

## TERMS AND CONDITIONS OF SALE

- 1) **Interpretation**
  - a) "Goods" shall mean all goods and chattels, all charges for work and labour hire done, hire charges, fees, service charges, repairs, materials and insurance charges of whatsoever nature associated with the supply and manufacture, construction, or repair of the goods supplied to the Customer and all the terms and conditions shall relate to any charge herein imposed by the Supplier to the Customer.
  - b) "Customer" means a person whose order for the purchase of goods is accepted by the Supplier.
  - c) "Supplier" means Southern's Water Technology ABN 75 483 638 214.
- 2) **Credit Information**
  - a) The Customer hereby warrants that the information comprised in the application is true, accurate and correct and is supplied for the purpose of obtaining a credit trading account with the Supplier and the Customer further warrants that the signature(s) appearing on this agreement are duly authorised by the Customer to apply for a credit trading account to execute this agreement.
  - b) The parties agree that in the event of the Supplier prior to approving a credit trading account grant to the Customer time to pay for goods supplied then such supply shall not amount to a waiver by the Supplier of any of the terms of this Agreement nor be construed or be taken either directly or indirectly or by implication as a granting by the Supplier of a credit trading account to the Customer and no credit trading account shall be granted unless the Customer is so advised by the Supplier either in writing or verbally.
  - c) The signatories to this agreement hereby authorise the Supplier to carry out credit checks and to obtain credit reports in respect of their credit worthiness.
- 3) **Account Terms** In the event of the Supplier granting a credit trading account to the Customer then;
  - a) Payment of all accounts is required by the due date, being a date stipulated by the Supplier.
  - b) That should the Customer default in the payment of any monies due under this Agreement then all monies due to the Supplier shall immediately become due for payment and shall be made by the Customer within seven (7) days of the date of demand.
  - c) Any expenses, costs or disbursements incurred by the Supplier in recovering any outstanding monies from the Customer including debt collection agency fees and solicitors costs shall be paid by the Customer, providing that those fees do not exceed the scale charges as charged by that debt collection agency or solicitor.
  - d) The Supplier may at any time or from time to time without assigning any reason refuse to extend any further credit to the Customer and that it's granting of a credit trading account does not require the Supplier to extend to the Customer any particular amount of credit.
  - e) The supplier at it's discretion shall be entitled, without notice to terminate any credit trading account granted to the Customer.
- 4) **Prices**
  - a) All prices quoted whether verbally or in writing will be exclusive of Goods and Services Tax (GST) unless otherwise specified.
  - b) The validity of an quotation given by the Supplier will be 30 calendar days unless otherwise stated otherwise in the quotation or unless withdrawn in writing before the end of the validity period.
- 5) **GST**
  - a) Any government, quasi governmental, federal or state taxes, duties, levies or like charges which arise in relation to the sale or supply of the goods and services.
  - b) The 10% GST will be applicable to all the Supplier's products and services. The GST amount will appear as a separate amount on the invoice.
- 6) **Delivery**
  - a) Any times quoted for delivery are estimates only and the Supplier shall not be liable to the Customer for any failure to deliver or for delay in delivery of goods occasioned by strike, lockout or other industrial dispute, shortage of stock, shortage of labour, lack of skilled labour, delays in transit, fire, flood, hostility, civil commotion or any other cause whatsoever whether or not beyond the control of the Supplier.
  - b) The Customer shall not be relieved of any obligation to accept or pay for goods by reason of any delay in delivery.
  - c) The Supplier reserves the right to deliver goods by instalments and each instalment shall be deemed to be sold under a separate contract. Failure to deliver any instalment, or deliver any instalment on time shall not entitle the Customer to repudiate the contract in whole or in part.
- 7) **Acceptance**
  - a) Upon delivery of the goods to the customer, the customer shall be deemed to have accepted the goods.
  - b) Immediately on receipt of the consignment, the customer must make sure that all parts are intact and in compliance with their order.
- 8) **Property and Risk**
  - a) The Customer hereby acknowledges that the goods supplied by the Supplier shall remain the property of the Supplier until the Supplier receives payment for same. The supplier hereby agrees to allow the Customer to deal, sell or trade with the goods in the normal course of business and for the Customer to retain the sale proceeds of such sale or dealing provided that the Customer adheres to the Terms and Conditions detailed herein. In the event of the Customer defaulting in any of the Terms of Trading contained herein, including the payment of monies due under these Terms and Conditions, then the Supplier shall have the right, without giving notice, to retake possession of the goods supplied to the Customer by the Supplier and the Customer hereby authorises and allows the Supplier or it's representative, servant, agent or employee to enter the premises upon which the goods are housed or stored for the purpose of retaking possession of same and the Supplier shall not be liable for any costs, losses, damages, expenses or any other monies or losses suffered by the Customer as a result of the Supplier retaking possession of the goods. The Customer agrees that the Supplier shall be entitled but not obliged to sell any goods possession of which is retaken by the Supplier pursuant to these Terms.
- 9) **Returns**
  - a) The Supplier shall not be under any obligations to accept goods returned by a customer. Prior approval must be obtained before any goods will be accepted for return.
  - b) Any approval for goods returned for credit is conditional upon the products being returned;
    - i) Freight prepaid in unused condition in original packaging; and
    - ii) All products returned for credit must be in an unsoiled, undamaged and immediate resaleable condition; and
    - iii) All returned products must be accompanied by a copy of the delivery docket, a written statement including the original invoice number, date of purchase and reasons for return.
    - iv) The valued credited, if any, will be at the absolute and unfettered discretion of the Supplier, and in any case limited to the amount originally invoiced for products, SAVE THAT products returned will attract a charge (the amount of which shall be at the discretion of the Supplier but not less than 15% of the price of those products) to cover documenting, restocking, repacking and any other charges that may be applied by the Supplier.
- 10) **Made to order products**

- i) Products and pump systems not normally stocked by the Supplier will be assembled/manufactured against customer orders that confirm acceptance of quotes submitted by the Supplier.
  - ii) It is the responsibility of the buyer to satisfy itself of the suitability of any Made to Order Products for the buyer's purpose based on the information provided by the Supplier in its quotation.
  - iii) A cancellation fee will be applied to any order for a Made to Order Product that is cancelled before delivery to the buyer. This cancellation fee will be based on the costs the Supplier will incur as a direct result of the cancellation including refurbishment of products, cancellation fees, etc.
  - iv) The guarantees applicable to Made to Order Products will be the original supplier's guarantee to the buyer of the Made to Order Product.
- 11) **Warranty**
  - a) The Supplier reserves the right to refuse to repair products polluted by poisonous media or other liquids injurious to the environment.
  - b) Freight and insurance for all goods returned to the Supplier for warranty assessment must be pre-paid. The Supplier will not accept liability for the costs of disassembly, assembly and installation.
  - c) Warranty is granted to the original user only and the warranty period varies from product to product.
  - d) Warranty does not extend to defects caused by ordinary wear and tear, improper installation or use, a failure to carry out maintenance or as the result of uses for which the product was not designed or advertised.
  - e) Any site condition of specification not known or advised to the Supplier at the time of offering or ordering, which affects the operation of the supplied goods, will be the responsibility of the customer. Warranty will be void under these conditions and all costs related to repair will be the customer's responsibility.
  - f) Warranty is void if the goods supplied are operated at a duty point other than that specified and quoted.
  - g) Warranty is void if protection devices are installed in the goods but not used or monitored.
  - h) Any products supplied by the Supplier shall be subject to the warranty terms of the manufacturer.
  - i) Warranty is void if the customer attempts to repair the goods and they subsequently fail.
  - j) Any products supplied by the Supplier must be installed in accordance with the manufacturer's specifications.
- 12) **Fitness for purpose**
  - a) The customer agrees that it does not rely on the skill or judgement of the Supplier in relation to the suitability of any goods for a particular purpose. Any advice, recommendation, information or assistance provided by the Supplier is provided without any liability by the Supplier whatsoever.
- 13) **Product Liability**
  - a) The Supplier shall not be liable in respect of any claim caused by or arising out of the use of the goods except insofar as the same may be imposed upon it or implied into the transaction by a statute. The Supplier will not be liable for direct or indirect consequential loss or damage arising out of the use of the goods.
  - b) The Supplier disclaims responsibility for goods manufactured or supplied by it that:
    - i) Are damaged by accident;
    - ii) Are damaged by abnormal operating conditions, war, violence, storm, cataclysm or other acts of God,
    - iii) Are damaged by equipment being used for any application for which the product is not manufactured or recommended.
    - iv) Are damaged caused by sand, abrasive materials, corrosion due to saline water, hazardous liquid, electrolytic action, liquid temperature beyond the recommended range, cavitation, lightning strike, improper supply voltage or insufficient liquid to enable the product to perform.
    - v) Are damaged by not being installed in accordance with the manufacturer's installation instructions.
    - vi) Are subject to incorrect maintenance or mishandling.
- 14) **Sub-contracting**
  - a) The Supplier reserves the right to sub-contract the manufacture, supply and/or installation of the goods or any part thereof to a third party.
- 15) **Claims Upon Supplier**
  - a) Any liability of the Supplier for a breach of a condition or guarantee implied by statute is limited to any one or more of the following:
    - i) The replacement of the product (goods) within the meaning of the Trade Practices Act 1974, herein referred to as "the Act" or the supply of an equivalent product;
    - ii) The repair of the product;
    - iii) The payment of the cost of replacing the product or of acquiring equivalent product; or
    - iv) The payment of the cost of having the product repaired;
    - v) The return of the product and the refund of the purchase price, or that part of the purchase price paid;
    - vi) The supply of the services (within the meaning of "the Act");
    - vii) The payment of the cost of having the services supplied again;
  - b) The Supplier shall not be liable for any loss or profits or any consequential, indirect or special loss, damage or injury of any kind whatsoever arising directly or indirectly from products or any defect.
- 16) **Governing Law**
  - a) These Terms and Conditions of sale shall in all respect be governed and constructed with the Laws of the State of Western Australia, Commonwealth of Australia.
- 17) **Relationship of the Parties**
  - a) Both the Supplier and the Customer are independent contractors under these conditions and the parties acknowledge that neither of them is an agent or partner of the other for any purpose and that each of them is entirely without authority to act on behalf of the other in any manner. The Supplier shall not be responsible to third parties for any claim arising out of the activities of the Customer and the Customer shall hold the Supplier harmless against any claim arising in connection herewith and indemnify and hold harmless the Supplier for any amount the Supplier may be required to pay as a result of any claim.
- 18) **Trusts and Trustees** Where the customer is a trustee:
  - a) The Customer agrees to produce a stamped copy of the trust deed (with all amendments) if and when requested by the Supplier.
  - b) The Customer warrants that it has full power and authority to enter into these terms and conditions and the agreement on behalf of the trust and it (and the trust and all the trust's real and personal property) shall be bound by these terms and conditions and that it enters into this agreement both personally and as trustee, irrespective of whether or not it discloses to the Supplier that it is a trustee at the time of entering into this or any other credit agreement with the Supplier.
- 19) The Customer shall no later than 14 days prior to any proposed changes of ownership, change in Registered Particulars, alteration, addition to the shareholding or directorship, notify the Supplier of the proposed change and the Customer shall be liable for any goods supplied by the Supplier after such change, alteration or addition unless the Supplier shall have acknowledged in writing acceptance of the intending change, alteration or addition.