

General

1.

- (a) All contracts between Speck Pumps (UK) Limited ("Speck") and the Purchaser shall be subject to the following conditions of sale which shall constitute all the terms of the contract between Speck and the Purchaser.
- (b) These conditions shall supersede any earlier terms and conditions employed by Speck.
- (c) Unless expressly agreed by Speck in writing, these conditions shall override any standard or other terms or other conditions stipulated, incorporated or referred to by the Purchaser in negotiations or elsewhere.
- (d) No variation or waiver of or addition to these conditions shall be effective unless confirmed in writing by Speck.
- (e) The contract between the Purchaser and Speck shall be concluded only upon written acceptance by Speck.
- (f) No quotation by Speck shall constitute an offer and such quotations are valid for 30 days only.

Prices

2.

- (a) The price stated is the net price for the goods for delivery from Speck's warehouse in accordance with the contract.
- (b) Speck reserves the right to alter prices from time to time without notice to reflect changes in the rates of exchange, increases in customs, excise or other duties or taxes or changes in the cost of raw materials and labour notwithstanding Speck's previous acceptance of an order. In such cases, the effective price will be the price shown on Speck's standard price list in force on the date of delivery.
- (c) Unless otherwise indicated in writing all quotations by Speck are exclusive of all taxes, (including but not limited to VAT) and of all duties, levies and other charges all of which, where applicable, will be separately charged at the appropriate rates.
- (d) In view of Speck's policy of continuous product improvement, alterations in design and construction may be made by Speck without notice.
- (e) Where carriage, insurance, storage or other charges are shown separately from the price they will nevertheless be payable by the Purchaser at the same time as if they form part of the price and shall be treated as such a part for the purposes of these conditions.

Payment

3.

- (a) Time for payment shall be of the essence of the contract and payment shall be made net cash within 30 days of the invoice date at the address shown overleaf, in the absence of any express agreement to the contrary, and shall be due before any of the goods are sold or dealt with in any manner by the Purchaser. Where it is expressly agreed that the price is payable in foreign currency, all banking and similar charges shall be for the account of the Purchaser. Payment in the event of goods being delivered outside the United Kingdom shall be against the production of shipping documents.
- (b) If the Purchaser fails to make payment by the due date Speck shall be entitled to charge interest on the sum or balance owing (without prejudice to any other rights of Speck in respect of such default) on a daily basis at the rate of 2% per month being calculated from the date on which payment became due until the date on which payment is made.
- (c) In the event of Speck agreeing to accept payment by installments, any delay in the receipt by Speck of one installment shall without prejudice to any other right, forthwith entitle Speck to the whole of the outstanding sum.
- (d) If any payment whatsoever is overdue or if the Purchaser has failed to take delivery of any goods or is in breach of any of these conditions which (if capable of remedy) is not remedied within 7 days of the Purchaser being notified thereof Speck shall without prejudice to any other rights or remedies available to them be entitled to suspend or cancel deliveries of goods under this or any other contract made between Speck and the Purchaser without any liability remaining on Speck.
- (e) If the Purchaser purports to cancel the contract or refuses to take delivery of any of the goods the Purchaser shall thereupon become liable for the full contract price but will be credited with the amount obtained by Speck less any deposit payable if Speck is able to dispose of the contract goods.

Delivery

4.

- (a) Whilst Speck will use all reasonable endeavours to deliver or dispatch goods within the time stated, any time stated is an estimate only and the Purchaser shall be bound to accept goods when available. Speck shall not be liable for any loss or damage of any kind and howsoever arising caused by failure to deliver or

dispatch within the time stated.

- (b) Should Speck be unable to make any delivery at the time provided therefore by reason of strike, lock-out, trade dispute, breakdown of plant, fire, accident, weather conditions, hostilities (whether or not war is declared), prohibition of export, short- of labour, materials, power or transport, government order, act of God or any cause whatsoever beyond the control of Speck, delivery may be wholly or partly suspended and the period of delivery shall be extended by the period during which those conditions continue. If the said period exceeds 3 months, Speck shall have the right to determine the contract without prejudice to rights accrued in respect of deliveries already made or any other rights acquired under the contract.
- (c) Notwithstanding that the invoice price may specifically include the cost of carriage, the risk in goods sold shall pass to the Purchaser upon transfer unto the carriers, purchasers or Speck transport and the Purchaser shall insure the goods against any loss or damage thereto or any part thereof unless otherwise agreed. This provision shall apply even where the sale is made C.I.F. or any other ex-works basis.
- (d) In a case where at the Purchaser's cost Speck concludes the contract of carriage and arranges for insurance of the goods for transit Speck shall be deemed to be acting solely as agent for the Purchaser and sub-section 2 and 3 of section 32 of the Sale of Goods Act, 1979 shall not be applicable.
- (e) If goods are upon delivery found to be damaged Speck shall not in any event be liable unless
 - (I) the Purchaser gives written notice to Speck and the carrier within 3 days of the receipt of the goods;
 - (II) the Purchaser gives Speck a reasonable opportunity to arrange for inspection of the goods.If Speck is satisfied that the damage was not caused in transit, it shall replace or repair the goods at its option.
- (f) If Speck replaces or repairs any goods pursuant to (e) above the Purchaser shall forthwith if requested to do so by Speck pack the goods in a suitable manner so as to ensure no further damage is caused and return them forthwith to Speck or to whomever Speck shall direct at the Purchaser's cost.
- (g) Speck reserves the right to charge the Purchaser any costs, charges or expenses incurred by Speck as a result of any warehousing (including charges for storage in Speck's own premises), carriage, insurance and handling in consequence of any act or omission of the Purchaser its servants or agents or as a result of any special requirements or stipulations of the Purchaser not provided for in the contract.
- (h) Where goods are required to be delivered outside the United Kingdom the Purchaser will be responsible for obtaining all consents and licences which are necessary to enable it to import and use the goods and for all necessary consents C (including exchange control consent) to enable it to make payment for the goods.
- (i) Unless otherwise specified, goods are normally supplied packaged or in non-returnable containers at a nominal charge. If the goods are to be delivered outside the United Kingdom then a separate charge will be made for packaging. Where goods are supplied in returnable containers a charge will be made to cover the cost thereof. In this event the Purchaser will be credited in full only if the empty container is returned to Speck carriage paid in good condition. Details of such returned containers must be advised to Speck separately at the time when they are returned and containers must be clearly marked with the sender's name and address and the Advice Note number under which they were despatched.

Title

5.

- (a) The property in the goods shall not pass to the Purchaser until the Purchaser has paid in full all the sums due to Speck. As legal ownership remains in Speck the Purchaser shall be bailee of the goods Speck.
- (b) The goods shall be stored separately from any other goods of the Purchaser and in such a way that they can be readily identified as the property of Speck.
- (c) If Speck's goods shall have become incorporated or mixed or form part of some other property or machine, the Purchaser shall mark both the goods and the new products of which they are a constituent part in such a way that they can be readily identified as Speck's property.
- (d) Legal ownership of the said new products shall remain in Speck and the Purchaser shall be bailee of the new products for Speck.
- (e) Subject to (f) and (g) below Speck may entitle the Purchaser to sell the goods and new products in the ordinary course of business on the basis that the proceeds of sale will belong to Speck and shall be placed in a separate account and shall be paid to Speck on demand. No such sale may be made as the agent of Speck.
- (f) Speck may revoke any power of sale given to the Purchaser by notice to the Purchaser if payment for the goods is still overdue 7 days after a written demand has been made.



Terms & Conditions

- (g) The purchaser's power of sale shall automatically cease and this contract shall immediately determine if a Receiver is appointed over any of the assets or the undertaking of the Purchaser or a winding-up order is made against the Purchaser or the Purchaser goes into voluntary liquidation or calls a meeting of or makes any arrangement or composition with creditors or commits an act of bankruptcy or ceases trading. If any such event should occur, the Purchaser shall promptly notify Speck thereof.
- (h) Upon determination of the Purchaser's power of sale under (f) or (g) above or in an event of default by the Purchaser Speck shall be entitled to enter the premises of the Purchaser without notice to take possession of the goods and new products not paid for and as between the Purchaser and Speck this condition will constitute the authority of the Purchaser to Speck to enter on the premises of any other person holding the goods as the Purchaser's agent and on whose property the goods may be and to remove the goods.
- (i) From the date of delivery of the goods until actual payment the Purchaser shall keep the goods fully insured, and if the goods are lost, destroyed or damaged, shall hold the proceeds of insurance to the order of Speck pending payment of sums Outstanding to Speck.

Call-Off Orders and Delayed Delivery

6.

Call-off orders must be completed within one year from the date of the first delivery, Speck will only accept instructions to delay delivery of an order beyond the date given in (the written acceptance) (delivery schedule agreed between Speck and the Purchaser) providing not less than 3 months' prior written notice of such variation is given to Speck. Where less than 3 months' of a request a delivery is given, Speck shall be entitled at its sole discretion and without prejudice to any other right or remedy it may have to terminate the contract forthwith or to agree to such a delay and:-

- (a) to exercise its right under paragraph 4 (g) hereof; and
- (b) to charge interest on the sum which would have become due had the goods been delivered in accordance with the said (written acceptance) (delivery schedules) at a rate of 2% per month calculated from the date on which payment would have become due had the goods been so delivered until the date on which payment is actually made.

Guarantees, Warranties and Limitation of Liability

7.

- (a) Speck undertakes to repair or at their Option replace or credit against the invoiced sum any goods manufactured by Speck or any part or parts thereof manufactured by Speck which are discovered by the Purchaser to be defective in materials or workmanship provided that an opportunity shall have been given to Speck to inspect such goods.
- (b) Speck shall not be liable for any claim under (a) above unless
 - (i) written notice of the defect is given to Speck within 7 days of the discovery of the same; and
 - (ii) the goods in question were new when purchased by the Purchaser from Speck and have been properly stored and operated by the Purchaser prior to the defect occurring; and
 - (iii) the goods in Question have not been subject to abnormal use or any modification prior to the defect occurring; and
 - (iv) the goods in Question at Specks request are returned to Speck at the Purchaser's expense.Speck shall not be liable for any claim unless made within six calendar months from the date of delivery.
- (c) Speck may make a charge for labour for effecting repairs under (a) if the product is not in use within Speck's service area the mainland of England, Scotland or Wales.
- (d) In the event of any repairs or replacement being carried out free of charge by Speck under (a) any replacement parts supplied in connection therewith by Speck to the Purchaser shall be covered by the provisions of (a) for the remainder (if any) of the period of six months referred to under (b). In no circumstances will the aforementioned period be extended beyond six months from the date of delivery of the original new products.
- (e) The warranty contained in (a) and (b) above is given in substitution for all conditions and warranties whether expressed or implied by common law, statute, custom of trade, course of dealing or otherwise and all such conditions and warranties are hereby excluded save where otherwise provided by statute.
- (f) The Purchaser hereby confirms that the sale is no a consumer sale within the meaning of the Sale of Goods Act, 1979.
- (g) Speck shall not be liable in contract or tort or otherwise for direct or consequential loss or damage or injury in connection with or arising out of possession,

operation, use, malfunction or modification of the goods save as provided for in (e) above and the Purchaser shall indemnify Speck in respect of any claim for loss, damage or injury to any person or property or for any other loss directly or indirectly occasioned by or arising from the possession, operation or use of the goods or arising from the malfunction or modification of the goods.

- (h) The Purchaser hereby confirms that there have been no representations made by or on behalf of Speck on the faith of which the Purchaser entered into the contract except and to the extent to which such representations are herein expressly set Out. No servant or agent of Speck has any authority to give any warranty or make any representation concerning the goods.

Trade Mark or Names

8.

- (a) No trade mark or name carried on goods supplied by Speck may be erased or replaced without the consent of Speck.
- (b) The Purchaser may not use in relation to any other goods of any description whatsoever any registered trade mark or name used or entitled to be used by Speck, or by any of Speck's subsidiaries.
- (c) The Purchaser will be fully responsible for any patent trade mark, design or copyright infringement or any other infringement of a third parties' rights resulting from the Purchaser's use or sale of any of the goods and the Purchaser shall fully and completely indemnify Speck in respect of all damages, costs, charges and expenses for which Speck may be liable as a result of any such infringement or alleged infringement.

Default

9.

If the Purchaser shall make default in or commit a breach of the contract or of any other of its obligations to Speck, or if any distress or execution shall be levied upon the Purchaser's property or assets, or if the Purchaser shall make or offer to make any arrangement or composition with creditors, or commit any act of bankruptcy, or if any petition or receiving order in bankruptcy shall be presented or made against him or if the Purchaser is a limited company and any resolution or petition to wind - up such company (other than for the purposes of amalgamation or re - construction) shall be passed or presented, or if a receiver of such company's undertaking, property or assets or any part thereof shall be appointed, Speck shall have the right forthwith to determine any contract then subsisting and upon written notice of such determination being posted by it to the Purchaser's last known address any subsisting contract shall be deemed to be determined without prejudice to any claim or right Speck might otherwise make or exercise.

Descriptive Matter

10.

All descriptive matter (including but not confined to catalogues, advertisements, brochures, drawings, illustrations, specifications or dimensions) is approximate only given for general guidance and shall not form part of this contract

Waiver

11.

No failure or delay in exercising any rights under these conditions shall operate as a waiver thereof or extend to or affect any other or subsequent events or impair any rights or remedies consequent thereon or in any way modify or diminish the rights of speck under these conditions.

Severability

12.

In the event that any of these conditions shall become or shall be declared by any Court or competent jurisdiction to be invalid or unenforceable in any way such invalidity shall in no way impair or affect any of the remaining conditions hereof all of which will remain in full force and effect.

Jurisdiction

13.

These conditions and this contract shall be governed and construed in accordance with English law and any dispute or matter arising out of this contract shall be submitted for determination to the English Courts to the jurisdiction of which Speck and the Purchaser agree to submit.