

General Terms and Conditions for The Supply of Mechanical, Electrical and Associated Electronic Products**1. PREAMBLE**

These General Conditions apply to any Product or Service supplied by the Supplier to the Purchaser unless the Supplier expressly agrees otherwise in writing. Any modifications of or deviations from them must be agreed in writing by the Supplier.

2. PRODUCT INFORMATION

The Purchaser shall not rely on information and data contained in product brochures and price lists unless they are expressly included in the Contract. All sales material, including pitches or otherwise, are for informative purposes only and do not always apply to the Product or Service that form part of the contract, unless expressly included in the Contract.

3. DEFINITIONS

The "Purchaser" shall be any person, persons or company placing orders upon the "Supplier". The Supplier is Pump Systems Australia Pty Ltd ACN 134 731 212 (as trustee for the PSA Unit Trust ABN 38 027 981 316), trading as "Pump Systems Australia" The "Products" are Products and/or Services and materials supplied to the Purchaser the "Supplier".

4. DRAWINGS AND DESCRIPTIONS

All drawings and technical documents relating to the Product or its manufacture submitted by one party to the order, prior or subsequent to the formation of the Contract, shall remain the property of the submitting party.

5. CONFIDENTIALITY

Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than erection, commissioning, operation or maintenance of the Product. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

6. INSTALLATION & OPERATION

The Supplier shall, if so requested by the Purchaser, free of charge provide information and drawings which are necessary to permit the Purchaser to erect, commission, operate and maintain the Product. Such information and drawings shall be supplied in the number of copies agreed upon or at least one copy of each. The supplier shall not be obliged to provide manufacturing drawings for the Product or spare parts.

7. WORKS TEST

Acceptance tests provided for in the Contract shall, unless otherwise agreed, be carried out at the place of manufacture during normal working hours. If the Contract does not specify the technical requirements, the tests shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the country of manufacture.

8. NOTICE OF WORKS TESTS

The Supplier shall notify the Purchaser of the acceptance tests in sufficient time to permit the Purchaser to be represented at the tests. If the Purchaser is not represented, the test report shall be sent to the Purchaser and shall be accepted as accurate.

9. PASSING OF RISK

If, in the case of delivery Ex-works, the Supplier, at the request of the Purchaser, undertakes to send the Product to its destination, the risk will pass not later than when the Product is handed over to the first carrier. Partial shipments shall be permitted unless otherwise agreed.

10. DELIVERY

Any agreed trade term shall be construed in accordance with the Incoterms in force at the formation of the Contract. If no trade term is specifically agreed the delivery shall be Ex-works (EXW).

11. TIME FOR DELIVERY

If the parties, instead of specifying the date for delivery, have specified a period of time on the expiry of which delivery shall take place. This period shall start to run on the date when the Supplier receives the Purchaser's order, or the date of formation of the Contract, or all information to enable manufacture to proceed, whichever is the later.

12. DELAY BY SUPPLIER

If the Supplier anticipates that it will not be able to deliver the Product at the time for delivery, it shall forthwith notify the Purchaser thereof in writing, stating the reason, and, if possible, the time when delivery can be expected.

13. DELAY BY OTHERS

If delay in delivery is caused by any of the circumstances mentioned in Clause 24 or by an act or omission on the part of the Purchaser, including suspension under Clauses 14 the time for delivery shall be extended by a period which is reasonable having regard to all the circumstances in the case. This provision applies regardless of whether the reason for the delay occurs before or after the agreed time for delivery.

14. DELIVERY ACCEPTANCE

14.1. Unless the Purchaser's failure to accept delivery is due to any such circumstance as mentioned in Clause 24, the Supplier may by notice in writing require the Purchaser to accept delivery within a final reasonable period.

14.2. If the Purchaser fails to accept delivery at the delivery time, it shall nevertheless pay any part of the purchase price which becomes due on delivery as if delivery had taken place. The Supplier shall arrange for storage of the Product at the risk and expense of the Purchaser. The Supplier shall also, if the Purchaser so requires, insure the Product at the Purchaser's expense.

14.3. If, for any reason for which the Supplier is not responsible, the Purchaser fails to accept delivery within such period, the Supplier may by notice in writing terminate the Contract in whole or in part. The Supplier shall then be entitled to compensation for the loss it has suffered by reason of the Purchaser's default. The compensation shall not exceed that part of the purchase price that is attributable to that part of the Product in respect of which the Contract is terminated.

15. PAYMENT

15.1. Unless the Contract otherwise provides, the Contract price for the Product and/or services shall be payable not later than the last day of the month following the month of delivery or supply of the Product and/or services, using the payment method the Supplier requires.

15.2. If any supply of Products or services is subject to GST, the Supplier shall provide the Purchaser with a valid tax invoice and shall be entitled to add GST to the Contract price.

15.3. The time stipulated for payment shall be of the essence of the Contract and failure to pay within the period specified shall entitle the Supplier to suspend further performance of the Contract pending payment and in addition the Supplier shall be entitled without liability wholly or partially to cancel or suspend the Contract or any other contract between the Supplier and the Purchaser without prejudice to any other remedy available to the Supplier. The Supplier shall also be entitled to claim compensation for the loss it has incurred. The compensation shall not exceed the agreed purchase price.

15.4. If the Purchaser anticipates that it will be unable to accept delivery of the Product at the delivery time, it shall forthwith notify the Supplier thereof stating the reason, and, if possible, the time when it will be able to accept delivery.

15.5. Unless otherwise agreed in writing the Purchaser shall not be entitled to set off against any monies due to the Supplier under the Contract, any amount claimed by or due to the Purchaser from the Supplier whether pursuant to the Contract or on any other account whatsoever.

15.6. Whatever the means of payment used, payment shall not be deemed to have been effected before the Supplier's account has been fully and irrevocably credited.

15.7. If the Purchaser fails to pay by the stipulated date, the Supplier shall be entitled to interest from the day on which payment was due. The Supplier shall be entitled to interest on any part of the Contract price not paid by its due date from that date until actual payment at the rate of two (2) per cent per annum over the then commercial loan rate available to the Supplier from its Australian bankers, calculated daily. Where the Supplier specifies that payment will be made by Letter of Credit, the Purchaser must establish and maintain in favour of the Supplier an irrevocable and unconditional Letter of Credit with or confirmed by the Supplier's Australia's bankers. All bank charges (whether of the overseas or the Supplier's bankers) in connection with the Letter of Credit and the opening thereof shall be borne by the Purchaser. If for any reason the bank is liable to make payment to the Supplier under any Letter of Credit established for that purpose fails to do so, the Purchaser shall nevertheless remain liable to pay for the Product supplied and/or services performed.

16. RETENTION OF TITLE

16.1. Until the Purchaser has paid the full purchase price of the Product and of any other Product supplied to the Purchaser at any time by the Supplier and all other sums due to the Supplier, the ownership of the Product shall not pass to the Purchaser and the Supplier shall be entitled to repossess the Product. Notwithstanding the foregoing, the Purchaser may sell the Product in the course of ordinary business provided that the proceeds of sale shall be the property of and held by the Purchaser in trust for the Supplier and the Purchaser shall be liable to account to the Supplier on demand in respect of such proceeds and, if necessary, to execute a formal assignment in favour of the Supplier of all claims against any customer of the Purchaser.

16.2. The Purchaser shall be liable for all costs, charges and expenses (including legal costs) incurred by the Supplier in exercising its aforesaid rights to repossess the Product or to recover the proceeds of sale of any sale by the Purchaser.

16.3. Until all monies owing to the Supplier in respect of a Product are paid in full, the Purchaser must not grant any security interest in the Product. The Purchaser shall do all things necessary, including executing all documents and providing all information the Supplier requires to enable the Supplier to register a financing statement on the Personal Property Securities Register to ensure that the Supplier has a purchase money security interest in respect of the Products.

16.4. The retention of title shall not affect the passing of risk under Clause 9.

17. WARRANTY

17.1. Subject to the limitations in Clause 18, Supplier warrants that the Product shall be free from defects in material and, workmanship. Subject to Clause 16, the Supplier warrants that it will pass title in purchased Products to the Purchaser. If it appears within twelve (12) months from the initial Product start up or until eighteen (18) months after shipment, whichever occurs first, that the Product or any part thereof does not conform to this warranty, and Purchaser so notifies Supplier within a reasonable time after discovery, Supplier shall thereupon promptly correct such nonconformity by repair or replacement EXW Supplier's factory or service centre. Subject to Clause 17.2 and to the maximum extent permitted by law, Supplier's sole obligation and Purchaser's sole remedy under this warranty is repair or replacement at Supplier's election. Supplier's warranty obligation for Services shall be the earlier of either ninety (90) days from the date of initial start-up or six (6) months after completion of the Service work. Supplier shall not be responsible for any on-site costs, including removal and reinstallation of any warranted Product. Purchaser agrees to provide Supplier reasonable and clear access to its Product which may include removal of materials or structures as well as supplying any Product, materials or structures which are necessary to provide reasonable access to the Product being repaired or replaced. All Product repaired or replaced will be re-warranted only for the remainder of the original warranty period. SUBJECT TO CLAUSE 17.2 AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE EXPRESS WARRANTY SET FORTH HEREIN IS THE EXCLUSIVE WARRANTY OF SUPPLIER, AND NO OTHER WARRANTY, EITHER EXPRESSED OR IMPLIED, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE, SHALL APPLY. Supplier is not responsible for repairs or alterations made by others without mutual written agreement between Supplier and Purchaser. Supplier does not warrant the Product or any repair/replacement part against the effects of erosion, corrosion, or normal wear and tear due to operation or the environment. The warranty and remedies set forth herein are conditioned upon proper storage, installation, use and maintenance of the Product in all material respects, and in accordance with Supplier's written recommendations. Replacement parts or repairs furnished under this warranty shall be subject to the warranty provisions herein for the remaining original warranty period.

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17.2. The warranty in Clause 17.1 is in addition to any other rights and remedies the Purchaser may have under the Australian Consumer Law. This Clause 17.2 applies if (and only if) and to the extent to which the Purchaser acquires goods or services from the Supplier as a consumer within the meaning of the Australian Consumer Law. In this case, the goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with a service, the Purchaser is entitled to cancel the service contract with the Supplier and to a refund for the unused portion, or to compensation for its reduced value. The Purchaser is also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, the Purchaser is entitled to have the failure rectified in a reasonable time. If this is not done, the Purchaser is entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. The Purchaser is also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

17.3. The limitations on the Supplier's liability contained in this Contract are made to the maximum extent permitted by law. Nothing in this Contract restricts the effect of consumer guarantees or any other rights or remedies which cannot be excluded, restricted or modified. Subject to those laws, to the extent to which the Supplier is entitled to do so, its liability under such rights or remedies, shall be limited at its option to: (a) in the case of goods, any one or more of: the replacement or repair of the goods; or the supply of equivalent goods; or the payment of the cost of replacing or repairing the goods or of acquiring equivalent goods; or (b) in the case of services, any one or more of: the supplying of the services again; or the payment of the cost of having the services supplied again.

18. LIABILITY FOR DEFECTS

18.1. The Supplier shall remedy any defect in Products resulting from faulty design, materials or workmanship in accordance with Clause 18 and this Contract.

18.2. Subject to Clause 17.2 and to the maximum extent permitted by law, the Supplier's liability is limited to defects that appear within a period of one year from delivery. If the daily use of the Product exceeds that which is agreed, this period shall be reduced proportionately.

18.3. Subject to Clause 17.2 and to the maximum extent permitted by law, when a defect in a part of the Product has been remedied, the Supplier shall be liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Product for a period of one year. For the remaining parts of the Product the period mentioned in Clause 18.2 shall be extended only by a period equal to the period during which the Product has been out of operation as a result of the defect.

18.4. The Purchaser shall without undue delay notify the Supplier at the address above of any defect which appears. Such notice shall under no circumstances be given later than two weeks after the expiry of the period given in Clause 18.2.

18.5. Where the defect is such that it may cause damage, the notice shall be given immediately. The notice shall contain a description of the defect. If the Purchaser does not notify the Supplier of a defect within the time-limits set forth in this Clause, then subject to Clause 17.2 and to the maximum extent permitted by law it shall lose its right to have the defect remedied.

18.6. On receipt of the notice in writing under Clause 18.5 the Supplier shall remedy the defect without undue delay and at its own cost in accordance with Clause 18 and this Contract.

18.7. Repair shall be carried out at the Suppliers Works and transport costs will be paid by the Purchaser. In the event a fault is found to be the responsibility of the Supplier and providing the Product is within the defects liability period the return transport cost will be refunded to the Purchaser.

18.8. If, within a reasonable time, the Supplier does not fulfil its obligations under Clause 18.1, the Purchaser may, by written notice, fix a final time for completion of the Supplier's obligations.

18.9. If the Supplier fails to fulfil its obligations within such final time, the Purchaser may himself undertake or employ a third party to undertake necessary remedial works at the risk and expense of the Supplier.

19. CHARGE REPAIRS

If the Purchaser has given such notices as mentioned in Clause 18.5, and no defect is found for which the Supplier is liable, the Supplier shall be entitled to compensation for the costs it has incurred as a result of the notice.

20. REPLACED PARTS

Defective parts which have been replaced shall be made available to Purchaser and shall be its property.

21. NOT THE SUPPLIER'S LIABILITY

21.1. The Supplier is not liable for defects arising out of materials provided by, or a design stipulated or specified by the Purchaser.

21.2. The Supplier is liable only for defects that appear under the conditions of operation provided for in the Contract and under proper use of the Product.

21.3. The Supplier's liability does not cover defects that are caused by faulty maintenance, incorrect erection or faulty repair by the Purchaser, or by alterations carried out without the Supplier's consent in writing. Finally, the Supplier's liability does not cover normal wear and tear deterioration.

22. MAXIMUM DEFECT LIABILITY PERIOD

Notwithstanding the provisions of Clauses 18.1 but subject to Clause 17.2 and to the extent permitted by law, the Supplier shall not be liable for defects in any part of the Product for more than one year from the beginning of the period given in Clause 18.2.

23. DIVISION OF LIABILITY FOR DAMAGE CAUSED BY THE PRODUCT

23.1. The Supplier shall not be liable for any damage to property caused by the Product after it has been delivered and whilst it is in the possession of the Purchaser. Subject to Clause 17.2 and to the maximum extent permitted by law, nor shall the Supplier be liable for any damage to products manufactured by the Purchaser, or to products of which the Purchaser's products form a part.

23.2. If the Supplier incurs liability towards any third party for such damage to property as described in the preceding paragraph, then, subject to Clause 17.2 and to the maximum extent permitted by law, the Purchaser shall indemnify, defend and hold the Supplier harmless.

23.3. If a claim for damages as described in this Clause is lodged by a third party against one of the parties, the latter party shall forthwith inform the other party thereof in writing.

23.4. The Supplier and the Purchaser shall be mutually obliged to let themselves be summoned to the court or arbitral tribunal examining claims for damages lodged against one of them on the basis of damage allegedly caused by the Product.

24. FORCE MAJEURE

24.1. Either party shall be entitled to suspend performance of its obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties including without limitation fire, war (whether declared or not), extensive military mobilisation, insurrection, requisition, seizure, embargo, restrictions in the use of power, storm, flood, pandemic and defects or delays in deliveries by sub-contractors.

24.2. A circumstance referred to in this Clause that had occurred prior to the formation of the Contract shall give a right to suspension only if its effect on the performance of the Contract could not be foreseen at the time of the formation of the Contract.

24.3. The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance.

24.4. If Force Majeure prevents the Purchaser from fulfilling its obligations, it shall compensate the Supplier for expenses incurred in securing and protecting the Product.

25. EXTENDED SUSPENSION TERMINATION

Regardless of what might otherwise follow from these General Conditions, either party shall be entitled to terminate the Contract by notice in writing to the other party if performance of the Contract is suspended under Clause 24.1 for more than six months.

26. ANTICIPATED NON-PERFORMANCE

Notwithstanding the provisions in these conditions regarding suspension, each party shall be entitled to suspend the performance of its obligations under the Contract, where it is clear from the circumstances that the other party will not be able to perform its obligations. A party suspending its performance of the Contract shall forthwith notify the other party thereof

27. CONSEQUENTIAL LOSSES AND LIMITATION OF LIABILITY

Subject to Clause 17.2 and to the maximum extent permitted by law, in no event shall the Supplier or its suppliers be liable (whether in contract, warranty, failure of a remedy to achieve its intended or essential purposes, tort (including negligence), strict liability, indemnity or any other legal theory), for loss of use, loss or corruption of data, revenue, loss of interest, goodwill or profit, or for costs of capital or of substitute use or performance, for loss of or interruption to the Customer's business or for any damages or sums paid by the Customer to third parties, or for any indirect, special, liquidated, incidental or consequential damages, even if the Supplier has been advised of the possibility of such damages..

Subject to Clause 17.2 and to the maximum extent permitted by law, the Supplier's maximum liability under this Contract shall be the Contract price.

28. EXPORT / IMPORT

Purchaser agrees that it will comply with all applicable import and export control laws and/or regulations, including without limitation those of the United States and/or other jurisdictions from which the Product and/or technology may be supplied or to which the Product and/or technology may be shipped. In no event shall Purchaser use, transfer, release, import, export or re-export the Product and/or technology in violation of such applicable laws and/or regulations.

29. EXPORT COMPLIANCE

Nor shall products and technology be sold, exported, re-exported, diverted, transhipped or otherwise transferred, whether directly or indirectly, by Purchaser to Cuba, Iran, North Korea, Republic of Sudan (North Sudan), Syria or to any other prohibited countries or parties, including any parties acting for or controlled by these governments.

30. DISPUTES AND APPLICABLE LAW

30.1. All disputes arising in connection with the Contract shall be finally settled under the ACICA expedited arbitration rules. The seat of arbitration shall be Melbourne.

30.2. The Contract shall be governed by the law of Victoria, Australia.

31. COMPLIANCE WITH LAWS / ANTI-BRIBERY

Supplier and Purchaser agree to comply with all applicable laws, regulations, codes and standards, including but not limited to those of the United States and other jurisdictions where the parties conduct business. Additionally, Purchaser has not and will not offer, promise, authorize or make, directly or indirectly, any payments (in money or any other item of value), contributions or gifts to any non-U.S. government agency, department, official or government owned or controlled entity in order to obtain or retain business, or secure any other improper business advantage, which would violate the U.S. Foreign Corrupt Practices Act and/or any other applicable anti-bribery laws.