

# Conditions of Sale

(as amended 2/2000)

This sale, and all future Sales, is made subject to the following Conditions:

## 1. GENERAL

- (a) The expression 'the Company' when referred to in these Conditions refers to Water Treatment Services Australia Pty. Ltd, ABN 73 088 459 027, its agents and any related bodies corporate as defined in the Corporations Law (if such related body corporate is named as the party making or accepting the Order).
- (b) The expression "the Purchaser" means the person, business or company described on the Order or any other contractual documents annexed hereto.
- (c) The Purchaser agrees that these Conditions are incorporated in any contract made between the Purchaser and the Company relative to the goods and services described on this order or other contractual documents annexed hereto.
- (d) Such goods and services shall hereinafter be referred to as 'the goods' and "the services".
- (e) The terms Of the Company's commercial trading policy ("Terms of Trading") are incorporated into any contract of sale with the Purchaser; if not already forwarded the Purchaser at time of ordering, that policy can be obtained on request to the Company.

## 2. WARRANTY

Except as provided herein,

- (a) The Company shall not be held liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of any product manufactured or supplied by the Company or any service provided by the Company or arising out of the Company's negligence or in any way whatsoever, and all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the goods for any purpose or as to design, assembly, installation, materials or workmanship are hereby expressly excluded.
- (b) Nothing in these Conditions shall be read or applied to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Trade Practices Act 1974) and which by law cannot be excluded, restricted or modified.
- (c) The Company's liability for any breach of a condition or warranty implied by Division 2 of Part V of the Trade Practices Act 1974 (other than Section 69) is hereby limited to:
  - (1) in the case of goods, any one or more of the following:
    - (i) the replacement of the goods or the supply of equivalent goods;
    - (ii) the repair of the goods;
    - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
    - (iv) the payment of the cost of having the goods repaired.
  - (2) in the case of services:
    - (i) the supplying of the service again; or
    - (ii) the payment of the cost of having the services supplied again.

## 3. WARRANTY CLAIMS

The Purchaser waives any claim for shortage of any goods delivered if a claim in respect thereof has not been lodged with the Company within three (3) days from the date of receipt of goods by the Purchaser.

## 4. CANCELLATION

No order may be cancelled except with consent in writing and on terms which will indemnify the Company against all loss.

## 5. DELIVERY

Promises as to date and time for delivery cannot be guaranteed (except by special arrangement) but all promises of delivery are made in good faith in the light of conditions and circumstances prevailing at the time, however the Company shall not be liable for late deliveries or non-delivery and under no circumstances shall the Company be liable for any loss, damage or delay occasioned to the Purchaser or its customers arising from late or non-delivery or late installation of the goods or service.

## 6. TITLE & RISK

The Company reserves the following rights in relation to the goods until all accounts owed by the Purchaser to the Company are fully paid.

- (i) legal ownership of the goods;
- (ii) to enter the Purchaser's premises (or the premises of any associated Company or agent where the goods are located) without liability for trespass or any resulting damage and retake possession of the goods; and
- (iii) to keep or resell any goods repossessed pursuant to (ii) above.

If the goods are resold, or products manufactured using the goods are sold, by the Purchaser, the Purchaser shall hold such part of the proceeds of any such sale as represents the invoice price of the goods sold or used in the manufacture of the goods sold in a separate identifiable account as the beneficial property of the Company and shall pay such amount to the Company upon request. Notwithstanding the provisions above, the Company shall be entitled to maintain an action against the Purchaser for the purchase price and the risk of the goods shall pass to the Purchaser upon delivery who should therefore be insured accordingly.

## 7. PRICES

Prices quoted are those ruling at the date of issue of quotation and are subject to variation in labour and/or material costs and other charges affecting the cost of production and any alterations thereto either before acceptance of or during the currency of the Contract shall be to the Purchaser's account.

## 8. FORCE MAJEURE

In the event of the suspension of production owing to breakdowns, strikes, blackouts, trade disputes, fires, accidents or other causes over which the Company has no reasonable control and which stop, diminish or adversely affect production, deliveries may be wholly or partially suspended until normal production is resumed and the Company shall not be liable in respect of such suspension.

## 9. PAYMENT DEFAULT & REMEDY

The Company reserves the right, without prejudice to any other remedy it may have, either to terminate the Contract or to suspend future deliveries under it forthwith by written notice if Purchaser fails to pay for any delivery on its due date.

## 10. CONTAINERS

Containers on deposit (i.e. those in which goods the subject of this invoice are delivered and for which a separate deposit charge is shown on the face of this invoice) remain the property of the Company and must not be used for any other commodity than that contained therein at the time of delivery by or from the Company. Deposit charges on containers must be paid with the price of the goods but will be refunded in full on receipt of the containers in good order and condition and freight prepaid at a Company office within six (6) months of invoice date. Credit will not be granted after this period. If deposit containers are returned to the Company in other than good order and condition, the Company reserves the right to refund only that part of the deposit charge which it deems appropriate in the circumstances.

## 11. ERRORS AND ADJUSTMENTS

Errors in the Contract or any invoice shall be corrected and requisite adjustments made between the parties.