

## **TERMS AND CONDITIONS OF SALE**

### **1. Acceptance.**

All purchase orders received by PEMO PUMPS USA CORP (hereinafter referred to as “Company”) are subject to final acceptance or confirmation by Company, and no terms or orders are binding upon Company until so accepted.

### **2. Deliveries.**

(a) Unless otherwise specified by Company in writing, all deliveries are Ex Works (EXW) at the delivery place to be specified from time to time. “Ex Works” is to be interpreted and construed in accordance with the INCOTERMS® of the International Chamber of Commerce, as in force on the purchase order date.

(b) All risk of loss or damage to Products sold shall pass to Purchaser upon collection of such Products by the Purchaser’s carrier at the Ex-Works delivery place.

(c) Delivery is conditional on timely receipt by Company of documents necessary for the completion of the order (including, without limitation, all technical documentation and data, if any), any down payment or any other forms of payment, and Purchaser’s compliance with these terms and conditions. Partial deliveries are permissible.

(d) Company will use reasonable efforts to meet delivery schedules. Company will not be liable for any delay in the performance of orders, or in the delivery and shipment of Products, and for any damages suffered by Purchaser or Purchaser’s employees, agents, or customers by reason of such delay. Purchaser agrees to indemnify and hold Company harmless against any claims made by any third party based in any way on Company’s failure to ship on time.

(e) Delivery is subject to Purchaser maintaining credit satisfactory to Company. Company may suspend or delay performance or delivery at any time, pending receipt of assurances, including full or partial prepayment or payment of any outstanding amounts owed, adequate to Company in its discretion regard to Purchaser’s ability to pay. Failure to provide such assurances shall entitle Company to terminate this contract without further liability or obligation to Purchaser and allow Company to seek damages for Purchaser’s failure to perform hereunder.

### **3. Prices.**

Prices are quoted on a case-by-case basis by the Company. Prices are subject to change without prior notice and Company shall thereafter notify Purchaser of any price increases. In the event of a price increase, Purchaser may cancel any undelivered portion of any order by written notice to Company,

provided such notice is received by Company no more than ten (10) days after Purchaser's receipt of Company's notice of price increase.

Prices do not include sales, use, excise, privilege, or any similar tax levied by any government, so any such applicable tax shall be paid by Purchaser. Purchaser shall, upon the request of Company, provide Company with a tax exemption certificate acceptable to the appropriate taxing authorities.

#### 4. Terms of Payment.

Payment terms are specified by the Company on a case-by-case basis period.

Unless otherwise agreed, all payments must be made by bank transfer as specified by the Company.

Any claims concerning the Company's products shall not entitle Purchaser to suspend or delay payments for the same or other sales.

Invoices not paid within thirty (30) days after their due date will be subject to carrying charges. Carrying charges shall accrue and be added to the unpaid balance in the amount of 8% per annum of any overdue, unpaid balance, or the maximum rate permitted by law, whichever is less. Purchaser may not hold back or set off any amounts owed to Company in satisfaction of any claims asserted by Purchaser against Company.

#### 5. Returned Goods and Claims.

Within ten (10) business days after receipt by Purchaser of Products sold, Purchaser must give written notice to the Company of any claim based upon the condition, quantity, or grade of the Products sold, or of any claimed non-conformity with Purchaser's specifications, whose notice must indicate the basis of Purchaser's claim in detail. The failure of Purchaser to comply with this Paragraph shall constitute irrevocable acceptance by Purchaser of the Products delivered. Under no circumstances shall Purchaser have the right to withhold any payment based on the condition of the product.

#### 6. Cancellations / Changes.

An order, once placed with and accepted by the Company, can be canceled by Purchaser only with the written consent of the Company and upon terms that will indemnify the Company against any loss, including lost profit on the canceled order. Company may correct mathematical or clerical errors.

#### 7. Disclaimer of Warranty.

Company warrants that all products sold by Company shall, at the time of sale, comply with the applicable specifications, if any. All products not manufactured by Company are sold only with the warranties provided by the manufacturer of products, if any.

COMPANY MAKES NO OTHER WARRANTY WITH RESPECT TO THE PRODUCTS, AND DISCLAIMS ANY AND ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE

IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Company personnel are not authorized to alter this disclaimer of warranty.

8. Limitation of Liability.

(a) IN NO EVENT SHALL COMPANY BE LIABLE TO PURCHASER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT COMPANY HAS BEEN WARNED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) IN NO EVENT SHALL COMPANY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS CONTRACT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO COMPANY FOR THE PRODUCTS SOLD HEREUNDER OR, AS TO SERVICES, FOR THE AMOUNTS PAID TO COMPANY FOR SERVICES PERFORMED HEREUNDER.

(c) This limitation of liability is a material basis for the parties' bargain and reflects the bargained for allocation of risks between Company and Purchaser, without which Company would not have agreed to provide the products or services at the price charged.

10. Security Agreement.

Purchaser hereby grants to the Company a security interest in all products sold and/or delivered to Purchaser. Purchaser shall execute and deliver any statements and other documents that the Company may reasonably require for the implementation of such security interest, and Purchaser hereby authorizes the Company to do all other acts reasonably necessary for the establishment, implementation, preservation, and enforcement of its security interest. Purchaser shall maintain adequate insurance against casualty, loss, fire, or theft of the products for so long as the security interest is in effect.

11. Entire Agreement.

Purchaser and the Company acknowledge that these terms and conditions of sale, together with Company's invoice, constitute the entire agreement between the Purchaser and the Company with regard to the sale or transfer of the products sold and supersede all prior oral or written statements of any kind made by the parties or their representatives. These terms and conditions of sale may not be

amended, modified, or supplemented except by written agreement executed by the Purchaser and Company. The provisions of these terms and conditions are hereby deemed by the parties to be severable and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

#### 12. Termination.

In addition to any remedies that may be provided under these terms and conditions, Company may terminate this contract with immediate effect upon written notice to Purchaser, if Purchaser: (i) fails to pay any amount when due under this contract and such failure continues for thirty (30) days after Purchaser's receipt of written notice of non-payment; (ii) has not otherwise performed or complied with any of these terms and conditions, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

#### 13. Confidential Information.

All non-public, confidential or proprietary information of Company, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Company to Purchaser, whether disclosed orally or disclosed or accessed in writing, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with these terms and conditions is confidential.

The information as above must not be disclosed or copied unless authorized in advance by Company in writing. Upon Company's request, Purchaser shall promptly return all documents and other materials received from Company. Company shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to the information that is: (a) in the public domain; (b) known to Purchaser at the time of disclosure; or (c) rightfully obtained by Purchaser on a non-confidential basis from a third party.

#### 14. Force Majeure.

Company shall not be liable or responsible to Purchaser, nor be deemed to have defaulted or breached these terms and conditions, for any failure or delay when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Company including but not limited to: flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemics and pandemics like covid-19, lockdowns, strikes or other labor

disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

15. Intellectual Property Rights.

Any and all intellectual property rights connected with the products, including any individual parts thereof and any documentation pertaining thereto, belong solely to the Company.

16. Choice of Law.

These terms and conditions and any dispute or claim relating to it, shall in all respects be governed by and construed according to the laws of the State of New York. In the event Company contracts with a party located in a country which is a party to the 1980 United Nations Convention on the International Sale of Goods ("UNCISG"), the parties hereby agree that these terms and conditions and any dispute or claim relating to it shall not be governed by the provisions of the UNCISG; rather, this Agreement and any dispute or claim relating to it shall be governed by and construed according to the laws of the State of New York.

17. Limitations.

ANY ACTION BY PURCHASER UNDER OR RELATING TO THESE TERMS AND CONDITIONS OR THE PRODUCTS SOLD MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER SUCH CAUSE OF ACTION HAS ACCRUED.

18. Choice of Forum, Venue, and Consent to Jurisdiction.

Purchaser and the Company agree that the New York General Courts of Justice and United States District Courts in New York City shall constitute the exclusive forums for the adjudication of any and all disputes or controversies arising out of relating to these terms and conditions or the Products sold. Purchaser and Company consent to the exercise of jurisdiction over them by such courts with respect to any such dispute or controversy, and Purchaser and Company waive any objection to the assertion or exercise by such court of such jurisdiction.