



**Maximise Your Reliability, Minimise Your Costs**

## **ANNEXURE "A"**

### **GENERAL TERMS AND CONDITIONS**

**Important changes and additions have been made to items 6 (a), 22, 23, 24 on the 16/12/2015**

**1. SELLER** means Prestige Universal Mining Pumps (PUMP) Pty Ltd and **BUYER** means the Buyer whose order for purchase of goods or repairs is accepted by Seller. (Reference to "Sale of Goods" hereafter will also include repairs)

#### **2. ACCEPTANCE OF BUYER'S ORDER:**

These terms and conditions shall apply to every sale contract and sale of goods and repairs 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 Buyer as to the manner of declaring such rejection. A contract shall only be or 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 when, upon an order having been placed upon Seller for goods, that order having been placed upon Seller for goods, that order has been accepted by Seller. (Such acceptance of order may be made and communicated by Seller in writing or by overt act of acceptance). The provision of the 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 or alteration at any time before acceptance of Buyer's order by Seller. Prices are ex Sellers warehouse unless otherwise agreed in writing.

#### **4. GOOD AND SERVICES TAX:**

(a) In this cause "GST refers to good and services tax under the new tax system (goods and services act 1999- GST Act".

(b) It is hereby agreed between the Seller and the Buyer that the consideration for the supply expressed in this agreement is exclusive of the Seller's liability for GST.

(c) On sale:

i) The Buyer will pay to the Seller, in addition to the total purchase price, the amount payable by the seller as GST on the taxable supply made by the Seller under this agreement.

ii) The Seller shall deliver to the 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 or she requires at their expense.

#### **6. PAYMENT:**

(a) Any legal costs, stamp duties or any other expenses whatsoever incurred by the Seller in respect of the application, agreements, guarantees, securities or other documentation required by the Seller in consequence of this application and any other expenses incurred in respect of opening and maintaining any account in the name of the Buyer together with any debt collection costs, dishonoured cheques fees, legal costs, whether charged on scale or on any other basis incurred, shall be paid by the Buyer on demand..

(b) One third (33%) deposit to accompany official order with further progress payments as requested and balance on completions or on advice from us 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 date of invoice. Interest shall be payable by Buyer on all amounts overdue to Seller at the rate of 1.5 per centum per month.

#### **7. CONFIRMATION ORDERS:**

Confirmation orders must be marked as such by Buyer, if not Seller will consider Buyer's order as original.

#### **8. CANCELLATION:**

Orders accepted by Seller cannot be countermanded or delivery deferred or goods returned except with the written consent of Seller and 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 re- stocking fee of 30% of purchase price will apply.

#### **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. Seller will not in any circumstances accept liability of damage, shortage or loss during transit.

#### **10. DELIVERY AND RISK:**

(a) At cost to be effected approximately 8-11 weeks from acceptance of this order schedule. Subject at all cases subject to confirmation or alteration if and when offered order is accepted by Seller.

(b) Unless the Buyer has requested Seller to make special delivery arrangements the risk in respect of the goods shall pass to the Buyer's premises or the nominated carrier's deport. The Buyer shall provide all necessary assistance in unloading the goods at the nominated place of delivery.

(c) Where the 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 the Seller. Seller will not in any circumstances accept liability of damage, shortage or loss during transit.

(d) If the delivery of the goods by Seller is delayed for a cause other than its own negligence the Buyer shall be liable for extra charges, losses or expenses incurred by Seller and the Buyer shall not be entitled to cancel this contract by reason thereof.

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### 11. SPECIAL ORDERS:

Buyer will place order in writing on Seller for non-stock items unless Manufacturer agrees to accept return from Seller. Seller may deduct transport handling and restocking charges of 30% of the price of the goods from the credit due to the Buyer.

### 12. RISK AND PROPERTY:

The risk in the goods sold shall pass to Buyer at the point of delivery. This shall also apply to any partial delivery of goods. 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 5. The property in the goods shall remain Seller's until it has received in cash the total contract price. Seller may at any time recover the goods if any payment owed by the Buyer on any account is overdue or is 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 the Buyer's or other premises upon which the goods are situated.

### 13. DELIVERY TIME:

Seller may deliver the goods by instalments or partial shipments and Buyer will accept each delivery. Requirements of Buyer shall not be 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 in delivery.

### 14. WARRANTY:

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, All conditions and warranty implied by Law or Statute are hereby expressly excluded and negated so far as legally permissible. The seller is not otherwise liable for any direct, indirect or consequential loss or damage howsoever arising or occurring, whether founded in tort,

### 15. NO IMPLIED SERVICE:

The Buyer acknowledges that excepting as provided by law this agreement does not entitle the Buyer to demand to receive from us any site inspection or service of the goods supplied, delivered and installed if applicable. If the Buyer does require our services in respect of the site inspection and service of the goods, the subject of this agreement in respect of same. In the event that no separate agreement in relation to site inspection and service is required by the Buyer, then the Buyer acknowledges that in the event of the goods supplied requiring to be serviced or be serviced or inspected due to breakdown or otherwise, then the Buyer shall rely solely on any benefit in respect of same provided by the manufacture.

### 16. AGREED USE:

The Buyer acknowledges that the matters set out in the schedule hereto are a true description of the purpose for which the goods purchased hereby are to be applied in respect of work required to be performed by such goods and that the Buyer may to forfeit any rights if any he may have against ourselves for the supply of the subject goods if they are applied to any other use. The Buyer forfeits any right of claim against the Seller if any alteration to the goods sold or quoted is carried out without the Seller's written consent. The 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.

### 17. REPAIRS:

Goods returned by Buyer to Seller for repair will be free of all charge to Seller and At Buyer's risk.

### 18. 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.

### 19. APPROVALS/STANDARDS:

Responsibility is solely on the Buyer for all items to meet such approvals/standards/regulations, be it domestic, industrial or mining for the goods and their installation or use.

### 20. CLERICAL ERRORS:

Clerical errors in computations, typing or otherwise of catalogue, quotation, acceptance offer, invoice, delivery docket, credit note, specifications of Seller shall be subject to correction.

### 21. MODIFICATIONS:

All modifications and amendments to these Terms and Conditions shall be in writing and if otherwise shall not be binding upon Seller. If any of the provisions of this 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. Receipt of purchase order from Buyer is deemed as acceptance of the above conditions.

22. The Seller reserves the right to use the services of a Mercantile Agency

23. The Buyer agrees that the law of Western Australia shall apply to all dealings with the seller and the company consents to the jurisdiction of the relevant court in the said state.

24. The Buyer hereby charges all land owned or in the future acquired by them to secure payment of all monies which are or may become owing under this agreement and consents to an absolute caveat being registered by the the creditor at any time in respect of such land to protect its charge.

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