

ITW LTD t/a REGENT TRIST HYDRAULICS- CONDITIONS OF SALE

These conditions form an integral part of every contract for the sale and/or supply of goods (“the Goods”) by Regent Trist Hydraulics Limited (“the Seller”). Unless alterations or deletions are expressly agreed in writing by a director of the Seller, these conditions shall apply in their entirety to all quotations made and all orders accepted on behalf of the Seller.

Except as provided above, no servant or agent of the Seller has any authority to vary these items or accept other terms proposed by a Buyer which are inconsistent with these conditions.

1. FORMAT OF CONTRACT

- 1.1 The contract between the Seller and the Buyer is formed when the order placed by the Buyer is accepted by the Seller. Such acceptance on the part of the Seller may take place verbally or in writing.
- 1.2 For the avoidance of doubt, only [state category of employees] shall have authority to enter into contract of behalf of the Seller.

2. QUOTATIONS

- 2.1 The Seller may give a quotation for the cost of the Goods before entering into a contract with the Buyer. Where a quotation is given it is an invitation to treat and is not an offer of a contract. No contract shall deem to have been effected by the acceptance by the Buyer of any quotation given by the Seller until the order constituted by such acceptance has been confirmed whether verbally or in writing by the Seller.
- 2.2 Quotation(s) shall remain valid for 90 days.

3. PRICE

- 3.1 The Seller reserves the right to vary any contract price at any time to take account of:
 - (i) any increase in cost price of the Goods taking effect before the Goods are provided by the Company;
 - (ii) any requests by the Buyer for changes in delivery schedules, completion dates, quantities, qualities, designs or specifications;
 - (iii) delays caused by any instruction of the Buyer or by any failure of the Buyer to give adequate information or instructions;
 - (iv) any extra cost borne by the Seller as a result of any Government legislation, EU Regulation of the effects of devaluation, floatation of the pound or fluctuation in the exchange rates.
- 3.2 All prices are subject to the addition of value added tax at the rate prevailing at the date of delivery.
- 3.3 Unless otherwise agreed in writing, all prices are given on an ex-works basis and in addition to the contract price, the Seller reserves the right in its absolute discretion to charge the Buyer additional sum in respect of carriage of the Goods [where a third party carrier is used] or in respect of packaging and insurance.
- 3.4 There is a minimum order charge of £25.00 per order

4. PAYMENT

- 4.1 Unless otherwise agreed accounts are due and become payable not later than 30 days from the end of the month in which the invoice is dated. In this respect, time shall be of the essence of the contract.



Deposit

- 4.2 If requested by the Seller, the Buyer will pay to the Seller a deposit of such amount as the Seller shall request, being not more than [] % of the contract price. Where applicable, the deposit shall be due and become payable not later than [] days following the formation of the contract between the Buyer and the Seller.

Delivery by Instalments

- 4.3 If an order is to be performed by instalments, the Seller shall raise a separate invoice in respect of each instalment.

Method of Payment

- 4.4 Payment shall be made in sterling by means of BACS, a banker's draft or by a cheque drawn on the account of a UK clearing bank which is presented to the Seller in time for clearance by the due date for payment specified above.
- 4.5 The Buyer shall not be entitled to withhold payment of an amount payable under the contract to the Seller because of any claim of the Buyer in respect of any alleged breach of the contract, or of any other contract.

5. INTEREST

Interest will be payable from the due date for payment to the actual date of payment at the rate of 4% above the base rate from time to time of Barclays Bank PLC on any part of the price remaining unpaid after the due date.

6. SUPPLY AND DELIVERY

- 6.1 If the seller delivers the Goods to the Buyer's premises or such other place as may be agreed between the parties, delivery shall take place at the time and place of actual delivery.
- 6.2 Where the Goods are to be collected from the Seller's premises, then, unless the goods have previously been collected by the Buyer, the Seller will give the Buyer seven days' notice that they are ready for collection at the Seller's premises and delivery shall be deemed to take place there when the Buyer or his representative collects the goods or on the close of business on the seventh day following dispatch of such notice, whichever shall be earlier.
- 6.3. Any dates quoted for the supply or delivery of the Goods are approximate only and the Seller shall not be liable for any delay in the supply of the Goods howsoever caused. Time for supply or delivery shall not be the essence unless previously agreed by the Seller in writing.
- 6.4 Where the Goods are to be supplied over a period of time then each supply shall constitute a separate contract and failure by the Seller to supply any one or more instalments of the Goods in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 6.5 If the Seller fails to supply the Goods for any reason other than those set out at clause 7 below or the Buyer's fault, and the Seller is accordingly liable to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar goods to replace those not supplied over the price of the Goods.

7. FORCE MAJEURE

Should the Seller, its suppliers or sub-contractors, be prevented from producing or delivering the Goods or the Buyer be prevented from accepting delivery by reason of any industrial dispute, fire, breakdown, shortage of raw materials, acts of Government or other events beyond the Seller's reasonable control, the date for delivery and/or performance shall be extended by the period of delay caused by such events and the price shall be increased to cover any increased costs caused by such delay.



8. RISK AND TITLE

- 8.1 It is expressly agreed that until Seller has been paid in full for the Goods comprised in this or any other sale contract between the Seller and the Buyer, the Goods shall remain the property of the Seller.
- 8.2 Until payment due under all contracts between the Buyer and the Seller has been made in full the Buyer shall hold the Goods upon trust for the Seller.
- 8.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and bailee and shall keep the Goods separate from those of the Buyer and third parties and property stored, protected and insured and identified as the Seller's property.
- 8.4 Until the property in the Goods passes to the Buyer, the Seller shall be entitled to require the Buyer to deliver up the Goods to the Seller, and if the Buyer fails to do so forthwith to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods.
- 8.5 Risk of damage to or loss Goods shall pass to the Buyer forthwith upon delivery or deemed delivery thereof to the Buyer.

9. BUYER'S FAILURE TO TAKE DELIVERY

If the Buyer fails to take delivery of the Goods in the manner agreed between the parties, the Buyer shall in addition to the contract price, be liable to refund to the Seller its reasonable charges incurred by reason of the Buyer's failure to take delivery as aforesaid.

10. WARRANTIES

- 10.1 The Seller Warrants that the Goods will correspond with their specification at the time of delivery and will be free from defects in material and workmanship for a period of 12 months thereafter.
- 10.2 Any claim by the Buyer in respect of the quality or condition of the Goods, or their failure to conform to specification shall be notified to the Seller within 7 working days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure.
- 10.3 The Seller shall not be liable for any damage, defect or shortage which could have been ascertained by reasonable testing examination or inspection within 7 working days of the date of delivery.
- 10.4 The Seller's liability under this clause shall be limited at the Seller's option to replace or repair the Goods or to refund to the Buyer the price (or a proportionate part of the price). In particular, the seller will have no liability for indiscreet or consequential loss incurred by the Buyer.
- 10.5 The Seller shall not be liable to the Buyer or be deemed to be in breach of contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the Goods if the delay or failure was due to any cause beyond the Seller's reasonable control.
- 10.6 The employees of the Seller are not authorized to make representations as to the quality or fitness for any particular purpose of the Goods. If a representation is made which materially affects the Buyer's decision to place an order for the Goods the Buyer should ensure that such details are confirmed in writing by a director of the Seller so as to form part of the contract.
- 10.7 Subject as expressly provided in these Conditions all warranties, conditions or other terms implied by law are excluded to the fullest extent permitted.



- 10.8 Nothing in these Conditions shall be construed as an attempt to exclude or limit the liability of the Seller in negligence for the death of or injury to any person.
- 10.9 This Warranty does not relate to any part of the Goods obtained by the Seller from another but the Seller shall, so far as it is able to, pass to the Buyer the benefit of any guarantee or warranty given to him by that order.

11. DESCRIPTIONS AND ILLUSTRATIONS

All descriptions illustrations contained in the price lists, advertisements and similar literature of the Seller are intended merely to present a general idea of the Goods and shall not form part of the contract.

12. WAIVER

The rights of the Seller shall not be prejudiced or restricted by any indulgence or forbearance extended by the Seller to the Buyer and no waiver by the Seller in respect of any breach shall operate as a waiver in respect of any subsequent breach.

13. TERMINATION

13.1 If the Buyer shall:

- 13.1.1. fail to pay monies due from it to Seller;
- 13.1.2 commit any breach of these Conditions;
- 13.1.3 enter into any arrangement or composition with its creditors, commit any act of bankruptcy or (being a corporation) an order is made or an effective resolution is passed for its winding up, or have a Receiving Order made in respect of the whole or any part of its assets;

or the Seller reasonably believes that any of the events mentioned above is about to occur in relation to the Buyer, the Seller shall be entitled to:

- (a) suspend all or any work on or future deliveries and instalments of the Goods under this or any other contract and on written notice to cancel the undelivered portion of this or any contract between the Buyer and the Seller and sell the Goods elsewhere and/or deem that the whole of the price under this or any other contract shall be payable immediately;
- (b) recover as damages from the Buyer all loss and damage of whatever kind consequential or otherwise which the seller shall sustain in connection with such cancellation;
- (c) exercise any other right enjoyed by the Seller pursuant to these Conditions or by law including in particular the right to recover the Goods or the proceeds thereof from the Buyer pursuant to clause 8.

- 13.2 Once an order has been accepted by the Seller, then any cancellation or variation thereof by the Buyer must be communicated to the Seller in writing. The Buyer will be liable to indemnify the Seller for any loss reasonably incurred by the Seller as a result of such cancellation or variation.

14. INTELLECTUAL PROPERTY RIGHTS

- 14.1 All patents registered design rights, copyright and other intellectual property rights ("Intellectual Property Rights") in any specifications, designs, drawings or other information ("the Information") supplied by the Seller to the Buyer in connection with Goods shall remain the property of the Seller. The Information shall not be used for any purpose other than that for which it was furnished without the Seller's express written consent.



14.2 Where a claim is made against the Buyer that use or sale of the Goods infringes the Intellectual Property Rights of any other person. Then, in total satisfaction of its liability to the Buyer, the Seller will indemnify the Buyer against all claims resulting from such infringement, provided that:

- 14.2.1. the Seller shall be entitled to a release and indemnity from the Buyer in respect of infringements resulting from use or adoption by the Seller of the Buyer's parts, designs or specific instructions, or from use or sale in conjunction with other goods where infringement would not have otherwise occurred; and
- 14.2.2. the Buyer shall immediately inform the Seller of any claims, shall make no settlement and shall permit the Seller alone to deal with claims.

15. ASSIGNMENT AND SUB-CONTRACTING

- (a) This Agreement shall not be assignable by either party
- (b) The Seller shall have the right to sub-contract any of its duties or obligations under the Agreement.

16. NOTICES

- (a) Any notices given under the contract shall be in writing and shall be sent by registered post, or the recorded delivery service, addressed in the case of a notice to the Seller, to the Seller's registered office, and in case of a notice to the Buyer to the address of the Buyer or its representative or agent shown in the contract.
- (b) Any notice shall be deemed conclusively to have been served:
 - (i) in the case of notice sent to an address inside the United Kingdom, on the day after the same shall have been posted; and
 - (ii) in the case of a notice sent to an address outside the United Kingdom after the normal post delivery period and in all such cases, proof of posting shall be sufficient notice of service.

17. JURISDICTION

These Conditions shall be governed by, and construed in all respects in accordance with English Law and the parties submit to the jurisdiction of the English Courts.

18. ARBITRATION

Any dispute between the Seller and the Buyer arising out of this contract shall (except where by its terms the Seller's decision is to be final and binding) be referred in the first instance to Arbitration Act 1996 or any statutory re-enactment thereof.