

**Pump Systems Limited ("the Company")**  
**TERMS AND CONDITIONS OF TRADE**

**TERMS AND CONDITIONS**

1. These terms and conditions ("the Terms") shall apply to the provision of all goods by the Company to the Buyer and are the Terms referred to in the Company's Credit Account Application form. The Company reserves the right to amend the Terms by written notice to the Buyer.

**PRICES AND VARIATION**

2. The Company reserves the right to vary any quotation if between the date of quotation and delivery the Company incurs unforeseen costs in relation to the supply of the goods.

**TERMS OF PAYMENT**

3. All goods must be paid for in full on delivery unless the Buyer has a credit account with the Company in which case payment shall be made by the 20th of the month following delivery of the goods.
4. The Company reserves the right to charge interest on overdue accounts at the Company's bank unsecured commercial overdraft rate plus 2% for the time being calculated on a daily basis.
5. Payment will be made without deduction and will not be deemed to have been made unless the Company has received cleared funds.

**CANCELLATION OF ORDER**

6. If the Buyer cancels an order for goods prior to delivery the Buyer will pay the Company the Company's reasonable costs and expenses incurred as a consequence of the cancellation including any loss suffered by the Company in re-selling the goods at a price less than the price to have been paid by the Buyer. The Company will, where applicable, debit the Buyer's account with the Company accordingly.

**RETURN OF GOODS FOR CREDIT**

7. Goods will not be accepted for return and credit without the Company's prior consent.
8. Returned goods must be delivered at the Buyer's expense in original condition and packaging and are subject to the Company's inspection on receipt.
9. Credit will not be given for damaged or used goods or for delivery charges.
10. A handling fee of 20% of the price paid for the returned goods will be deducted by the Company.

**WARRANTY**

11. No warranties either expressed or implied are given by the Company in relation to the goods unless specifically agreed in writing other than those warranties contained in the Consumer Guarantees Act 1993.
12. Any warranties given are strictly conditional on full payment having been received unless the Company has agreed credit terms except where the warranties are under the Consumer Guarantees Act.
13. The Company's obligations under any warranty extend only to the replacement of defective goods and the Company will not be liable for any indirect or consequential loss occasioned through any defect in the goods.

**CLAIMS**

14. If the Buyer has any claim in respect of the goods the claim must be made to the Company in writing within 14 days of date of delivery. If no claim is made within 14 days this shall be conclusive evidence that the goods, at the time of delivery, were in good order and condition.
15. The maximum amount of any claim in relation to the goods shall be limited to the price invoiced to the Buyer in respect of such goods.

**RISK**

16. The risk in the goods supplied to the Buyer will pass to the Buyer on delivery but ownership in them will not pass to the Buyer, until the price for the goods has been paid in full.

**PERSONAL PROPERTY SECURITIES ACT 1999 ("PPSA") (Capitalised expressions have the meaning prescribed to them in the PPSA)**

17. As security for payment of the price of the goods and payment of any other amount owed by the Buyer to the Company from time to time and as security for the performance by the Buyer of the obligations set out in these Terms and Conditions the Buyer grants the Company a Security Interest in the goods.
18. The Company reserves the right to register a Financing Statement in the Personal Property Securities Register to perfect its Security Interest in the goods.
19. The Company's costs of registering a Financing Statement or a Financing Change Statement may, at the Company's discretion, be debited against the Buyer's account with the Company.
20. On request by the Company the Buyer will sign any documents and provide any information to enable the Company to perfect its Security Interest in the goods.
21. The Buyer will not allow any person to register a Financing Statement over the goods without the prior written consent of the Company.
22. The Buyer waives its right to receive a copy of the Verification Statement.

**DELIVERY**

23. Delivery of goods is subject to availability.
24. The Buyer will pay freight, transit insurances and the cost of any required licences or permits unless the Company agrees otherwise.
25. The Company will make every effort to complete delivery on the date agreed but the Company will not be liable to the Buyer for late delivery or consequential damages of any kind arising out of late delivery.

<b>Initials</b>	<b>Company</b>  Initial here	<b>Buyer</b>  Initial here
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## DEFAULT

26. If the Buyer fails to comply with those Terms, becomes insolvent, is placed in receivership or is wound up (each being a "Default Event") then the Company reserves the right:-
- 26.1. to treat all amounts owed by the Buyer to be immediately due and payable; and
  - 26.2. to cancel or suspend delivery of goods; and
  - 26.3. by its agents to enter onto the Buyer's premises (without the necessity of giving notice) for the purposes of repossessing the goods; and
  - 26.4. terminate these Terms but without prejudice to the Company's rights against the Buyer.
27. On the occurrence of a Default Event the Buyer shall at the Company's request:-
- 27.1. re-deliver the goods to the Company or do anything reasonably necessary to allow the Company to retake possession of them; and
  - 27.2. instruct any third parties who owe money in respect of goods to pay that money direct to the Company; and
  - 27.3. make any records available which may assist the Company to take the proceeds of the goods.
28. The Buyer will be liable for and indemnifies the Company for all expenses (including solicitor – own client legal costs) and losses incurred or suffered by the Company as a result of the occurrence of a Default Event.

## TERMS SOLE EVIDENCE OF CONTRACT

29. These Terms constitute the sole evidence of the contract between the Company and the Buyer. The Buyer enters into these Terms in reliance on its own judgment and not upon any representation, condition or warranty made or alleged to be made by the Company or its agents.

## ARBITRATION AND JURISDICTION

30. Any dispute arising under these Terms shall be referred to arbitration in accordance with the provisions of the Arbitration Act 1996. New Zealand law governs and New Zealand Courts have non-exclusive jurisdiction in relation to these Terms.

## INTELLECTUAL PROPERTY

31. Where the Company has proprietary rights in patent, copyright, designs, engineering details, brand name, designmark, servicemark, trademark and other data pertaining to products provided to the buyer it will retain all such rights. By selling such products to the buyer, the Company grants to the buyer the right for use for the purposes it was intended in any trade or business, or to sell, but for no other purpose.

## GOODS AND SERVICES TAX

32. Unless otherwise stated GST will be charged at the rate applicable on the price of the goods as at the date of the Company's Invoice.

## FORCE MAJEURE

33. The Company shall not be liable to the Buyer for damages directly or indirectly arising from any delay or failure in delivery of the goods or failure to perform any of the Terms where such delay or failure is caused directly or indirectly by an event or circumstances beyond the Company's reasonable control.

## INFORMATION AND PRIVACY ACT

34. For the purposes of assisting the administration of the Buyer's account with the Company, the Buyer authorises the Company:-
- 34.1. to collect all information it may require about the Buyer from any third parties and authorises those third parties to release that information to the Company; and
  - 34.2. to hold all information given by the Buyer or any third party to the Company; and
  - 34.3. to use that information including giving the information to any other person to facilitate collection of debts from the Buyer.
35. The information will be collected, held and used on the condition that:-
- 35.1. it will be held securely by the Company;
  - 35.2. it will be accessible to any of the Company's employees and agents who need access to it for the administration of the Buyer's account; and
  - 35.3. the Buyer may request access to and correction of it at any time.

## CONSUMER GUARANTEES ACT 1993 ("CGA")

36. Where the Company is supplying goods to the Buyer for business purposes within the meaning of the CGA, pursuant to section 43 of the CGA, the provisions of the CGA will not apply to these Terms.
37. Where the Buyer supplies the goods on to a person acquiring them for business purposes it will be a term of the Buyer's contract with the buyer of the goods that the CGA will not apply in respect of the goods.

## TERMINATION

38. The Company may terminate these Terms on the giving of 7 days notice in writing to the Buyer but termination shall be without prejudice to any existing rights and remedies that the Company may have against the Buyer.

## EXECUTION

39. These Terms may be executed by facsimile copies signed by the parties provided that after transmission the Buyer shall deliver the signed original Terms to the Company. The Company shall on request deliver a copy of the signed Terms to the Buyer.

## GENERAL

40. The Company may assign any of its rights and obligations under the Terms to any person. The Buyer may not assign any of the Buyer's rights and obligations under the Terms to any person without the prior consent of the Company.

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