

ANNEXURE "A"
GENERAL TERMS AND CONDITIONS FOR SALE
ALL QUOTATIONS AND CONTRACTS ARE SUBJECT TO THE FOLLOWING CONDITIONS

1. **SELLER** means **SOUTHERN PUMPING SPECIALISTS PTY LTD ACN 664 899 334** and **BUYER** means the Buyer whose order for the purchase of goods is accepted by Seller.
2. **ACCEPTANCE OF BUYER'S ORDER:** These terms and conditions shall apply to every sales contract and sale of goods between Seller and Buyer. Any terms and conditions of Buyer's order deviating from or inconsistent with these terms and conditions are expressly rejected by Seller. This rejection also extends to any statement by Buyer that Buyer's terms and conditions shall prevail and to any stipulation by the Buyer as to the manner of declaring such rejection. A contract shall only be deemed to have been entered into between Seller and Buyer for the supply of goods when, upon an order having been placed upon Seller for goods, that order has been accepted by Seller. Such acceptance or order may be made and communicated by Seller in writing or by overt act of acceptance. The provisions of this Clause 2 shall apply to every quotation or offer by Seller for the supply of goods.
3. **PRICES:** Quotations are to be treated as estimates only and subject to withdrawal, correction and alteration at any time before acceptance of Buyer's order by Seller. Prices are ex Seller's Warehouse unless otherwise agreed in writing.
4. **GOODS AND SERVICES TAX:**
 - a) In this clause:
 - i. "GST" refers to goods and services tax under the A Tax System (Goods and Services) Act 1999 ('GST Act'). The terms used herein have the meanings contained within the GST Act.
 - ii. It is hereby agreed between Seller and Buyer that the consideration for the supply expressed in this agreement is exclusive of Seller's liability for GST.
 - b) On Sale
 - i. Buyer will pay to Seller, in addition to the total purchase price, the amount payable by Seller as GST on the taxable supply made by seller under this agreement.
 - ii. Seller shall deliver to Buyer a tax invoice for the supply in a form which complies with the GST Act and regulations.
5. **INSURANCE:** Buyer is responsible to effect whatever insurance cover he requires at his expense.
6. **PAYMENT:** The Buyer is required to pay a one third (33%) deposit to at the time of the order with progress payments as requested by the Seller and balance on completion or on advice from Seller that completed goods are ready for delivery. If Seller shall extend credit to Buyer payment for all goods sold will be within Thirty (30) days from the last day of the month in which each delivery was made. Interest shall be payable by Buyer on all amounts overdue to Seller at the rate of Two (2) per centum per month.
7. **CONFIRMATION ORDERS:** Orders confirming a prior order must be marked as such by Buyer. If not, Seller will consider Buyer's order as additional.
8. **CANCELLATION:** Orders accepted by Seller cannot be countermanded or delivery deferred or goods returned except with the written consent of Seller upon terms that reimburse and indemnify Seller against all loss including cartage, bank charges and other incidental expenses on any part of the order that is cancelled. Where Seller agrees to accept goods for return, a restocking charge of 20% of the price of the goods returned is to be paid by the Buyer. This amount is a genuine pre-estimate of the loss incurred by the Seller arising from the return of the goods.
9. **ACCEPTANCE AND CLAIMS:** Acceptance of the goods delivered, shall be deemed for all purposes to have taken place at the expiration of seven (7) days from the date of each delivery.
10. **DELIVERY AND RISK:**
 - a) Unless Buyer has requested Seller to make special delivery arrangements the risk in respect of the goods shall pass to Buyer upon delivery to Buyer's premises or the nominated carrier's depot. Buyer shall provide or cause to be provided full and clear access for delivery and will at its own expense provide all necessary assistance in unloading the goods at the nominated place of delivery.
 - b) Where Buyer has requested special delivery arrangements (i.e. other than Seller delivering to premises of Buyer) risk in respect of goods shall pass to the Buyer upon the goods leaving the premises of Seller in Unanderra. Seller will not in any circumstances accept liability for damage shortage or loss during transit.
 - c) If delivery of goods by Seller is delayed for a cause other than its own negligence, Buyer shall be liable for extra charges, losses or expenses incurred by Seller and Buyer shall not be entitled to cancel this contact by reason thereof.
 - d) If delivery of goods is delayed due to any circumstances beyond the control of Seller the risk passes to Buyer on the day when the goods were first ready for consignment from the Seller's warehouse and this day is to be regarded as date of delivery for purposes of payment in Clause 6.
11. **SPECIAL ORDERS:** Buyer will place order in writing on Seller for non-stock items. Seller will not accept return of non-stock items unless manufacturer agrees to accept return from Seller. Seller may deduct transport, handling and restocking charges of 20% of the price of the goods from the credit due to Buyer (being a genuine pre-estimate of the loss incurred by the Seller arising from the return) and may also deduct there from reasonable labour costs associated with the restoration of non-stock items to the condition as supplied by manufacturer.
12. **TITLE:** Title in goods shall remain Seller's until it has received in cash the total contract price. Seller may at any time recover the goods if they are in Buyer's possession and resell the goods if any payment owed by Buyer on any accounts is overdue or if Seller considers that the amount outstanding from Buyer on the general statement of account between the parties is in excess of the credit limit Seller is willing to accord to Buyer and for this purpose Seller, its servants or agents may enter upon Buyer's or other premises upon which the goods are situated. Buyer shall hold any proceeds from disposal or sale of goods in trust for Seller until payment in full is received by Seller.
13. **SECURITY INTEREST UNDER THE PPSA**
 - a) "PPSA" means the Personal Properties Securities Act 2009.
 - b) Buyer agrees that:
 - (i) each order accepted by Seller, being an order accepted under these Term and Conditions, creates a registrable security interest under the PPSA in any goods supplied under it.
 - (ii) Buyer acknowledges the right of Seller to register a financing statement under the PSAA with respect to the security interest created by these Terms and Conditions.
 - (iii) If Seller registers a security interest under the PSAA, Seller may exercise any or all remedies afforded to Seller as a secured party under it without prejudice to any other rights or remedies arising out of breach by Buyer of any agreement with Seller and
 - (iv) The goods are collateral for the purpose of the PPSA.
14. **DELIVERY TIME:** Seller may deliver the goods by installments or partial shipments and Buyer will accept each delivery. Requirements of Buyer shall not be a condition or of the essence of the contract. Seller shall be under no liability for direct or consequential loss or damage to Buyer arising from delay or postponement of delivery.
15. **WARRANTY:**
 - a) The Seller shall only be bound by an express warranty or guarantee if same is in writing. Goods sold shall only have the benefit of a manufacturer's warranty if the purchaser has complied with the manufacturer's instructions in relation to maintenance and operation of the said goods.
 - b) Apart from any consumer guarantees under the Australian Consumer Law (ACL), all other guarantees, conditions and warranties, express or implied by law or Statute, are hereby expressly excluded and negated so far as legally permissible.
 - c) In the event of any breach of an implied guarantee, warranty or condition which is not excessively excluded from these Terms and Conditions, Seller's liability shall at Seller's option be limited to:
 - (i) The repair or replacement of the goods or the supply of equivalent goods; or
 - (ii) The cost of such repair, replacement or supply.
 - d) Seller is not otherwise liable for any direct, indirect or consequential loss or damage howsoever arising or occurring, whether founded in tort, contract, and statute or otherwise.

Nothing in this clause affects the Buyer's rights for any alleged failure of a guarantee under the ACL.
16. **NO IMPLIED SERVICE:** Buyer acknowledges that except as provided by law this agreement does not entitle the Buyer to demand to receive from Seller any site inspection or service of the goods supplied, delivered and installed, if applicable. If Buyer does require Seller's services in respect of site inspection and service of the goods, then Buyer should arrange with Seller to enter a separate agreement in respect of the same. In the event that no separate agreement in relation to site inspection and service is required by Buyer then buyer acknowledges that in the event of the goods supplied requiring to be serviced or inspected due to breakdown or otherwise then Buyer shall rely solely on any benefit in respect of same provided by the manufacturer.
17. **AGREE USE:** Buyer acknowledges that the matters set out in the schedule hereto are a true description of the purposes for which the goods purchased hereby are to be applied in respect of work required to be performed by such goods and that Buyer may forfeit any rights if any Buyer may have against Seller for the supply of the subject goods if they are applied to any other use. Buyer forfeits any rights or claims against Seller if any alteration to the goods sold or quoted is carried out without Seller's written consent. Buyer further acknowledges sole responsibility for any damage or injury to property or persons caused by using the sold goods to pump or transfer hazardous or toxic fluids or substances.
18. **REPAIRS:** Goods returned by Buyer to Seller for repair will be free of all charges to Seller at Buyer's risk.
19. **PRIVACY:** Seller adheres to the National Privacy Principles in respect of any personal information collected from an individual. In respect of such personal information, Seller discloses that:
 - a) The identity of Seller and how to contact Seller are set out on the first page of the Application of Credit.
 - b) The individual is entitled to access to the personal information collected.
 - c) The personal information is collected for the purpose of processing the application for credit and the application for the supply of goods.
 - d) The only organisations to which Seller discloses the personal information are credit reporting agencies.
 - e) The consequences if the personal information is not provided is that Seller will be unable to process the application for credit and/or the application for supply of goods.
20. **VARIATION BY BUYER:** Should there be any variation in details, sizes and quantities, delivery instructions or any other item or matter on which the quotation or invoice is based Seller reserves the right to revise and amend the contract price accordingly.
21. **COUNCIL APPROVAL:** Seller's quotation makes no allowance for building or development application or Fees to Council or relevant approvals for use required by Council or Government Codes. Responsibility is solely on Buyer for such approvals for the goods and their installation or use.
22. **CLERICAL ERRORS:** Clerical errors in computations, typing or otherwise of catalogue, quotation, acceptance, offer, invoicing, delivery docket, credit note or specification of Seller shall be subject to correction.
23. **MODIFICATIONS:** All modifications and amendments to these Terms and Conditions shall be in writing and if otherwise shall not be binding upon Seller.

24. If any provisions of the Contract are unlawful or invalid by reason of any applicable statute or rule of Law, then such provision shall be severed from the rest of this Contract which shall remain valid and binding on the parties.
25. **Force majeure:** If circumstances beyond the Seller's control prevent or hinder its provision of the goods, the Seller is free from any obligation to provide the goods while those circumstances continue. The Seller may elect to terminate this agreement or keep the agreement on foot until such circumstances have ceased. Circumstances beyond the Seller's control include, but are not limited to, unavailability of materials or components, strikes, lockouts, riots, natural disasters, fire, war, acts of God, government decrees, proclamations or orders, transport difficulties and failures or malfunctions of computers or other information technology systems
26. **Dispute resolution**
- a) If a dispute arises between the Buyer and the Seller, the following procedure applies:
 - i. A party may give another party a notice of the dispute and the dispute must be dealt with in accordance with the procedure set out in this clause.
 - ii. A party must not commence legal proceedings (except proceedings seeking interlocutory relief) in respect of a dispute unless the dispute has been referred for resolution in accordance with this clause .
 - iii. A party must not oppose any application for a stay of any legal proceedings that may be issued in respect of a dispute pending the completion or termination of the procedure set out in this paragraph.
 - b) If a dispute is notified, the dispute must immediately be referred to the parties' respective senior management. Those representatives must endeavour to resolve the dispute as soon as possible and in any event within 10 Business Days (or other period as agreed).
 - c) Unless otherwise agreed by the parties, any dispute that cannot be settled by negotiation between the parties or their representatives, the parties expressly agree to endeavour to settle the dispute by mediation administered by the Australian Commercial Disputes Centre (**ACDC**) before having recourse to arbitration or litigation. The mediation must be conducted in accordance with the ACDC Guidelines for Commercial Mediation (**Guidelines**) which operate at the time the matter is referred to ACDC. This paragraph survives termination of these terms of trade.
 - d) Despite the existence of a dispute (including the referral of the dispute to mediation), each party must continue to perform its obligations under these terms of trade.