



TERMS AND CONDITIONS OF SALE

1. General
Any reference to the Company shall be taken as referring to Hydac Technology Limited. Orders are accepted subject to the Company's acceptance in writing. Variations of these terms shall not be binding upon the Company unless confirmed in writing and in the event of the Buyer's official order form containing conditions, it is understood that such conditions are only binding insofar as they are not at variance with these terms and conditions. Orders are accepted subject to the establishment of a satisfactory credit status for the Buyer. Quotations given by the Company are not offers capable of acceptance by the Buyer. Full technical specifications must be submitted by the Buyer in writing for the design of components or systems.
2. Prices
Full quotations are based on current rates for materials and wages and will be adhered to while such rates are in operation. The Company reserves the right however, to increase prices to compensate for any rise in the cost of materials, manufacturing costs, carriage and insurance which may come into force between the date of acceptance of the order and delivery date.
All prices quoted are exclusive of delivery and packaging. Credit will be issued for returnable packing cases if such material is returned carriage paid to the Company's works in good condition within 14 days.
Due to the high cost of processing orders, a minimum order charge of £50 will be payable in respect of each.
3. Payment
(i) Payment shall be due net cash within 30 days from the date of invoice or before delivery if so required and where instalment deliveries have been agreed, payment for each instalment shall be duly made within 30 days of the invoice date in respect to that instalment.
(ii) Non payment on or before the due date (time being of the essence) shall entitle the Company without prejudice to any other rights to:-
(a) Suspend any further deliveries of goods whether under this contract of under any other.
(b) To repossess the goods (the Buyer granting the Company all necessary access) and
(c) to receive interest at the rate of 8% above Lloyds Bank Plc base rate for the time being on the unpaid balance whether before or after any judgement.
(iii) The Buyer shall not be entitled to delay payment of the price of any part thereof on the ground that it has claim or set-off against the Company.
4. Delivery
Delivery dates are given in good faith and will be maintained where possible. However these are subject to revision to cover delays caused by strikes, accidents, fire, non- delivery of components or any other reason beyond the control of the Company.
5. Shortages, Damage and Non-Delivery
The Buyer shall advise the Company of shortages in delivery or damage to goods within 7 days of delivery, specifying the shortage or damage and only provided that the delivery note is not marked "unexamined". In no case will the buyer be entitled to reject goods on the grounds of shortage.
6. Non Acceptance
If the buyer is unwilling or unable to accept delivery at the premises stated on the order form, the Company shall have the right, in addition to any other rights granted by these conditions or in law, to make a storage charge for the goods not so delivered and also to recover from the Buyer all transport and handling costs.
7. Alterations
The buyer shall pay any extra costs incurred as a result of the interruption or alteration of work through its instructions or lack of instructions or any act or omission on its part. If after the order acknowledgement has been despatched by the Company, the Buyer wishes for any reason to extend the delivery date beyond the accepted date, the Company reserves the right to make an additional charge on the value of the order, calculated at the minimum rate of 18% per annum for each additional month or part thereof by which the delivery date is extended.
If the Buyer requires alternations which, in the Company's opinion, are impracticable, or if the Buyer defaults in any of its commitments with the Company or becomes insolvent, the Company reserves the right to cancel the contract, the Buyer to be liable for such costs as may have been incurred by the Company at the time of cancellation.
8. Cancellation
The Company reserves the right to refuse purported cancellation of any order and to demand payment of the full price of the same, although the Company may at its sole discretion accept any cancellation upon such terms as it thinks fit.
If cancellation of the order is accepted by the Company, the following terms apply:-
(a) Standard or Stock Items – a minimum re-stocking charge of 20% will be made
(b) Engineering Orders – the Buyer must reimburse the Company for all costs incurred in design and manufacture up to the date of cancellation and, in addition, accept liability for payment in respect of all equipment which the Company has ordered and obtained to meet the Buyer's requirements.
9. Termination and Suspension
The Company reserves the right by written notice to cancel or suspend any order or part of an order without liability.
(a) If compelled to do so by reasons beyond the Company's reasonable control including but not limited to strikes, force majeure, lockouts, accidents, breakdown of plant or machinery or shortage of availability of raw materials or components (imported or otherwise) from normal sources or routes of supply.
(b) In the event of failure by the Buyer to comply with any of its obligations under these terms and conditions or
(c) If the Company is reasonably of the opinion that the Buyer is not in a position to meet its commitments to the Company or (being a Limited Company) goes into Liquidation other than a Voluntary Liquidation for the purposes of amalgamation or reconstruction only, or has a Receiver appointed of its undertaking or assets or a substantial part thereof. Any such suspension of delivery or termination of the contract by the Company shall be without prejudice to any other rights, which the Company may have against the Buyer.
10. Risk
The Buyer shall be liable for all risks to goods supplied, from the time of delivery to the Buyer notwithstanding that title to the goods has not passed by virtue of Condition 11 hereof. The Buyer shall therefore insure the goods against the usual risks.
11. Title
(a) Title to the Goods will not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due in respect of the Goods and all other sums which are of which become due to the Company from the Customer on any account.
(b) Until title has passed, the Customer must (i) hold all Goods on a fiduciary basis as the Company's bailee, and (ii) must store the Goods safely and securely, and at its own cost, separately from all other goods of the Customer in such a way as they remain readily identifiable as the Company's property, and not destroy, deface, or obscure any identifying mark or packaging relating to the Goods and (iii) insure the Goods to their full replacement value against all normal commercial risks, and produce a copy of the certificate to the Company on request.
(c) The Customer's right to possession of the Goods prior to title passing shall terminate immediately if the Customer encumbers or in any way charges the Goods, breaches the terms of its contract or any contract with the Company, or upon the Customer taking or receiving any action in consequence of debt, including (but not limited to) taking, suffering, convening or making (i) any composition or arrangement with creditors, (ii) any resolution for winding up (voluntary or compulsory), (iii) any petition, notice or court order in relation to liquidation or administration, (iv) the appointment of any administrative receiver or manager or other receiver, or (v) any execution legal or equitable levied on or against the Customer's property.
(d) In the event that the Customer's right to possession of the Goods ceases, the Company may repossess the Goods and enter upon the Customer's premises to do so.
12. Warranty
Goods or parts manufactured by the Company are warranted against defects in material or workmanship for six months (three months for two or three shift service) from date of delivery. Written permission must be obtained from the Company prior to attempting repair or rectification by the Buyer and any such attempt which has not been so authorised shall render this warranty invalid.
This warranty shall extend only to items manufactured by the Company, but in the event of items incorporated in the Company's products and not manufactured by the Company being defective, the Company will use its best endeavours to procure that such items are repaired or replaced free of charge under the terms of any warranty given by the supplier of such items to the Company.
13. Liability
(a) If any goods supplied by the Company under this contract are found to be defective due to faulty materials and/or workmanship, the Company's liability shall be limited to crediting or replacing such goods.
(b) Written notice of any claim under this condition must be given to the Company by the Buyer as soon as reasonably practicable and within 28 days of the defect becoming apparent in any event.
(c) No liability under this condition shall be attached to the Company where damage occurred after delivery of the goods, where the goods have been subjected to improper or unusual usage or storage.
(d) So far as permitted by law, the Company's liability under this condition shall be in lieu of any other warranty or condition, express or implied (statutory or otherwise) and in no event shall the Company be liable for the Buyer's loss of profits, increased cost of working or any like consequential loss.
(e) In the case of goods supplied but not manufactured by the Company, the Company shall not be required to bear any liability or expense greater than the amount actually recovered from the manufacturers.
(f) The product detailed within this document, and/or the components used in the manufacture of those products, may not have been manufactured by 3rd party certificated suppliers. Details are available on request.
14. Test and Inspection
Facilities are available to the Buyer at the Company's premises to inspect systems for proper functioning. If the Buyer fails to inspect such system at the Company's premises, no warranty as to the functioning of the system can be given unless alternative arrangements have been agreed in writing between the Company and the Buyer, although the Company will in all cases use its best endeavours to assist the Buyer in commissioning the system on the Buyer's premises.
The further warranty as to the functioning of the system shall terminate upon the Buyer's acceptance of the system either by notifying the Company that the system is satisfactory as to performance or by retaining the goods after a lapse of a reasonable period without intimating to the Company rejection thereof.
15. Intellectual Property
The Buyer indemnifies the Company against any claim whatsoever for damages and costs and against all liability in respect of any infringement or alleged infringement of intellectual property rights resulting from compliance with the Buyer's instructions express or implied.
16. Sub-Contracting and Assignment
The Company reserves the right to sub-contract the whole or any part of a contract the benefit of which may not be assigned without the prior written consent of the Company.
17. Export Orders
Except where the contract otherwise requires these conditions shall apply to export orders and prices quoted shall be ex-factory and all payments shall be made in Sterling as required by the Company.
18. Proper Law
This contract shall in all respects be constructed and will operate as an English contract in conformity with English Law and the parties hereto submit to the jurisdiction of the English Courts. The interpretation of the English edition shall prevail over any translation. If any part of these conditions is held by any Court or Tribunal to be unenforceable or void this shall not affect the remainder of this contract which shall continue in full force and effect.
19. Arbitration
In the event of a dispute which cannot be resolved by negotiation between the Buyer and the Company, the dispute shall be referred to a single arbitrator acceptable to both parties, or if agreement cannot be reached, to the President for the time being of the Law Society, within the terms of the Arbitration Act 1950 and any subsequent amendments to it.