

1 Definitions

In these terms and conditions "Company" means Hydro International; "Vendor" means the company, firm or person which enters into the contract; "order" means the Company's order to the Vendor in respect of goods and/or services; "goods" means goods, materials and/or other items (including all parts or components of them) to be supplied pursuant to an order; "services" means services to be performed pursuant to an order and "delivery" means physical delivery to the specified delivery point.

2 Acceptance of Order

2.1 These terms and conditions alone shall govern every order for the purchase of goods and/or services made by on or behalf of the Company. They shall apply in place of and prevail over any terms or conditions contained in or referred to in any documentation submitted by the Vendor or in correspondence or elsewhere or implied by trade, custom, practice or course of dealing unless specifically excluded or varied in writing by an authorised representative of the Company.

2.2 The Vendor must acknowledge this order in writing. Despatch of goods by the Vendor to the Company or the performance of services without such an acknowledgement shall of itself be deemed to be an acknowledgement falling within this clause.

2.3 If the goods and/or the services specified on the order are to be used in carrying out or are otherwise in connection with another specified contract the order shall be subject to the conditions of such specified contract insofar as the same are applicable and do not conflict with these terms and conditions. Details of any relevant conditions will be supplied by the Company on request, but the Vendor will be deemed to have accepted the same as part of these terms and conditions, whether or not such a request is made.

3 Risk and Title

3.1 All goods manufactured or supplied by the Vendor shall remain at the Vendor's risk until completion of delivery (including delivery to storage as provided in clause 6.5) when title to the goods (or any components to be included in the goods) shall pass to the Company free from all encumbrances.

3.2 Nothing in clause 3.1 shall prejudice the Company's right to reject the goods and to require replacement should they fail to meet the required specification.

4 Quality and Defects

4.1 All goods supplied and/or services performed by the Vendor shall be of first class quality, fit for the purpose for which the Company requires them and subject to the Company's approval prior to acceptance. They must also meet any specification as to quantity, standards and description and all relevant British Standards, EC Directives and (if applicable) all other international standards. The Vendor shall satisfy itself that it fully understands the Company's requirements and specifications in order to comply with its obligations hereunder.

4.2 The Company reserves the right to inspect the goods before despatch but such inspection shall not imply acceptance. All goods and/or services supplied must pass the acceptance tests of the Company's inspectors. The Company shall be entitled to reject any part or portion of the goods or services if the same are found, on inspection or after a reasonable period of use, to be inferior or defective in quality (including goods damaged in transit) or fail to conform completely in every respect with the terms as specified in the order or otherwise.

4.3 Any goods and/or services rejected under clause 4.2 must be replaced or re-performed, as the case may be, by the Vendor at its expense. Alternatively the Company may at its option cancel the order as provided in clause 6.6 both in respect of the goods and/or services in question and of the undelivered balance (if any) of the goods and/or the remainder of the services (if any) covered by the order. Any rejected goods will be returned at the Vendor's risk and expense.

4.4 The Company's acceptance of the goods shall be conditional upon the Vendor providing at or before the time of delivery a certificate of conformity in respect of the goods together with all relevant material certificates and cast numbers warranting that the goods conform in all respects with the requirements and specifications of the order.

4.5 The supply of goods and services shall meet the Year 2000 conformity requirements as defined by British Standards Institution technical committee BDD 11-13.

5 Indemnity

5.1 Notwithstanding that the goods and/or services may have been inspected or accepted by the Company, the Vendor will indemnify and keep fully indemnified the Company against all and any loss, costs, expenses and liabilities incurred whether directly or indirectly or as a result of any and all actions, claims or demands of any third party, by reason of any breach by the Vendor of any of the Company's terms and conditions (including, without limitation to the generality of the aforesaid, any failure by the Vendor to deliver the goods or services by the due date of delivery or any obligations imposed on the Vendor by any relevant statute or statutory provision.

5.2 The Company reserves the right to deduct from any sums due or becoming due to the Vendor, all sums due from the Vendor to the Company as a result of claims made by the Company pursuant to this indemnity.

6 Delivery and Performance

6.1 Performance of the contract by the Vendor shall be in accordance with the dates and times specified in the order. Time shall be of the essence.

6.2 All goods must be delivered to the specified delivery point. Any signature given for and on behalf of the Company on any delivery note, or other documentation, presented in connection with delivery of the goods is evidence only of the number of packages received. In particular, it is not evidence that the correct quantity or number of goods has been delivered or that the goods delivered are in good condition or conform to the terms specified in the order or otherwise.

6.3 If the Vendor fails to maintain a rate of progress which in the opinion of the Company is required for the Vendor to achieve the delivery date then the Company may, by written notice, require the Vendor to take such action as may be necessary to prevent the anticipated delay and if the Vendor does not take such action or it appears to the Company that despite such action the Vendor will still not meet the delivery date then the Company shall be free (without prejudice to any other rights it may have hereunder) to cancel the order in whole or in part and to make alternative arrangements in respect thereof.

6.4 In the event of the Vendor being delayed or prevented from performing its obligations under the order for a cause beyond its reasonable control (eg. strikes, lockouts, or force majeure) and if in the reasonable opinion of the Company the order cannot be completed by the due date for delivery as specified in the order, the order may be cancelled upon prior written notice to that effect given by the Company. In the event of such cancellation, the Company will pay to the Vendor such sum as may be fair and reasonable in all the circumstances for work performed by the Vendor in respect of the order prior to cancellation and in respect of which the Company has received the benefit PROVIDED THAT where the Vendor installs the goods, risk shall pass to the Company upon installation to the reasonable satisfaction of the Company.

6.5 If for any reason the Company is unable to accept delivery of the goods on the agreed delivery date, the Vendor shall store the goods and take all reasonable steps to safeguard them and prevent their deterioration pending delivery. In such an event, but subject to clause 6.6, the Company will, where such storage exceeds 30 days, reimburse the Vendor for all reasonable expenses (including insurance) of such storage.

6.6 The Company reserves the right to cancel the whole or any part of the order if the same does not conform completely in every respect with the terms specified in the order and/or with these terms and conditions. In the event of the Company cancelling as aforesaid as to all or any of the goods and/or services, it shall be entitled to purchase from a third party a like quantity of goods of similar quantity and description or a reasonable alternative (bearing in mind the Company's need to take delivery of the goods by a specified date) or to contract with a third party to provide services of a similar quality and description and the Vendor shall be liable to reimburse the Company on demand all expenses incurred in connection with such cancellation, including any increase in price between the order and the new contract.

7 Price and Payment

7.1 The price of the goods and/or services shall be that prevailing at the time of the order, and shall not be subject to change without the written consent of the Company.

7.2 Subject to clause 7.3 and unless otherwise specified in the order, payment will be made not less than 60 days from the end of the month in which the goods have been delivered (including delivery to storage under clause 6.5), accepted by and invoiced to the Company.

7.3 The Company shall not be obliged to make any payment which shall otherwise be due to the Vendor under the order until it has received from the Vendor a properly addressed and referenced invoice quoting the Company's purchase order number and which is correct in all other material respects.

8 Assignment and Sub-Contracting

Save as is specified in the order the Vendor shall not without the prior written consent of the Company assign, transfer or sub-contract any order or any part thereof.

9 Warranties and Guarantee

9.1 The Vendor hereby warrants that:

9.1.1 the construction and quality of any goods manufactured and/or supplied by it shall comply in all respects with all relevant statutes, statutory instruments or orders or regulations which are in force in the United Kingdom (and, if appropriate, in the country of use) as at the date of delivery including (but without prejudice to the generality of the foregoing) the Factories Act 1961 and the Health and Safety at Work Act 1974; and

- 9.1.2 save where the goods are manufactured by the Vendor in accordance with the Company's specification, the sale or use of the goods by the Company or anyone claiming through it will not infringe any British or foreign patent, trade mark, trade name, registered design or rights in the nature of copyright. Without prejudice to clause 5 the Vendor shall indemnify and keep indemnified the Company against any loss, damage, liability, costs or expenses which the Company may directly or indirectly suffer or incur as a result of any breach of the said warranties.
- 9.2 The Vendor shall, at its own expense, make good any defects which appear in the goods under proper use during the period of 24 months commencing on the date of acceptance by the Company.
- 10 Information, Designs etc.**
- 10.1 All designs, drawings, specifications data, patents and process information supplied or communicated to the Vendor by the Company in connection with the order shall remain the Company's property and shall be treated as highly confidential. The Vendor shall not disclose the same to any third party without the Company's prior written consent nor shall it infringe any copyright, patent, trade mark, trade name, registered design or other intellectual property rights vested in or licensed to the Company.
- 10.2 All rights in respect of any invention, improvement, process or technology developed for the order shall be the absolute property of the Company and acceptance of this order shall represent an assignment of all such rights.
- 10.3 Upon delivery of the goods (or earlier if so required by the Company) the Vendor shall at its own risk and expense forthwith send all designs, drawings and specifications relating to the goods and/or the order (and any copies thereof) to the Company.
- 11 Hire of Labour**
- In all cases where the control of Vendor's labour is in any way retained by the Vendor, the Vendor will fully and effectually indemnify the Company against all claims or proceedings which arise out of the provision of such labour, whether such claims or proceedings arise as a result of the Company's negligence (save where this causes death or personal injury) or breach of statutory duty or for any other reason whatsoever. For this purpose any sub-contracted labour unless wholly controlled by the Company shall be regarded as being Vendor's labour controlled by the Vendor.
- 12 Hire of Plant**
- 12.1 The operator of any machinery or plant (and/or equipment as the case may be) shall be regarded for all purposes as being the employee of the Vendor.
- 12.2 The Vendor will indemnify and keep fully indemnified the Company from and against any accidents, losses, claims and demands in respect of or arising in any way out of the hire or use or purported hire or use of the machinery or plant (and/or equipment as the case may be) save where the death or personal injury is caused by the Company's negligence. The Vendor further agrees at the reasonable request of the Company to obtain and maintain insurance with a reputable insurance company for a minimum of £2 million in respect of each such accident, loss, claim or demand. If requested, the Vendor shall forthwith produce to the Company a receipt for the current premium together with full details of the policy.
- 13 Variation and Waiver**
- 13.1 Any variation to the terms contained herein shall be in writing and signed by an authorised signatory of the Company.
- 13.2 Failure by the Company at any time to promptly enforce any of its rights under these terms and conditions shall not of itself be construed as waiver by it of such rights or any other rights. A waiver by the Company of any one or more of these terms and conditions shall not constitute a waiver of any subsequent breach of the same or a waiver of a breach of any other term or condition hereof.
- 14 Legal Construction**
- Unless otherwise agreed in writing, this order and the contract resulting therefrom shall in all respects be construed and governed by English law.

SPECIFIC CONDITIONS

- (a) **Address for Goods**
Goods must be consigned to the address indicated on the order and be carriage paid unless otherwise agreed.
- (b) **Order Number**
The order number must be quoted in full whenever the order is referred to and on all invoices and advices.
- (c) **Advice Notes**
Advice notes must be sent to the address to which the goods are consigned on the same day as goods are despatched. Where the goods are consigned to an address other than that of the Company, a copy of the advice note shall also be sent to the Company at Shearwater House, Clevedon Hall Estate, Victoria Road, Clevedon, BS21 7RD, United Kingdom ("Company's Address").
- (d) **Acknowledgements**
The order must be acknowledged in writing to the Company at the Company's Address.
- (e) **Invoices**
Invoices must be posted to the Company at the Company's Address, unless otherwise indicated. No responsibility will be accepted for delay in settling invoices which do not quote the Company's official order number in full.
- (f) **Statements**
Statements are to be forwarded to the Company at the Company's Address.
- (g) **Empties**
Empty packages and/or containers will only be returned at the expense and risk of the Vendor. Full instructions must be given on advice notes and clearly marked on invoices and each package or container must bear a proper identification mark.
- (h) **Enquiries**
All enquiries regarding this order should be addressed to the Company at the Company's Address.