

STANDARD TERMS AND CONDITIONS FOR THE COMMERCIAL SALE OF GOODS AND EQUIPMENT

All goods sold by National Pump & Energy ABN 83 098 812 492 ("NPE") to any third party ("Buyer") are sold on the following terms and conditions, subject only to any written agreement of the parties to the contrary. For the avoidance of doubt, in these Terms & Conditions of Sale "good" includes any "accession" within the meaning of the Personal Property Securities Act 2009 (Cth) ("PPSA").

1. BUYER'S ACCEPTANCE OF TERMS

The Buyer may accept these terms and conditions in writing or by any conduct. Without limiting the effect of this clause, the Buyer is taken to accept these terms and conditions if the Buyer:

- (a) Orders goods from NPE (whether in writing, electronically, or verbally); or
- (b) Accepts delivery of goods from NPE.

2. AGREEMENT TO SELL /PURCHASE GOODS

2.1. If NPE offers to sell goods to the Buyer (whether by providing a written quotation or otherwise), the Buyer may accept the offer in writing or by any conduct. Without limiting this clause's effect, the Buyer is deemed to accept NPE's offer by conduct if the Buyer collects, accepts delivery of, or otherwise takes possession of the goods.

2.2. If the Buyer offers to purchase goods from NPE (whether by placing an order for goods with NPE or otherwise), NPE may accept the offer in writing or by any overt act of acceptance including, without limitation, by supplying the goods to the Buyer in accordance with the offer.

3. PRICE

- 3.1. All purchase prices published or quoted by NPE are exclusive of GST (unless NPE advises the Buyer otherwise). The GST exclusive purchase price payable by the Buyer to NPE for the sale of goods is increased by the amount of GST payable by NPE for the supply of the goods to the Buyer. NPE may charge to the Buyer the purchase price plus GST by way of tax invoice.
- 3.2. Unless otherwise stated, all prices for goods published or quoted by NPE are exclusive of freight and delivery costs, insurance and other charges in relation to the transfer of the product from the premises of NPE to the location that the Buyer designates for delivery, all of which charges are payable by the Buyer.

4. TERMS OF PAYMENT

- 4.1. Subject to this clause, the Buyer must pay to NPE the full purchase price for the goods on or before delivery of the goods to the Buyer. NPE is not required to deliver any goods to the Buyer unless and until the Buyer has paid for the goods in full.
- 4.2. The Buyer may apply to purchase goods from NPE on credit, which application NPE may (in its absolute discretion and on such terms as it thinks fit) approve. If NPE agrees to sell goods to the Buyer on credit, the Buyer must pay to NPE the full purchase price for those goods within 30 days from the date on which the goods are delivered to the Buyer.
- 4.3. The Buyer must pay to NPE interest of 2% per month on any amount outstanding to NPE, calculated and accruing daily from the date on which the Buyer was due to pay the amount to NPE until the date on which the amount is paid to NPE. However, NPE will waive half of this interest if the Buyer pays the outstanding amount within [60] days from the date that the Buyer was due to pay the amount.
- 4.4. The Buyer is liable to NPE for all costs and expenses which NPE incurs in recovering monies that the Buyer owes to NPE. The Buyer must pay these costs to NPE within 7 days of NPE's demand.

5. CLAIMS, RETURNS AND ALLOWANCES

- 5.1. NPE may ignore any claim made by the Buyer in respect of goods unless:
 - (a) The Buyer makes the claim in writing within 7 days of delivery of goods to the Buyer;
 - (b) The claim refers to the relevant invoice number for the goods; and
 - (c) The claim explains (in reasonable detail) the basis of the claim.

- 5.2. No freight or other costs or charges incurred in returning goods to the Buyer shall be accepted by NPE unless authorised by NPE in advance.
- 5.3. Due to the specialist construction involved with NPE products, goods may not be returned for exchange.
- 5.4. NPE will issue a credit note to the Buyer if: (a) NPE has inspected the goods;
 - (b) The goods were (in NPE's reasonable opinion) faulty, damaged, defective or otherwise in an unsatisfactory condition on supply; and
 - (c) The goods were not damaged after supply by misuse or unreasonable use. However, NPE is not taken to agree to issue a credit note to the Buyer merely by accepting delivery of goods returned.

6. DELIVERY

The company is not responsible for loss or damage of goods in transit except when the goods are carried in NPE's own vehicles. NPE's delivery prices are quoted ex- factory with delivery being additional to the purchase price of the goods if the Buyer wishes for NPE to arrange delivery.

7. RISK, TITLE AND SECURITY

7.1. Risk in the goods sold passes to the Buyer at the earlier of the following times:

- (a) When the goods are dispatched for delivery to the Buyer; or
- (b) When the Buyer (or any third party on the Buyer's behalf) collects or takes possession of the goods.

If dispatch of the goods from NPE is delayed due to any circumstances beyond the control of NPE (for example, delays in the Buyer being able to receive the goods), risk passes to Buyer on the day when the goods are first ready for the consignment from NPE's warehouse.

- 7.2. All good sold by NPE to the Buyer remain the property of NPE, and title to the goods does not pass from NPE to the Buyer, until all outstanding debts owed by the Buyer to NPE whatsoever are paid in full.
- 7.3. If the Buyer fails to pay any outstanding debt whatsoever that it owes to NPE, the Buyer irrevocably and to the full extent permitted by law authorises NPE to (without prior notice to the Buyer) do everything reasonably necessary to re-take possession of the goods owned by NPE (including, without limitation, enter any property at which NPE reasonably believes the goods to be located).
- 7.4. The Buyer indemnifies NPE for any loss or liability whatsoever incurred by NPE in exercising its rights under Clause 7.3. This indemnity covers (without limitation) any liability to any third party for trespass or damage to property occasioned by NPE exercising its rights under this Clause 7.3.
- 7.5. NPE expressly reserves all other rights and remedies available to it on the Buyer's default on these Terms and Conditions (including, without limitation, the right to seize and dispose of or retain goods).

8. PERSONAL PROPERTY SECURITIES ACT 2009

- 8.1. The Buyer must do all things (including provide NPE with all details and data) necessary for NPE to register a "financing statement" or a "financing change statement" under the PPSA with respect to any security interest the subject of these Terms and Conditions. NPE may refuse to sell or supply goods to the Buyer until the Buyer complies with this clause 8.1.
- 8.2. Notwithstanding any other provision of these Terms and Conditions, the Buyer is not entitled to obtain possession of any goods sold by NPE until after NPE's security interest in the goods (as contemplated by these Terms and Conditions) is perfected by registration on the PPS Register.
- 8.3. If the Buyer makes any payment to NPE, NPE may apply the payment to satisfy any obligation of the Buyer to NPE (whether the obligation is unsecured, secured by security interest, or secured by purchase money security interest). NPE may:
 - (a) Apply the payment in any order or manner that it (in its absolute discretion) thinks fit; and
 - (b) Amend or re-apply any application made.
- 8.4. With respect to any security interest and collateral the subject of these Terms and Conditions:
 - (a) Sections 95, 121(4), 125, 130, 132(3)(d), 132(4), and 135 of the PPSA are excluded and contracted out of to the full extent permitted by section 115 of the PPSA; and



(b) The Buyer waives the right under PPSA section 157 to receive a notice in relation to registration events which relate to collateral that is described in the registration as commercial property.

9. REPRESENTATIONS, WARRANTIES, AND EXCLUSIONS

9.1. From the date of sale to the Buyer, NPE warrants that all new and unused goods sold by NPE to the Buyer are:

- (a) Of merchantable quality; and
- (b) Reasonably fit for any purpose for which the Buyer requires the goods, provided the Buyer communicates that purpose to NPE before the sale.

For the avoidance of doubt, this warranty does not apply to second-hand or used goods sold by NPE to the Buyer.

9.2. The warranty in Clause 9.1 is limited to the earlier of: (a) 6 months from the date the goods are sold; or (b) 1,000 hours of operation of the goods from the date of sale.

The warranty is also subject to the goods:

- (a) Having been subject to appropriate maintenance procedures being carried out in a timely fashion at recommended intervals;
- (b) Being used strictly for the purpose intended;
- (c) Being operated within applicable tolerance levels and not subject to abuse;
- (d) Pumping only the product that the goods have been designed for;
- (e) Not being modified in any way whatsoever; and
- (f) Not being operated negligently, recklessly or outside of recommended specifications.

9.3. To the full extent permitted by law, neither the warranty in Clause 9.1 or any other representation, warranty or guarantee given by NPE (whether express, implied) applies to any individual component which is warranted directly to the user by its manufacturer.

9.4. To the full extent permitted by law, NPE and the Buyer agree and acknowledge that:

- (a) NPE gives no representation, warranty, guarantee or description in relation to the goods except as set out in these Terms and Conditions;
- (b) All conditions, warranties, guarantees, representations or any other terms whatsoever expressed or implied by use, statute or otherwise in respect of the goods are excluded.

9.5. The Buyer acknowledges that, if the Buyer buys goods from NPE for a particular purpose, NPE may from time to time purchase individual components from third parties and may (to adapt the goods to the Buyer's purpose) modify the components, install the components in the goods, and/or affix the components to the goods. The Buyer further acknowledges and agrees that NPE purchases, modifies, installs and affixes components for and on behalf of the Buyer and that NPE is, to the full extent permitted by law, excluded from all liability whatsoever in respect of the individual components as modified, installed and/or affixed.

10. NO IMPLIED SERVICE

The Buyer acknowledges that except as provided by law this agreement does not entitle the Buyer to demand to receive from NPE any site inspection or service of the goods supplied, delivered and installed if applicable. If the Buyer does require NPE's services in respect of site inspection and service of the goods the subject of agreement, then the Buyer may arrange with NPE to enter a separate agreement in the respect of same.

11. REPAIRS

Goods returned by the Buyer to NPE for repair are returned free of all charges to NPE and at the Buyer's risk.

12. 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 for the sale of goods is based, NPE may amend the contract price in the quotation or invoice accordingly.

13. LIMITATION OF LIABILITY

13.1. NPE's liability and the Buyer's remedy for NPE's breach of any condition, warranty, guarantee, representation or any other term in respect of the goods whatsoever implied by law or statute is limited at NPE's option to the:

- (a) Repair of the goods;
- (b) Supply of a replacement for the goods;
- (c) Payment of the cost of replacing the goods or of acquiring equivalent goods; or

(d) Payment of the cost of having the goods repaired or resupplied.

13.2. NPE is not liable under this clause or generally to the extent that the Buyer has failed to mitigate its loss.

13.3. NPE's liability will be reduced by the amount of any contributory loss or damage to the extent caused by the negligent or wilful act or omission of the Buyer.

13.4. The Buyer acknowledges and agrees that, to the full extent permitted by law:

- (a) NPE excludes all liability for the goods if any additions, adjustments or modifications are carried out on the goods; and
- (b) Any such additions, adjustments or modifications will invalidate any warranty given by NPE, and preclude the Buyer from making any claim, in respect of the goods.

13.5. To the full extent permitted by law, NPE is not liable to the Buyer (whether in contract, tort, under statute or otherwise at law) for any loss or damage whatsoever arising out of, connected with, or relating to any fact, matter or thing relating to any goods sold by NPE to the Buyer, whether or not the Buyer or a third party suffers the loss or damage.

14. SEVERABILITY

If any clause or part of a clause in these Terms and Conditions is illegal, unenforceable or invalid, that clause or part is to be treated as removed from these Terms and Conditions without affecting or impairing the rest of the Terms and Conditions in any way whatsoever

