9 - 15 Industrial Street, Mackay, QLD, 4740
PO Box 474, Mackay, QLD, 4740
Phone: (07) 4969 4949 Fax: (07) 4969 4900
Email: info@dowdens.com.au Web: www.dowdens.com.au
A.B.N: 87 154 375 685

Terms & Conditions of Sale

1. Interpretation

In these terms and conditions:

a) "Company" means 'Dowdens Group Pty Ltd t/a Dowdens Pumping & Water Treatment (ACN 154 375 685).'
b) "Customer" means the person(s) or body(ies) corporate to whom these terms & conditions are directed.
c) "goods" means all goods ordered from the Company by the Customer.
d) "GST" means the same as it does within the *A New Tax System (Goods and Services Tax) Act 1999 (Cth).*
e) "PPSA" means *Personal Property Securities Act 2009 (Cth).*
f) "services", whether in isolation or in conjunction with the goods, means the services of supply, delivery, fitting, maintenance and/or repairs provided by the Company in relation to the goods.
g) "tax" means, any tax or duty imposed pursuant to legislation on any supply made in accordance with these Terms and Conditions of Sale.

2. Application of Terms

2.1. The placement by the Customer of a purchase order with the Company, whether written or verbal, is deemed acceptance of these Terms and Conditions by the Customer. These Terms and Conditions of Sale apply to the sale of any items, equipment or services of the Company or, where a quotation is made, they shall form part of that quotation.

2.2. The Company may vary the Terms and Conditions of Sale from time to time. The Customer agrees that the ordering of any goods and/or services after the notice of variation has been issued to the Customer will constitute an acceptance by the Customer of the variation of any of these Terms and Conditions.

2.3. No variation of any of these Terms and Conditions of Sale shall be binding on the Company unless agreed by an authorised officer of the Company in writing. No agent or representative of the Company has the authority to waive or alter these Terms and Conditions of Sale.

3. Precedence

In the event of conflict between these Terms and Conditions of Sale and those conditions which may be included in, or implied by, any document forming part of any enquiry, specification, order or contract, then these Terms and Conditions of Sale shall prevail. If any condition expressed herein is deemed to be contrary to or excluded by law, then these Terms and Conditions of Sale shall be modified, but only to the extent of those parts of the Terms and Conditions of Sale affected.

4. Acceptance

A quotation shall remain open for acceptance for thirty (30) days from the date thereof, after which time it shall be subject to review and reconfirmation. A quotation is not to be construed as an offer or obligation to sell to a Customer and the Company reserves the right to accept or decline any order for goods and/or services (wholly or partially) at any time prior to the delivery of goods and/or services, in which event the Company shall be under no further obligation in respect of the order for the goods and/or services. The acceptance of any quotation must be accompanied by sufficient information to enable the Company to proceed with the order to completion.

5. Pricing

5.1. The prices quoted apply only if all of the goods and/or services included in the quotation are purchased. Should the Customer require part supply only, the Company reserves the right to submit a revised quotation.

5.2. If the Customer requests any variation to the quotation, the Company may increase the quotation to account for the variation.

5.3. All prices are based upon current manufacturing costs and current costs of materials, labour and insurance, current rates of freight, import duty and currency exchange and all other costs and charges prevailing at the date of the quotation. Should there be any variation in any such costs, rates or charges, the Company shall have the right to vary the quoted price to enable it to enjoy the same profit margin as if no variation in the said costs, rate or charges, had taken place.

6. Terms of Payment

6.1. Time for payment for any goods and/or services is of the essence.

6.2. The Company reserves the right to require cash payment in full on delivery of the goods and/or supply of the services to the Customer.

6.3. Subject to clause 6.2 unless agreed otherwise payment is required on the following basis; 20% of the total sum due and owing by the Customer for the supply of goods and/or services upon placement of the order, 70% upon delivery or collection of goods, 10% upon commissioning.

6.4. The Company may require the Customer to pay 25% of the price of the goods on placement of an order in respect thereof where the goods ordered are required to be imported or specifically ordered for the Customer.

6.5. If the Company has agreed in writing to extend credit to the Customer, the Customer must pay the total sum due and owing by the Customer to the Company in full by the last day of the month following the month in which the goods and/or services have been invoiced.

6.6. Payment by cheque is not deemed made until the proceeds of the cheque have cleared.

6.7. Payment terms may be revoked or amended at the Company's sole discretion immediately upon giving the Customer written notice.

6.8. The Company may at its discretion charge interest on any overdue invoiced amount at a rate of 1.5% per month (18% per annum), calculated pro rata, until the invoiced amount is received in full.

6.9. The Company reserves the right to commence recovery action on an overdue amount without notice to the Customer. Any legal or collection costs incurred in the recovery of any overdue amounts will be recoverable from the Customer on an indemnity basis.

7. Delivery

Notwithstanding that the Company will endeavour to comply with the timeframe for delivery of goods and/or services requested by the Customer, delivery time is not guaranteed nor is it of the essence. The Company will not be liable for any loss or damage of whatsoever nature arising by virtue of delay in the delivery of goods and/or services. The delivery period quoted commences from the date the Company receives acceptance of the quotation from the Customer and 20% of the total sum due and owing by the Customer for the supply of the goods and/or services (if required). Quoted delivery dates are subject to confirmation when an order is placed.

8. Returns Policy

8.1. Subject to the requirements of any law, the Company may consider (without any obligation to accept) a Customer's request for goods to be returned for credit, if:

a) the goods have not been used or damaged and are returned in good and saleable condition, in the original packaging;
b) (if applicable) the Customer first pays all freight and other charges to deliver the goods to the Company's premises (the Company will not accept any goods sent or payable on a "freight forward" basis); and
c) the Customer supplies to the Company the original invoice number and date of supply.

9 - 15 Industrial Street, Mackay, QLD, 4740
PO Box 474, Mackay, QLD, 4740
Phone: (07) 4969 4949 Fax: (07) 4969 4900
Email: info@dowdens.com.au Web: www.dowdens.com.au
A.B.N: 87 154 375 685

8.2. Specially procured goods will be subject to supplier authorisation and will incur a 25% restocking fee, which the Customer acknowledges is a genuine pre-estimate of the Company's loss.
8.3. No credits will be given for freight charges and delivery fees.
8.4. Cut lengths of cable or pipe will not be accepted for return under any circumstances.

9. Title & Property

9.1. Unless the Company otherwise specifies in writing, all goods sold by the Company to the Customer shall be, and remain, the property of the Company until the full purchase price thereof, and of all other goods sold by the Company to the Customer, has been paid in full to the Company.
9.2. The Customer agrees:
a) to keep the goods sold to it by the Company separate and identifiable; and
b) not to merge, sell, give or otherwise dispose of the goods sold to it by the Company, until such time as the purchase price in respect of such goods is paid in full.
9.3. In the event that the Customer breaches the obligations set out above, the Customer agrees to hold the purchase price of the goods on trust for the Company.
9.4. The Customer gives the Company, its agents and employees an irrevocable licence to access any premises where the goods sold to the Customer by the Company are stored from time to time for the purposes of inspecting and/or repossessing the said goods. The Customer releases and discharges the Company from any and all claims which the Customer may have against the Company arising from the exercise of this right.
9.5. The Customer agrees to indemnify and hold the Company, its agents and employees harmless against any and all claims, suits or actions, including for costs (whether by the Customer or a third party) arising from the entry or repossession of the goods by the Company, its agents or employees pursuant to clause 9.4.
9.6. The Customer agrees to pay all costs, including legal costs on an indemnity basis, of the Company incurred in repossessing goods pursuant to clause 9.4.

10. Cost of Carriage and Packing

10.1. The price stated in any quotation for the supply of goods by the Company to the Customer does not include the cost of carriage from the premises of the Company to the Customer unless otherwise agreed in writing between the Customer and the Company.
10.2. The Customer may nominate, arrange or retain a carrier to effect delivery of the goods from the Company to the Customer. Where the Customer does not nominate or state that it will arrange or retain the carrier, carriage will be arranged by the Company on the Customer's behalf and the Customer must bear all carriage costs.
10.3. The price stated in any quotation for the supply of goods by the Company to the Customer includes standard packing, unless otherwise agreed in writing by the Customer and the Company.

11. Risk and Insurance

11.1. All goods will be at the Customer's risk and will become the Customer's insurance responsibility:
a) after they leave the Company's premises; and/or
b) after they leave Suppliers premises if it is a direct delivery.
If the Customer requests it in writing, the Company may, at the Customer's expense, insure the goods.
11.2. The Customer assumes all risk and liability for loss, damage or injury to persons or to property of the Customer, or third parties arising out of the use, installation or possession of any of the goods sold by the Company, save where such liability arises from the Company's own negligence.

12. Taxes

12.1. Unless otherwise expressly agreed, or shown on an invoice or quotation issued by the Company, the prices specified do not include taxes. The Customer must bear and pay all such taxes.
12.2. The Company may recover from the Customer the amount of any GST in relation to any goods and/or services in addition to, and at the same time and in the same manner as, any amount that the Customer is obliged to pay for those goods and/or services.

13. Intellectual Property

13.1. Copyright in all drawings, reports, designs, specification, bills of quantity, calculations and/or other documents provided by the Company in connection with the quotation and sale of goods and/or services shall remain the property of the Company.
13.2. Where the Company has followed a design or instruction furnished or given by the Customer, the Customer will indemnify the Company against all damages, penalties, costs and expenses of any description to which the Company may become liable through any work required to be done in accordance with those instructions, including but not limited to an infringement of any patent, trade mark, registered design, copyright or common law.

14. Applicable Law

Any supply of goods and/or services by the Company to the Customer, and these Terms and Conditions of Sale, will be governed by the laws of the State of Queensland.

15. Warranty

15.1. The Company does not give any warranty or make any representations that the goods are free from defect in workmanship and/or materials (save for those warranties which are imposed by statute, which cannot be contracted out of).
15.2. The goods will be deemed to be defective if the goods are not of merchantable quality; do not conform with any sample, specification or other description given to the Company by the Customer in relation to the goods; being in the nature of services, are not of a reasonable standard, quality, value or grade; or, being goods, do not comply with any consumer guarantee or implied warranty applicable to the supply of the goods which cannot be excluded by law or statute.
15.3. Where the goods and/or services are defective, the Company at its option may elect to:
a) replace the goods or refund the cost of the goods;
b) repair the goods or reimburse the Customer for the cost of repairing the goods;
c) resupply the services;
d) if payment of the purchase price has not been made for the goods and/or services by the Customer, release the Customer from any obligation to pay the purchase price; or
e) if payment of the purchase price for the goods and/or services has been made by the Customer, refund the purchase price to the Customer, subject to the Customer, where applicable, first restoring the unencumbered ownership of the goods to the Company.
15.4. The Company will make good, by repair, or at the Company's option by replacement, reimbursement or refund, defects which under proper use become apparent in the goods within a period of twelve (12) months after original delivery of the goods to the Customer, or after completion of commissioning if carried out by the Company provided that the overall period does not exceed eighteen (18) months from the date of completion of the Company's works. The Company's liability is limited to the replacement of defective parts whether the work is carried out on the Customer's site or at the Company's premises.
15.5. All goods supplied are subject to manufacturer's warranty which, in general, covers replacement of parts but does not include any charges arising from labour, travel or freight.
15.6. Claims for replacement of faulty materials under manufacturer's warranty will be referred to the respective manufacturer and all costs

9 - 15 Industrial Street, Mackay, QLD, 4740
PO Box 474, Mackay, QLD, 4740
Phone: (07) 4969 4949 Fax: (07) 4969 4900
Email: info@dowdens.com.au Web: www.dowdens.com.au
A.B.N: 87 154 375 685

over and above manufacturer's allowance to the Company are payable by the Customer.

15.7. Other than any remedies the Customer may have pursuant to law or statute, the sole remedies of the Customer under or in relation to the supply of goods and/or services by the Company to the Customer, whether in contract, in tort, under statue or otherwise are only as specified in these Terms and Conditions of Sale and are subject to the limitations set out in clause 15.9 and the following limitations:-

a) the Company, the Company's officers, employees and agents, will not have any liability or other obligation to any person or other entity, including the Customer, arising out of, or in any way directly or indirectly connected with, the matters referred to in clause 15.2, except to comply with its obligations (subject to the other provisions and limitations in this clause 15) under clause 15.3.

b) all conditions, warranties and other terms pertaining to the condition or quality of goods are excluded to the extent permitted by law;

c) the Customer warrants and represents that it is relying upon its own skill and judgment in relation to the quality of the goods and/or services, and their fitness for any purpose for which they may be required, and not upon any conduct or representation of the Company or any of the Company's officers, employees or agents; and

d) the Customer must not make any claim or demand, or take any action or other proceeding against the Company, or any of the Company's officers, employees or agents, for any loss of profits, loss of revenue, loss of anticipated savings, loss or corruption of data, loss of contract or opportunity, loss of goodwill or any indirect, special or consequential loss of whatsoever nature, including any loss of a type described in this subclause, whether or not reasonably foreseeable, reasonably contemplatable or actually contemplated by the parties at the time of agreement to purchase/supply the goods and/or services, arising out of, or in any way directly or indirectly relating to the supply of goods and/or services, including any of the matters referred to in clause 15.2.

15.8. Subject to the remainder of this clause 15, the Customer:-

a) releases and forever discharges the Company and the Company's officers, employees and agents, from and against all claims under or in relation to the supply of any goods and/or services by the Company; and

b) indemnifies the Company and the Company's officers, employees and agents, in respect of all loss, damages and expenses relating to, or arising out of, any claim.

15.9. To the extent permitted by law, the Company's total liability for any claim under or in relation to the supply of goods and/or services by the Company to the Customer, is limited to the price paid by the Customer for the goods and/or services the subject of any claim.

16. Indemnity

16.1. The Customer indemnifies the Company and its officers, employees, agents, consultants and contractors against all losses, claims, actions, liabilities, damages, costs, charges, expenses, outgoings or payments which the Company pays, suffers or incurs arising directly or indirectly from any:

a) breach by the Customer of these Terms and Conditions of Sale; or

b) any act or omission (including any negligence, unlawful conduct or wilful misconduct) by the Customer or any of its employees, officers, subcontractors or agents relating to the matters referred to in these Terms and Conditions of Sale,

16.2. The Customer's liability to indemnify the Company is reduced proportionately to the extent that the Company or any of its employees, officers or agents cause or contribute to the loss, claim, action, liability, damage, cost, charge, expense, outgoing or payment.

17. Descriptive Matter

Descriptions and illustrations contained in the Company's catalogues, price lists and other advertising matter are only general descriptions of the goods therein and shall not constitute a basis for, or part of, any contract and/or agreement in respect of the supply of goods by the Company to the Customer.

18. Trenching

Quotations for trench digging or excavation are based on average conditions and are subject to variation should excessive water, stone, rock or very hard digging be encountered. Where rainfall makes it necessary to re-excavate trenches and/or re-lay pipes, an additional charge (to be determined by the Company in its sole discretion) will be made.

19. Wet Well / Pump Station

Wet well must be clean and dry at the time the Company commences installation pursuant to any agreement with the Customer. If wet well is required to be cleaned prior to the Company installing pumps, and kept dry during installation, this work will be done at an additional cost to the Customer at the then current hourly rate plus any equipment hire charges incurred in the performance of the work. The Company will require the Customer to have the exhaust fans in the dry well in good working order prior to installation of pumps and pipe work.

20. Quantities

Quantities and pipe lengths are based on drawings and specifications submitted at the time of issuing a quotation to the Customer. Should there be any variations between the actual site measurements and dimensions on the drawings reviewed in formulating a quotation, the Company reserves the right to revise its price accordingly.

21. Security and Retention Sums

Where the Company requires a security deposit from the Customer this will be lodged in the form of an unconditional Bank Guarantee and must be provided by the Customer to the Company within twenty-one (21) days of acceptance of the Quotation by the Customer.

22. Site Unavailability

All goods ready for delivery to site will be stored at the Company's premises free of charge. Should the Customer issue forwarding instructions for dispatch of the goods to site or elsewhere, the total cost of demurrage shall be borne by the Customer.

23. Force Majeure

Notwithstanding anything herein contained the Company shall not be liable for any loss, damage or delay caused by events beyond its reasonable control including, without limitation, industrial disputes, war, acts or threats of terrorism, strikes, lockouts, accident, breakdown, import or export restrictions, delay of or inability to obtain labour, inaccessibility to site caused by wet weather, acts of God, fire, flood or drought. If an event force majeure occurs, the Company may suspend or terminate the order by written notice to the Customer. In the event of termination of the order by virtue of any such cause arising, the Company shall not in consequence thereof be liable for damages but the Customer shall pay the Company a portion of the contract price proportionate to the work actually done and materials delivered up to the date of such termination.

24. Exclusions

Exclusions, if applicable, will be defined in any quotation issued by the Company to the Customer.

25. Backfilling

25.1. All backfilling will be done with original material. Should the original material be unsuitable the Customer will be responsible for the

9 - 15 Industrial Street, Mackay, QLD, 4740
PO Box 474, Mackay, QLD, 4740
Phone: (07) 4969 4949 Fax: (07) 4969 4900
Email: info@dowdens.com.au Web: www.dowdens.com.au
A.B.N: 87 154 375 685

provision of suitable alternate material. Any additional costs incurred in transporting and/or relocating this alternate material, in addition to costs incurred in the removal of original material from the relevant site will be borne by the Customer. The Company will not be responsible for re-establishment of trenching that is washed by heavy rain or storms after backfilling has occurred.

25.2. The re-turfing or seeding of previously turfed or grassed areas after trenching is not included in any offer made by the Company to the Customer.

26. Validity

Any quotation shall remain open for a period of thirty (30) days from the date thereof, after which time it shall be subject to review and reconfirmation.

27. Cancellation

If the Company is unable to deliver or provide the goods and/or services, the Company may cancel the Customer's order (even if it has been accepted) by written notice to the Customer. If the Customer cancels an order, the Company shall be entitled to receive payment from the Customer for all the work performed by the Company to the date of cancellation, in addition to damages which the Customer may rightly recover in connection with the cancellation of the order. The Company shall refund to the Customer any monies already received from the Customer for such cancelled order over and above the monies which the Company is entitled to retain pursuant to this Clause 27.

28. Personal Property Securities Act

28.1. Notwithstanding anything to the contrary contained in these Terms and Conditions of Sale, the PPSA applies to these Terms and Conditions of Sale.

28.2. For the purposes of the PPSA:

a) terms used in this clause 28 that are defined in the PPSA have the same meaning as in the PPSA;

b) these Terms and Conditions of Sale are a security agreement and the Company has a Purchase Money Security Interest in all present and future goods supplied by the Company to the Customer and the proceeds of the goods;

c) the security interest is a continuing interest irrespective of whether there are monies or obligations owing by the Customer at any particular time; and

d) the Customer must do whatever is necessary in order to give a valid security interest over the goods and their proceeds which is able to be registered by the Company on the Personal Property Securities Register.

28.3. The security interest arising under this clause 28 attaches to the goods when the goods are collected or dispatched from the Company's premises and not at any later time.

28.4. Where permitted by the PPSA, the Customer waives any rights to receive the notifications, verifications, disclosures or other documentation specified under sections 95, 118, 121(4), 130, 132(3)(d), 132(4), 135 and 157 of the PPSA.

28.5. The Company and the Customer agree to contract out of and nothing in the provisions of sections, 96, 125, 129, 142 and 143 of the PPSA will apply to these Terms and Conditions of Sale.

28.6. To the extent permitted by the PPSA, the Customer agrees that:

a) the provisions of Chapter 4 of the PPSA which are for the benefit of the Customer or which place obligations on the Company will apply only to the extent that they are mandatory or the Company agrees to their application in writing; and

b) where the Company has rights in addition to those in Chapter 4 of the PPSA, those rights will continue to apply.

28.7. The Customer must immediately upon the Company's request:

a) do all things and execute all documents necessary to give effect to the security interest created under this Agreement; and

b) procure from any person considered by the Company to be relevant to its security position such agreements and waivers (including as equivalent to those above) as the Company may at any time require.

28.8. The Company may allocate amounts received from the Customer in any manner the Company determines, including in any manner required to preserve any Purchase Money Security Interest the Company has in goods supplied by the Company.

29. The Guarantee

29.1. In the event the guarantor details in the Account Application Form are completed, this clause 29 shall apply.

29.2. The Guarantor hereby guarantees to the Company the payment by the Customer of all monies due and owing by the Customer to the Company at the times and upon the conditions set forth in these Terms and Conditions of Sale and the due and punctual performance and observance by the Customer of the covenants, conditions, restrictions and terms contained in these Terms and Conditions of Sale;

29.3. The Guarantor indemnifies the Company against any loss which the Company may sustain by reason of or in consequence of the Customer failing to pay any monies due and owing to the Company by the Customer and/or failing to perform and observe the terms of these Terms and Conditions of Sale;

29.4. The Guarantor agrees that any sum of money or damages intended to be hereby secured which may not be recoverable from the Guarantor as Guarantor for any reason whatever shall nevertheless be recoverable from the Guarantor as sole or principal debtor;

29.5. The Guarantor does hereby declare that this guarantee shall not be affected by the Guarantor's death but shall be binding on the executors or administrators of the Guarantor's estate and if more than one person is named as the Guarantor hereunder then they declare this guarantee shall not be affected by the death of any of them but shall be binding on the executors and administrators of their respective estates and they further declare that the obligations contained herein shall bind them jointly and severally;

29.6. The Guarantor shall not be discharged or released from this guarantee by any arrangement made between the Company and the Customer with or without the consent of the Guarantor or by any forbearance whether as to payment, time, performance or otherwise; and

29.7. The Guarantor agrees that, while the Company remains in possession of the goods, this guarantee cannot be revoked without the written consent of the Company.