



HUNT
BOILERS
BOILERS & PRESSURE EQUIPMENT

Conditions of Sale rev 0501.09

Some Commonwealth, State and Territorial legislation confer rights of redress against sellers and manufacturers in respect of defective goods upon certain classes of purchaser. Such rights cannot be excluded by any agreement between the parties. Your attention is drawn to the fact that these 'Conditions of Sale' are expressly made subject to such legislation insofar as you may be entitled to the benefit of it.

In the construction of these 'Conditions of Sale' "the Company" means Forbes (Aust.) Pty. Ltd. being a Company incorporated in South Australia and having their registered office located at 599 Port Road, West Croydon, South Australia 5008 together with the division known as Hunt Boilers.

"Products" shall mean the products or services hereby purchased, quoted, or in any way offered for sale or supply by the Company which may or may not be included within various quotations or published pricelists of the Company.

1. It is a condition of the Company's Agreement to supply Products that time shall not be of the essence of the contract and the Company shall not be liable for any delay in completion of the contract, nor any inconvenience, loss or damage of any kind (including, but without limiting the generality of the foregoing, loss of profit) whether direct or consequential, suffered or incurred by the Purchaser out of storm, tempest, flood, nuclear contamination, act of God, strike, or any other event beyond the control of the Company.
2. Should any product either manufactured or imported by the Company which is sold by the Company or an authorized dealer develop a fault within a period of (12) twelve calendar months of the date of the equipment's original use or (18) eighteen months of the date of its delivery ex the Company (whichever period expires first) for general product, or in relation to Forbes and Hunt Boilers steam boilers develop a pressure vessel fault within a period of (10) ten years from the date of purchase, the Company will replace and install new parts, free of charge, or if the Company considers repair sufficient, will repair free of charge any parts proved defective as to material or workmanship, under normal use and service. Parts repaired or replaced without charge under these terms and conditions are warranted only during the balance of the new product warranty period. All defective parts replaced under this warranty become the property of the Company.

The conditions herein, however, shall not apply to the following parts or under the following circumstance:

- a) Consumable parts and servicing materials;
- b) Items of preventative maintenance;
- c) Normal wear, deterioration and/or contamination the result of the environment or improper consumables added by users of the equipment;
- d) Any work or adjustment performed by other than an agent authorized by the Company, or any damages resulting there from;
- e) Damages resulting from misuse, improper use, accident, disaster, or due to improper storage;
- f) Damages resulting from the use of non-genuine or inappropriate parts or adjustments;
- g) Damages resulting from the use of the product for purpose other than which it is intended, from the product being operated with essential or accessories removed, from the product being operated under unusual conditions, from the product continuously operating under excessive load, or through improper installation;
- h) Damages resulting from neglect of periodical and/or recommended maintenance;

The replacement or repair of any defective parts, or correction of operating faults, are made only after the Company have authorized and/or examined the product to its satisfaction. In the event of a warranty claim the product or part must be transported to and from the Company at no cost to the Company. If the purchaser requires site attendance for a warranty claim attendance charges will be invoiced by the Company.

note: Some components or materials (such as pumps, burners, engines, electric motors, valves, gauges, PLC's, switchgear not manufactured or imported by the Company) are guaranteed by their manufacturers or importers and would be subject to their conditions of warranty.

3. Except as provided for in clause 2, hereof:
 - a) The Company makes no representation and gives no guarantee whatsoever in respect of any products manufactured, repaired or sold or supplied by the Company and;
 - b) All conditions and warranties whatsoever whether statutory or otherwise are hereby excluded insofar as the same may be lawfully excluded by agreement between the parties to this contract and;
 - c) The Company shall not be liable in respect of any claim of any nature for any injury, loss or damage to any person or property caused by or arising out of the Company's products except insofar as the same may be imposed upon us or implied into the transaction by any statute, the provisions of which cannot be excluded by these 'Conditions of Sale'.
4. In the event of the Company granting credit facilities to the Purchaser then the following terms apply:
 - a) The property of the Products shall remain with the Company and will not pass to the Purchaser until such time as the Company has been paid in full for the Products and all cheques and other negotiable instruments have been cleared.
 - b) While the Products are the property of the Company the Purchaser must store the Products in such a way that the Company's title is clear and further that the Purchaser acknowledges that it holds the Products as bailee of the Company and as such has a fiduciary obligation to the Company.
 - c) Risk of loss to the Products shall be entirely at the risk of the Purchaser upon and after delivery of the Products to the purchaser and the sale shall be deemed to be completed and the Products delivered to the Purchaser when the Products leave the Company's premises notwithstanding that the Company may have agreed to bear the cost of carriage or installation of the products or that the Company may have agreed to bear the cost of carriage or insurance of the Products in transit. In arranging carriage, storage, insurance and forwarding of the Products the Company shall at all times be acting as the Purchaser's agent. This paragraph (4c) shall also apply to any partial delivery of the Products.
 - d) If any payment for Products is overdue or due in whole or in part the company reserves the right to suspend delivery to the Purchaser and/or demand full payment on delivery to the purchaser notwithstanding any previous terms of payment that might have existed. Further the Company reserves the right to invoke that all accounts become automatically due and payable when a default has occurred (the agreed or inferred terms of payments have been exceeded or withdrawn) notwithstanding that all accounts may not have reached their agreed or inferred payment date.
 - e) Such payments shall become due immediately upon the commencement of any act of proceeding in which the Purchaser's solvency is involved.
 - f) If any payment for the Products is overdue in whole or in part the Company may (without prejudice to any of its other rights) recover or resell the Products or any of them and for that purpose the Purchaser hereby consents to the Company or its agents or servants entering upon the Purchaser's premises and the Purchaser covenants with the Company that the Company will not be liable for any loss or damage whatsoever (whether through negligence of the Company or its servants or agents or otherwise) suffered by the Purchaser as a result of the Company or its agents or servants so entering the Purchaser's premises and removing all or any of the Products.
 - g) Should the proceeds received by the Company from the sale of the Products as aforesaid exceed the amount of the Purchaser's indebtedness to the Company the Company shall forthwith pay the excess so recovered to the Purchaser.
 - h) Any expenses, costs or disbursements incurred by the Company in recovering any outstanding monies, including any debt collection agency or solicitor fees, shall be paid by the Purchaser
5. No employee, servant, representative or agent of the Company has any authority to vary in any way these 'Conditions of Sale'.
6. The Company accepts all orders from Purchaser's of the Company's products on the basis that these 'Conditions of Sale' are acknowledged, accepted and agreed to by the Purchaser and that these 'Conditions of Sale' cannot and are not modified in any way.
7. Except for paragraph (2) all provisions of these terms and conditions shall be read as being in addition to all such rights and remedies of a consumer and not in derogation thereof and no part of this clause can be waived by a consumer. Further, wherever any part of these terms and conditions will otherwise be inconsistent with the mandatory requirements of any such law and to that purpose to the extent necessary shall be of no force or effect (but without prejudice to and reserving the full force and effect of the remaining provisions hereof). The attention of consumers is drawn to their rights and remedies under all such laws.
8. It is expressly agreed and the Purchaser hereby acknowledges that the Company shall not be liable for any delay, inconvenience, loss or damage of any kind (including, but without limiting the generality of the foregoing, loss of profit), whether direct or consequential, suffered or incurred by the Purchaser arising in any way out of failure, malfunction, breakdown or defect of the Products (including, but without limiting the generality thereof, arising from losses or damages or deterioration of any goods whatsoever stored in the Products) whether such failure, malfunction, breakdown or defect occurs in any component, part or service expressly warranted hereunder or not.