H20 Pumping Solutions Limited Terms and Conditions

1 Interpretation

1.1 In these Conditions: `SELLER' means H20 Pumping Solutions Ltd; `BUYER' means the person who accepts a quotation of the Seller for the Sale of Goods or Services or whose order for the Goods is accepted by the Seller; `GOODS' means the goods (including any instalment of the Goods or any parts for them) and/or services which the Seller is to supply in accordance with these Conditions; `CONDITIONS' means the standard terms and conditions of sale set out in this document and `CONTRACT' means the contract for the purchase and sale of the Goods/Services, incorporating these conditions.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time; the headings in these Conditions are for convenience only and shall not affect their interpretation.

2 Basis of the sale

2.1 These Conditions shall govern the Contract to the exclusion of any other terms and conditions (including any terms or conditions which the Buyer purports to apply under any order, confirmation of order specification or other document). No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

2.2 In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, or arising out of any representations, advice or recommendations concerning the Goods which are not confirmed in writing by an authorised representative of the Seller. Nothing in this condition shall exclude or limit the Seller's liability for fraudulent misrepresentation.

2.3 Any typographical, clerical or other error or omission in any documentation or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

2.4 The Seller reserves the right to require payment in full and cleared funds prior to manufacture or supply of any Goods sold on a made to order basis.

3 Orders and specifications

3.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller's authorised representative or (if earlier) when the Seller delivers the Goods to the Buyer.

(a) Low cost items will be subject to a minimum order value of £50.00

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation or on the Seller's acknowledgement of order.

3.4 All descriptive and forwarding specifications, drawings and particulars of weights and dimensions submitted with the Seller's documentation are approximate only. The descriptions and illustrations contained in the Seller's catalogues, price lists and other advertisement matter, are intended merely to present a general idea of the goods described therein, and none of these shall form part of the Contract and this not a sale by sample.

3.5 When goods or machines are to deal with liquids, matter in suspension, acids or any material having special characteristics which are relevant to manufacture, full particulars must be given by the Buyer in writing prior to placing its order. Similarly, when pumps handling hazardous liquids are to be repaired the Seller must be warned of the nature of the fluid.

3.6 Any performance figures given by the Seller are estimates only. The Seller provides no warranty and accepts no liability for the accuracy of such figures. The Buyer assumes responsibility for the capacity and performance of the Goods being sufficient and suitable for its purpose. Unless otherwise agreed selective testing of centrifugal pumps to BS5316 part 1:1976 Annex B will apply.

3.7 The Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim, which results from the Seller's use of any Buyer's specification, for

(a) any loss, injury or damage wholly or partly caused by the Goods or their use;

(b) any loss, injury or damage in any way connected with the performance of this Contract; and

© infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person (provided that this clause will not require the Buyer to indemnify the Seller against any liability for the Seller's own negligence).

3.8 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EU requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

3.9 No order which has been accepted by the Seller may be cancelled or materially altered by the Buyer without the written agreement of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including consequential loss, whether for loss of profit or otherwise) costs (including the costs of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of cancellation or alteration. Orders covering purpose-built equipment i.e. standard units modified to include customer's specification and for special requirements may not be cancelled under any circumstances.

4 Price of the Goods

4.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Sellers published export price list shall apply. All prices, tenders or offers quoted by the Seller are valid for 30 days only unless previously withdrawn by the Seller or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller.

4.3 Unless otherwise agreed in writing, all prices are given by the Seller on an ex works unpacked basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

4.4 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

5 Terms of payment

5.1 Subject to condition 2.4 above, payment of the price for the Goods is due within 30 days of the date of the Seller's invoice. The time of payment of the price shall be of the essence of the Contract.

5.2 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to: cancel the contract or suspend any further deliveries to the Buyer, appropriate any payment made by the Buyer to such of the Goods (or goods or services supplied under any other contract between the Buyer and the Seller) as the Seller may think fit; and charge the Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of two per cent per

month (24% per annum) until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6 Delivery

6.1 Delivery of the Goods shall be made by the Seller making the Goods available for collection by the Buyer at the Seller's premises and notifying the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.

6.2 Where prices quoted include transport charges under Condition 4.3 above, no claims will be accepted for loss or damage in transit unless the Seller is notified in writing within three working days of the delivery.

6.3 Subject to compliance with clause 6.2, the Seller will repair or (at the Sellers option) replace free of charge goods lost or damaged in transit where

(1) delivery is within the United Kingdom, or

(2) in the case of Goods sold in or from the United Kingdom for shipment abroad, where Goods are lost or damaged up to the point of shipment. Upon the Seller repairing or replacing Goods under this Condition the Buyer will assign to the Seller such rights (if any) as it may have against the carriers or any third parties in respect of the damage or loss.

6.4 Any dates quoted for delivery of the Goods are approximate only and subject to availability of transportation and the Seller shall not be liable for any loss, damages, costs or expenses arising out of any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.5 The Contract shall be divisible. The Seller may deliver the Goods by installments and each such installment shall be deemed to arise from a separate contract. Each installment shall be invoiced and paid for separately. References in this agreement to Goods shall, where applicable, be read as references to installments.

6.6 Where the Goods are delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.7 If the Seller fails to deliver the Goods for any reason other than a cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.8 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery then, without prejudice to any other right or remedy available to the Seller, the Seller may: store the Goods until actual delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance); or sell the Goods at the best price readily obtainable and (after deducting all costs incurred in connection therewith) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

7 Returned Goods

Goods sold on a made to order basis are not returnable unless there is a breach of warranty in relation to such Goods and a returned goods number is obtained from the Seller prior to any such return. Goods ordered incorrectly by the Buyer will be subject to a 35% restocking charge subject to condition and resaleability.

8 Risk and property

8.1 Subject to clause 6.3, the Goods are at the risk of the Buyer from the time of delivery.

8.2 Ownership of the Goods shall not pass to the Buyer until the Seller has received in full (in cash or cleared funds) all sums due to it in respect of:

(a) the Goods; and

(b) all other sums which are or which become due to the Seller from the Buyer on any accounts.

8.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:

(a) hold the Goods on a fiduciary basis at the Seller's bailee;

(b) store the Goods (at no cost to the Seller) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Seller's property;

(c) not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and

© maintain the Goods in satisfactory condition and keep them insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller. On request the Buyer shall produce the policy of insurance to the Seller.

8.4 The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:

(a) any sale shall be affected in the ordinary course of the Buyer's business at full market value; and

(b) any such sale shall be a sale of the Seller's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.

8.5 The Buyer's right to possession of the Goods shall terminate immediately if:

(a) the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986, or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or (b) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Seller and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or © the Buyer encumbers or in any way charges any of the Goods.

8.6 The Seller shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Seller.

8.7 The Buyer grants the Seller, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

8.8 Where the Seller is unable to determine whether any Goods are the goods in respect of which the Buyer's rights to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Seller to the Buyer in the order in which they were invoiced to the Buyer.

8.9 On termination of the Contract, howsoever caused, the Seller's (but not the Buyer's) rights contained in this condition 8 shall remain in effect.

9 Warranties

9.1 Subject to the conditions set out below the Seller warrants that the Goods will correspond with their specification at the time of delivery and will be of satisfactory quality within the meaning of the Sale of Goods Act 1979 for a period of one year from the date of availability for collection or despatch as the case may be. For the avoidance of doubt the Seller gives no warranty that any Goods are fit for a particular purpose (whether or not such purpose has been made known to the Seller) unless such warranty is expressly confirmed in writing by the Seller to the Buyer.

9.2 The above warranty (and any further warranty expressly given by the Seller) is given by the Seller subject to the following conditions:

9.2.1 the Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied or requested by the Buyer;

9.2.2 the Seller shall be under no liability in respect of any defect or breach of warranty in respect of the Goods arising (either wholly or in part) from a defect in any system (or design of such system) to which the Goods are incorporated including (but not limited to) defective or inadequate pipework.

9.2.3 the Seller shall be under no liability in respect of any defect arising from fair wear and tear, accident, abuse, misuse, damage by flood, foreign matter (including cement, dust, plaster or other building site materials), fire or act of God, the improper installation or maintenance of the Goods, subjecting the Goods to or improperly applying water treatments or other systems additives, wilful damage, negligence, abnormal working conditions, failure to follow the Seller's or manufacturer's instructions (whether oral or in writing), or alteration or repair of the Goods without the Seller's approval;

9.2.4 the Seller shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;

9.2.5 the above warranty does not extend to parts, materials or equipment not manufactured by the seller, in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Seller for the less of: a period of 90 days from the date of purchase; the remaining period of the warranty given by the manufacturer; and

9.2.6 the above warranty does not extend to consumable parts inclusive of, but not limited to, filters, lubricants and seals;

9.3 The Seller shall not be liable for any breach of warranty or any claim by the Buyer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification (and the Buyer shall not be entitled to reject the Goods and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract) unless:

9.3.1 (whether or not delivery is refused by the Buyer) any such defect or failure is notified to the Seller within 7 days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within 7 days after discovery of the defect or failure;

9.3.2 the Seller is given a reasonable opportunity after receiving such notice of examining the Goods and the Buyer (if asked to do so by the Seller) returns the Goods to the Seller's place of business (at the Buyer's cost) for the examination to take place there.

9.4 Subject to conditions 9.2 and 9.3 if any of the Goods do not confirm with the warranty in condition 9.1 the Seller shall be entitled to replace the Goods (or that part in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), and the Seller shall have no further liability to the Buyer.

9.5 For the avoidance of any doubt, if any Goods in respect of which the Buyer alleges a defect are found to conform with the warranties in these Conditions the Buyer shall reimburse all associated costs incurred by the Seller including without limitation any reconditioning and transportation costs and must pay the contract price plus interest.

10 Liability

10.1 Subject to condition 6 and condition 9, the following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

(a) any breach of these Conditions;

(b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and

© any representation, statement or tortuous act or omission including negligence arising under or in connection with the Contract.

10.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods At 1979) are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these conditions excludes or limits the liability of the Seller:

(a) for death or person injury caused by the Seller's negligence; or

(b) under section 2(3), Consumer Protection Act 1987; or

© for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or for fraud or fraudulent misrepresentation.

10.4 Subject to condition 10.2 and condition 10.3:

(a) the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentations, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price;

(b) the Seller shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract; and

© the Seller shall not be liable to the Buyer for water damage caused by leakage from pipe systems into which the Goods are installed.

10.5 The Seller shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Seller's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Seller's reasonable control.

11 Insolvency of Buyer

11.1 This clause applies if: the Buyer makes 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 the purposes of amalgamation or reconstruction); or an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or the Buyer ceases, or threatens to cease, to carry on business; or the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

11.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12 Export terms

12.1 Where the Goods are to be supplied for export from the United Kingdom, the Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon. All goods & services to be paid in full including the value added tax at the prevailing rate prior to dispatch. The Buyer will also be responsible for the collection & delivery at their expense.

13 General

13.2 The Seller may perform any of its obligations or exercise any of its rights hereunder by itself or through any other members of its group.

13.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

13.4No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

13.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

13.6 The Contract shall be governed by the laws of England and Wales.

The Company shall not be liable for any personal injury or death however caused, arising from the supply of goods or services except where such injury or death is shown to result from negligence of the Company or its employees or agents.

10) Save as provided in numbered paragraphs 11 and 12 below, the Company shall not be liable for any damage, injury or loss of any kind whatsoever to the property of any person, howsoever caused, arising during or out of the supply of services or the supply or installation of goods by the Company.

11) The Company shall not be liable for any defects in workmanship, for any delay or for any other shortcomings in the services supplied by the
Company to the customer except, in the case of defects in workmanship only, if it is shown that such defects were the direct result of
negligence on the part of the Company. In any event, the liability of the Company shall not exceed the cost of remedying the defects in
workmanship and the Company shall not be liable for any loss consequent upon such defects.

12)
(a) In relation to any goods supplied to the customer, the Company gives no warranties and is bound by no conditions, whether as to the
quality, fitness, description or specification or otherwise howsoever save insofar as such warranties and conditions are implied by statute and
by statute may not be excluded.
(b) The customer shall notify the Company forthwith in writing upon the discovery of any defect in any goods supplied to the customer.

© The maximum liability of the Company (including liability for works necessary to replace any faulty item and any other consequential loss) in respect of any breach of any warranty or condition shall not exceed one and half times the price (at the date of acceptance of the customer's order) of the defective item.

(d) Provided the customer shall have notified the Company as required by sub-paragraph (b) above, the Company will at the request and cost
of the customer pass on to the customer the benefit of the guarantee (if any) which the Company may have may have received from the supplier of the goods in question.

13) Any statements oral or written, made prior to the acceptance of the customer's order as to the specifications or performance of any equipment, any saving of energy likely to result from any installation and the time within which any installation may be completed, are to be regarded as estimates only and do not form any part of any contract between the Company and the customer.