

Conditions of sale

SAS HYDROKIT

GENERAL TERMS AND CONDITIONS OF SALE

1. ENFORCEABILITY

These General Terms and Conditions of Sale apply to all sales made by Hydrokit, whose business address is located at 19 Rue du Bocage, La Ribotière, 85170 Le Poiré-sur-Vie (France), registered in the La Roche-sur-Yon Trade and Companies Register under number 342418993 (hereinafter referred to as the 'Seller', 'Us' or 'We') to its professional Clients (hereinafter referred to as the 'Purchaser' or 'You') of standard products (hereinafter referred to as the 'Products').

Accordingly, in accordance with Article L 441-6 of the Code de Commerce (French Commercial Code), these Terms and Conditions are the only basis to be used in the context of business negotiations and are to be used as a reference to Article L 442-6 of the said Code.

You agree not to rely on any provisions that conflict with these Terms and Conditions. These Terms and Conditions, which supersede any terms and conditions circulated in the past, shall apply as from 1 July 2015.

Any departure from these Terms and Conditions shall require Our express consent in writing. For the purposes of these Terms and Conditions, 'writing' means any printed or electronic document or fax.

The following documents form an integral part of the contract: these Terms and Conditions, the Special Terms and Conditions accepted by our two companies, an order accepted by any means (particularly by virtue of an acknowledgement of receipt or order confirmation), Our technical documents that supplement these Terms and Conditions (technical specifications, notices, etc.), the relevant delivery note and the relevant invoice.

By placing an order, You are deemed to have unreservedly agreed to comply with these Terms and Conditions, unless We agree in writing to apply Special Terms and Conditions in Your favour.

Any commercial document other than these Terms and Conditions, such as catalogues, brochures, advertisements and, generally, the documents presenting and promoting Our Products, are provided for information only, by way of a guide. They are not contractual and are not therefore binding on Us.

No forbearance by Us in relying at any time on any provision of these Terms and Conditions should be construed as an express or implied waiver of the right to subsequently rely on any of the said Terms or Conditions.

2. GOVERNING LAW - JURISDICTION

Our company and Your company agree to refer any dispute that arises out of or in connection with the application, interpretation or performance of these Terms and Conditions to the Commercial Court with jurisdiction over Our registered office, unless We prefer to refer the matter to any other competent court.

This contract is governed by French law. In the event of a disagreement, dispute or problem concerning the interpretation or performance of these Terms and Conditions or, generally,

concerning the relationship between our companies, the French version hereof shall prevail over any translation.

3. ORDERS PLACED BY YOU

In order to be taken into account, orders must be sent to Us in writing (by e-mail, letter or fax) and contain all the information required to enable Us to analyse the order. Accordingly, any order placed verbally by You must be confirmed by You in writing the same day. No complaint will be accepted in the absence of written confirmation by You of an order placed verbally.

Orders placed by You or sent by one of Our representatives will only be valid subject to written confirmation thereof by Our appropriate department. Orders are personal to You and may not be transferred without Our written consent.

Orders placed by You are firm and final. Orders may not be cancelled by You, in whole or in part, without Our prior written consent. Furthermore, if We accept a change made to an order by You, We will not be required to meet the delivery time originally agreed.

4. PRICES

The Products will be supplied at the prices applicable on the order date.

However, We may revise our prices at any time, especially to reflect an increase in the cost of raw materials, an increase in taxes or the application of new taxes applicable in Our industry, procurement terms and conditions, etc.

Our revised price lists will be sent to You.

Our prices exclude taxes, VAT and other levies applicable at the rate in force on the invoice date.

You may determine Your sales and marketing policy and resale prices at Your discretion. Accordingly, You are solely responsible for setting and advertising Your prices in accordance with applicable regulations.

5. PAYMENT

5.1. In the absence of any special terms and conditions, You must pay for Your purchases within 30 (thirty) clear days of the relevant invoice date.

For any Product You purchase that is to be custom-made, a down payment of at least 30% of the total invoice amount must be made when the order is placed.

For new Clients, payment is to be made when an order is placed.

The parties expressly agree that the above payment time limit may not be postponed on any pretext whatsoever. The time limit for payment of an order will not be postponed under any circumstances on account of any complaint made by You in relation to the relevant order. No discount for early payment will be granted without Our prior written consent.

Invoices are payable in all circumstances at Our registered office, by an accepted bill, bank transfer or any other method of payment determined by Us according to the payment due date. Invoices will be deemed paid once the relevant amount has been definitively credited to Our bank account.

5.2. In accordance with Article L 446-1 of the French Commercial Code, if You fail to make a payment within the specified time limit, We will be automatically entitled to late-payment interest

as of right, charged at three times the legal interest rate from the day after the payment due date stipulated on the invoice, without notice and without the need to complete a formality. This interest shall apply from the payment due date until the date the outstanding amount is paid in full.

In accordance with Articles L 441-3 and L 441-6 of the French Commercial Code, in addition to late-payment interest, You will be charged a fixed debt collection fee of at least €40. If the debt collection charges incurred by Us exceed €40, You will be required to reimburse all the costs incurred by Us in collecting the outstanding amounts, within the limit of 10% of the amount outstanding on the payment due date, for which We must provide supporting documents, without prejudice to any other action We will be entitled to take against You in this respect and the damages that may be awarded to Us for the loss suffered. Any down payment made by You may be retained by Us under the above penalty clause. Lastly, if formal notice to pay remains without effect for 48 hours, the sale will be rescinded as of right should We see fit, and We may file an urgent application in court to have the Products returned to Us, without prejudice to any other damages We may claim. Furthermore, in the absence of payment of a single invoice, all other outstanding invoices will fall due immediately as of right, and all of the amounts at issue will be subject to the above terms and conditions.

Furthermore, in the event the above payment terms are not met, We also reserve the right to suspend or cancel the delivery of orders in progress and, generally, to suspend the fulfilment of Our obligations.

5.3. Any deterioration in Your creditworthiness or, generally, any change in Your situation, regardless of its origin, may constitute grounds for Us to require the provision of guarantees and/or to impose special payment terms, or We may even refuse to fulfil orders placed by You.

6. COLLECTION - TRANSPORTATION - DELIVERY - COMPLAINTS

6.1. Unless agreed otherwise, the Products will be delivered ex works from Our warehouses in accordance with the EXW Incoterm (Ex Works - Seller's warehouse, in accordance with the most recent version of the Incoterms created by the International Chamber of Commerce). This sales term shall apply even if We arrange the loading or transportation of Products on Your behalf.

You must therefore bear all the costs and risks that arise in connection with the loading/unloading and transportation of the Products from Our warehouse to Yours.

The time limits indicated by Us within which Products will be made available for collection or delivered are given solely by way of a guide and are subject to supply possibilities. If a delivery is delayed by more than 60 days after the delivery date mentioned on the order confirmation other than due to a force majeure event, the sale may be rescinded by letter sent recorded delivery (signed for). The following events are deemed force majeure events that shall release Us from our delivery obligation; war, riots, fire, strikes, accidents, natural disasters and action by a public, civil or military authority.

No compensation will be paid and no withholding may be applied if a delivery time is not met. We agree to inform You of any delay or postponement of the whole or part of a delivery.

6.2. Products are transported at Your risk. Accordingly, You must check the condition, quantity and quality of the Products and therefore ensure that they are consistent with the relevant order. Accordingly, You agree to:

- o take possession of the Products You ordered from Us on the agreed date and at the agreed time and location, and to ensure that the Products are consistent with the relevant order;

- o point out any issue concerning the Products upon receipt thereof, particularly by clearly writing the relevant reservations on the document produced by the carrier appointed by Us or You, and confirm these reservations to the carrier in a letter sent recorded delivery (signed for) within three (3) days, excluding public holidays, in accordance with Article L 133-3 of the French Commercial Code, providing appropriate supporting documents to prove the issues, missing products or apparent faults; and

- o confirm the issues, missing products or apparent faults to Us in a letter sent recorded delivery (signed for) within eight (8) days, excluding public holidays, of receipt of Our Products, providing appropriate supporting documents to prove the issues, missing products or apparent faults.

- o Any product for which no reservations are raised with the carrier and Us within the time limit and in accordance with the terms and conditions stipulated above will be deemed compliant and accepted by You.

6.3. Apart from the impairment issues linked to transportation, missing products, apparent faults or inconsistencies with the order referred to in sub-clause 6.2 above, any other complaints made by You concerning the quality of the Products, non-apparent faults or hidden defects must, in order to be taken into account by Us, be sent to Us by letter sent recorded delivery (signed for), containing a specific indication of the product concerned and of the product serial number (if applicable), together with the purchase invoice and, generally, all information and supporting documents relating to the defects observed.

6.4. In the cases referred to in sub-clauses 6.2 and 6.3 above, You must allow Us to record the apparent faults or hidden defects and resolve the issue where possible. Accordingly, You must refrain from intervening or appointing a third party for this purpose.

Furthermore, You must take steps so as not to worsen the apparent faults or hidden defects observed. No action for damages may be taken against Us if this condition is not met.

In the cases referred to in sub-clauses 6.2 and 6.3 above, Products may only be returned with Our prior written consent (given in a product return form completed by Us and sent to You). Unless We agree otherwise in writing, You must bear the costs and risks that arise in connection with returning the Products.

No credit note will be issued and no replacement will be provided for any returned Product that is refused by Us or any Product that is returned without Our prior consent.

Furthermore, in the above cases, Our after-sales department will send You a repair quote containing the cost of repairing the issue as well as any travel expenses.

If You do not accept the terms and conditions of the repair quote within 30 days, We will return the Product to You at Your expense and risk.

You will be provided with a credit note or a replacement Product, at Our discretion, for any returned Product that is accepted by Us, to the exclusion of any damages or other compensation.

6.5. The specific terms and conditions concerning the contractual Product warranty are set out in sub-clause 8.1 below.

6.6. Return of new Products that are not faulty

Apart from the cases referred to in sub-clauses 6.2 and 6.3 above, We authorise You to return new Products to Us without being required to give a reason or an explanation, providing you comply with the following terms and conditions:

- the Products must be new, i.e., they must have been purchased from Us less than 3 months earlier, on the understanding that the date of the relevant invoice will constitute proof of the date of purchase. The Products must not have been assembled or modified by a third party, You or any sub-purchaser; and

- even in this case, new Products that are not faulty may only be returned with Our prior written consent (given in a product return form completed by Us and sent to You). Unless otherwise agreed by Us in writing, You must bear the costs and risks that arise in connection with returning the Products.

If We agree to take back new Products that are not faulty, We will issue a credit note to You based on the purchase price minus a discount of 20%, which will be deducted from a future invoice.

7. USE OF PRODUCTS - PRODUCT UPGRADES

Considering Your capacity as a professional, You are solely responsible for the selection, storage and use of the Products You purchase from Us. Accordingly, You declare that you are fully aware of the characteristics and upgrades of the Products purchased from Us.

The Products will be delivered to You together with the appropriate technical documentation, as required by law.

You agree to read this documentation and to provide it to any sub-purchasers.

You acknowledge that You have been able to obtain all necessary clarifications concerning the Product packaging as well as the conditions according to which the Products must be stored and used, and that You are therefore purchasing and will use the Products in full knowledge of the facts.

You are solely responsible for determining and ensuring that Our Products are appropriate and suited to the purpose for which You intend to use them and to the circumstances in which they will be used. No advice and/or information given by Us in relation to the suitability and applications of the Products will release You from the need to conduct Your own tests and inspections.

We reserve the right to upgrade Our Products at any time, without notice. As a result, no costs may be claimed in connection with the removal of old components or the installation of upgraded components.

8. WARRANTIES - LIABILITY

8.1. Unless stipulated otherwise, We will provide You or the sub-purchaser with a warranty for the Products We sell to cover any material, production or operating defect that comes to light during the period of twelve (12) months from the delivery date or the date possession is taken.

8.2. This warranty will only apply on condition that You have fulfilled Your general obligations under this contract, including in particular the relevant payment and guarantee terms.

The warranty is strictly limited to the Products supplied by Us and does not cover the apparent faults and/or missing products referred to in sub-clause 6.2 above.

If Products are incorporated by You or a sub-purchaser in any item of equipment, You or the sub-purchaser are solely responsible for selecting, adapting and ensuring the suitability of our Products. The warranty specifically does not cover assembly, adaptation, design, connection or operating issues affecting the whole or any part of the equipment created.

The warranty does not cover any issues that arise due to a failure to follow Our recommendations or any incorrect use, negligence or substandard maintenance by You or any sub-purchaser.

Our warranty does not cover defects or damage affecting the Products due to an extraneous accident or unusual storage and/or holding conditions on Your premises or the premises of a sub-purchaser.

The warranty does not cover the replacement or repair of a Product due to normal wear and tear, the abrasion or corrosion of a Product or force majeure.

Furthermore, the warranty does not cover any defect resulting from a Product being repaired or worked on by a third party, if You incorrectly assessed Your requirements or if changes are made to a Product.

If a Product is assembled by Us in accordance with a plan and/or instructions provided by You, We will not be liable for any defect due to an incorrect design issue. Accordingly, our warranty will not apply.

If You assemble and install Products purchased from Us, Our warranty will not cover any defect caused during the assembly and/or installation of the Product by You or should You fail to follow any instructions for assembly and use provided by Us.

Lastly, under this contractual warranty, which may be limited, at Our discretion, to the replacement or repair of Products under warranty that are recognised as faulty, We will not be liable for any other direct property damage or loss caused to You or Your clients/sub-purchasers, or for any consequences arising from the defects.

Accordingly, We will not be required under any circumstances to compensate any consequential or indirect loss such as an operating loss, loss of profit, loss of an opportunity, commercial loss, reputational damage or shortfall in earnings.

8.3. In order to assert Your rights under the above contractual warranty, You must inform Us by letter sent recorded delivery (signed for) of any defects within 72 hours of their discovery during the contractual warranty term, failing which You will not be entitled to take any action in that respect.

You must provide the relevant purchase invoice or warranty certificate as well as any and all supporting documents relating to the defects observed.

Once this information has been provided to Us within the said period of 72 hours, You must return to Us, at Your expense, the Product which You believe to be defective within 15 days of discovery of the defect.

We have sole authority to take or have a third party take notes and to carry out or have a third party carry out checks at our facilities.

Our warranty may be limited, at Our discretion, to the replacement or repair of Products under warranty that are recognised as faulty.

If a Product is replaced, an invoice for the new Product will be issued and cancelled out by a credit note once We have received the faulty Product and recognised it as faulty.

The warranty term will not be extended on account of any warranty work.

8.4. In any event, Our liability to third parties, all heads of damage combined with the exception of physical injury and gross negligence, is limited to the amount covered by Hydrokit's third-party liability insurance policy (certificate of liability insurance appended hereto as Appendix 5).

9. OUR INTELLECTUAL PROPERTY RIGHTS

We hereby stipulate, for all necessary purposes, that in Our capacity as proprietor, We hold the exclusive rights to the trade marks, distinguishing signs and other Intellectual Property Rights concerning Our Products (including but not limited to the relevant technical and commercial documents, plans, photographs, etc.).

As a result, You are not permitted to acquire, modify, exploit or register any industrial or intellectual property rights such as patents, designs, trade marks, trade names, references or other distinguishing signs relating to the Products licensed to or owned by Us, particularly those relating to the Products, the related technical or commercial documentation, names, trade marks, etc.

We will take any action of our choosing, in the civil or criminal courts, in the event of any exploitation, production, modification or, generally, any use in breach of Our rights, in order to put a stop to the relevant action and obtain compensation for the loss suffered.

You agree not to directly or indirectly register any of the patents, designs, trade marks, trade names, references or other distinguishing signs licensed to or owned by Us or any similar patents, designs, trade marks, trade names, references or other distinguishing signs, either within or outside the relevant territory, and not to include them, even partially, in Your name or in any of Your distinguishing signs or domain name.

You agree to promptly inform Us upon becoming aware of any breach of Our industrial or intellectual property rights in the territory. You agree to do Your utmost to assist and help Us protect our company against such acts of infringement.

10. FORCE MAJEURE

We reserve the right to suspend or rescind the whole or part of a sale as of right in the occurrence of a force majeure event or unforeseeable circumstances, including but not limited to a strike, a lock-out, bad weather or an insufficient quantity of Products on the market as a result of which sales of our Products may stop or decline.

We will inform You of any of the foregoing without delay. In such event, orders in progress will be postponed until the force majeure event has ended.

11. RETENTION OF TITLE CLAUSE

THE PRODUCTS WE SELL ARE SUBJECT TO A RETENTION OF TITLE: OWNERSHIP OF THE PRODUCTS WILL BE TRANSFERRED SUBJECT TO PAYMENT OF THE FULL PRICE BY YOU ON THE AGREED DATE.

We shall retain ownership of the Products sold to You until We have received payment of the full price thereof. The Products will be deemed paid for once the full price thereof, including all taxes, has been definitively credited to Our bank account. We may reclaim the Products in the absence of payment of any instalment on the due date. Nonetheless, You will be liable for any damage caused to or by the Products as soon as they have been delivered to You.

12. CONFIDENTIALITY

The parties mutually agree to abide by a general non-disclosure obligation relating to any and all information - verbal or written - in any format that is exchanged in connection with the preparation and performance of the contract, excluding information that is in the public domain and information that enters the public domain other than through a breach by, or on account of, Your actions or omissions.

You agree to take the necessary steps to ensure that this non-disclosure obligation is fulfilled both throughout the term of the contract and even after the contract has ended, and You agree to stand surety for all of Your employees in this respect. This obligation is an absolute obligation (obligation de résultat).

13. PERSONAL DATA - FRENCH DATA PROTECTION ACT

The parties authorise each other to collect, process and transfer the personal data concerning them or their Clients, particularly in order to perform this Contract.

This data may be forwarded to all contracting parties and entities within their group, for the purpose of their respective businesses.

In accordance with the Loi Informatique et Libertés (French Data Protection Act) of 6 January 1978, as amended, the parties are entitled to access, modify, rectify and delete their personal data.