

**BOWIE PUMPS OF CANADA LTD.**  
**TERMS AND CONDITIONS – SHIPPING ORDER**

**1. Definitions.**

- (a) "Goods" means any materials, parts, or equipment supplied or manufactured by Seller at the verbal or written request of Purchaser or Recipient and included on this Shipping Order.
- (b) "Purchaser" means the person, firm or company named under "Sold To:" on the face of this Shipping Order.
- (c) "Recipient" means the person, firm or company named under "Ship To:" on the face of this Shipping Order.
- (d) "Seller" means Bowie Pumps of Canada Ltd. and its officers, directors, agents, employees and affiliates.
- (e) "Services" means any labour or work performed at the verbal or written request of Purchaser or Recipient in relation to Goods.

**2. Title.** Until Price is fully paid, Recipient acknowledges that Seller at all times has and retains title to and a security interest in the Goods and Purchaser and Recipient shall have no right, title or interest in the Goods.

**3. Purchase Money Security Interest.** Seller has a Purchase Money Security Interest in the Goods and a Security Interest in Proceeds of the Goods as such terms are used in and within the meaning of the *Personal Property Security Act* (Alberta).

**4. Shipping.** Unless otherwise agreed, the F.O.B. point, carrier and routing shall be at Seller's sole option.

**5. Acknowledgment.** Recipient acknowledges receipt of the Goods in good condition and as ordered. Recipient acknowledges that information on the face of this Shipping Order is complete and accurate.

**6. Assumption of Risk.** Seller bears no risk of loss, theft of, damage to or destruction of the Goods from any cause whatsoever upon delivery of the Goods to Recipient.

**7. Liability for Defects.**

- (a) Seller's liability for damages caused by defective or deficient Goods or Services shall be limited to the Amount invoiced for the Goods and Services in respect of which damages are claimed but shall not include the cost to remove or disassemble systems to recover defective Goods or the cost to install replacement Goods.
- (b) At Seller's sole discretion, Purchaser or Recipient shall ship Goods claimed to be defective to Seller, under Seller's shipping instructions and by freight prepaid, and if the Goods are found to be defective, credit will be issued by Seller to cancel the charge for replacement.
- (c) Seller is not liable in any way for repairs or alterations of Goods made by Purchaser or Recipient without Seller's written consent.
- (d) Seller's liability for defective Goods under this section applies only if a claim in writing is made to Seller at its corporate head office in Edmonton, Alberta, within 180 days of discovery of the defect and in any case within one year from the Ship Date.

**8. Warranties.** There are no warranties either express, or implied, oral or written, in fact or by operation of law, as to the fitness or suitability of the Goods for the use to which they are applied or for the circumstances to which they are subjected. In particular, there is no guarantee against corrosion or erosion or against the effects of chemicals and their fumes. There is no guarantee of any kind on used or second-hand material or equipment. In the case of Goods supplied but not manufactured by Seller, Seller shall, if permitted or authorized to do so, assign the benefit of all manufacturers' warranties to Recipient in respect of those Goods.

**9. Limitation of Liability.** Seller shall not be responsible for indirect, consequential, special, exemplary or punitive damages or personal injury (including death), whether foreseeable or unforeseeable and regardless of cause, including any claims for labour, interruption in use, unavailability of systems, or loss (including loss of goodwill, profits or revenues), arising directly or indirectly out of any breach or failure of express or implied warranty, breach of contract, misrepresentation, action, omission, negligence, gross negligence or strict liability in tort or otherwise. This section does not apply where expressly prohibited by law.

**10. Amount of Liability.** Seller's liability to Purchaser or Recipient for any breach or default by Seller of any of the provisions of this Invoice or with respect to any claim related to the Goods or Services provided in this Shipping Order, other than liability under section 7(a), is limited to a maximum of five times the Price of the Good or Service which is the subject of the breach or default.

**11. Third Party Liability.** Seller shall not be liable for any claim made against Purchaser or Recipient by any other person, even if Seller has been advised of the possibility of such claim.

**12. Purchaser's Design.** Seller shall have no responsibility for and Purchaser does hereby indemnify and save Seller harmless from patent infringements, structural designs or operating performance of Goods manufactured according to designs and specifications provided by Purchaser, including shop drawings made by Seller and approved by Purchaser, which shop drawings shall be considered part of the designs and specifications of Purchaser.

**13. Termination.** Recipient's liability to Seller for breach or default by Purchaser of any of the provisions of this Shipping Order shall include recovery of all Seller's costs and expenses, (including solicitor client costs on a full indemnity basis) incurred with respect to any proceedings taken to enforce Seller's rights and remedies.

**14. Force Majeure.** Seller shall not be liable or responsible for default or non-performance of any covenant, agreement or obligation in this Invoice if such default or non-performance is attributable to causes beyond Seller's control, including any governmental export or import restrictions or prohibitions.

**15. Notice.** Any notice required or permitted to be given hereunder shall be sufficiently given if in writing and delivered in person or mailed by registered mail addressed to the other party at its address, as set out on the face of this Shipping Order.

**16. Interpretation.**

- (a) Time is of the essence.
- (b) These Terms and Conditions of Sale are to be construed and interpreted according to the laws of the province of Alberta, and the courts of the province of Alberta have exclusive jurisdiction over disputes of any kind arising in connection with this Shipping Order or these Terms and Conditions.
- (c) Any term, covenant or condition of this Shipping Order or any portion thereof which is held to be invalid or unenforceable shall be severed and the remainder of the Terms and Conditions of Sale shall not be affected thereby.
- (d) Notwithstanding any terms and conditions of Purchaser's order, or Purchaser's or Recipient's standard or general practices, terms or conditions, Seller's Terms and Conditions prevail in all circumstances whatsoever.
- (e) This Shipping Order shall be binding upon and enure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

Statements on front of Shipping Order:

Do not return Goods without prior authorization. Re-stocking charge of 25% on Goods supplied as ordered.

Recipient acknowledges receipt of the Goods in good condition and as ordered.

RECIPIENT ACKNOWLEDGES HAVING READ AND UNDERSTOOD THE TERMS AND CONDITIONS SET FORTH ON THE REVERSE.