

HYDRO Systems KG • 77781 Biberach
Terms of Purchase, revised 1 August 2010

1. Application

The following Terms of Purchase apply exclusively to all current and future orders, unless otherwise agreed in writing. Any diverging terms and conditions laid down by the supplier or contractor (uniformly referred to hereinafter as "Supplier") shall only apply if and insofar as HYDRO has acknowledged them in writing.

2. Placing, Accepting & Handling Assignments

2.1 Purchase orders and agreements as well as any amendments and supplements thereto are only valid if confirmed by HYDRO in writing. Verbal ancillary agreements or commitments by HYDRO altering the content of a written agreement or these Terms of Purchase to HYDRO's disadvantage shall only be binding if issued or confirmed by HYDRO in writing.

2.2 Supplier must immediately confirm the purchase order or any change request thereto in writing by signing and returning it to HYDRO. If HYDRO fails to receive due confirmation within 5 calendar days – counted from the date of receipt of the purchase order / change request – then HYDRO shall be entitled to cancel the order without Supplier thus becoming entitled to any claims.

2.3 Any derogations from technical data or requirements or any other specifications affecting quality must be released in advance by HYDRO in writing.

2.4 Supplier may only have a purchase order or any substantial part of an order carried out by third parties (including sub-suppliers) with HYDRO's advance written approval. In any such case, Supplier must ensure that the same wording of these Terms of Purchase also applies to the third party concerned. For any fault on the part of the third parties called in, Supplier shall bear the same liability as for its own fault.

2.5 Supplier shall remain bound by its offers for at least 12 months. Written quotations shall be issued within 5 working days of being requested by HYDRO.

3. Delivery Period, Scope of Delivery, Spare Parts, Confirmation of Order, Specifically designed Parts

3.1 Agreed delivery dates are binding. The date on which the delivery is received at the destination specified in

the purchase order shall be decisive for determining whether the delivery deadline has been met. If formal acceptance procedure has been agreed or is laid down by statutory law, then such procedure must be successfully carried out by a person authorised by us to do so.

3.2 If it becomes evident to Supplier that the delivery date cannot be met, it must immediately notify HYDRO to this effect in writing, stating the reasons, the anticipated duration of the delay and the planned counter-measures.

3.3 If, taking business aspects into account, the delay means that HYDRO can no longer make use of the delivery, then HYDRO shall be entitled to withdraw from the contract without allowing a period of grace and irrespective of Supplier's fault.

3.4 If Supplier defaults in performance, HYDRO shall be entitled to demand a contractual penalty of 0.5% of the net value of the order for each week of the delay that commences, but not exceeding 5% of the net value of the order in total. HYDRO's further claims shall remain unaffected. HYDRO reserves the right to claim a contractual penalty until such time as it effects final payment.

3.5 Supplier is not entitled to make over- or under-deliveries. Part-deliveries are only permitted by way of an exception with HYDRO's prior written consent.

3.6 Supplier shall ensure that for a period of 20 years after termination of its business relations with HYDRO, it is able to supply HYDRO on reasonable terms with the deliverables and parts thereof by way of spares.

3.7 If Supplier delivers goods which the Supplier manufactured according to drawings provided by HYDRO (= "specifically designed parts"), then throughout the production process it shall be under obligation to report progress in manufacture to HYDRO at regular intervals, at least once a week. With regard to specifically designed parts the Supplier shall comply with HYDRO's "Supplier's Standards".

4. Price, Payment

4.1 The agreed prices are fixed prices including packaging, free delivery to the destination specified in the purchase order.

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4.2 Payment shall be made after the goods have been delivered as contractually agreed and after receipt of a proper verifiable invoice, either at a 3% discount within 30 days, or net cash within 60 days. Payment periods shall not commence before the agreed delivery date.

4.3 In the event of any defect, HYDRO shall be entitled to withhold payment up to the value of the item concerned until the defect has been duly eliminated.

5. Passing of Risk, Responsibility

Risk shall pass to HYDRO when the delivery has been duly handed over at the place of destination specified in the order (DDU HYDRO's place of destination, Incoterms 2000) or – if formal acceptance procedure has been agreed or is laid down by law – after HYDRO has formally accepted the delivery.

6. Shipment, Packaging, Delivery

6.1 HYDRO's "Packing and Delivery Instructions" apply as amended at the time. Notification of shipment must be sent on the date of dispatch to HYDRO and to the recipient HYDRO has specified. A delivery note (one copy only) must be enclosed with each consignment. The delivery note must state HYDRO's order number and article number and the quantity being delivered. The delivery note must be attached to the outside of the goods in a clearly visible place.

6.2 When drawing up the freight documents, Supplier must remember that customs clearance is done at HYDRO's location and that HYDRO is exempted from the obligation to submit the goods to the customs authorities. For deliveries from preference-receiving countries, Supplier must enclose a preference certificate with every delivery. A long-term supplier's declaration pursuant to Council Regulation (EC) No 1207/2001 must be submitted once annually. If the goods supplied are subject to an export permit, then HYDRO must be informed without delay.

6.3 Depending on the product, the goods delivered must be adequately protected against any external effects and must be clearly identifiable. COC / handbooks / CE must be put in a separate waterproof envelope and either enclosed in the packaging unit or fixed to the goods in a clearly visible place.

7. Invoice

The invoice (one copy only) shall be sent to HYDRO's accounting department. It shall not be enclosed with a consignment. The invoice shall expressly indicate HYDRO's order number and article number, the quantity and the price.

8. Rights in the Event of Defects

8.1 Supplier warrants that at the time of delivery, the deliverables are free of material defects or defects in title, are to the latest technical standards, comply with relevant legislation, work safety regulations and accident prevention rules, and meet both general and technical quality assurance standards (e.g. DIN, VDE, VDI, TÜV, rules on explosive substances). If norms exist in various forms, the German version shall apply.

8.2 HYDRO shall perform an incoming goods inspection to check for obvious defects and to ascertain the goods' identity, short quantities and any transport damage. HYDRO is under no obligation to make any further inspections going beyond this. HYDRO shall report any defects to Supplier within a reasonable period of them being discovered. Insofar, Supplier waives pleading that a complaint about defects was filed late.

8.3 For defects, HYDRO may also demand re-delivery of the defective items in lieu of subsequent repairs. Moreover, after a reasonable period of grace has expired to no avail, or – if a subsequent deadline can no longer be set for urgent reasons – after notifying Supplier, HYDRO shall be entitled at Supplier's expense to remedy the defect itself or have this done by a third party, or to obtain a replacement elsewhere. The same applies if the Supplier defaults in remedying the defect.

8.4 Supplier has to bear all expenditures for making subsequent repairs or substitute deliveries at the goods' respective place of use. HYDRO shall notify Supplier about the place of use on request.

8.5 In case another installation is necessary due to the subsequent repairs or substitute deliveries, the costs of the installation shall be deemed to be expenditures required within the scope of supplementary performance.

8.6 Claims for defects become statute-barred 36 months after delivery or – if formal acceptance procedure is

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required by statutory law or by contract – after formal acceptance.

- 8.7 If Supplier repairs or substitutes delivered items or parts, then in respect of the defects concerned the limitation period pursuant to this Item 8.6 shall commence anew, unless the time and cost for making the repair is immaterial or the repair is expressly done by Supplier as a gesture of goodwill.

9. Provision of Objects & Information, Non-Disclosure

- 9.1 HYDRO retains title to all specimens, models, drawings, blueprints, tools and other objects that are provided to Supplier for manufacturing the deliverables ordered or for other reasons (“Objects”). Supplier is bound to use these Objects exclusively for manufacturing the deliverables ordered or in accordance with other instructions given by HYDRO. Said Objects may not be made accessible to third parties.

- 9.2 Any processing or reworking of Objects by Supplier is done for HYDRO. If any Object is processed along with other items not belonging to HYDRO, then HYDRO shall acquire proportionate co-ownership of the new item, depending on the value of HYDRO’s Object in relation to the other materials at the time of processing.

- 9.3 At its own expense, Supplier must insure the Objects at replacement value against damage by fire, water and theft. It here and now assigns to HYDRO all claims to benefits under such insurance policies, and HYDRO hereby accepts the assignment. In a timely fashion and at its own expense, Supplier is under obligation to have all the required maintenance and inspection work carried out and to have all repairs to the Objects done. Any damage occurring must immediately be reported to HYDRO.

- 9.4 Deliverables which Supplier manufactures in whole or in part to HYDRO’s specifications or using the Objects, and any information provided by HYDRO such as drawings, documents, know-how, specimens, manufacturing materials, models, data carriers, etc., may only be supplied or otherwise made accessible to third parties (including sub-suppliers) with HYDRO’s prior written permission. This also applies to any goods from Supplier that HYDRO has rejected with good reason.

- 9.5 Supplier undertakes to pay HYDRO a contractual penalty of EUR 10,000 for any breach of these non-disclosure obligations, unless it is not responsible for the breach. HYDRO’s further claims shall remain unaffected. HYDRO reserves the right to claim this contractual penalty until such time as it makes final payment. Moreover, in the event of particularly grave violations, HYDRO shall be entitled to terminate the entire contractual relationship with Supplier without giving notice and without paying compensation, and to demand back any payments already made. A particularly grave violation shall be deemed the case especially if Supplier discloses the know-how it has acquired or received to external third parties that are in competition with HYDRO.

10. Protective Rights

- 10.1 Supplier warrants that neither the actual deliverables it supplies nor their use – in particular any further delivery, processing or utilisation by HYDRO – infringes any third-party industrial property rights, above all utility models, patents, licenses or other rights or business or trade secrets belonging to third parties, including in the country of use.

- 10.2 Supplier shall release and discharge HYDRO and its customers on first written request from any third-party claims based on any infringements of rights, and shall pay all and any costs incurred on HYDRO in this context. However, Supplier shall not be liable insofar as it manufactured deliverables exclusively in accordance with HYDRO’s drawings and models and did not know or was not bound to know that the manufacture of such deliverables infringed third-party rights.

- 10.3 If there are any conflicting third-party rights, Supplier must at its own expense obtain from the entitled party consent or approval for supplying the deliverables and for their use and further delivery, processing and utilisation, which consent or approval must also be effective for HYDRO.

11. Product Liability, General Liability

- 11.1 In the event of any claims being filed on HYDRO by a customer or any other third party, Supplier shall be under obligation to release and discharge HYDRO from such claims on first written request, if and insofar as the loss or damage has been caused or jointly caused by a fault in an item delivered by Supplier. In

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cases of liability dependent on fault, this shall not apply if Supplier is not at fault.

- 11.2 If the cause of the loss or damage is in Supplier's sphere of responsibility, proof that the fault was the cause shall suffice; otherwise Supplier shall bear the onus of proof.
- 11.3 Supplier shall in all events assume a share of the costs and expenses in proportion to its degree of fault or to the extent of its responsibility for the cause, including any costs incurred for prosecution or for a recall campaign; this also applies if there is evidence or any risk of serial defects having occurred.
- 11.4 Supplier undertakes to maintain product liability insurance providing compounded coverage of EUR 5,000,000 per claim for personal injury or property damage. Upon HYDRO's request, the Supplier shall prove this coverage.

12. Final Provisions

- 12.1 Supplier's legal relations with HYDRO shall be governed by German law, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 12.2 Exclusive venue for all and any disputes arising from the business relationship between HYDRO and Supplier shall be at the location of HYDRO's registered headquarters. HYDRO shall also be entitled to bring action at Supplier's location and at any other admissible place of jurisdiction.
- 12.3 Place of performance for all goods and services shall be the place of destination specified by HYDRO in the purchase order.
- 12.4 If any provisions of these Terms of Purchase are or become ineffective in whole or in part or if any gap emerges, then this shall not affect the validity of the remaining provisions. In lieu of any ineffective provision, an effective clause shall be deemed agreed that achieves the purpose of the ineffective provision as nearly as possible; and in the event of any gap, a clause shall be deemed agreed which, taking the purpose of these Terms of Purchase into consideration, would have been agreed if the contracting parties had originally paid heed to the point at issue.