

ARMSTRONG FLUID TECHNOLOGY

Armstrong Pumps Inc.
("ARMSTRONG") TERMS OF SALE AND WARRANTY

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ARMSTRONG TERMS

The following terms shall prevail over and cancel any other or different terms or conditions proposed by a customer of Armstrong (the "Customer") through a purchase order or otherwise. Armstrong's acceptance of the Customer's order shall not be construed as an acceptance of printed or inserted provisions on the Customer's form(s) which are inconsistent with or additional to these terms and conditions, unless specifically accepted in writing by an authorized signing officer of Armstrong. No sales representative, agent, or employee of Armstrong is authorized to alter, vary or waive any of these terms and conditions. Such changes require the written approval of an authorized signing officer of Armstrong.

ACCEPTANCE OF ORDERS

All orders are subject to formal acceptance at Armstrong's head office by an authorized signing officer of Armstrong.

PRICES

Unless otherwise expressly stated by Armstrong, prices quoted do not include any applicable transportation costs or property, sales, use, privilege or export taxes, custom duties or any other applicable tax, fee or charge imposed on or measured by the transaction(s) between the Customer and Armstrong. Customer will be responsible for paying such taxes, fees and costs, unless otherwise expressly stated by Armstrong. Prices quoted are firm for 30 days from date of quotation. [Upon acceptance, quoted] prices will remain firm to time of shipment, provided:

- A Delivery is accepted as goods are available.
- B The Customer will accept delivery six months or less from date of its order.
- C Approval data is returned within 30 days from date of submission.

TERMS

Net 30 days from date of invoice, unless otherwise stated. The Customer will be charged the lesser of (i) 2% per month interest (24% per annum) or (ii) the highest rate permitted by law on all overdue accounts. These terms are subject to credit approval; otherwise, terms are cash with order or c.o.d.

MINIMUM BILLING

Minimum billing of each Customer order will be \$150 net.

CONFIRMATION OF TELEPHONE ORDERS

Orders are accepted by telephone for the convenience of the Customer and must be promptly confirmed by Customer in writing. Such orders should be clearly marked as **Confirmation**; otherwise they may be duplicated.

RETURNED GOODS

No goods may be returned without first obtaining a Returned Goods (RG) number from Armstrong. Application [for RG number] must include invoice number and date of original shipment.

- A All goods returned will be subject to a re-handling charge a minimum charge of the greater of 25% of invoice amount or \$50.00 will apply.
- B If, upon inspection, the goods are found to be in need of reconditioning or repair, an additional deduction will be made and the Customer will be advised of the total re-handling charge that will apply.
- C All goods approved for return must be clearly tagged with RG number, have transportation charges prepaid and be received by Armstrong within 30 days of return approval and will be accepted for credit on the basis of original invoiced prices.
- D Goods which are assembled to order [this includes all pumps, systems, heat exchangers and replacement tube bundles], obsolete, used, non-stock, or over 18 months old (from date of shipment), are not returnable.

WARRANTY

Armstrong warrants Armstrong-manufactured products to be free from defects in material and workmanship under normal use and service for the time periods noted below when installed and used in accordance with Armstrong's printed instructions [normal wear and tear excepted]:

- Design Envelope pumps and E.2 series circulators - 36 months from installation, but not more than 42 months from date of manufacture.
- Astro 2 and Compass circulators - 60 months from installation, but not more than 66 months from date of manufacture
- All other circulators and hydronic specialties - 24 months from installation, but not more than 30 months from date of manufacture.
- All other products - 12 months from installation, but not more than 18 months from date of manufacture.

Note: All mechanical seal warranties are restricted to those failures at start-up and must be reported in writing to the Armstrong factory within 48 hours. Armstrong obligations shall be limited

to the repair of parts or replacement of any part, at its option and F.O.B. factory (or F.O.B. authorized Armstrong service facility located in the Customer's territory where such facility is available and services the product in question), which may prove defective under normal use and service during the warranty period and which Armstrong's examination shall disclose to be defective. These warranties shall not apply to any goods which have been subject to accident, alteration, abuse, misuse, tampering, negligence, damage by flood, fire or act of God or where the goods have been improperly installed, maintained or subjected to certain types of and/or improperly applied with water treatment or other system additives. Armstrong shall not be liable for costs of removal, installation, service, labour or transportation charges or for damages for delay caused by defective material or workmanship or for personal injuries or damage to property caused directly or indirectly by any Armstrong-manufactured product or by its use or operation experienced by the Customer or any other person whatsoever.

The above warranties are in lieu of all other warranties expressed or implied. No representative or other person is authorized or permitted to make any warranty or assume for us any liability not strictly in accordance with the foregoing. The foregoing warranties shall not apply to components purchased by Armstrong from other manufacturers; in lieu of providing warranty on such components, Armstrong will make available to the customer any warranties received by it from such manufacturers. Customer must pursue any remedy with respect to such components against such third party. Other than the foregoing warranties, Armstrong makes no representation or warranty of any kind, expressed or implied, with respect to its products, whether as to merchantability, fitness for a particular purpose or any other matter. The customer acknowledges that it uses any products provided by Armstrong for business purposes and therefore agrees that all consumer protection terms implied by law shall not apply.

SHIPMENT (F.O.B. POINT), RISK OF LOSS, TITLE

Prices are F.O.B. Armstrong's warehouse, unless otherwise stated. Where freight allowances are specifically offered, Armstrong reserves the right to select carrier and routing. All deliveries and shipments will be at the Customer's risk from the time of delivery to the carrier by Armstrong, irrespective of whether the principal carrier shall have been designated in the shipping instructions of the Customer. The Customer is required to inspect all inbound documents for accuracy. If there is any evidence of injury to or shortage of containers' contents, the Customer shall not provide receipt to carrier in good condition, but shall give receipt according to the facts. In case of damage, claim must be made on carrier without delay. Armstrong's assistance is available to secure adjustment. Any discrepancy must be reported in writing to Armstrong Customer Service within 5 days of receipt. Title to products will pass to Customer upon Armstrong's receipt of the entire purchase price therefor.

PRIOR SALE

Goods in stock are offered subject to prior sales or shipment.

SHIPMENT, DELIVERIES OR CANCELLATIONS

Shipment dates are estimated and Armstrong will not be liable for late shipments. Armstrong shall not be liable for any charges or damages arising directly or indirectly, out of loss, damage, stoppage or delay and interruption with respect to shipments or to delivery schedules resulting from fire, storm, flood, war, explosion, accident, strike, lockout, labour disturbance, embargos, riots, acts of civil or military authority, acts or omissions of the Customer or acts of God or public enemies, inability to obtain product from supplier, accident or breakdown to, or mechanical failure of, machinery and equipment, changes in economic conditions or other causes beyond Armstrong's reasonable control. If shipments are delayed or deferred by the Customer more than one month beyond the original shipping date, payment for goods shall become due at the time and storage or warehousing charges of the lesser of (i) 2% per month (24% per annum) or (ii) the highest rate permitted by law. No order for assembled to order equipment may be cancelled, materially altered or terminated except upon payment to Armstrong for loss, damage and expense arising from such cancellation, alteration or termination, including a reasonable profit and overhead. Armstrong reserves the right to discontinue the sale of certain of its products and to change the contents and packaging thereof. Armstrong shall not incur any liability thereby or any obligation to change or repurchase any such products sold to the Customer.

LIMITATION OF LIABILITY

Notwithstanding anything to the contrary herein contained, Armstrong shall not be liable to Customer or any third party for any consequential, contingent, incidental, liquidated, indirect or special damages, lost profits or other losses of customer or any third party arising, directly or indirectly, in respect of any products or services provided by Armstrong to the Customer or the sale, transportation, use or failure thereof, whether based on breach of warranty, negligence or otherwise. Without limiting the generality of the foregoing, the parties acknowledge and agree that: (a) Armstrong shall not be liable for any damages which result from the Customer's failure to take reasonable steps to maintain and inspect the products provided by Armstrong and their related components or failure to have appropriate standby procedures in place in relation thereto, (b) Armstrong shall not be liable for any damages arising, directly or indirectly, in respect of any components provided to the Customer by Armstrong which were purchased by Armstrong from other manufacturers or the use or failure thereof and (c) Armstrong's maximum liability to the customer shall be limited to the replacement value of any products provided by Armstrong to the Customer.

STATUTE OF LIMITATIONS

Any action of any nature by Customer against Armstrong must be commenced by Customer within one year after the cause of action first accrued.

DEFAULT

If Customer (a) fails to pay any amount due to Armstrong when due, (b) fails to observe or perform any of its other obligations under these terms and conditions, (c) takes any action that in Armstrong's opinion adversely affects the name, reputation or goodwill of Armstrong or its products, (d) is an entity and the person(s) that controls Customer on the date these terms and conditions are issued to Customer no longer controls Customer or (e) becomes insolvent, is adjudicated a bankrupt, voluntarily files or permits the filing of a petition in bankruptcy, makes an assignment for the benefit of creditors, seeks any similar relief under any bankruptcy laws or related statutes or a receiver is appointed for its assets, then, at Armstrong's sole option, all sums due or to become due from Customer to Armstrong may become immediately due and payable, and concurrently, or in the alternative, Armstrong may terminate any existing order between the Parties in whole or in part, defer shipment or delivery of any products, sell any part of any undelivered products and exercise any other remedies available to Armstrong under applicable law.

COSTS AND EXPENSES; INDEMNIFICATION

Customer will be responsible for all costs and expenses, including attorneys' fees and disbursements, incurred by Armstrong in enforcing any term or condition herein and Customer will indemnify and promptly reimburse Armstrong for such costs and expenses. Customer agrees to indemnify and hold the Armstrong and its officers, directors, employees, agents, affiliates and customers harmless from all costs, expenses and losses incurred by any of them which relate to or arise out of Customer's or Customer's customers use, transportation, handling, installation, sale, distribution or disposal of any products sold hereunder or Customer's failure to perform any obligation hereunder.

[CONFIDENTIAL INFORMATION

Armstrong's technical, trade secret, proprietary or similar information (collectively, "Confidential Information") disclosed by Armstrong to Customer or its officers, directors, employees or agents (collectively, "Representatives") and all copies thereof are the sole and exclusive property of Armstrong. Such disclosure will not be construed as granting to Customer or its Representatives any right, title or interest of any kind in any Confidential Information. Upon Armstrong's request, Customer will promptly deliver to Armstrong all Confidential Information in Customer's possession which is in written or electronically-readable form, including all copies or extracts thereof or based thereon in its possession

or in the possession of any of its Representatives. All Confidential Information will be kept confidential by Customer and will not be disclosed to any person or entity without Armstrong prior written consent. Customer will be responsible for any breach of this covenant by Customer or any of Customer's Representatives and will indemnify Armstrong and its officers, directors, employees, agents, affiliates and customers for any costs, expenses or losses incurred or suffered by any of them as a result of such breach.]

TERRITORIAL RESTRICTIONS

The Customer shall not without the express written approval of Armstrong (which shall not be unreasonably withheld) export or use any products provided by Armstrong, or sell or hire such products to a person or entity who to its knowledge intends to export or use it, outside the country of intended use as declared to Armstrong. The Customer undertakes to comply with export control restrictions where applicable. If export or import restrictions are imposed or export or import licenses are cancelled, withdrawn or not renewed, then the Customer shall pay for all goods already delivered at the contract rate and payments already made may be used by Armstrong in respect of claims or demands made or losses incurred hereunder.

SECURITY INTEREST

Customer hereby grants to Armstrong a priority lien and security interest in products sold to Customer and in all proceeds of such products to secure Customer's obligations to Armstrong hereunder. Customer appoints each officer of Armstrong as an attorney-in-fact for Customer for the purpose of executing and filing each financing statement or other documents necessary to perfect such security interest. Upon the failure of Customer to pay the purchase price for any products when due, or to perform any of Customer's obligations under these terms and conditions, Armstrong will (a) without any judicial process, have the right to enter upon Customer's premises and take possession of any such products or to receive such products from Customer upon Armstrong's demand and (b) have all other rights and remedies of a secured party under the Uniform Commercial Code of the [State of New York] and any other applicable law.

GOVERNING LAW; JURISDICTION; VENUE:

Armstrong's offer, sales contract, invoice, these terms and conditions, Armstrong's order acknowledgment and any other document delivered by Armstrong to Customer will be governed by and construed according to the laws of the [State of New York], without reference to the principles of conflicts of law. Armstrong and Customer each hereby irrevocably and unconditionally (a) consents to submit to the exclusive jurisdiction of the United States District Court for the [Western District of New York] or the applicable state court located in the State of New York, [County of Erie] for any action or proceeding arising out of or relating to the

sale of Armstrong's products to Customer, (b) waives any objection to the laying of venue of any such action or proceeding in such courts and (c) waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

MISCELLANEOUS

It is understood that neither party hereto is constituted as an agent, employee or servant of the other party for any purpose whatsoever. The Customer shall be solely responsible for its acts, conduct and expenses and the acts, conduct and expenses of its employees and agents. These terms and conditions will be binding upon the Parties and their respective successors and assigns; provided, however, that Customer may not assign any of its rights or duties hereunder without Armstrong's prior written consent. If any of the provisions of these terms and conditions are held by a court or other tribunal of competent jurisdiction to be unenforceable, the remaining provisions of these terms and conditions will remain in full force and effect. Armstrong's offer, sales contract or invoice,

these terms and conditions and Armstrong's order acknowledgment constitute the entire agreement between Armstrong and the Customer with respect to the sale of Armstrong's products to Customer, superseding all prior representations, agreements or understandings, written or oral, between the parties with respect to such sale. These terms and conditions cannot be amended orally or by any course of conduct by either party, but may only be amended by a written agreement executed by the Parties. The failure by Armstrong to (a) enforce any provision hereof will not be construed as a waiver of such provision or of Armstrong's right to enforce such provision and (b) object to provisions contained in any purchase order or other communication from Customer will not be construed as a waiver of these terms and conditions nor an acceptance of any such Customer provisions.

ACCEPTANCE

The Customer's acceptance of any goods supplied by Armstrong or on Armstrong's behalf shall without limitation constitute acceptance of all terms and conditions as stated herein.

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