

# EBS-RAY PUMPS PTY. LIMITED

ABN 52 000 061 003

## Standard Conditions of Sale and Warranty

### 1. Definitions

In this contract unless the context otherwise requires:

"Ebs-Ray" means Ebs-Ray Pumps Pty.Limited whose name appears on the front of this contract.

"Customer" means the person, corporation, firm or body that buys Goods from Ebs-Ray.

"Contract" means the contract for the sale of goods or services, including these terms.

"Goods" means the Equipment & Services sold and purchased or agreed to be sold and purchased, pursuant to the contract.

"Default Event" means any of the following:

- (a) Customer does not make a payment due to Ebs-Ray under this or any other contract;
- (b) Customer is unable to pay its debts as they fall due;
- (c) Customer ceases or suspends conduct of its business, or threatens to;
- (d) a resolution is passed or proposed or a summons is presented to wind up Customer;
- (e) a receiver/manager or other form of insolvency administrator is appointed over all or part of Customer's assets;
- (f) Customer makes or proposes to make any arrangement with its creditors;
- (g) Customer commits an act of bankruptcy; or
- (h) execution is levied on any of Customer's assets;

### 2. General

All quotations, orders and contracts for the sale or supply of Goods (pumps, pumpsets, valves and ancillary related equipment & services manufactured and/or supplied by Ebs-Ray) will, unless otherwise agreed in writing, be subject to the following Standard Conditions and Warranty:

#### (a) Orders

All orders are received subject to acceptance by Ebs-Ray.

#### (b) Goods & Service Tax (Australia Only)

Unless stated otherwise, prices quoted do not include GST, which if applicable will be charged as an addition.

### 3. Prices

All are ex Ebs-Ray Sydney warehouse unless otherwise quoted and with the exception of government charges remain firm, if accepted within the period stated of quotation. Thereafter they are subject to confirmation.

### 4. Delivery

Dates given by Ebs-Ray are based on our best assessment at the time of acceptance of the buyer's order and are therefore approximate only. Ebs-Ray will use its best efforts to comply with these estimated dates, and shall not be responsible for any consequential, indirect or other loss arising as a result of any failure to deliver the Goods at any agreed time.

### 5. Delivery Charges

At the Customer's request and cost, Ebs-Ray will arrange for dispatch and delivery of the Goods as directed by the Customer. The Customer agrees to reimburse Ebs-Ray for all expenses, costs, charges and disbursements made or incurred in rendering this service.

### 6. Return of Equipment

Standard line Goods in the Ebs-Ray product range may be returned for credit if such notification is received by Ebs-Ray within seven days from date of Invoice.

Non-standard Goods, or Goods not of Ebs-Ray manufacture will be subject to prior negotiation.

All Goods returned will be freight pre-paid and accompanied by the original delivery docket or invoice and subject to a restocking fee.

All Goods returned for credit shall be un-used and in an undamaged (as new) condition.

### 7. Retention of Title

Title to all Goods remains with Ebs-Ray, until the Customer pays to Ebs-Ray all amounts that are owing to Ebs-Ray.

While the Customer retains the Goods :

- (a) on reasonable notice, Ebs-Ray may enter premises where the Goods are stored to inspect.
- (b) Customer may sell the Goods in the ordinary course at full market value, until a Default event occurs.

Until Customer pays all amounts it owes to Ebs-Ray, Customer:

- (a) must store Goods in a way that identifies them as Ebs-Ray goods and so they can be distinguished from all other Goods in Customer's possession;
- (b) acknowledges that it holds the Goods as Ebs-Ray's bailee and that a fiduciary relationship exists with Ebs-Ray and
- (c) must hold the proceeds from any sales of Goods on trust for Ebs-Ray and hold these proceeds in a separate account or otherwise clearly identify these amounts in accounts.

If a Default Event occurs:

- (a) Customer's right to sell the Goods immediately terminates; and
- (b) Without notice to Customer and without prejudice to any of its other rights, Ebs-Ray may recover and/or resell the Goods or any part of them and may enter Customer's premises by its servants or agents for that purpose. Customer indemnifies Ebs-Ray for all claims, actions, suits, demands, order for costs or damages to or arising out of such entry.

# EBS-RAY PUMPS PTY LIMITED

ABN 52 000 061 003

## Standard Conditions of Sale and Warranty

### 8. Warranty

Any new Goods of Ebs-Ray's own manufacture which because of faulty workmanship or material proves defective within twelve calendar months of original supply will, if returned prepaid to our factory, be repaired or replaced free of charge FOB / FOR our factory, subject to strict adherence to the Ebs-Ray Installation, Operation and Maintenance Instructions (I, O & M), or as agreed in writing between the parties. Ebs-Ray's written approval must be obtained before returning for inspection any Goods claimed to be defective.

No allowance will be made for local repair bills or other expenses without Ebs-Ray's written authority.

Ebs-Ray does not warrant :

(a) all external or internal damage to the Goods caused by faulty installation, wear and tear, misuse, damage caused by abrasives or foreign material entering the Goods, or when used outside the specified application duty point for which the Goods was intended and selected, neglect of regular maintenance, inadequate protection prior to commissioning or during storage or other abnormal conditions due to circumstances beyond Ebs-Ray's control.

(b) any Goods embodying special alloy materials to combat corrosion, erosion, electrolysis or graphitisation will be supplied with the best available knowledge and experience of Ebs-Ray and the Industry, but no such Equipment will be warranted against these effects

(c) any Goods not manufactured by Ebs-Ray, except the Customer is entitled to such benefits as Ebs-Ray may receive under any guarantee given to Ebs-Ray in respect thereto.

This Warranty is contingent on the Goods being used for the express purpose and conditions for which the Goods were originally sold. Any variations of application and usage must be made with Ebs-Ray's written permission.

It is understood that if the Customer fails to comply with the stipulated conditions of operation, or tampers with the Goods, or fails to permit Ebs-Ray to inspect defects before repairing, or alters or adds to the Goods in any way without Ebs-Ray's approval, the responsibility of Ebs-Ray shall terminate.

Ebs-Ray's liability is in all cases limited and does not (except to the extent permitted by law) extend to consequential damages or losses, express or implied, arising from any cause whatsoever.

### 9. Terms of Payment

Net Thirty (30) Days from date of invoice, unless otherwise specifically agreed.

### 10. Specifications, Descriptions and Drawings

Unless certified by Ebs-Ray in writing, specifications, descriptions and drawings are approximate only, intended to serve as a guide and Ebs-Ray accepts no liability.

All drawings, models, performance charts and illustrations are the property of Ebs-Ray and shall not be copied, published or communicated without the written permission of Ebs-Ray.

### 11. Jurisdiction

These conditions shall be governed and construed in accordance with the laws of the State of New South Wales, Australia.