

## **TERMS AND CONDITIONS OF SALE**

**1. SCOPE.** These terms govern the sale of the Products by Supplier. Any additional, different or conflicting terms contained in Customer's request for proposal, specifications, purchase order or any other written or oral communication from Customer shall not be binding in any way on Supplier. Supplier's failure to object to any such additional, different or conflicting terms shall not operate as a waiver of these terms.

**2. DEFINITIONS.** The following terms used in this Agreement shall have the meaning set forth as follows:

"Agreement" means the agreement between the Supplier and the Customer relating to the sale of the Products, consisting of the Cover Page, these Terms and Conditions and all addenda and exhibits attached thereto or incorporated herein by reference.

"Contractual Delivery Date" means the "Ship By" date specified as such on the Cover Page.

"Cover Page" means the Order Confirmation issued by Supplier containing Supplier's offer to the Customer, to which these Terms and Conditions and all other applicable exhibits are attached.

"Customer" means the purchaser of the Products identified on the Cover Page.

"Delivery" means the moment when Supplier fulfils its delivery obligation under the applicable trade term with respect to Products.

"Effective Date" means the date which appears at the top of the Cover Page.

"Payment Terms" means the terms of payment for the Products as set out in the Cover Page.

"Price" means the price for the Products as specified in the Cover Page.

"Products" means the "Items" listed on the Cover Page.

"Specifications" means, with respect to each Product, the specifications for such Product adopted by Seller which are either attached hereto as Exhibit A or have been previously provided by Supplier to Customer.

"Supplier" means Unibloc-Pump, LLC, a Delaware limited liability company.

**3. PRICE AND PAYMENT TERMS.** The Price shall be due and payable as provided in the Payment Terms, or thirty (30) days after Delivery if no Payment Terms are provided on the Cover Page. Prices stated are exclusive of all taxes, fees, licenses, duties, levies or other governmental assessments ("Taxes"), and exclusive of all

shipping and handling charges, freight and insurance. Customer shall be solely responsible for any Taxes payable in connection with Customer's purchase (other than Taxes assessed against Supplier's net income). Past due balances shall bear interest at a rate of 1.5 percent per month, but not to exceed the maximum amount permitted by applicable law. In order to secure payment of the unpaid balance of the Price, Customer hereby grants to Supplier a first priority security interest in the Products.

**4. CUSTOMER'S DEFAULT.** If Customer fails to make any payments by the due date thereof, then Supplier may give Customer written notice of such failure and may suspend all services, licenses and Delivery. If Customer fails to make any payment within thirty (30) calendar days after the date of Supplier's notice of late payment, Supplier may elect to terminate this Agreement by giving written notice of termination. Such termination shall be effective as of the date of such termination notice. If any Products have been delivered to Customer, Supplier shall be entitled, without prejudice to its other rights and remedies, to enter the Site and remove and repossess the Products. Supplier may invoice Customer for, and Customer shall pay, all reasonable costs of collection for unpaid amounts, including without limitation collection agency costs, reasonable attorneys' fees, and court costs

**5. DELIVERY; TITLE; RISK OF LOSS.** Supplier shall deliver the Products to Customer EX WORKS (as defined in Incoterms 2020) Supplier's facility in Kennesaw, Georgia. Supplier may make partial shipments. While Supplier shall make every reasonable effort to meet the Contractual Delivery Date, all delivery dates are approximate only and Supplier shall not be liable for any loss or expense (consequential or otherwise) incurred by Customer if Supplier fails to meet the specified Contractual Delivery Date.

**6. FORCE MAJEURE.** If either party suffers delay in performance due to any cause beyond its reasonable control, including without limitation acts of God, strikes, labor shortage or disturbance, fire, accident, war or civil disturbance, delays of carriers, failure of normal sources of supply, or acts of government, the time of performance (except for payment of money) shall be extended a period of time equal to the period of the delay and its consequences. After becoming aware of any such delay the affected party will provide a timely notification to the other party.

**7. CANCELLATIONS.** All orders cancelled within 24 hours of being confirmed by Supplier will be assessed a \$50 fee. Any orders cancelled after 24 hours, or any orders cancelled within 24 hours where work has already been performed, special items have been ordered, or if the order is for expedited delivery, will be subject to a

cancellation fee of 20% of the value of the order, or the total value of work performed and materials purchased, whichever is greater.

**8. WARRANTY.** Supplier provides the warranty for each Product as set forth in the manual for such Product. To the extent no warranty is set forth in the applicable manual, Supplier warrants that each Product will be free from defects in material and workmanship which results in noncompliance with the Specifications for such Product. This warranty shall begin upon Delivery and continue for a period of one year from such date. If during this period the Product does not comply with the Specifications as a result of defects in material or workmanship, Customer may contact Supplier to arrange return of the faulty Product, shipping prepaid and fully insured, to an authorized Supplier service facility. If upon inspection of the item in question, defects in workmanship or materials are revealed, Supplier's sole obligation under this warranty shall be to supply a repair or replacement for any defective part of a Product, and to return such Product to Customer by shipping it EX WORKS (as defined in Incoterms 2020) the service facility. Supplier shall not be required to supply any labor for repairs or replacement of parts. This warranty is void if the Product has not been used as recommended or instructed, has been altered or used with unauthorized accessories, has been subject to misuse, abuse or accident, or has been damaged due to causes not related to poor workmanship or defective materials. All parts or components not manufactured by Supplier are warranted only to the extent of the warranty of the respective manufacturers. **THIS LIMITED WARRANTY IS EXPRESSLY GIVEN IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY EXCLUDED.**

**9. INTELLECTUAL PROPERTY.** Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement is intended to assign or license to Customer any intellectual property rights. Supplier retains all right, title and interest in and to all intellectual property rights in the Products.

**10. INSTALLATION.** Customer shall be solely responsible for installation of the Products.

**11. INDEMNIFICATION BY CUSTOMER.** Customer shall defend, indemnify and hold Supplier harmless against all liabilities, damages, costs, expenses and claims arising from or based upon Customer's use of the Products, including any claims arising from or based

on Customer's modification of any Product, combination of any Product with any products or components not provided by Supplier, or use of any Products in any manner inconsistent with this Agreement.

**12. LIMITATION OF LIABILITY. SUPPLIER'S LIABILITY UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID TO SUPPLIER BY CUSTOMER FOR THE PRODUCT THAT IS THE BASIS FOR THE CLAIM. NEITHER SUPPLIER NOR ITS SUPPLIERS SHALL BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF PROFITS, REVENUE, TIME, OPPORTUNITY OR DATA, WHETHER IN AN ACTION IN CONTRACT, TORT, BREACH OF WARRANTY, PRODUCT LIABILITY, STATUTE, EQUITY OR OTHERWISE, EVEN IF SUPPLIER OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATION OF LIABILITY AND EXCLUSION OF DAMAGES SHALL APPLY EVEN IF THE LIMITED REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.**

**13. APPLICABLE LAW AND ARBITRATION.** The Agreement shall be governed and construed in accordance with the laws of the State of Georgia, without regard to its conflict of laws principles. All disputes arising in relation to the Agreement shall be resolved by arbitration in Atlanta, Georgia, under the Commercial Arbitration Rules of the American Arbitration Association.

**14. ENTIRE AGREEMENT AND CONFLICTING PROVISIONS.** This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior understandings, representations and warranties, written and oral.

**15. EXPORT CONTROLS.** Customer shall not export or transfer Products for re-export in violation of any United States laws or the laws of any other jurisdiction, or to any denied or prohibited person, entity, or embargoed country in violation of any such laws.

**16. MISCELLANEOUS.** No amendment or modification of this Agreement shall be binding unless in writing and signed by a duly authorized representative of each of Supplier and Customer. Supplier's failure to exercise any rights hereunder shall not constitute or be deemed a waiver or forfeiture of such rights hereunder. If any provision of this Agreement is held to be invalid or unenforceable for any reason, such provision shall, to the



extent of such invalidity or enforceability, be severed from this Agreement without affecting the remainder of such provision or any other provision hereof, all of which shall continue in full force and effect.