



Goods and services are sold and supplied to the customer by *Sunshine Coast Fluid Control Pty Ltd* and its related companies (as defined by the Corporations Law) on the following terms and conditions, unless otherwise expressly agreed between *Sunshine Coast Fluid Control Pty Ltd* and the customer.

1. ORDERS

No order, whether resulting from a prior quotation or not, shall result in a binding contract until the order is accepted in writing by an authorised officer of *Sunshine Coast Fluid Control Pty Ltd*.

2. PRICES

Prices may be varied at any time without notice. Unless otherwise indicated, prices for goods will be quoted ex-works as that term is defined in the international rules for the interpretation of trade terms 2010 ("the Incoterms") and prices for services will be quoted ex the place at which *Sunshine Coast Fluid Control Pty Ltd*, at its option, will perform the services. The customer shall bear all the costs of bringing the goods to their destination including, without limitation, the cost of freight, demurrage and insurance. The customer shall bear all the costs of having services performed at a place other than that nominated by *Sunshine Coast Fluid Control Pty Ltd*.

3. TERMS OF PAYMENT

Terms of payment by customer to *Sunshine Coast Fluid Control Pty Ltd* are Net payable:

- (a) For equipment or accessories: 7 days from date of invoice
- (b) All other goods and services: 7 days from date of invoice.
- (c) All works and goods supplied, operational or not will be invoiced every 30 days up to date, if the project has not been completed. Time of payment shall be of the essence.

If *Sunshine Coast Fluid Control Pty Ltd* does not receive payment by the date it will:

- (a) Suspend deliveries;
- (b) Cancel any existing contracts for supply without notice; and
- (c) Charge a management fee of \$10 per day overdue.
- (d) Charge interest on the unpaid amount calculated on a daily basis from the due date until the date of payment at the maximum overdraft rate charged by *Sunshine Coast Fluid Control Pty Ltd's* bankers.

4. SHIPMENT

Customer orders will be shipped from a point of shipment as determined by *Sunshine Coast Fluid Control Pty Ltd*. Upon receipt, the customer will inspect the goods and lodge any complaints with the carriers within any time limit applicable.

5. TITLE AND PROPERTY

5.1 A risk in goods purchased shall pass to the customer upon delivery to the customer or the customer's agent or carrier.

5.2 Title to goods purchased shall not pass to the customer until payment in full is received by *Sunshine Coast Fluid Control Pty Ltd*

from the customer and the customer shall:

- (a) Store goods which have not been paid for separately;
- (b) Keep separate records in relation to the proceeds of the sale of any goods which have not been paid for, bank the proceeds of any such sale into a separate account and immediately remit such funds to the credit for *Sunshine Coast Fluid Control Pty Ltd*; and
- (c) if any goods are used in a manufacturing process or mixed with other materials, the customer shall record the value of goods so consumed in relation to each unit of finished product and upon sale of any unit of finished product immediately remit that amount from the proceeds of sale to *Sunshine Coast Fluid Control Pty Ltd*.

5.3 If the customer does not pay for any goods on the due date specified in this agreement, *Sunshine Coast Fluid Control Pty Ltd* is hereby irrevocably

authorised by the customer to enter the customer's premises (or the premises of any associated company or agent where the goods are located) and use reasonable force to take possession of the goods without liability for trespass, negligence or payment of any compensation to the customer whatsoever.

5.4 If goods are repossessed hereunder, *Sunshine Coast Fluid Control Pty Ltd* may keep sell or otherwise dispose of the goods as it sees fit.

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6. LIABILITY

6.1 *Sunshine Coast Fluid Control Pty Ltd* acknowledges that by Law certain conditions and warranties may be implied into contracts and rights and remedies conferred upon the customer which cannot be excluded, restricted or modified by contract ("Non-excludable Rights"). Save the Non-excludable Rights, *Sunshine Coast Fluid Control Pty Ltd* disclaims all warranties, conditions, liabilities or representations in relation to, *inter alia*, the quality, fitness for purpose or correspondence with description of goods or services which might, but for this clause, be implied herein by law or otherwise.

6.2 *Sunshine Coast Fluid Control Pty Ltd's* liability to the customer in or in connection with goods or services supplied pursuant to any of the

Non-excludable Rights, any express warranty or otherwise, shall to the full extent allowed by law be limited to *Sunshine Coast Fluid Control Pty Ltd's*

options:

- (a) In the case of service, to supplying the services again or paying the cost of having the services supplied again; and
- (b) In the case of goods, to the repair or replacement of the goods or the supply of equivalent goods or the payment of the respective cost thereof.

6.3 Notwithstanding anything else contained herein *Sunshine Coast Fluid Control Pty Ltd* shall not be liable to the customer for loss of profits or contracts or loss of use for any indirect or consequential loss whatsoever arising from negligence of *Sunshine Coast Fluid Control Pty Ltd*, its servant's or agent's breach of contract or of statutory duty or otherwise howsoever.

7. TIME FOR PERFORMANCE BY *Sunshine Coast Fluid Control Pty Ltd*

Sunshine Coast Fluid Control Pty Ltd will use reasonable endeavours to deliver the goods and render services on or within the time or times specified in the contract but failure to do so shall not constitute a breach of contract and the customer shall not be entitled to refuse to accept goods or any instalment or instalment's or services delivered or rendered after such time or times or to claim compensation for such failure.

8. FORCE MAJEURE

If by reason of any fact, circumstance, matter or thing beyond the reasonable control of *Sunshine Coast Fluid Control Pty Ltd*, *Sunshine Coast Fluid Control Pty Ltd* is either unable to perform in whole or in part any of its obligations hereunder, *Sunshine Coast Fluid Control Pty Ltd* shall be relieved of that obligation to the extent and for the period that it is so unable to perform and shall not be liable to the customer in respect of such inability.

9. RISK OF CARRIAGE, HANDLING AND STORAGE

Any liability of *Sunshine Coast Fluid Control Pty Ltd* for loss of or damage to customers' goods during carriage, handling or storage by or on behalf of *Sunshine Coast Fluid Control Pty Ltd* shall be limited at *Sunshine Coast Fluid Control Pty Ltd's* option to the repair or replacement of such goods, the supply of equivalent goods or the respective cost thereof. All other risks of carriage, handling and storage will be borne by the customer.

10. INSTALLATION

The price of goods is ex-works and does not include the costs of installation by *Sunshine Coast Fluid Control Pty Ltd*. *Sunshine Coast Fluid Control Pty Ltd* may agree to install goods on its applicable terms and conditions. Installation by *Sunshine Coast Fluid Control Pty Ltd* shall be during *Sunshine Coast Fluid Control Pty Ltd's* normal working hours after the site has been prepared by the customer to meet *Sunshine Coast Fluid Control Pty Ltd's* site specifications. Unless otherwise agreed, these general terms and conditions shall apply to such installation.

11. DELIVERY SHORTAGE

The customer must inspect the goods or any instalment or instalment's thereof immediately on the delivery thereof or the rendering of services immediately thereafter and must within fourteen (14) days of delivery or rendering given written notice to *Sunshine Coast Fluid Control Pty Ltd* of any matter or thing by reason whereof the customer may allege that the goods or services do not conform to the delivery notice or invoice which accompanies delivery or rendering. (The delivery note or invoice (or a copy) must accompany any such written notice.) If the customer fails to give such written notice, the goods or any instalment or instalment's or services shall be deemed to be in all respects in accordance with the delivery note or invoice and the customer shall be bound to accept and pay for the same accordingly.

12. COMPLAINTS

The customer must provide *Sunshine Coast Fluid Control Pty Ltd* with an immediate written report of any alleged defects in the goods delivered or services rendered and provide *Sunshine Coast Fluid Control Pty Ltd* with an opportunity to examine the delivered goods or services rendered in question. Any written report must be accompanied by:

- (a) a sample of the goods or rendered services in question showing the alleged defect, and
- (b) where appropriate, and to the extent necessary to establish the alleged defect, a sample delivered at the same time in its original packaging showing the batch or reference number identification.

Customers are not entitled to withhold payment or make deductions on account of goods or services claimed to be defective.

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13.RETURNS

Goods may only be returned with prior written approval of *Sunshine Coast Fluid Control Pty Ltd* and if such approval is given the goods shall be returned to *Sunshine Coast Fluid Control Pty Ltd* at the customer's cost. When contacting *Sunshine Coast Fluid Control Pty Ltd* for such approval, details of invoice number and date of shipment as well as the batch number in any coated or sensitised goods must be given. Returned goods will only be accepted by *Sunshine Coast Fluid Control Pty Ltd* if they are goods unused and undamaged and packed in their original packaging with their original marks and numbers unaltered so as to be in saleable condition by *Sunshine Coast Fluid Control Pty Ltd*. In the case of customer error in ordering, an administrative and handling fee equal to 10% of the sale price of the returned goods shall be payable by the customer to *Sunshine Coast Fluid Control Pty Ltd*.

14.STORAGE CONDITIONS

The customer is informed that:

Sensitised goods require proper storage and handling to maintain quality.

15.COPYRIGHT

Sunshine Coast Fluid Control Pty Ltd reserves the rights to all copyrights, trade marks, industrial designs, patents and any other industrial and intellectual rights on all *Sunshine Coast Fluid Control Pty Ltd* drawings, designs, diagrams, schemes, plans, publications, other documents, ideas, discoveries, improvements and inventions. The customer shall not use or allow any third party to use any of the foregoing without *Sunshine Coast Fluid Control Pty Ltd's* prior written consent.

16.GENERAL

Any contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer shall be governed by the law of Queensland and *Sunshine Coast Fluid Control Pty Ltd* and the customer irrevocably submit to non-exclusive jurisdiction of the courts of that state.

17. LEGAL RELATIONSHIP

Nothing shall be deemed to construe *Sunshine Coast Fluid Control Pty Ltd* and the customer, the partner, agent or legal representative of the other. Except as expressly provided for, the customer shall not have any authority to act for, or to assume any obligation or responsibility on behalf of, *Sunshine Coast Fluid Control Pty Ltd*.

18.ASSIGNMENT

Any contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer shall apply for the benefit of *Sunshine Coast Fluid Control Pty Ltd's* successors in title, transferees and assigns. The customer shall not be entitled to assign, transfer, either partially or entirely, any of its rights or obligations under any contract with *Sunshine Coast Fluid Control Pty Ltd* without the prior written consent of *Sunshine Coast Fluid Control Pty Ltd*.

19.WAIVER

The failure by *Sunshine Coast Fluid Control Pty Ltd* to enforce, at any time and from time to time, a provision of any contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer or to require at any time performance by the customer of a provision of any such contract shall not be construed as a waiver of that provision or affect the validity of that contract or any part thereof nor the right of *Sunshine Coast Fluid Control Pty Ltd* to thereafter enforce each and every provision of any such contract.

20.EFFECT OF TERMINATION

The termination of any contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer on any account whatsoever shall not in any way prejudice or affect the rights, duties or obligations of the parties under any such contract which may have arisen prior to the date of termination.

21. INTEGRATION

Any contract made between *Sunshine Coast Fluid Control Pty Ltd* and the customer supersedes all prior agreements, arrangements and undertakings between them relating to the subject matter thereof and constitutes the entire agreement between the parties relating to that subject matter. No addition to or modification of any provision of any contract shall be binding upon the parties unless made by written instrument signed by both parties.

22.SEVERANCE

In the event of the invalidity, illegality or unenforceability of any part of provisions of any contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer, such invalidity or illegality or unenforceability shall not affect the remaining provisions of such contract and the part of provision being invalid, illegal or unenforceable shall be served from the remaining provisions of such contract.

23.VARIATION

No variation of any contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer shall be effective nor shall any waiver of rights be implied unless signed for and on behalf of *Sunshine Coast Fluid Control Pty Ltd* and the customer.

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24. INDEMNITY

To the full extent allowed by law the customer shall indemnify, and keep indemnified, *Sunshine Coast Fluid Control Pty Ltd* against all and any liabilities and claims of whatsoever kind which arise out of or in relation to any use made of the goods or services by or on behalf of the customer.

25. TAXES

The customer shall pay all and any taxes, sales taxes, duties, levies and imports applicable to any contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer or any transaction required or contemplated thereunder.

26. HEADINGS

The headings herein are for ease or reference only and shall not form part of any contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer or affect its construction.

27. NOTICES

(a) a notice, approval or other communication hereunder:

(i) may be given by an Authorised Officer of the relevant party; and

(ii) must be in writing; and

(iii) must be left at the address of the addressee or sent by prepaid ordinary post (airmail if posted to or from a place outside Australia) to the address of the addressee or sent to the facsimile number of the addressee which is specified in the relevant contract between *Sunshine Coast Fluid Control Pty Ltd* and the customer or if the addressee notified another address or facsimile number then to that address or facsimile number.

(b) Unless a later time is specified in it, a notice or other communication takes effect from the time it is received.

(c) A letter or facsimile is taken to be received:

(i) in the case of a posted letter, on the third (seventh, if posted to or from a place outside Australia) day after posting; and

(ii) in the case of a facsimile, on production of a transmission report by the machine from which the facsimile was sent in its entirety to the facsimile number of the recipient notified for the purpose of this clause.