

Primax Pumps Terms and Conditions of Sale

1. SALE OF PRODUCTS

All sales of Products are subject to the terms of this document and any Order Acceptance Form. The terms or conditions of any other document (including the terms on any Customer purchase order) are not valid or binding.

2. DELIVERY

2.1 Delivery to Delivery Location

(a) Unless clause 2.1(b) applies, delivery is ex-works at Primax Pumps' Premises. Customer must collect the Products within 7 days of Primax Pumps' notice that they are ready for collection. If Customer does not, then Customer must pay storage fees to Primax Pumps, at the rate advised by Primax Pumps, for each day (or part-day) the Products remain uncollected. If the Products remain uncollected after 28 days, Primax Pumps may at its option cancel the sale of the Products, and clause 14(b) will apply.

(b) If the Delivery Location is not Primax Pumps' Premises, Customer must pay Primax Pumps the delivery charges advised by Primax Pumps. The Products are deemed delivered: within Dubai, when they arrive at the Delivery Location in a Satisfactory Condition; or outside Dubai, when Primax Pumps has fulfilled the requirements of the Incoterms Delivery Clause.

(c) A Product will be deemed (except in relation to a Non-excludable Obligation) to be in a Satisfactory Condition and free of defects unless Customer notifies Primax Pumps of any defect before the Product leaves Primax Pumps' Premises (or, if clause 2.1(b) applies, within 7 days after delivery).

2.2 Time for delivery

Any delivery date notified by Primax Pumps to Customer is an estimated date only. Primax Pumps will use reasonable efforts to meet the dates, but they are not binding on Primax Pumps. To the extent permitted by law, Primax Pumps is not liable to Customer for any Loss arising out of, or in connection with, any delay in delivery for any reason.

2.3 Additional Services

If Customer requests and Primax Pumps agrees, Primax Pumps (or its subcontractors) will provide Additional Services to Customer. Customer must pay to Primax Pumps fees for those Additional Services at the rate advised by Primax Pumps.

3. TITLE AND RISK

3.1 When title and risk pass

Risk of loss or damage to the Products passes to Customer when the Products leave Primax Pumps' Premises. Title to the Products passes to Customer when Primax Pumps has received payment in full from Customer, in cleared funds, of all amounts due under these terms in respect of those Products.

3.2 Before title passes

Until title to a delivered Product passes to Customer under clause 3.1:

(a) Customer may use the Product in the ordinary course of business, but must ensure the Product is protected from loss or damage, retained in a state of merchantable quality and clearly identified as Primax Pumps' property;

(b) Customer must not without Primax Pumps' prior written consent: (1) permit the Product to become comingled with or an accession to or be affixed to any other asset; (2) change its name without 21 days' notice to Primax Pumps; (3) relocate its principal place of business or change its place of registration or incorporation; (4) remove the Product from Customer's premises; (5) if the Delivery Location for the Product is in Dubai, move the Product outside Dubai; (6) alter the Product without Primax Pumps' prior written consent; (7) create any security interest over the Product; or (8) sell, sub-lease or dispose of its interest in, possession or control of the Product; and

(c) Primax Pumps may enter Customer's premises at reasonable times to inspect the Products.

3.3 Insurance

Customer must, at its own cost, effect and maintain, with a reputable insurer, insurance over the Products with a liability limit of at least the full replacement cost of the Products, from the time risk in the Products passes to Customer until the time title to the Products passes to Customer under clause 3.1. Customer must ensure the insurance notes Primax Pumps as an interested party. Customer must, upon request, provide Primax Pumps with certificates of currency for the insurance. If Customer does not affect or maintain the insurance, or provide Primax Pumps with certificates of currency on request, Primax Pumps may at its option obtain or maintain the insurance and recover (or set-off) the cost of doing so from Customer.

4. CHANGES TO THE PRODUCTS

Primax Pumps may, on 14 days' notice to Customer, change the Specifications, or the materials or dimensions of the Products, but those changes must not materially alter the functionality of the Products, or cause the Product to breach a Non-excludable Obligation. No request from Customer for changes to the Products is binding on Primax Pumps unless both parties have agreed to the variation in writing signed by both parties.

5. PRICE

(a) All quotes are valid for 30 days. Primax Pumps may vary the quote by notice to Customer if the exchange rate varies by more than 5% or there is a material change in input costs.

(b) The Price, unless otherwise agreed, is ex-works and includes no amounts for packaging, delivery, freight or loading

charges, insurance, customs duty, excises or any other taxes, installation, commissioning or testing of the Products, or training in the proper use of the Products. If Primax Pumps agrees to incur any of these costs on Customer's behalf, Customer must pay for those costs at the prices notified by Primax Pumps to Customer at the time Primax Pumps agrees to incur such costs.

(c) Primax Pumps may increase the Price by the full amount of any costs it incurs in connection with a Carbon Scheme.

6. PAYMENT

(a) Unless otherwise agreed in writing by Primax Pumps, Customer must pay the Deposit to Primax Pumps within 5 days after placing an order. No order is binding until Primax Pumps has received the Deposit and issued an Order Acceptance Form. The Order Acceptance Form must be signed by Customer and returned to Primax Pumps.

(b) Unless clause 6(c) applies, Customer must pay the (b) Price, and any amounts payable for storage costs, Additional Services under clause 5(b), within 2 days after the date of Primax Pumps' invoice. Primax Pumps is not required to release the Products until it has received payment for all amounts relating to them.

(c) If Customer has a credit account with Primax Pumps, and Primax Pumps has approved Customer's credit for the Products, Customer must pay to Primax Pumps all amounts in each invoice from Primax Pumps within 30 days after the date of the invoice, unless otherwise agreed in writing by Primax Pumps.

(d) If the Products are for delivery outside Dubai, Customer must pay all amounts due under these terms by irrevocable letter of credit confirmed by bank.

(e) Customer must pay all amounts due under these terms, in full, without any set-off or deduction.

(f) If Customer fails to make any payment by the due date set out in this clause 6, then: (1) it must pay to Primax Pumps on demand interest on the amount outstanding from the day payment was due until the day it is paid, at the ANZ Business Overdraft Indicator Lending Rate (or its replacement) plus 2%, accruing daily; and (2) Primax Pumps may retain possession of any Products and suspend delivery of further Products until payment is received; and (3) Primax Pumps may cancel the sale under clause 14(a) and retain any Deposit paid.

7. REPOSSESSION

(a) If Customer does not pay to Primax Pumps when due any amount relating to a Product, or if the sale of a Product is cancelled before title passes to Customer under clause 3.1, Primax Pumps may: (1) enter the premises where the Product is located, and repossess the Product; (2) sever the

Product from any structure to which it is affixed; and (3) unless the sale is cancelled for convenience by Primax Pumps, by mutual consent, Primax Pumps may retain all amounts paid by Customer in relation to the Product.

(b) Customer indemnifies Primax Pumps against any Loss Primax Pumps suffers, incurs or is liable for arising out of or in connection with Primax Pumps' exercise of its rights under clause 7(a).

8. INTELLECTUAL PROPERTY

(a) Primax Pumps owns all rights, including intellectual property rights, in the Primax Pumps IP. Customer acquires no rights in the Primax Pumps IP or any other material provided by Primax Pumps. Customer must not use the Primax Pumps IP for any purpose except lawful use of the Products in accordance with the User Manual.

(b) Customer must not register or apply to register any rights in relation to the Primax Pumps IP, and must not challenge or impair the Primax Pumps IP.

(c) To the extent that any intellectual property rights relating to the Products or any improvement do not vest in Primax Pumps, Customer hereby assigns, and must procure any third party to assign, all rights in the Products to Primax Pumps. Customer must (and must procure any third party to) execute any documents and do all things to effect the assignment of rights in the Products and improvements in Primax Pumps.

9. CONFIDENTIAL INFORMATION

(a) Customer must keep confidential all of Primax Pumps' Confidential Information, and not disclose it except with Primax Pumps' prior written consent.

(b) Nothing in these terms prohibits disclosure by a party of information which is in the public domain (other than as a wrongful act of that party); or required to be disclosed by law or any government agency having authority over a party, but before making any such disclosure, the party must to the extent reasonably possible, provide the other party with sufficient notice to enable it to seek a protective order or other remedy.

(c) Primax Pumps may disclose Customer's information to its related bodies corporate. Customer must, to the extent permitted by law, obtain from its employees or contractors, written authorisation for Customer to disclose to Primax Pumps, and Primax Pumps to collect, use and disclose to its related bodies corporate, personal information about those employees or contractors.

10. PRODUCT WARRANTIES

(a) If the manufacturer of any component part of a Product provides Customer a warranty for that component part, the terms of that warranty take precedence over any warranty provided by Primax Pumps.

(b) Any warranty provided by Primax Pumps relating to the Products, and any manufacturer's warranty, does not apply to any error, fault or defect in a Product that is caused or contributed to by: (1) installation, operation or maintenance of the Product that is not in accordance with the User Manual; (2) improper use of the Product; (3) repairs, adjustments, attachments or alterations to the Product carried out by any person other than Primax Pumps; (4) the Product being in a corrosive environment, or an environment that does not comply with the User Manual; (5) continued operation of the Product after a fault or defect has become apparent; (6) failure by Customer to make the Product available to Primax Pumps for repairs after Customer has been notified of a potential product problem; (7) any accident or other incident resulting in damage to the Product; or (8) normal wear and tear.

11. CUSTOMER'S INDEMNITY

Customer indemnifies Primax Pumps, its directors, officers and employees (indemnified persons), and must keep them indemnified, against any Loss an indemnified person suffers, incurs or is liable for arising from or in connection with Customer's use of the Products or breach of these terms.

12. LIMITATION OF PRIMAX PUMPS' LIABILITY

12.1 Non-excludable obligations

(a) Nothing in these terms operates to exclude, restrict or modify the application of any implied condition or warranty, provision, the exercise of any right or remedy, or the imposition of any statute if to do so would: (1) contravene the statute; or (2) cause any of these terms to be void (Non-excludable Obligation).

(b) Subject to clause 12.1(c), Primax Pumps' liability for a failure to comply with any Non-excludable Obligation is limited to: (1) in the case of services, the cost (or payment of the cost) of supplying the services again; and (2) in the case of goods, the cost (or payment of the cost) of replacing the goods, supplying equivalent goods or having the goods repaired.

(c) Clause 12.1(b) does not apply to: (1) a guarantee as to title, encumbrances or quiet possession; or (2) goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption. Primax Pumps' liability in respect of the matters mentioned in this clause is not limited by these terms.

12.2 Other liability

(a) Except in relation to Non-excludable Obligations, and any warranty expressly provided by Primax Pumps to Customer, all

conditions, warranties, guarantees, rights, remedies, liabilities or other terms that may be implied by custom, under the general law or by statute are expressly excluded under these terms.

(b) Except in relation to Non-excludable Obligations, Primax Pumps' liability arising directly or indirectly in connection with these terms and whether arising under any indemnity, statute, in tort (for negligence or otherwise) or on any other basis in law or equity is limited as follows: (1) Primax Pumps is not liable for any indirect or consequential losses or any loss of revenue, loss of profit, loss of business opportunity, economic loss, loss of data or systems, loss of use, payment of liquidated sums, penalties or damages under any agreement sustained by Customer or any other person arising from or in connection with these terms; and (2) Primax Pumps' total aggregate liability under or in any way connected with these terms is limited to 10% of the Price of the Products to which the claim relates.

13. FORCE MAJEURE

If any reason outside a party's reasonable control prevents or delays performance of any obligation under these terms, that obligation is suspended while that reason continues. If the reason continues for 3 months, the other party may cancel the sale immediately by notice. This clause does not apply to an obligation to pay money.

14. CANCELLATION OF SALE

(a) Primax Pumps may cancel the sale of the Products immediately by notice to Customer if: (1) Customer breaches these terms; (2) Customer closes or disposes of all or a substantial part of its business; or (3) there is a 'change of control' of Customer.

(b) If the sale of the Products is cancelled, then Customer must: (1) within 14 days after cancellation, pay Primax Pumps any amounts it owes Primax Pumps; (2) unless cancellation is under clause 13, pay to Primax Pumps on demand all costs and expenses incurred by Primax Pumps (including labour, materials, service or administration time) in relation to preparing the Products for Customer; and (3) at Primax Pumps' election, return or destroy all Primax Pumps IP and other Confidential Information of Primax Pumps.

15. GENERAL

(a) Any notice or other communication under these terms must be in writing and sent to the address advised by the other party. Notices sent by post are regarded as delivered 4 days from and including the date of posting.

(b) A variation must be in writing and signed by the parties.

(c) Primax Pumps may subcontract any of its obligations, or assign its rights and obligations, under these terms without Customer's consent. Customer may not assign any of its rights

or obligations under these terms without Primax Pumps' prior written consent, which Primax Pumps may withhold at its absolute discretion.

(d) The additional terms set out in the Quote (if any) apply to the sale of the Products and, if there is any inconsistency, the additional terms take precedence over these terms.

(e) The United Nations Convention on Contracts for the International Sale of Goods 1980 does not apply to the sale of the Products.

16. DEFINITIONS

The meanings of words used in these terms are set out below:

Additional Services: delivery, packaging, installation, commissioning, testing or training services provided by Primax Pumps to Customer.

Primax Pumps IP: the intellectual property rights (including any application to apply for such rights) in any of Primax Pumps' products, their design, product requirements and other technical details; and any improvements to any of them.

Primax Pumps' Premises: Primax Pumps' premises set out in the Quote.

Confidential Information: any information concerning a party's business including but not limited to products, work processes, employees, customers, services, technical information, intellectual property, ideas, designs, and programs.

Customer: the customer named in the Quote.

Delivery Location: the delivery location specified in the Quote.

Deposit: an amount equal to 20% of the Price for the Products and any amounts payable for Additional Services.

Incoterms Delivery Clause: the clause of the Incoterms 2010 rule set out in the Quote that corresponds to clause A4 of the Incoterms 2010 EXW rule.

Loss: any claim, action, damage, loss, liability, cost, charge or expense a party pays suffers, incurs or is liable for.

Non-excludable Obligation is defined in clause 12.1(a).

Order Acceptance Form: a document signed and issued by Primax Pumps in response to an order placed by Customer.

Price: the price set out in the Quote for sale of the Products.

Products: the products set out in the Quote.

Quote means any quotation document issued by Primax Pumps, attached to, overleaf or otherwise accompanying these terms and conditions.

Satisfactory Condition: Products that are not damaged and that substantially meet the Specifications.

Specifications: specifications provided by Primax Pumps to Customer for the Products, as amended by Primax Pumps from time to time.

User Manual includes all documents provided by Primax Pumps relating to installation, operation or maintenance of a Product.