function by water bead test before installation and may decline to proceed if inadequate.

**OPTION 3 — Decline.** I decline pre-installation sealing and accept the substrate condition as-is. I expressly accept the risk of Substrate-Conducted Moisture during flood events and waive any claim against WGS for moisture not constituting Active Water Flow at the seal-Substrate interface.

## Signatures

**Customer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Customer printed:** \_\_\_\_\_

**WGS representative:** \_\_\_\_\_ **Date:** \_\_\_\_\_