

Hydrocable Systems Ltd

General Conditions of Sale

1. Definitions

“the company” means Hydrocable Systems Ltd and any subsidiary companies.
“the purchaser” means the person, firm or company to be supplied with the goods by the company
“goods” mean the goods, materials and/or other items to be supplied pursuant to the contract.
“the contract” means the contract for sale and purchase of the Goods made between the company and the Purchaser to which these conditions apply.

2. Scope

The conditions apply to all sales of goods by the company and shall prevail over any inconsistent terms or conditions referred to in the Purchaser's order or in correspondence or elsewhere unless specifically agreed to in writing by the Company and any conditions or stipulations to the contrary are hereby excluded or extinguished.

3. Quotation

A quotation by the company does not constitute an offer and the company reserves the right to withdraw or amend the same at any time prior to the Company's acceptance of the purchase order.

4. Prices

Unless prices quoted are stated to be fixed the prices payable for the goods shall be those charged by the Company at the time of despatch so that the company shall have the right at any time to reserve quoted prices to take account of increases in cost including (without limitation) costs of raw materials or labour and any variation in exchange rates.

Quoted prices are “ex works” and exclusive of Value Added Tax and any other duty, levy or tax assessed against any government or other authority.

5. Terms of Payment

Subject to conditions (5.5) below payment of invoices shall, unless otherwise agreed in writing, be made in full without any deductions or set off within 30 days of the date of invoice of the goods.
Any extension of credit allowed to the Purchaser may be changed or withdrawn at any time.
The Company shall have the right to charge on overdue accounts at the rate of 3% above the Bank of Scotland Plc base rate from time to time to run from the date for payment thereof until receipt by the Company of the full amount whether or not after judgement.
If in the opinion of the Company the Credit – worthiness of the purchaser shall have deteriorated prior to delivery or the provision of security for payment by the Purchaser in a form acceptable to the Company. In the instance where the purchaser has not previously done business with the Hydro Bond Engineering Ltd before the full cost of the first order shall be paid on a pro forma basis prior to shipment of goods and thereafter our standard terms of payment will apply.

6. Delivery

Time not being of the essence of the contract delivery dates mentioned in any quotation or acceptance form or elsewhere are approximate only and not contractual effect. The Company shall not be under any liability to the Purchaser in respect of any delay in delivery howsoever arising. In the event of total failure to deliver any Goods the liability of the Company shall be limited to the value of such goods referred to in the relevant invoice or as otherwise specified in the Contract.
In the event of the Purchaser returning or failing to accept any delivery of the Goods in accordance with the Contract the Company shall be entitled at its opinion either to deliver and invoice the Purchaser for the balance of Goods then remaining undelivered or to suspend or cancel further deliveries under the Contract. The Company shall be entitled to store at the risk of the Purchaser any goods, which the Purchaser refuses or fails to accept, and the Purchaser shall in addition to the invoice price pay all costs of such storage and any additional costs or carriage incurred as a result of such refusal or failure. The Company shall be entitled after the expiration of 3 Months from the date upon which the price became payable to dispose of the goods in such manner as the Company may determine.
Unless otherwise specified delivery shall be “ex works” so that the goods shall be deemed to have been delivered and the risk therein to have passed to the Purchaser upon the Company notifying the Purchaser that the goods are available for collection.
In any case where Goods are sold CIF or FOB or on the basis of any other international trade term the meaning of such terms contained in Incoterms (1980) shall apply as if expressly incorporated herein except insofar as any part of the same may be inconsistent with any of the provisions contained in these Conditions. In the case of any sale of goods FOB the Company shall be under no obligation to give the purchaser the notice specified in section 32(3) of the Sale of Goods Act 1979.
Unless otherwise expressly agreed the Company may effect delivery in one or more instalments. Where delivery is affected by instalments each instalment shall be treated as a separate contract.
If in the case of the contract or any order involving more than one delivery default is made in payment on the due date the Company shall have the right to suspend all or any further deliveries pending payment or to terminate the Contract in its entirety by notice in writing to the Purchaser.

7. Title

- a) The goods shall remain the sole and absolute property of the Company as legal and equitable owner until such time as the Purchaser shall have paid to the Company the agreed price.
- b) Until such payment the Purchaser shall be in possession of the goods solely as bailee for the company and in fiduciary capacity and the Purchaser shall store the goods in such a way as to enable them to be identified as the property of the Company.
- c) The Company reserves the immediate right of re-possession of any goods to which it has retained title as aforesaid and thereafter to re-sell the same and for the purpose the Purchaser hereby grants an irrevocable right and licence to the Company's employee and agents to enter upon all its premises with or without vehicles during normal business hours. The right shall continue to subsist notwithstanding the termination of the Contract for any reason and is without prejudice to any accrued right of the Company thereunder or otherwise.
- d) The Purchaser agrees immediately upon being so requested by the Company to assign to the Company all rights and claims which the Purchaser may have against its customers arising from sub-sales of goods until payment is made in full as aforesaid.

8. Variations

The Company shall be deemed to have fulfilled its contractual obligations in respect of any delivery though the quantity may be up to ten per cent more or less than the quantity specified in the contract and in such event the Purchaser shall pay for the actual quantity delivered.

9. Patent Indemnification

The Purchaser shall indemnify and keep indemnified the Company against all claims, costs, damages and expenses incurred by or for which the Company may become liable as a direct or indirect result of the carrying out of any work required to be done on or to the goods in accordance with the requirements of specifications of the Purchaser involving infringement or claim or infringement of any intellectual property right vested in another person, firm or company.

10. Liability

10.1 The Company shall not be liable for any shortage in the quantity delivered unless a claim in writing shall have been received by the Company from the Purchaser within 7 Days of delivery of the goods. The Company accepts the liability for any shortages/omissions; the Company's only obligation is to make good such shortage.

10.2 In the event of any defect or failure in the quality, nature or condition of the goods or failure of the goods to comply with any specification the Company shall replace or repair free of charge any goods provided the defect or failure arises under proper use and solely by reason of faulty material or workmanship and written notice is given to the Company within 12 months of delivery of the goods after which all liability on the Company's part shall cease.

10.3 The Company's aggregate liability to the Purchaser whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the cost of the defective, damaged or undelivered goods which give rise to such liability, as determined by the net price invoiced to the Purchaser in respect of any occurrence or series of occurrences.

10.4 Subject to the foregoing all conditions, warranties or representations expressed or implied by statute common law or otherwise in relation to the Goods are hereby excluded. Furthermore the Company shall be under no liability to the Purchaser for any loss, damage or injury direct or indirect resulting from defective materials, faulty workmanship or otherwise howsoever arising out of the contract and whether or not caused by the negligence of the Company its servants or agents save that the Company shall accept liability for death or personal injury caused by the negligence of the Company.

11. Force Majeure

11.1 The Company shall not be liable to the Purchaser for any loss or damage, which may be suffered by the Purchaser as a direct or indirect result of the supply or non-supply of the Goods by the Company being prevented, hindered or delayed by reason of any force majeure circumstances.

11.2 In this condition “force majeure circumstances” shall mean any act of God, riot, strike, lock-out, trade dispute or labour disturbances, accident breakdown of plant machinery, fire, flood, difficulty in obtaining workmen, material or transport or other circumstances whatsoever outside the control of the Company affecting the provision of the Goods or raw materials therefore by the Company's usual source of supply by the manufacture of the goods by the Company's normal means or the delivery of the goods by the Company's normal route or means of delivery.

12. Termination

If the Purchaser enters into a deed of arrangement or commits an act bankruptcy or compounds with his creditors or if a receiving order is made against him or (being a company) it shall pass a resolution or the court shall make order that the Purchaser shall be wound up (otherwise than for the purpose of amalgamation or reconstruction) or if a receiver shall be appointed of any of the assets or undertaking of the purchaser or if circumstances shall arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle the Court to make a winding order or if the Purchaser takes or suffers any similar action in consequences of debt or commits any breach of any part of this or any other contract between the Company and the Purchaser the Company may stop any goods in transit and suspend further deliveries and by notice in writing to the Purchaser may forthwith determine the Contract without prejudice to the provisions of Conditions 5.3 hereof and to existing claim.

13. Waiver

The failure on the part of either party to the contract to exercise or enforce any rights conferred by the Contract shall not be deemed to be waiver of any such right nor operate so as to bar the exercise or enforcements thereof at any time or times thereafter

14. Notices

Any notice required to be given hereunder in writing shall be deemed to have been duly given if by pre-paid first class post. Facsimile or Email addressed to the Party concerned at its principal place of business.

15. Governing Law

The Contract shall be governed by and construed and interpreted in accordance with the Laws of Scotland and for the purposes of settlement of any disputes arising out of or in connection with the contract the parties hereby submit themselves to the jurisdiction of the Scottish Courts.

16. Credit Notes

Any credit note by Hydrocable Systems Ltd will be valid for a term of 6 months from the date of issue. On the expiry date the credit note will be null and void except for credit notes issued for defective products.

Hydrocable Systems Ltd 2004