

1. DEFINITIONS AND INTERPRETATIONS

1.1. In these Conditions:

“PPS” means Packaged Pump Systems Ltd

“Buyer” means the person firm or company so described in the Order;

“Conditions” means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any varied or special terms and conditions agreed in writing between PPS and the Buyer;

“Contract” means the contract of the sale and supply of the Goods and/or the supply and performance of the Services subject to these Conditions;

“Goods” means the Goods (including any installment of the Goods or any part of them) described in the Order and by context may include Services;

“Order” means any written quotation of PPS which is accepted by the Buyer, or any written order of the Buyer which is accepted by PPS for the supply of Goods or performance of Services;

“Price” means the Price of the Goods and/or the charge for the Services;

“Services” shall mean the provision of suitably trained labour for the maintenance, installation or repair of the Goods and can extend to similar equipment supplied by other parties,

“Specification” includes any plans, drawings, data, process or other technical requirements or information including PPS’s web site relating to the Goods or Services agreed between the parties.

2. GENERAL BASIS OF SALE

2.1. These Conditions apply to all Contracts for Sale of Goods by PPS.

2.2. The placing of an Order by the Buyer for the Goods and or Services shall constitute acceptance of these Conditions notwithstanding any other terms and conditions subject to which any quotation by PPS is accepted or purported to be accepted or any such order is made or purported to be made by the Buyer.

2.3. No Order submitted by the Buyer shall be deemed to be accepted by PPS unless and until confirmed in writing by PPS’s authorised representative.

2.4. No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and PPS.

2.5. The Buyer acknowledges that all advice, instructions or recommendations of PPS rely and are dependent upon all the information and technical background given to PPS by the Buyer.

2.6. Where the Buyer does not specify a particular process, PPS will not be liable for any defect or failure of the process or

entitle the Buyer to withhold payment if PPS have dispensed with such inspection on request of the Buyer for whatever reason.

3. ORDERS AND SPECIFICATIONS

3.1. The Buyer shall be responsible to PPS for ensuring the accuracy of the terms of any Order (including any applicable Specification) submitted by the Buyer, and for giving PPS any necessary information relating to the Goods pursuant to clause 2.5 or otherwise within a sufficient time to enable PPS Ltd to perform the Contract in accordance with its terms.

3.2. The quantity, quality, description, functionality, facilities, functions, capacity and description of the Goods shall, subject as provided in these Conditions, be as specified in the Order and any applicable Specification as set out either in PPS’s quotation or in the web site of PPS or any documents referred to in the Order.

3.3. All drawings, illustrations or any product literature or other publications of PPS must be regarded as approximations only.

3.4. Any Specification supplied by PPS to the Buyer in connection with the Contract, together with all intellectual property rights in the Specification, shall be the exclusive property of PPS. The Buyer shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Buyer, or as required for the purpose of the Contract. Upon request of PPS the Buyer will return to PPS any documents (or other media) in or upon which any part of the Specification has been supplied by PPS and shall not retain copies thereof.

3.5. If the Goods are to be manufactured or any process is to be applied to the Goods by PPS in accordance with a Specification submitted by the Buyer, the Buyer shall indemnify PPS against all loss, damages, costs and expenses awarded against or incurred by PPS in connection with any claim for infringement of any intellectual property rights of any other person which results from PPS’s use of the Specification so submitted by the Buyer.

3.6. PPS reserves the right to make any changes in the Specification of the Goods which are required to conform with any statutory or other regulatory requirements applicable to the Goods.

3.7. No Order which has been accepted by PPS may be cancelled by the Buyer except with the agreement in writing of PPS and on terms that the Buyer shall indemnify PPS in full against all loss, costs, damages, charges and expenses incurred by PPS as a result of cancellation.

3.8. No order which has been accepted by PPS may be changed or altered by the Buyer except with the agreement in writing of PPS and payment by the Buyer of a 10% surcharge (calculated as 10% of the Price) to PPS.

4. PRICE OF THE GOODS

4.1. The Price shall be PPS’s quoted price. The Price quoted is valid for 30 days only, after which time they may be altered by PPS without giving notice to the Buyer.

4.2. PPS reserves the right, by giving notice to the Buyer at any time before delivery, to increase the Price to reflect any increase in the cost to PPS which is due to any factor beyond the control of PPS, any change in delivery dates, quantities or the Specifications which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give PPS adequate or accurate information or instructions.

4.3. Except as otherwise stated under the terms of the Order and unless otherwise agreed in writing between the Buyer and PPS, the Price is given by PPS on an ex works basis, and where PPS agrees to deliver the Goods otherwise than at PPS's premises, the Buyer shall be liable to pay PPS's charges for transport, packaging and insurance.

4.4. The Price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to PPS.

5. TERMS OF PAYMENT

5.1. Subject to any special terms agreed in writing between the Buyer and PPS, PPS shall be entitled to invoice the Buyer for the Price on or at any time after delivery of the Goods or the Buyer wrongfully fails to take delivery of the Goods, in which event PPS shall be entitled to invoice the Buyer for the Price at any time after PPS has notified the Buyer that the Goods are ready for collection or (as the case may be) PPS has tendered delivery of the Goods.

5.2. The Buyer shall pay the Price within 30 days of the date of PPS's invoice unless otherwise notified by PPS to the Buyer in writing, and PPS shall be entitled to recover the Price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the Price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.3. If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to PPS, PPS shall be entitled to:

5.3.1. cancel the Contract or suspend any further deliveries to the Buyer;

5.3.2. appropriate any payment made by the Buyer to such of the Goods (or Goods and/or Services supplied under any other contract between the Buyer and PPS) as PPS may think fit (notwithstanding any purported appropriation by the Buyer); and

5.3.3. charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 4 per cent per annum above National Westminster Bank Plc base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest) before and after judgment.

6. DELIVERY

6.1. Delivery of the Goods shall be made to some place agreed by PPS, by PPS delivering the Goods to that place.

6.2. Any dates quoted for delivery of the Goods are approximate only and PPS shall not be liable for any early or late delivery of the Goods however caused.

6.3. Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract and failure by PPS to deliver any one or more of the installments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.4. If PPS fails to deliver the Goods (or any installment), PPS's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the Price of the Goods.

6.5. If the Buyer fails to take delivery of the Goods or fails to give PPS adequate delivery instructions at the time stated for delivery (otherwise than by reason of any Force Majeure or by reason of PPS's fault) then, without prejudice to any other right or remedy available to PPS, PPS may:

6.5.1. store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

6.5.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the Price or charge the Buyer for any shortfall below the Price under the Contract.

6.6. Any charges quoted for delivery of the Goods including transport, packaging and insurance are approximate only and PPS shall not be liable for any changes to the charges quoted however caused.

7. RISK AND PROPERTY

7.1. Risk of damage to or loss of the Goods shall pass to the Buyer:

7.1.1. in the case of Goods to be delivered at PPS's premises, at the time when PPS notifies the Buyer that the Goods are available for collection; or

7.1.2. in the case of Goods to be delivered otherwise than at PPS's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when PPS has tendered delivery of the Goods.

7.2. The property in the Goods shall not pass to the Buyer until PPS has received in cash or cleared funds payment in full of the Price and all other goods agreed to be sold by PPS Ltd to the Buyer for which payment is then due.

7.3. Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as PPS's fiduciary agent and bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as PPS's property, but shall be entitled to resell or use the Goods in the ordinary course of its business.

7.4. Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), PPS shall be entitled at any time to require the Buyer to deliver up the Goods to PPS and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.

8. BUYERS OBLIGATIONS

The Buyer shall be responsible at its own expense for:

8.1. the availability and supply of adequate supplies of water, electricity and lighting and other necessary utilities;

8.2. the operation of its own plant and machinery.

8.3. the availability and supply of adequate temperature and humidity control at the premises where the Goods are to be used;

8.4. informing PPS within five days in writing of any material changes in the site design, materials of construction, operating conditions and uses or requirement of, or in respect to, the system(s) which are used together with or to which the Goods are applied;

8.5. the provision of all such notices as may be required in accordance with the relevant local authority requirements in connection with the disposal of effluent or waste occasioned by use of the Goods;

8.6. indemnifying PPS (and its employees and/or agents) in respect of any claims which may be made against PPS (or its employees and/or agents) as a result of the disposal of such effluent or waste occasioned by the use of the Goods.

9. WARRANTIES

9.1. Subject to the conditions set out in clauses 8, 9 and 10 PPS warrants that the Goods will correspond with the Specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months from the date of their initial use or 12 months from delivery, whichever is the first to expire or such other period specified in the Order or subsequently agreed between the parties in writing.

9.1.1 Equipment sold but not installed, commissioned or on a PPS service agreement must be returned to PPS for inspection and repair (proof of purchase required). PPS engineers can attend site and repair equipment in warranty subject to advance payment for labour costs.

9.1.2 Where equipment has been installed, commissioned or is on a PPS service agreement, labour for the first year from date of commissioning or installation by PPS will be provided without cost, unless equipment has failed due to items not covered by this warranty.

9.1.3 Where PPS equipment has not been installed and or commissioned by PPS but the property owner or Tenant has a service agreement with PPS, labour will

provided without cost for one year from installation by others for equipment covered by this warranty.

9.1.4 Typical faults not covered by warranty-include, but are not limited to, poor electrical installation and blockages of any type such as toilet paper, wipes, sanitary products and builders' debris.

9.2. The above warranty is given by PPS subject to the following conditions:

9.2.1. PPS shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;

9.2.2. PPS shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow PPS's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without PPS's approval;

9.2.3. PPS Ltd shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total Price has not been paid by the due date for payment;

9.2.4. the above warranty does not extend to parts, materials or equipment not manufactured by PPS, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to PPS.

9.3. PPS will not be liable for any loss whether direct or indirect or consequential or loss of profit or any damage as a result of:

9.3.1. any inaccurate or insufficient information or technical background given to PPS;

9.3.2. any failure to comply strictly with the instructions, advice or recommendations given to the Buyer by PPS;

9.3.3. any use or application of the Goods for any purpose other than those detailed in the Specification or advised by PPS; or

9.3.4. any breach of the obligations set out in clause 8;

9.3.5. any failure to comply with any applicable legislation or any guidelines issued by the Health and Safety Executive or other appropriate regulatory authority current at the time of use of the Goods by the Buyer or any of its employees, agents or sub-contractors.

9.4. Any parameters given in respect of the performance of the Goods are based on the design parameters set out in the Specification and PPS will not be liable for any failure of the Goods to achieve these parameters unless the operating conditions for the Goods are the same as set out in the Specification.

9.5. It is understood that PPS is not an insurer and insurance (if any) shall be obtained by the Buyer, and that amounts payable to PPS under the Contract are based upon the value

the Goods to be provided hereunder and the scope of PPS's liability as set forth herein. PPS makes no guarantee or warranty that any services rendered in respect of the Goods including any tests of the Goods in respect of their chemical stability or characteristics or shelf life where the Goods are manufactured in accordance with the Specification submitted by the Buyer will avert or prevent occurrences or the consequences thereof which any services are designed to detect.

9.6. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.7. Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Buyer are not affected by these Conditions.

9.8. Any claim by the Buyer which is based on any defect in the quantity, quality or condition of the Goods or their failure to correspond with the Specification shall be notified to PPS within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If delivery is not refused, and the Buyer does not notify PPS accordingly, the Buyer shall not be entitled to reject the Goods and PPS shall have no liability for such defect or failure.

9.9. Where any valid claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet the Specification is notified to PPS in accordance with these Conditions, and provided the Goods are returned to PPS's premises carriage paid PPS will at its option either replace the Goods (or the part in question) free of charge or refund to the Buyer the Price of the Goods (or a proportionate part of the price), but PPS shall have no further liability to the Buyer.

9.10. Except in respect of death or personal injury caused by PPS's negligence, PPS shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of PPS, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer and the entire liability of PPS under or in connection with the Contract shall not exceed the Price, except as expressly provided in these Conditions.

10. INTELLECTUAL PROPERTY INDEMNITY

10.1. If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes any intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification

supplied by the Buyer, PPS shall reimburse the Buyer against all reasonable loss and damages awarded against or incurred by the Buyer in connection with the claim, provided that PPS is given full control of any proceedings or negotiations in connection with any such claim and the Buyer shall give all assistance to PPS as it may require and take such steps as PPS may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which PPS is liable to indemnify the Buyer under this clause.

11. BUYERS INDEMNITY

11.1. The Buyer shall indemnify PPS and keep it indemnified for the duration of the Contract against all injury (including death) to any persons and any loss and/or damage as a result of any act, default or negligence by the Buyer and its employees or agents (other than PPS or its sub-contractors) and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

12. INSOLVENCY OF BUYER

12.1. If the Buyer makes any voluntary arrangement with its creditors or becomes bankrupt or becomes subject to an administration order or goes into liquidation or PPS reasonably apprehends that any of the events mentioned above is about to occur then PPS shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

13. GENERAL

13.1. PPS shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of PPS's obligations in relation to the Goods, if the delay or failure was due to any cause beyond PPS's reasonable control.

13.2. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that party as its registered office or principle place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

13.3. No waiver by PPS of any breach of the Contract by PPS shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.4. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

13.5. The Contract and its performance shall be governed by the laws of England, and PPS agrees to submit to the non-exclusive jurisdiction of the English court.