



Online purchase terms and conditions

1. Definitions

- 1.1. '**Customer**' means an individual or entity that seeks to purchase, offers to purchase, or purchases, the Goods.
- 1.2. '**Goods**' means any and all goods provided (or to be provided) by Tsurumi to the Customer or to any third party at the request of or authorised by the Customer.
- 1.3. '**GST**' means Goods and Services tax as defined in the *A New Tax System (Goods and Services Tax) Act 1999*.
- 1.4. '**Intellectual Property Rights**' means any patent, trade mark, service mark, copyright, moral right, right in a design, know-how and any other intellectual or industrial property right, anywhere in the world whether or not registered.
- 1.5. '**Tsurumi**' means Tsurumi Australia Pty Ltd ACN 632 173 650 (ABN 19 632 173 650).
- 1.6. '**Website**' means each internet site owned by Tsurumi including, without limitation, that operating under the URL: www.tsurumipumps.com.au.

2. Contract

- 2.1. These terms and conditions ('**Terms**') are between Tsurumi and the Customer.
- 2.2. When the Customer places an order for Goods via the Website ('**Order**'), the Customer will receive an order confirmation email confirming receipt by Tsurumi of the Order ('**Confirmation Email**'). This Confirmation Email will only be an acknowledgment of the Order and will not constitute acceptance by Tsurumi of the Order.
- 2.3. A contract between Tsurumi and the Customer will not be formed until Tsurumi sends the Customer confirmation by email that the Goods which the Customer has ordered have been sent to the Customer ('**Dispatch Email**').
- 2.4. Only those Goods listed in the Dispatch Email will be included in the contract formed between the Customer and Tsurumi ('**Contract**').

3. Pricing and availability

- 3.1. Tsurumi uses reasonable commercial efforts to ensure that all details, descriptions and prices of the Goods which appear on the Website are accurate. However, listing errors may occur in relation to such details, descriptions and prices ('**Error**'). If Tsurumi discovers an Error in relation to any Goods the Customer has purchased, Tsurumi will endeavour to correct the Error as soon as practicable.
- 3.2. Standard delivery costs to metropolitan areas in Australia are included in the purchase price for the Goods. If the Customer chooses to have an item delivered to a regional or remote location in Australia, and the delivery cost increases beyond the standard metropolitan rate for that State, the Customer must pay Tsurumi the difference between the standard delivery cost and the increased cost.
- 3.3. In addition to the purchase price for the Goods, the Customer must pay to Tsurumi any GST or other taxes related to, or arising out of, the supply of the Goods by Tsurumi. Where practicable, the GST and other taxes will be displayed and included in the "Total".

4. Payment for Goods

- 4.1. Once Tsurumi receives the Order, Tsurumi carries out a standard authorisation check on the credit or debit card the Customer provided to Tsurumi at time of checkout ('**Card**') to ensure there are sufficient funds to fulfil the transaction. The Card will be debited upon authorisation being received. The monies received upon the debiting of the Card must be treated as a deposit against the value of the Goods the Customer wants to purchase. Once the Goods have been dispatched and a Contract exists after the Dispatch Email has been sent, the monies paid as a deposit must be used as consideration for the value of Goods the Customer has purchased as listed in the Confirmation Email.
- 4.2. Any amount payable by the Customer under these Terms must be paid in Australian Dollars and without deduction, retention or set-off of any kind and for any reason whatsoever.

5. Delivery of Goods

- 5.1. All standard Orders in Australia will be sent by a delivery / shipping company (selected by Tsurumi at its sole discretion) without insurance. Tsurumi will not cover any loss of Goods during transport.
- 5.2. While Tsurumi does everything it can to ensure each Order is delivered in a timely manner, Tsurumi will not be liable for any loss or damage incurred by any person as a result of any delay in delivery.

(or any redelivery fees).

5.3. The Customer must use a physical address, and not a PO Box, as a delivery address for the Goods.

6. **Receipt of Goods**

The Customer must inspect the Goods immediately upon their arrival and if the Goods are not in accordance with the specified requirements then the Customer must give Tsurumi written notice by email (to the email address at clause 9.7) within seven (7) days of receipt of the Goods. If the Customer fails to give such notice, the Goods must be deemed to be in all respects in accordance with the specified requirements. No claim will be recognised unless made in writing by email and received by Tsurumi within seven (7) days after receipt of the Goods by the Customer.

7. **Refund Policy**

The Customer should choose carefully. Tsurumi does not give refunds or exchanges if the Customer changes its mind or makes the wrong decision.

8. **Title and risk**

Title in the Goods does not pass to the Customer until payment in full has been received by Tsurumi. Risk of loss or damage to the Goods passes to the Customer upon dispatch of the Goods regardless that they are shipped with a third party.

9. **Tsurumi's Warranty**

9.1. Tsurumi warrants that all Goods will, from the date of shipment, be free from defects in workmanship and materials under normal use and service for a period of one (1) year provided that:

- (a) the Customer notifies Tsurumi immediately upon discovery of such defect by completing Tsurumi's online warranty claim form available via the Website (see URL at clause 9.7) which completed form shall include a detailed description of the defect and photographic evidence;
- (b) the Goods are returned to Tsurumi at the address at clause 9.7 (unless otherwise advised by Tsurumi), freight prepaid by the Customer (including transport insurance costs);
- (c) Tsurumi, acting reasonably, is satisfied upon examination that the claimed defect exists and was not caused by:
 - i. accident, misuse, neglect, alteration, improper use, improper repair, improper testing, misapplication, wilful damage, lightning, power surges, fire, flood or earthquake or any other cause not attributable to Tsurumi;
 - ii. failures due to mechanical damage to wearing parts such as impeller, pump housing and/or mechanical seal;
 - iii. installation, commissioning, operation (e.g. use of the Goods outside their specifications) or maintenance not in accordance with Tsurumi's installation, operation, maintenance or service manuals or other written instructions / directions by Tsurumi; and/or
 - iv. use of faulty or inadequate ancillary equipment in conjunction with the Goods;
- (d) the Goods have not been disassembled without the prior written approval of Tsurumi; and
- (e) Tsurumi will, at its discretion, have a reasonable time within which to make repairs, to replace the Goods found to be defective, or to refund the Customer.

9.2. If a third-party assessment is reasonably required with respect to the Goods returned to Tsurumi under the warranty in this clause 9, the Customer claiming on the warranty is required to pay for that assessment. If the Goods are found to be defective by reason of a cause attributable to Tsurumi, Tsurumi will refund the Customer for the cost of that assessment.

9.3. If any Goods returned to Tsurumi are found to be defective by reason of a cause attributable to Tsurumi, Tsurumi will refund the Customer for the reasonable freight charges incurred by the Customer in returning the Goods pursuant to clause 9.1(b).

9.4. Tsurumi will return Goods repaired or replaced under warranty freight prepaid to the Customer.

9.5. The warranty contained in this clause 9 is in addition to the Customer's rights and remedies at law ('**Statutory Rights**'), including under the Australian Consumer Law ('**ACL**').

9.6. If the Customer is a "consumer" under the ACL, the following notice applies to that Customer:

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

9.7. Tsurumi's details for the making of warranty claims are:

Tsurumi Australia Pty Ltd ACN 632 173 650

Telephone Number: 1300 917 915

Address: Unit 8, 175 Campbell Street, Belmont, Western Australia 6104

Email: Sales@tsurumipumps.com.au

URL: <https://tsurumipumps.com.au/warranty/>

10. **Limitation of Liability**

10.1. In respect of any Goods or services supplied under these Terms which are acquired by a

"consumer" (as defined in the ACL), but are not of a kind ordinarily acquired for personal domestic or household use or consumption, unless the Customer establishes the following limitation of liability would not be fair and reasonable, Tsurumi's liability for a breach of a guarantee contained in part 3-2, division 1 of the ACL (other than a guarantee under sections 51, 52 or 53) is limited to:

- (a) in the case of Goods, any one or more of:
 - i. the replacement of the Goods or the supply of equivalent goods;
 - ii. the repair of the Goods;
 - iii. the payment of the cost of replacing the Goods or of acquiring equivalent goods; and
 - iv. the payment of the cost of having the Goods repaired; or
- (b) in the case of services:
 - i. the supplying of the services again; or
 - ii. the payment of the cost of having the services supplied again.

10.2. Except where inconsistent with the Statutory Rights and/or the rights given by clauses 9 or 10.1 (if applicable):

- (a) all other warranties and all liability of Tsurumi for any loss or damage direct and consequential is expressly excluded;
- (b) Tsurumi assumes no responsibility for compliance with any regulations, codes, standards, or ordinances applicable to the installation, location, operation or maintenance of the Goods;
- (c) Tsurumi is not liable for default or failure in performance of its obligations pursuant to these Terms resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, the elements, strikes, labour disputes, shortage of suitable parts, components, materials including ink, chemicals and paper, labour or transportation or any other cause beyond the reasonable control of Tsurumi; and
- (d) the liability of Tsurumi whether in contract or in tort, in respect of all claims for loss, damage or injury in respect of any Goods arising from a breach of any of Tsurumi's contractual obligations, from any negligence or any act, matter or thing done or permitted to be done by Tsurumi, its servants, agents and contractors shall not in the aggregate exceed the amount paid or payable by the Customer to Tsurumi for those Goods.

11. **Indemnity by Customer**

The Customer agrees to indemnify and hold harmless Tsurumi, its employees and agents from and against any loss including, but not limited to:

- 11.1. legal costs and expenses on a solicitor and client basis;
- 11.2. loss (including consequential loss) in relation to property;
- 11.3. loss in respect of personal injury, disease, illness or death;
- 11.4. economic loss; and
- 11.5. loss in relation to the environment,

caused by a breach by the Customer of these Terms, or any wilful, unlawful or negligent act or omission by the Customer. Tsurumi and its employees and agents shall not be held responsible for any loss suffered by the Customer (whether by disruption to the Customer's normal business operation, defect in workmanship or any other reason whatsoever) in relation to the supply of Goods by Tsurumi to the extent to which the loss is caused by or arises as a result of such breach, act or omission.

12. **Intellectual Property**

Tsurumi (and its related companies and licensors, as applicable) own, and shall continue to own, all Intellectual Property Rights in the Goods (including in the specification and design), all material underlying and forming part of the Goods and the Website. The Customer must not reproduce, copy or reverse engineer the Goods.

13. **General**

- 13.1. Upon acceptance of these Terms by the Customer, these Terms become binding and, subject to clause 14, can only be amended with the written consent of Tsurumi.
- 13.2. These Terms and any Contract to which they apply shall be governed by the laws of Western Australia and the Customer irrevocably submits to the exclusive jurisdiction of the Courts of that jurisdiction.
- 13.3. The failure of Tsurumi to enforce any provision of these Terms or any provision of any Contract made thereunder shall not be treated as a waiver of that provision, nor shall it affect Tsurumi's right to subsequently enforce that provision.

14. **Variation**

- 14.1. Tsurumi may vary these Terms from time to time.
- 14.2. Tsurumi may (but is not obliged to) give notice of any variation of these Terms on the Website.
- 14.3. If the Customer places an Order for Goods after any such variation of these Terms, the Customer is taken to have agreed to these Terms as varied and to have ordered the Goods on those varied terms.