

Southern Pump Services

Engineering Limited

Specialists in Foul & Storm Water Pumping Stations
Installation | Maintenance | Service

TERMS AND CONDITION OF SALE

1. General

- a) The acceptance of our tender includes the acceptance of the following terms and conditions. Acceptance of an order by Southern Pump Services Limited will be deemed to bind the Buyer of the following terms and conditions and no goods shall be supplied by Southern Pump Services Limited, its employees, agents or representatives except in accordance therewith. Employees, agents or representatives of Southern Pump Services Limited are not authorised to make representations about the company's goods and services unless confirmed in writing. In the case of any conflict between these conditions and those of the Buyer these conditions will prevail.
- b) These conditions supersede any earlier sets of conditions appearing in any literature of Southern Pump Services Limited or elsewhere.
- c) No variation of any of these conditions in any document of the Buyer is applicable unless accepted in writing by Southern Pump Services Limited and signed on its behalf.
- d) All orders made orally must be confirmed in writing by the Buyer prior to despatch of the goods by Southern Pump Services Limited.

2. Validity

Unless previously withdrawn, our tender is open for acceptance within 60 days and thereafter goods will be invoiced at prices ruling at the date of despatch.

3. Acceptance

The acceptance of our tender must be accompanied by sufficient information to enable us to proceed with the order forthwith; otherwise we shall be at liberty to amend the tender prices to cover any increase in costs which has taken place after acceptance. Any samples submitted to you and not returned to our works within one month from the date of receipt shall be paid for by you.

4. Limits of Contract

Our tender includes only such goods, accessories and work as are specified therein.

5. Drawings etc

All specifications, drawings of weights and dimensions submitted with our tender are approximate only and the descriptions and illustrations contained in our catalogues, price lists and other advertisement matters are intended merely to present a general idea of the goods described therein and none of these shall form part of the contract. After acceptance of our tender one set of certified outline drawings will be supplied free of charge. Further copies of certified drawings, test certificates etc will be charged for at the current rate.

6. Inspection and Tests

Our products are carefully inspected and, where practicable, submitted to our standard tests at our works before despatch. If tests other than those specified in our tender or tests in the presence of you or your representative are required these will be charged for. In the event of any delay on your part in attending such tests after seven days notice that we are ready, the tests will proceed in your absence and will be deemed to have been made in your presence.

7. Performance

We will accept no liability for failure to attain any performance figures quoted by us unless we have specifically guaranteed them, subject to any tolerance specified or agreed by us. If the performance figures obtained on any test provided for in the contract are outside the tolerance limits specified therein, you will be entitled to reject the goods, subject to the following paragraph. Before you become entitled to reject the goods, we are to be given reasonable time and opportunity to rectify their performance. If you become entitled to reject goods, we will repay to you any sum paid by you to us on account of the contract price thereof and any sum that may have accrued due to you in respect of delay in despatch under Clause 8 up to the date of such rejection. You assume responsibility that goods stipulated by you are in accordance with our advice.

8. Liability for Delay

Damages for delay are not accepted. Any times quoted for despatch are from date of receipt by us of a written order to proceed and of all necessary information and drawings to enable us to put the work in hand. All such times are to be treated as estimates only not involving us to any liability for failure to despatch within such times unless you have suffered loss and the amount payable in respect thereof shall have been agreed in writing as a penalty clause, in which case our liability shall be limited to the amount so agreed to be paid. In all cases, whether a time for despatch be quoted or not, the time for despatch shall be extended by a reasonable period if delay in despatch is caused by instructions or lack of constructions from you or by industrial dispute or by any cause whatsoever beyond our reasonable control.

9. Variations

In the event of variation or suspension of work by your instructions or lack of instructions the contract price shall be adjusted accordingly.

10. Cancellation of Order

Should an order be cancelled after receipt by ourselves, we shall be entitled to claim reasonable cancellation and/or restocking charges dependent upon the amount of work carried out by ourselves in pursuance of the order, and upon the materials allocated and used in the fabrication of the equipment. All cancellations must be in writing, and the restocking charge for the return, carriage paid, of any goods to our works would be dependent upon the condition of such goods and subject to the prior written agreement of ourselves.

11. Delivery and Storage

- (a) Unless otherwise specified in our tender, the price quoted includes for delivery free to site, UK mainland, during normal business hours. Unless otherwise specified and agreed, we shall not be responsible for off loading. Southern Pump Services Limited reserves the right to make additional charges for delivery outside the geographical area or normal business hours. In the case of overseas deliveries outside of the UK mainland, our tender shall specify costs of delivery, packing and insurance of appropriate, and methods of transport.
- (b) Instructions for delivery must be advised in writing to Southern Pump Services Limited at least 2 (two) working weeks in advance of the acknowledged delivery date. Failure to do so will result in storage charges being levied for the period between acknowledged and actual delivery.
- (c) In the case of overseas deliveries outside the UK mainland, if we do not receive forwarding instructions sufficient to enable us to despatch the goods within 14 days after the date of notification that they are ready for despatch, the Buyer shall take delivery or arrange for storage. If the buyer does not take delivery or arrange for storage Southern Pump Services Limited shall be entitled to arrange for storage either at our own works or elsewhere on the Buyers behalf, and all charges for storage, for insurance or for demurrage shall be payable by the Buyer.
- (d) Goods placed in storage are held at the Customers risk and will be invoiced in full at the time of being placed into storage. Any invoice so rendered shall become payable at the due date defined in the contract irrespective of the actual date of delivery.
- (e) Notwithstanding any delivery date given, time shall not be of the essence for delivery and Southern Pump Services Limited shall be under no liability for any loss, expense and/or damage arising out of its failure to meet a delivery date.

12. Loss or Damage in Transit

When the price quoted includes delivery other than for goods collected at our works, we will repair or at our option replace free of charge goods lost or damaged in transit, provided that we are given written notification of such loss or damage within such times as will enable us to comply with the carriers conditions of carriage as affecting loss or damage in transit of, where delivery is made by our transport, within a reasonable time after receipt of the Advice Note.

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13. Terms of Payment

Unless otherwise agreed in writing, payment in full shall be due for goods on notification by us that they are ready for despatch. If payment for the goods shall not have been made by the date agreed in the contract Southern Pump Services Limited shall be entitled to recover from the Buyer interest on any outstanding balance at the HSBCs base rate for the time being in force for the period from such date until the date of payment. If the delay in payment exceeds 60 days from the date agreed in the contract, then such rate of interest shall be increased to 2% above the said base rate from the date agreed in the contract.

14. Defects after Delivery

We will make good, by repair or at our option by the supply of a replacement, defects which under proper use appear in the goods within a period of twelve calendar months after the goods have been delivered and arise solely from faulty design, materials or workmanship, provided always that the defective parts are promptly returned by you free to our works unless otherwise arranged. The repaired or new parts will be delivered by us free of charge as provided in Clause 11. In accordance with law we shall be liable for death or personal injury only in so far as it is directly attributable to negligence on the part of Southern Pump Services Limited. In respect of parts or components not of our manufacture, we will give you a guarantee equivalent only to any guarantee which Southern Pump Services Limited may have received from the supplier of such parts or components in respect thereof, but not so far as to impose on us in respect of such parts or components a liability greater than that imposed on us by the preceding paragraph of this Clause. Save as in this Clause herein before expressed we shall not be under any liability in respect of defects in goods delivered or for any injury, damage or loss resulting from such defects, and our liability under this Clause shall be in lieu of any warranty or conditions implied by law as to the quality or fitness for any particular purpose of such goods.

15. Patents

Subject to the provisions of this Clause we will indemnify you against any claim for infringement of Letters, Patent or Registered Designs (published at the date of the contract) by the use or sale of any article or material supplied by us to you and against all costs and damages which you may incur in any action for such infringement or for which you may become liable in any such action. This indemnity shall not apply to any infringement which is due to our having followed a design or instructions furnished or given by you to the use of such article or material in a manner or for a purpose or in a foreign country not specified by or disclosed to us. This indemnity is conditional on your giving to us the earliest possible notice in writing of any claim being made or action threatened or brought against you and on your permitting us at our own expense to conduct any litigation that may ensue and all negotiations for a settlement of the claim. You on your part warrant that any design or instruction furnished or given by you shall not be such as will cause us to infringe any Letters, Patent, Registered Design or Trade Mark in the execution of your order.

16. Liability for Accidents and Damage (applicable only whenever we provide services on site)

Notwithstanding the provision of Clause 14, we will indemnify you against loss or damage or injury to your property or person or that of others occurring while we are working on site to the extent caused by Breach of Contract or negligence of ourselves, our sub-contractors or agents, but not otherwise, by making good such damage to property or compensating personal injury. Provided that:

- (a) Our total liability for loss or damage to your property shall not exceed £10,000 or the contract price, whichever sum is the greater.

17. Title to Goods

- (a) The property in the goods shall not pass to the Buyer until payment for the goods has been made in full. Southern Pump Services Limited, property in the goods shall not be extinguished merely by the incorporation of goods into other item, whether during manufacturing or any other process.
- (b) If the Buyer shall in the ordinary course of its business, before payment in full had been made and before the happening of any of the events set out in (e) below, sell the goods and other products into which the goods have been incorporated, the Buyer shall hold the proceeds of the sale on trust in a separate identifiable account for Southern Pump Services Limited and Southern Pump Services Limited shall be entitled to trace the proceeds of sale or to trace the goods into such items.
- (c) In the event of non-payment by the Buyer by the due date, or any event referred to in (e) below. Southern Pump Services Limited shall be entitled in addition to other rights to enter any premises where the goods may be and recover possession of them.
- (d) Until the date of payment the Buyer is required to store the goods in such a way that they are clearly the property of Southern Pump Services Limited.
- (e) The events referred to above are:-
- (i) The Buyer make any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for amalgamation or reconstruction);
 - (ii) An encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer;
 - (iii) The Buyer ceases, or threatens to cease, to carry on business;
 - (iv) Southern Pump Services Limited reasonably apprehends that any of the events referred to above is about to occur and notifies the Buyer accordingly.
- (f) In addition to any right of lien to which Southern Pump Services Limited may by law, be entitled. Southern Pump Services Limited shall (in the event of the Buyer's insolvency) be entitled to a general lien on all goods of the Buyer in possession of Southern Pump Services Limited (although such goods or some of them may have been paid for) for the unpaid price of any other goods sold and delivered to the Buyer by Southern Pump Services Limited under the same or any other contract.

18. Consequential Loss

Except as hereinbefore provided by Southern Pump Services Limited are not liable under any circumstances for indirect or consequential loss or damage of any nature (including loss of profits) or due to any cause.

19. Statutory and Other Regulations

If the cost to us of performing our obligations under the contract shall be increased or reduced by reason of the making or amendment after the date of tender of any law or of any order, regulation, or bye-law having the force of law that shall affect the performance of our obligations under the contract, the amount of such increase or reduction shall be added to or deducted from the contract price as the case may be.

20. Legal Construction

Unless otherwise agreed in writing, the contract shall in all respects, be construed and operated as an English contract and in conformity with English Law.

THE TERMS AND CONDITIONS OF SALE WILL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH ENGLISH LAW

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