

HYDRO-LOGIC LTD

Standard Terms and Conditions of Sales

1. Definitions and Interpretation

1.1 In these Conditions:

'Buyer' the person(s) or company whose order for the goods is accepted by the seller.

'Contract' means the contract for the sale and purchase of the goods (in which these conditions apply).

'Goods' means the goods and or services which the seller is to supply pursuant to or in connection with the buyer's purchase order and the contract.

'Seller' means Hydro-Logic Ltd.

1.2 Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2. Acceptance and Amendment

2.1 These conditions should govern and be incorporated in every contract to the exclusion of other terms and conditions(including any terms or conditions which the buyer purports to apply under any purchase order, confirmation of order or similar document). These conditions can not be varied unless a director of the seller specifically agrees in writing.

2.2 Acceptance by the buyer of delivery of the goods shall (with prejudice to condition 11 or any other manner in which acceptance of these conditions may be evidenced) be deemed to constitute unqualified acceptance of these conditions.

2.3 If subsequent to any contract of sales which is subject to these conditions, a contract of sale is made with the same buyer without reference to any conditions of sale or purchase, such contract howsoever shall be deemed to be subject to these conditions.

3. Specifications and confidentiality

3.1 Any advice, recommendation or warning given by the seller or its employees or agents to the buyer or its employees or agents as to the storage, application, use or re- use of the goods which is not confirmed in writing by the seller is followed or acted upon entirely at the buyer's own risk, and accordingly the seller shall not be liable for any such advice or recommendation which is not so confirmed.

3.2 Unless where stated in writing to be exact or expressly made of the essence all descriptions, specifications, drawings, weights, dimensions, capacities, prices and other data quoted included in any sales literature or otherwise submitted by the seller are to be deemed approximate only.

3.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgement of order, invoice or other document or information issued by the seller shall be subject to correction without any liability on the part of the seller.

3.4 The seller reserves the right to make any changes in the specification of goods which are required to conform with any applicable safety or other legal requirements or which do not materially affect their quality or performance.

3.5 All drawings, designs, specifications and information submitted by the seller be treated as confidential and shall not be disclosed to any third party without the seller's written consent or used by the buyer other than for purposes authorised by the seller.

4. Orders

No order which has been accepted by the seller may be cancelled by the buyer except with written agreement in writing of the seller and on the terms that the buyer shall indemnify the seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages charges and expenses incurred by the seller as a result of cancellation.

5. Quotations and Acceptance

5.1 A quotation by the seller does not constitute an offer and the seller reserves the right to withdraw or revise a quotation at any time prior to the seller's acceptance of the buyer's order.

5.2 Until an order has become binding on the seller all prices are subject to change without prior notice.

6. Prices

6.1 The prices payable for the goods shall be those set out in the seller's list prices (including where appropriate the seller's ex-works list price) current at the time of despatch. After an order has become binding on the seller, all prices will have V.A.T and or any other applicable tax added at the appropriate rate.

6.2 The seller may (by giving notice to the buyer at any time up to delivery) increase the price of goods to reflect any increase in the cost of manufacture or distribution of the goods which is due to:

6.2.1 any factor beyond the reasonable control of the seller; these include (without limitation) foreign exchange fluctuation, currency regulations, alteration of duties and taxes, increase in cost of labour, materials and other manufacturing costs and transport costs; or

6.2.2 any changes in delivery dates, quantities or specifications for the goods requested by the buyer; or

6.2.3 any delay caused by any instructions of the buyer or failure of the buyer to give the seller adequate information or instructions.

6.3 Any dispute as to the amount of any increase in prices shall be determined by the seller's auditors whose decision shall be conclusive and binding on the seller and the buyer.

6.4 Unless the contract is priced on an ex-works basis, packaging, transport, and delivery charges are included in the price.

7. Payment

7.1 Unless otherwise agreed in writing, or stated in the seller's quotation or acknowledgement of order, all projects including significant value of equipment and/or services will be subject to invoicing upon mobilisation for equipment and other start up costs, and at other appropriate milestone stages during the project. The specific and appropriate deliverables, and the anticipated timing of these other milestone stages will be subject to discussion and confirmation upon project startup.

7.2 Unless otherwise agreed in writing or stated on the seller's quotation or acknowledgement of order, the net invoice amount shall become due for payment by the buyer 30 days after the date of invoice or (if earlier) upon the occurrence of any circumstances where under, pursuant to the contract or these conditions, payment falls immediately due. This time of payment shall be of the essence of the contract.

7.3 No payment shall be deemed to have been received until the seller has received cleared funds.

7.4 The seller reserves the right at any time before proceeding or proceeding further with an order to demand full or partial payment of monies due and payable under the contract and under any contract between seller and buyer.

7.5 If the buyer defaults in any payment the seller may in addition to exercising the right contained in condition 7.4 above suspend work, delay or withhold delivery or cancel the contract or suspend work, delay or withhold delivery under or cancel any other contract between the seller and the buyer and retain any progress payments or payments on account already received under the contract or under any other contract between the seller and the buyer.

7.6 The seller reserves the right to charge interest at the annual rate of four percent above the base rate from time to time of Nat West Bank Plc payable on all overdue monies up to and including the date of any judgement.

7.7 The seller shall have a lien on all delivered goods which the buyer agrees to purchase from the seller for all monies due from the buyer to the seller under any contract between them. The buyer shall not be entitled by reason of any set-off counterclaimed, abatement or analogous deduction to withhold payment of any amount due to the seller unless agreed in writing by a director of the seller or the buyer has a valid court order requiring an amount equal to such deduction to be paid by the seller to the buyer.

7.8 All rights and remedies afforded to the seller in these conditions for non-payment shall be in addition and without prejudice to all other rights and remedies available to the seller under the contract or at law.

8. Delivery

8.1 Time of delivery is not of the essence of the contract and shall not be made so by the service of any notice. Any time or date specified by the seller as the time at which the goods will be delivered is given and intended as an estimate only. The seller shall not be liable for any loss, damage or expense howsoever arising from delay in delivery.

8.2 Delivery shall be at the buyer's premises unless the price is ex-works as referred to in clause 6.1 or otherwise stipulated or agreed by the seller. The cost of delivery shall be included in this price but the seller shall make an additional charge for delivery in the United Kingdom otherwise than by its normal carrier or for express delivery.

8.3 The buyer shall be solely responsible for unloading of goods at the point of delivery. The buyer shall indemnify the seller against any and all claims liabilities, costs or expenses arising as a result of the seller or its sub-contractors assisting the buyer in the unloading, loading or other removal of the goods from the point of delivery.

8.4 If the buyer refuses or fails to take delivery of goods tendered in accordance with the contract or fails to take any action necessary on its part for delivery and/or shipment of the goods and the seller shall be entitled to terminate the contract with immediate effect, to dispose of the goods as the seller may determine, and to recover from the buyer any loss and additional costs incurred as a result of such refusal or failure (including, without limitation, storage costs from the due date of delivery).

8.5 Unless otherwise expressly agree the seller may effect delivery in one or more instalments. Where delivery is effected by instalments each instalment shall be treated as a separate contract governed by these conditions.

8.6 Where the seller delivers 10 per cent more or less than the quantity ordered the seller may charge pro rata for the quantity supplied and the buyer shall treat such delivery as full performance by the seller of its duty to deliver. The seller's certificate shall be accepted as conclusive proof of quantity of goods delivered. The buyer shall have the right to check quantity at the seller's point of loading.

8.7 Section 32(2) of the sale of goods act 1979 shall not apply. The seller shall not be required to give the buyer the notice specified in section 32(3) of that act.

9. Buyer's Obligation And Claims on Delivery

9.1 The buyer will:

9.1.1 Examine goods carefully within 10 days of taking delivery;

9.1.2 Notify the seller (and any carrier for the seller) in writing as soon as the buyer becomes aware and in any event within 30 days of taking delivery of any error in quantity or description of goods delivered or that they were mixed with others not included in the contract or of any damage to goods revealed by such examination and not caused since delivery was taken (the 'defective goods').

9.2 Failure to make any notification in accordance with paragraph 9.1.2 of condition 9.1 above which examination under 9.1.1 above should have enabled the buyer to make shall constitute a waiver by the buyer of all claims based on or relating to facts which such examination should have revealed.

9.3 If the buyer notifies the seller in accordance with condition 9.1:

9.3.1 The buyer shall use all reasonable endeavours to ensure that the condition of the defective goods does not deteriorate for a period of 30 days from the date the buyer becomes aware as set out in condition 9.1. (the 'inspection period');and

9.3.2 The seller shall be entitled to inspect the defective goods subject to the notice referred to in condition 9.3.1 at the buyer's premises or the buyer will procure that the seller can inspect the defective goods elsewhere during the Inspection Period upon giving 24 hours' notice to the buyer; and

9.3.3 If the seller fails to inspect the goods within the Inspection Period, the seller shall have the discretion at its own expense to either request that the buyer returns the defective goods to the seller's premises or to call for the disposal of the defective goods by the buyer.

9.3.4 If the seller calls for the disposal of the defective goods by the buyer, the buyer shall undertake to the seller to make such disposal in accordance with the provisions of the Environmental Protection Act 1990 or other applicable legislation. The buyer will also indemnify the seller against any and all losses, liability and

costs incurred by the seller as a director or indirect result of the buyer failing to dispose of the defective goods in the manner set out in this condition 9.3.4.

10. Risk

10.1 Subject (where appropriate) to condition 12 risk for the goods shall pass on delivery.

10.2 Any property of the buyer in or under the seller's possession or control and all property supplied to the seller on behalf of the buyer shall be held by the seller at the buyer's risk.

10.3 From the time of delivery until property in the goods passes to the buyer in accordance with condition 12 the buyer shall insure the goods for their full value with a reputable insurance office. Upon request, the buyer shall use reasonable endeavours to have the seller's interests in the goods noted on the insurance policy. Until property in the goods passes to the buyer the buyer shall hold the proceeds of any claim on such insurance policy trust for the seller and shall forthwith account to the seller which such proceeds.

11. Export Sales

11.1 In any case where goods are sold CIF or FOB or on basis of other international trade terms the meaning given to such terms in the I.C.C. Incoterms (as revised from time to time) shall apply except where inconsistent with any of the provisions contained in these conditions.

11.2 Where the goods are supplied for export from the United Kingdom the provisions of this condition 11 shall (subject to any special terms agreed in writing between the buyer and the seller) apply notwithstanding any other provision of these conditions.

11.3 The buyer shall be responsible for complying with any legislation or regulations governing the importation of the goods in the country of destination and for the payment of any duties thereon.

11.4 The buyer shall be responsible for arranging for testing and inspection of the goods at the seller's premises before shipment and the seller shall have no liability for any claim in respect of any defect in the goods which would be apparent on inspection and which is made after shipment or in respect of any damage during transit.

11.5 Unless otherwise agreed the price of any goods sold pursuant to an international supply contract (as defined by section 26 of the Unfair Contract Terms Act 1977) shall be secured by an irrevocable letter of credit satisfactory to the seller established by the buyer in favour of the seller immediately upon receipt of the seller's order acceptance form and confirmed by a United Kingdom bank acceptable to the seller. The letter of credit shall be for the price payable for the goods (together with any tax or duty payable) to the seller and shall be valid for at least 6 months or such longer period as shall have been estimated by the

seller for delivery. The seller shall be entitled to payment on presentation to such United Kingdom bank of the documents specified by the seller.

12. Titles

Notwithstanding delivery and passing of risk the goods shall remain the property of the seller until such time as the buyer shall have paid to the seller the agreed price (together with any accrued interest) and all other amounts owed by the buyer to the seller in respect of any other contract for the sale of goods.

13. Third Party Rights

13.1 The buyer shall indemnify the seller against any and all losses, liabilities and costs incurred by the seller as a direct or indirect result of;

13.1.1 The carrying out of any work required to be done on or to the goods in accordance with the requirements or specifications of the buyer; and/or

13.1.2 The export or re-export of the goods outside the United Kingdom by the buyer involving any infringement or alleged infringement of any rights of any third party.

13.2 In respect of international supply contracts (as defined by section 26 of the Unfair Contract Terms Act 1977) only, the seller shall have no liability to the buyer in the event of goods infringing or being alleged to infringe the rights of any third party. In respect of all other sales, if at any time any allegation of infringement of patents, copyright or design rights is made in respect of the goods or if in the seller's reasonable opinion such an allegation is likely to be made, the seller may at its option and at its own expenses:

13.2.1 Modify or replace the goods without detracting from overall performance thereof, so as to avoid the infringement; or

13.2.2 Procure for the buyer the right to continue to use the goods; or

13.2.3 Repurchase the goods at the price paid by the buyer less depreciation at such rate as is applied by the seller to its own equipment.

13.3 The buyer shall notify the seller forthwith of any claim made or action brought or threatened alleging infringement of the rights of any third party. The seller shall have the option of having control over and conducting any such proceedings in such manner as it shall determine. The buyer shall provide all such reasonable assistance as the seller may request.

13.4 Where the seller or its employees or agents design the goods pursuant to a commission from the buyer (whether in consideration of any order or otherwise) then any copyright or design rights created in relation to the goods shall vest in the seller and the buyer agrees that it shall do any acts and execute any documentation required by the seller to secure vesting of title to such copyright or design rights in the seller.

14. Liability

14.1 The seller shall not be liable to the buyer;

14.1.1 Where condition 10.2 or 11.4 applies;

14.1.2 For defects in the goods caused by fair wear and tear, abnormal or unsuitable conditions of storage or use of any act, neglect or default of the buyer or any third party.

14.2 Where liability is accepted by the seller under condition 14.1 the seller's only obligations shall be at its option to make good any shortage or non-delivery and/or as appropriate to replace or repair any goods found to be damaged or defective and/or to refund the costs of such goods to the buyer.

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

14.4 Subject to this condition 14:

14.4.1 All conditions, warranties and representations expressed or implied by statute common law or otherwise in relation to the goods are hereby excluded to the maximum extent permissible in law;

14.4.2 The seller shall be under no liability to the buyer for any loss, damage or injury, direct or indirect, resulting from defects in design, materials or workmanship or otherwise howsoever arising (and whether or not caused by the negligence of the seller its employees or agents) other than liability for death or personnel injury resulting from the seller's negligence.

14.4.3 The seller shall have no liability for any indirect or consequential losses or expenses suffered by the buyer, howsoever caused and including without limitation loss or anticipated profits, goodwill, reputation, business receipts or contracts, or losses of expenses resulting from third party claims.

14.5 The seller's prices are determined on the basis of the limits of liability set out in this condition. The buyer may by written notice to the seller request the seller to agree a higher limit of

liability provided insurance cover can be obtained for such higher limit. The seller shall effect insurance up to such limit and the buyer shall pay upon demand the amount of any and all premiums. The buyer shall disclose such information as the insurers shall require. In no case shall the buyer be entitled to recover from the seller more than the amount received from the insurers.

14.6 Any warranty is void if the product is abused or subject to conditions and/or treatment outside the scope of the specification and operating instructions or user guide, or those outlined in the proposal or project plan. The buyer shall be responsible for all costs and repercussions resulting from such abuse, or from security failings such as theft of SIM cards from client controlled sites.

14.7 The buyer or client must protect Equipment from damage by heavy equipment or livestock etc. by protective fencing or equivalent where necessary.

15. Packaging

The buyer shall meet the costs of any special packaging requested by the buyer or any packaging rendered necessary by delivery by any mean other than the seller's normal means of delivery. The buyer shall unless otherwise agreed be solely responsible for the disposal of all packaging in accordance with all regulations (whether statutory or otherwise) relating to the protection of the environment.

16. Licences And Consent

If any licences or consent of any government or other authority shall be required for the acquisition, carriage or use of the goods by the buyer the buyer shall obtain the same at its own expense and if necessary produce evidence of the same to the seller on demand. Failure to obtain any licence or consents shall not entitle the buyer to withhold or delay payment of the price. Any additional expenses or charges incurred by the seller resulting from such failure shall be for the buyer's account.

17. Force Majeure

17.1 The seller shall not be liable to the buyer for any loss or damage which may be suffered by the buyer as a direct or indirect result of the supply of goods by the seller being prevented, hindered, delayed, cancelled or rendered uneconomic by reason of circumstances or events beyond the seller's reasonable control ('an Event of Force Majeure') including but not limited to strikes, lock-outs, labour disputes, act of god, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulations or direction, accident, breakdown of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining workers, materials or transport or other circumstances affecting the supply of the goods or of raw materials by the seller's normal source of supply or the manufacture of the goods by the seller's normal means or the delivery of the goods by the seller's normal route or means of delivery.

17.2 If an Event of Force Majeure continues for a period in excess of 30 continuous days the seller may in its sole discretion terminate any contract for the supply of goods pursuant to these conditions or cancel

delivery of goods to the buyer or may, with the agreement of the buyer, deliver goods at any agreed rate of delivery commencing after any suspension of deliveries.

17.3 If due to an Event of Force Majeure the seller has insufficient stocks to meet all its commitments the seller may apportion available stocks between its customers at its sole discretion.

18. Samples

Any samples supplied to the buyer are supplied solely for information and in no way import any express or implied conditions or warranties as to quality, fitness for purpose or merchantable quality and the buyer shall be deemed to have satisfied itself as to such matters prior to ordering the goods.

19. Termination

19.1 The seller shall be entitled to terminate the contract if the buyer shall:

19.1.1 Make any voluntary arrangements with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

19.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of its property or assets; or

19.1.3 Ceases or threaten to cease, to carry on business; or

19.1.4 Commit a material breach of any of its obligations under these conditions or the seller reasonably apprehends that any of the events mentioned above is about to occur notifies the buyer accordingly.

19.2 If condition 19.1 applies then, without prejudice to any other right or remedy available to the seller, the seller shall be entitled to suspend work, delay or withhold delivery or recall goods in transit or cancel the contract without any liability to the buyer, and if the goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

20. Notices

Any notice given hereunder must be made in the English Language in writing and may be effected by personal delivery, telex or registered mail postage and (subject, in each case, to proof that such notice

was properly addressed and despatched) if effected by telex shall be deemed to be received on the day of sending and if effected by post shall be deemed to be received 48 hours after the date of posting.

21. No Assignment

This contract shall be personal to the buyer and shall not nor shall any rights under it be assigned by the buyer without the written consent of the seller.

22. No Waiver

No waiver by the seller of any breach of the contract by the buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

23. Governing Law And Jurisdiction

The formation, construction, performance, validity and all aspects of the contract are governed by English law and the English courts shall have non-exclusive jurisdiction over any dispute which may arise out of or in connection with this contract. The jurisdiction agreement contained in this clause is made for the benefit of the seller only, who accordingly retains the right to take proceedings in any other court of competent jurisdiction.

24. Invalidity

If any provisions of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision shall not be affected thereby.