



HYDRAULIC CONTROLS Pty Ltd

Australia's most trusted Fluid Power experts, for over **50** years

+61 (02) 9938 5400

customerservice@hydrauliccontrols.au

www.hydrauliccontrols.au

Hydraulic Controls Pty Ltd, 2 Grosvenor Place, Brookvale, NSW, 2100 Australia

ABN: 86 000 997 240

TERMS AND CONDITIONS OF CONTRACT

Hydraulic Controls Pty Ltd ACN 000 997 240 is referred to below as "the **Company**". The **Customer** is a person whose order has been accepted by the Company.

CONTRACT:

This document sets out the Company's terms of trading with a Customer (**Terms**). The Contract governing the relationship between the Company and a Customer (**Contract**) is made up of these Terms, an order from a Customer accepted by the Company (**Order**), together with any other document attached to or incorporated into that Order. No terms or conditions in addition to, different from or inconsistent with the Terms are binding on the parties unless agreed in writing by the parties.

ACCEPTANCE:

A Contract is made when the Company acknowledges in writing the Customer's Order. The Contract is subject to the Terms.

PRICE AND PAYMENT

Unless otherwise stated, all prices are quoted at ex work of the Company's premises and do not include freight, insurance or taxes. If variations should occur prior to delivery the price may be amended by the Company. The Company may at any time, in its discretion, increase the price for all or any part of the goods that are to be supplied under the Contract up to the time when delivered.

Unless otherwise agreed in writing, payment must be made by the Customer in full against pro forma invoice. In all other cases, payment must be made within 30 days of date of invoice. The Company reserves the right to withhold deliveries until all of a Customer's payments are up-to-date.

If any amount payable is not paid by the due date the Company may charge and recover interest at the rate of 1.5% per month or part thereof on the overdue amounts for the period between the due date until payment is made in full. Payment received from the Customer is valid once honoured or funds are cleared.

The Customer must indemnify the Company and keep it indemnified against any costs incurred by the Company

in connection with the Customer's failure to pay on the due date.

MINIMUM INVOICE CHARGE

Exclusive of G.S.T and freight., Invoices for product amounting to less than \$100.00 net will be invoiced at \$100.00.

ORDER CANCELLATION

Customer specific manufactured product or items specifically bought in for an order, cannot be cancelled or returned. On other products, a minimum restocking fee of 20% of product price will be charged for cancelled orders. Returned goods must be returned at customers cost and be unaltered, unused, undamaged and in a resalable condition.

RISK, TITLE AND CARRIAGE:

Risk in the goods passes to the Customer on the goods leaving the Company's premises. The Company reserves the right to arrange transport at the Customer's expense by post, road, rail or air at the Company's discretion unless carriage is arranged by the Customer and details are given to the Company in writing. Title to the goods will not pass to the Customer unless and until the Company has received payment in full for such goods.

Until title has passed, the Customer will hold possession of the goods for and on behalf of the Company as bailee in a fiduciary capacity for the Company and must return the goods to the Company on demand. The Customer shall separately store goods delivered by the Company until title in them has passed.

The Company is entitled to enter the premises of the Customer at any time to recover possession of those goods for which payment in full has not been made. The Customer must keep the goods insured against all risks for goods of that kind from the time the risk in the goods passes to the Customer.

SPECIAL MANUFACTURE:

Orders for goods specially manufactured for the Customer will only be accepted subject to the

Company's right to deliver and charge for up to 10% more or less than the quantity ordered. The Company will not accept any restriction of its right to manufacture, sell or offer to any other customers goods which may be manufactured specially for a specific Customer or customers.

Unless agreed to the contrary in writing, the Company owns all intellectual property in, or associated with, the goods provided to or for a Customer.

DELIVERY:

The Company, whilst making every effort to effect prompt delivery, will not be liable for loss or damage occasioned by delay in delivery, howsoever caused and any delivery dates quoted are given subject to this condition.

FORCE MAJEURE:

No liability of whatsoever type or nature shall attach to the Company if performance of the contract is prevented or hindered in any way by any cause whatsoever beyond the Company's power and control and in particular, but without prejudice to the generality of the foregoing by Act of God, War, Government Control, restriction or prohibition or any other Government act or omission whether local or national, fire, non-availability or shortage of materials, breakdown of machinery, interruption in essential supplies, subsidence, sabotage, strike or lock-out and the Company shall not be liable for any loss or damage resulting from any such circumstances.

GUARANTEE AND LIABILITY:

Any goods supplied by the Company which are found within 12 months after the goods leaving the Company's works to be defective in workmanship or materials will be replaced or repaired by the Company free of charge provided that the goods have not been subject to any misuse, repair by a third party or any other cause beyond the Company's control. The Company does not give any warranty or undertaking to parts or components manufactured and/or supplied by any third party, unless otherwise agreed. No compensation is payable by the Company in the event of a breach of any warranty or condition implied by statute or any other liability of the Company to the Customer in relation to or as a result of the supply of the Company's goods exceed the amount of the price payable by the Customer for such goods. Goods must be returned Freight Prepaid to the Company's factory at the Customer's risk.

The Company will not accept any liability, risk or responsibility for returned goods unless there has been prior written arrangement for its return by the Customer. Acceptance is at the Company's discretion and is subject to an inspection upon receipt by the Company.

To the extent that the Company is unable by law to exclude its liability, the Company's obligations under the Contract is limited, at the Company's option, to making good by repair or replacement any goods in which any defect appears. Any warranty claim by the Customer must be notified in writing by the Customer to the Company promptly upon its discovery.

The Company's liability is capped at 100% of the value of the Order. The Company is not liable to the Customer for any indirect, special or consequential loss or damages arising out of a breach by the Company of the Contract or the Company's negligent act or omission, or a breach of a statutory duty or obligation.

CATALOGUES, BROCHURES, DRAWINGS AND SPECIFICATIONS:

Every effort is made to ensure that information, whether oral or written about the Company's products or the use thereof is accurate, but no responsibility can be accepted by the Company for any loss arising from the misstatement of whatever nature.

SERVICE:

Any service or advice whether verbal or written which may be offered by the Company is rendered in all good faith, but the Company shall not be liable for any loss or damage arising there from.

VARIATION OF CONTRACT TERMS:

No officer, or servant, or agent of the Company has authority to vary these terms and conditions or to contract on any other terms except with the written consent of the Company.

LEGAL INTERPRETATION:

The contract is governed by the law applying from time to time in the State at New South Wales, Australia. Any dispute arising out of or in connection with it is to be determined in the first instance by arbitration in Sydney, Australia, by an independent arbitrator whose appointment is to be agreed upon by the Company and the Customer.