

Terms and Conditions of Purchase

1. Interpretation

1.1 Definitions:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 11.3.

Contract: the contract between the Customer and the Supplier for the sale and purchase of the Goods in accordance with these Conditions.

Customer: Quality Hydraulic Power Limited (registered in England and Wales with company number 02131010).

Delivery Date: the date specified in the Order, or, if none is specified, within 10 days of the date of the Order.

Delivery Location: the address for delivery of Goods as set out in the Order.

Goods: the goods (or any part of them) set out in the Order.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form.

Supplier: the person or firm from whom the Customer purchases the Goods.

1.2 Interpretation:

(a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(b) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

(c) a reference to writing or written includes faxes but does not include emails.

2. Basis of contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions.

2.3 The Order shall be deemed to be accepted on the earlier of:

(a) the Supplier issuing a written acceptance of the Order; and

(b) the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence

3. Goods

3.1 The Supplier shall ensure that the Goods shall:

(a) correspond with their description, any specification given by the Customer;

(b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;

(c) where they are manufactured products, be free from defects in design, material and workmanship and remain so for 12 months after delivery; and

(d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

3.3 The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3.4 If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. Delivery

4.1 The Supplier shall ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition.

4.2 The Supplier shall deliver the Goods:

- (a) on the Delivery Date;
- (b) at the Delivery Location; and
- (c) during the Customer's normal business hours, or as instructed by the Customer.

4.3 Time of delivery is of the essence.

4.4 Delivery of the Goods shall be completed on the completion of the unloading of the Goods at the Delivery Location.

4.5 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent.

5. Remedies

5.1 If the Goods are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 3.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Customer may exercise any one or more of the following remedies:

- (a) to terminate the Contract;
- (b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods from a third party; and
- (e) to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

5.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6. Title and risk

6.1 Title and risk in the Goods shall pass to the Customer on completion of delivery.

7. Price and payment

7.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the

price set out in the Supplier's published price list in force as at the date the Contract came into existence.

7.2 The price of the Goods:

(a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

(b) includes the costs of packaging, insurance and carriage of the Goods.

7.3 No extra charges shall be effective unless agreed in writing with the Customer.

7.4 The Supplier may invoice the Customer for price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. The Supplier shall ensure that the invoice includes the date of the Order, the invoice number, the Customer's order number, the Supplier's VAT registration number and any supporting documents that the Customer may reasonably require.

7.5 The Customer shall pay correctly rendered invoices within 60 days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier.

7.6 The Customer may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier

8. Indemnity

8.1 The Supplier shall keep the Customer indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with:

(a) any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

(b) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

(c) any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

8.2 This clause 9 shall survive termination of the Contract.

9. Insurance

During the term of the Contract, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. Confidentiality

10.1 A party (receiving party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its

employees, agents or subcontractors and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

11. Termination

11.1 The Customer may terminate the Contract in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

11.2 Without limiting its other rights or remedies, the Customer may terminate this Contract with immediate effect by giving written notice to the Customer if:

- (a) the Supplier commits a material breach of any term of the Contract;
- (b) the Supplier takes any step or action in connection with its winding up, entering administration, receivership, provisional liquidation or any composition or arrangement with its creditors, or ceasing to carry on all or a substantial part of its business;
- (c) the Supplier's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

11.3 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination.

12. Force majeure

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from an event or circumstance beyond a party's reasonable control. If the period of delay or non-performance continues for two months, the party not affected may terminate the Contract by giving written notice to the affected party.

13. General

13.1 Assignment and other dealings.

- (a) The Customer may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

13.2 Entire agreement.

This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

13.3 Variation. No variation of this Contract shall be effective unless it is in writing and signed by the Customer.

13.4 Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy.

13.5 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

13.6 Notices.

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its principal place of business or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre- paid first class post or other next working day delivery service, or commercial courier.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 11.6(a); if sent by pre- paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

13.7 Third party rights. No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.

13.8 Governing law and Jurisdiction. The Contract, and any dispute or claim arising out of or in connection with it, shall be governed by the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction.