

# HYQUIP

## STANDARD CONDITIONS OF PURCHASE (1st EDITION) 2001

### 1. DEFINITIONS

- (1) "The Company" means HYQUIP Ltd.
- (2) "The Supplier" means the person, firm or company to whom the order is issued.
- (3) "The Order" means the Company's Order placed upon the Supplier in respect of the Goods.
- (4) "The Goods" means the goods and/or materials and/or services ordered and all parts and components of them and/or materials to be supplied or work to be done by the Supplier as specified in the Order.
- (5) "The Contract" means any contract for the purchase of the Goods by the Company from the Supplier and incorporates the Order and Specifications.

### 2. EXISTENCE OF CONTRACT

- (1) The Order is not binding or constituted as accepted by the Supplier after 10 working days of the date of acceptance unless acknowledged by the Supplier.
- (2) The purchase price is fixed and no variation will be agreed in writing by both parties.
- (3) These conditions are to apply to the exclusion of any terms or conditions stipulated or referred to by the Supplier.

### 3. MARKING OF GOODS, TERMS OF PAYMENT ETC.

- (1) The Supplier shall:
  - (a) on despatch of the Goods or completion of any work send detailed advice notes (which shall accompany the Goods) and invoices in which VAT will be shown at a stated rate and there will be shown the correct Order number, quantities, part numbers and descriptions.
  - (b) Send by the [tenth day] of each month a statement of all invoices rendered during the previous month.
  - (c) Mark the Company's order number and any part numbers on all invoices, advice notes, statements, correspondence, packages and packing.
- (2) Payment, unless otherwise agreed in writing by both parties, will be made at the end of the month following the month of delivery.
- (3) Without prejudice to any other remedy the Company may delay payment without loss of prompt payment discount if the Supplier fails to comply with the provisions of a Condition.

### 4. DELIVERY

- (1) The Company may at any time before delivery vary the specification, quantity or delivery date of the Goods specified in the Order, provided notice of such variation is given in writing to the Supplier and the purchase price is varied accordingly.

(2) The Supplier shall adequately pack and protect the Goods against damage and deterioration and deliver them not earlier or later than the time or times specified in the Order and delivery prior to points specified in the Order or as the Company directs. Time shall be of the essence.

(3) The Supplier shall notify the Company of completion as the Company requires and shall promptly advise the Company in writing if such programmes are or are likely to be delayed.

(4) The Supplier shall be responsible for any expenses incurred to deliver any incorrectly delivered Goods to the correct point or return any items delivered in excess of the quantity specified in the Order.

(5) The Company shall have no responsibility for packing materials or cases.

## 5. INSPECTION AND TESTING

(1) The Company's representative and any representatives of the Company's purchaser or sub purchaser and any government department shall be entitled to the Company's authority to inspect or test the Goods at any reasonable time at the premises of the Supplier and/or premises throughout the Supplier chain.

(2) The Supplier shall give adequate notice of all tests and furnish such test certificates as the Company requires.

(3) No inspection test or failure to inspect or test shall constitute acceptance of the Goods or affect any liability of the Supplier under the Contract.

(4) It is a condition of this Agreement that the materials and workmanship shall be of the best quality and to the relevant British Standard Specification or equivalent where such standards are specified and agreed in writing by both parties.

## 6. PASSING OF TITLE AND RISK

(1) Title in all components and materials in the Goods and tools to be used exclusively in connection with the Goods shall pass to the Company as soon as they are allocated by the Supplier to the Contract and in all documents of any kind including drawings, designs, test certificates of quality, jigs, lists and manuals and so on as they are prepared or obtained by the Supplier. The Supplier shall clearly mark and store all items so that they can be identified as the property of the Company, make them available for inspection by the Company at any time and comply with all instructions of the Company with regard to them.

(2) Notwithstanding the passing of title risk in the Goods shall not pass to the Company until delivery.

## 7. FREE ISSUE MATERIAL

(1) All materials provided by the Company remain its property. The Supplier shall:

(a) Keep them in good order and be responsible for loss or damage.

(b) Use them only for the Contract.

(c) Return them carriage-paid upon request or upon completion.

(d) Not copy, loan or disclose them without written approval.

## 8. TERMINATION / REJECTION

(1) If the Supplier defaults, becomes insolvent, has a receiver appointed, or the Company believes such events may occur, the Company may suspend or terminate the Contract and take possession of Goods or Company property.

(2) If Goods do not conform to the Contract, the Company may:

(a) Reject them in whole or part.

(b) Permit replacement, repair or reinstatement.

(c) Carry out work at the Supplier's expense to make them conform. (3) Upon termination, the Supplier shall return all payments. For rejected Goods, the Supplier shall retain payments already made.

(4) Delay or failure to exercise rights does not prejudice future rights.

(5) Loss includes loss of use, profits, orders, and any damages payable by the Purchaser to its customer.

## 9. WARRANTY

The Supplier shall at its own expense make good any defects appearing within 12 months of delivery or such other period as stipulated.

## 10. INDEMNITY

(1) The Supplier shall indemnify the Company against loss, damage, injury or claims arising from failure to comply with the Contract, including defects or infringement of third-party rights.

(2) The Supplier shall maintain adequate insurance.

(3) The Supplier shall provide assistance required for dealing with claims.

## 11. DESIGNS

(1) Goods and all related copyrights, designs and documents belong to the Company.

(2) The Supplier shall use them only for the Contract and return them upon request or completion.

(3) The Supplier is responsible for errors in drawings or information supplied by it.

## 12. CONFIDENTIALITY

The Contract and its subject matter are confidential and shall not be disclosed or used for unauthorised purposes.

## 13. STATUTORY AND OTHER REQUIREMENTS

(a) The Supplier undertakes that the Goods are safe, comply with all relevant laws and standards, and shall provide all required safety information and test evidence.

(b) If work is performed at the Purchaser's premises or elsewhere, the Supplier shall comply with applicable Health and Safety rules.

## 14. ASSIGNMENT AND SUB-LETTING

The Supplier shall not assign or sub-let without written consent. Any consent requires:

- (a) Ensuring subcontractor compliance.
- (b) Including provisions consistent with these conditions.
- (c) Providing copies of sub-contracts upon request.

#### 15. LAW AND CONSTRUCTION

The Contract is governed by English Law. The Supplier consents to the exclusive jurisdiction of the English Courts except where the Company invokes another jurisdiction.

#### 16. INTERPRETATION

Words importing the singular include the plural and vice versa; masculine includes feminine and vice versa.

#### 17. SURVIVAL

The Contract remains in force after payment and delivery for all obligations not yet performed.

#### 18. ENTIRE AGREEMENT

This Agreement constitutes the entire Contract and may only be varied in writing signed by the parties or their solicitors.

#### 19. ARBITRATION

If the parties cannot agree terms, the matter shall be determined by a single arbitrator appointed by the President (or Vice-President) of the British Fluid Power Association. Fees are shared equally.

#### 20. NOTICES

Notices may be delivered personally or posted to the registered office or last known address and are deemed received on the second day after posting.

#### 21. HEADINGS

Headings are for convenience only and do not affect interpretation.