

**PUMPTEC PTY LTD - ACN 002 229 263**

**CONDITIONS OF SALE**

**1. GENERAL DEFINITIONS**

The following terms and conditions shall apply to all Goods sold and services provided.

- a. **Goods:** Any goods provided by the Supplier including
- b. **Manufacturer:** means and includes the maker or makers of any Goods or any part of the Goods to which the quotation applies.
- c. **Supplier:** Pumptec Pty Ltd ACN 002 229 263 or any of its subsidiaries

These terms and conditions are the sole agreement between the Supplier and the Purchaser and supersede any terms and conditions contained in any previous offer made by the Supplier, whenever such is given or received, and no other terms and conditions will be binding upon the Supplier unless in writing and signed by the Supplier's authorised representative.

**2. THE CONTRACT.**

No Contract shall arise between the Supplier and the Purchaser until the Purchaser has received confirmation for supply from the Supplier, or until the Supplier has despatched the Goods, whichever shall come first. The Supplier will use its best endeavours to provide the Goods at the price quoted, however the price may alter if the Manufacturer has altered the price of the Goods without notice.

**3. SUFFICIENT INFORMATION**

The Purchaser's order shall be accompanied by sufficient information to enable the Supplier to provide the Goods and/or installation without interruption, and the Purchaser shall be responsible for and warrant the accuracy of the information it provides.

**4. SPECIFICATIONS**

The Purchaser must use all care when providing instructions to the Supplier in relation to specifications and stated purpose of use of the Goods. The Supplier will not be liable for fitness of purpose due to any error, misdescription or misuse by the Purchaser.

The Supplier will make every effort to provide the Goods as requested, however cannot make any warranties regarding the specifications as provided by the manufacturer. Should the manufacturer alter the specification of the Goods prior to delivery, the Supplier will make every effort to provide Goods as near as practicable to the Goods originally sought.

**5. SUITABILITY FOR PURPOSE**

Unless the Supplier has specifically agreed in writing, it has no knowledge of the use to which the Purchaser proposes to put any Goods supplied by the Supplier to the Purchaser and the Supplier makes no representation nor gives any warranty in respect of such particular use.

**6. QUOTATION AND PRICE**

All quotations are valid for 30 days, subject to manufacturer adjustment. Published prices are subject to change without notice. Price does not include delivery, unless otherwise specified.

**7. QUOTED TIME**

All dates or times quoted for completion or deliver shall be calculated from the date of acceptance by the Supplier of the Purchaser's order, together with sufficient information as described above.

**8. EXTENSION OF TIME**

Any contract period shall be extended in respect of any delay relating to either instructions given by, or lack of instructions, or any other acts or omissions of the Purchaser, including any withdrawal of access.

**9. PAYMENT**

- a. All Goods are supplied on a cash basis unless credit is offered to the Purchaser
- b. All credit accounts are to be paid within thirty (30) days of invoice. The Supplier may refuse to provide further Goods until any outstanding balances are cleared.
- c. The Supplier may charge interest at the rate of two per centum (2%) per annum over the current overdraft rate charged to the Supplier on any outstanding balances. All credit collection expenses will be payable by the Purchaser.
- d. All Goods ordered but not paid for may incur storage and handling charges until payment and delivery. If the Supplier declines to provide the Goods due to non-payment, the Supplier may also charge storage and handling costs.
- e. Goods left in excess of six (6) months may be sold to recover costs.
- f. Title shall not pass to the Purchaser until the Goods are paid for in full.

**10. PERSONAL PROPERTY SECURITY ACT**

- a. The Purchaser agrees that any purchase creates a purchase money security interest (as defined in the *Personal Property Security Act 2009* (Cwlth)) ("PPSA") in the Goods as commercial property and the proceeds of sale of the Goods. The Purchaser must, promptly upon request by the Supplier, sign any documents, provide any necessary information and do anything else required by the Supplier to ensure that the security interest is a perfected purchase money security interest.
- b. Until payment has been made in full, the Purchaser acknowledges and agrees that the Goods are inventory, and the Purchaser will not allow any security interest to arise in respect of the Goods unless the Supplier has perfected its purchase money security interest.
- c. The Purchaser waives their rights under the PPSA to receive a copy of any verification statement of financing change statement (as per PPSA).

**11. INSURANCE**

Risk in the Goods the subject of any contract for repair, modification, or other work between the Supplier and the Purchaser shall remain with the Purchaser. The purchaser shall be responsible for effecting insurance which provides cover for the Goods which are being repaired either at the Supplier's premises, at a subcontractor's premises, or in transit.

**12. RISK**

Risk in the Goods of any Contract between the Supplier and the Purchaser shall remain with the Supplier only until the first of:

- a. the passing of property in the Goods to the Purchaser
- b. the delivery of Goods to the Purchaser or to a carrier
- c. upon such Goods leaving the Supplier's premises at the request of the Buyer
- d. the expiry of 14 days from the date of notification by the Supplier to the Buyer that the Goods are ready for delivery.

**13. WARRANTIES**

Warranty periods vary for different products. Please contact Pumptec Pty Ltd for the relevant information.

Warranty excludes: cost of taking up and reinstalling the equipment, transportation cost to and from Pumptec Pty Ltd or its appointed representative(s), defects/failures due to incorrect installation, neglect, misuse, war, violence, cataclysm, acts of God, storm, rain, weather, flooding, lightning, low/high voltage, damage caused by sand or abrasive materials, dry running, cavitation, effects of chemicals or corrosive/hazardous liquids/substances, foreign matter, inadequate protection against freezing, product/liquid temperature beyond recommended range, pressure beyond recommended range, unauthorised repairs or use/operation for purposes other than the goods are designed for.

The supplier shall be under no obligation whatsoever (including without prejudice to the generality of the foregoing any liability in tort of for consequential loss, damage or injury of any kind) for any defect in, or failure of, or unsuitability for any purpose of the goods or any part thereof, whether the same be due to any act, omission, negligence or wilful default of the Seller or its servants or agents or the faulty design workmanship or materials or to any other cause whatsoever including (without prejudice to the generality of the foregoing) any breach by the Supplier its servants or agents or any fundamental terms of any fundamental breach by the Supplier its servants or agents to any terms of the contract of which these conditions form part.

Subject to the provisions hereof, all conditions, warranties, or other terms whether express or implied statutory or otherwise inconsistent with the provisions of this condition are hereby expressly excluded.

Subject to any provisions hereof under the Competition and Consumer Act 2010 (Commonwealth) (the "Act") certain conditions and warranties may be implied in this contract if the Purchaser is a consumer within the meaning of the Act and certain other conditions and warranties may be implied if this contract by statute or otherwise under other Commonwealth or State Law applicable hereto but except for such conditions and warranties implied all conditions and warranties which would or might otherwise be implied in this contract are hereby excluded and negative.

In the event of the invalidity of any part or provision of this contract such invalidity shall not affect the enforceability or any part or provision of this contract.

Liability for breach of a condition or warrant implied in this contract by the Act is limited to:

- (a) In the case of goods or any of the following as determined by the company:
  - 1. The replacement of the goods or the supply of equivalent goods or
  - 2. The repair of the goods or;
  - 3. The payment of the cost of replacing the goods or acquiring equivalent goods or
  - 4. The payment of the cost of having the goods repaired.
  
- (b) In the case of services any one of the following as determined by the Supplier:
  - 1. the supplying of the services again or
  - 2. the payment of the cost of having the services supplied again.

The Purchaser hereby further acknowledges warrants and declares with the Supplier as follows:

- (a) That the Purchaser has carefully examined the goods and has found no defects therein other than the following defects (if any) which have been specifically drawn to the Suppliers attention
- (b) That notwithstanding the defects (if any) in the goods which the Purchasers examination thereof has revealed and/or which has been drawn to the Purchasers attention, the Purchaser is satisfied with the quality and condition thereof and the Purchaser has relied upon his own skill and judgment in selecting the goods;
- (c)
  - 1. The Purchaser has not made known to the Supplier any particular purpose for which the goods are being acquired and the Supplier gives no warranty to the Purchaser that the goods are suitable for any purpose or
  - 2. The Purchaser has made known to the Supplier the particular purpose for which the goods are being acquired and has satisfied himself that the goods are reasonably fit for the purpose and the Purchaser does not rely on the skill or judgment of the Supplier as to the fitness or possible fitness of the goods for that purpose.
- (d) Any warranty will be voided in the event the Purchaser attempts to repair or otherwise otherwise interfere with the goods without the prior express written approval of the Supplier.

**14. GST**

- a. GST means any tax, levy, charge or impost implemented under the *New Tax System (Goods and Services Tax) Act* ("GST Act") or any Act of the Parliament of the Commonwealth of Australia substantially in the form of, or which has a similar effect to the GST Act.
- b. The price in the Contract does not include GST
- c. If the Supplier becomes liable to pay GST in respect of the sale or supply of the Goods, the price payable under this Contract will be increased to include GST assessed, and the Contract will include an invoice including applicable GST.

**15. PROPER LAW**

This contract shall be governed in all respect by the laws of the State of New South Wales.