

## Hydrosphere UK Ltd

### Terms and Conditions of Sale

27<sup>th</sup> January 2022

#### 1. General

All orders are subject to these conditions of sale and the placing of an order by the buyer shall be considered as acceptance of these conditions. These conditions may not be modified or varied unless Hydrosphere UK Ltd (hereinafter referred to as 'the Company') agrees in writing and the Company shall not be deemed to accept such other conditions nor waive any of these conditions by failing to object to provisions contained in any purchase order or other communication from the buyer. No Person has authority on behalf of the Company to vary any condition except a Director or the Company Secretary, and then only in writing signed by a Director or the Secretary.

#### 2. Validity of Quotation

The company reserves the right to refuse the buyer's acceptance of a quotation unless such a quotation is stated to be open for a specific period and is not withdrawn in such periods.

No binding contract shall be created by the acceptance by the buyer of the Company's quotation until such notice of acceptance of the order has been given in writing which shall have been signed by the Company's duly authorised representative or the Company has indicated its acceptance of the offer by making delivery or part delivery of the goods. In the event that no quotation is given by the Company and it has received an order from the buyer, all deliveries are made subject to these conditions of sale.

#### 3. New Accounts

Prospective customers wishing to open a credit account are requested to furnish two trade references and one Banker's reference. Until the opening of a credit account has been confirmed, a remittance should accompany the order, otherwise, delivery will not be made until after the references have proved acceptable.

#### 4. Settlement Terms

(a) All accounts are payable within 30 days of invoice date. The Company, at its discretion, reserves the right to charge interest on accounts outstanding beyond the time specified in this condition. The rate of interest shall be 2% per calendar month. The Company can exercise this right in addition to any other rights it may have in respect of the goods or non-payment.

(b) Where the contract is to be or may be fulfilled in separate instalments, deliveries or parts, payment for each such instalment, delivery or part, shall be made as if the same constituted a separate contract.

#### 5. Prices

Unless otherwise agreed in writing all orders are executed subject to prices and any relevant discounts ruling at the date of despatch and any price list of the Company whether published or not shall not affect the right of the Company to charge for goods in accordance with this clause.

#### 6. Credit

Any contract shall be subject to the Company being satisfied as to the buyer's credit worthiness and without prejudice to the generality of the foregoing the Company may, in its absolute discretion, accept a contract if the buyer tenders the purchase money to the Company in a form satisfactory to the Company, prior to shipment of goods.

#### 7. Orders

Orders sent in confirmation of telephone instructions should be clearly marked as such, otherwise any additional expenses incurred by the Company as a result of duplication of orders will be charged to the buyer.

Orders placed by credit account customers are only accepted in writing.

No Order which has been accepted by the Company may be cancelled by the Buyer, except with the agreement in writing of the Company and on terms that the Buyer shall indemnify the Company in full, against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

## **8. Delivery**

Delivery dates are promises given in good faith by the Company to indicate estimated delivery times but shall not amount to any contractual obligation to deliver at the time stated. No liability for direct or consequential loss or damage arising from delay in delivery will be accepted by the Company.

## **9. Title of Goods**

The Company and the buyer expressly agree that until the Company has been paid in full for goods supplied:

The goods remain the property of the Company although the risk therein passes to the buyer at the point when delivery is made.

The Company may recover those goods at any time from the buyer if the Company judges that the amount outstanding from the buyer on the general statement of account between the parties is in excess of the credit limit the Company is willing to accord to the buyer: and for that purpose the Company, a servant and agents may enter upon any land or building upon which the goods are situated.

If the buyer incorporates such goods into other products, with the addition of his goods or those of others, or uses such goods as materials for other products, with or without such addition, the property in those other products is upon such incorporation or use ipso facto transferred to the Company and the buyer as bailee of them for the Company will store the same for the Company in a proper manner without charge to the Company.

The buyer has the right to dispose of the goods or such other product in the course of his business for the account of the Company and to pass good title to the goods or products to his customer being a bona fide purchaser for value without notice of the Company's rights.

In the event of such disposal the buyer has the fiduciary duty to the Company to account to the Company for the proceeds but may retain there from an excess of such proceeds over the amount outstanding and due to the Company, and the Company has the additional right to recover the buyer's price from the buyer's customer to the extent unpaid; if the Company avails itself of this right, it will account to the buyer for any excess less any expenses incurred by effect by effecting recovery.

## **10. Carriage**

The delivery terms of all contracts are ex-works from the Company's factory. Where the Company arranges the transport of any order the cost of carriage will be charged.

## **11. Damage in Transit and Shortages**

The company will, when the price quoted includes delivery, repair or replace free of charge goods damaged in transit provided that the carriers and the Company receive written notification of such damage within three days of delivery. Goods received in a damaged or unsatisfactory condition must be signed for as such.

## **12. Returns**

Goods correctly supplied may not be returned without the Company's written agreement. Goods so returned must be consigned carriage paid' and accompanied by a packing note stating the Company's invoice number and date thereof together with the reason for return. Any article which has been supplied to special requirements cannot be accepted for credit under any circumstances, and in other instances, a re-stocking fee of 20%, of the invoiced value, will be charged.

## **13. Warranty**

The Company's warranty provides free replacement cover for all defects in parts and workmanship for a period of twelve months from the date of purchase. The Company's obligation in this respect is limited to replacing parts which have been promptly reported to the purchaser as having been in his opinion defective and are so found by the Company upon inspection.

Defective parts must be returned 'carriage paid' to Hydrosphere UK Ltd, The Old Grain Store, West End Farm, Upper Froyle, Hampshire GU34 4JR United Kingdom.

This warranty is void in the event of improper installation owner neglect or natural disasters. No responsibility is assumed for incidental or consequential damage. No responsibility is assumed for damage caused by the use of any unauthorised components, miss-use, natural disasters, lightning, gale or stronger force winds.

#### 14. Descriptive Matter and Illustrations

All descriptive and forwarding specifications drawings and particulars of weights and dimensions issued by the Company are approximate only and are intended only to present a general idea of the goods to which they refer and shall not form part of the contract.

#### 15. Limits of Contract

Any quotation includes only such goods, accessories and work as are specified therein.

#### 16. Subscription Services

**Disclaimer of Warranties.** You expressly agree that use of the service, equipment and software is at your sole risk. Neither the Company nor any of its contractors, satellite or other information, communication or content Providers, licensors, subsidiaries, affiliates, shareholders, directors, officers, employees or agents (collectively Referred to hereafter as the 'disclaiming parties') warrant that the service will be uninterrupted or error free, or that Your network or applications will be compatible with the service; nor does the Company or the disclaiming parties make any warranty as to the results to be obtained from use of the service, including any minimum upload or download speeds. The service, equipment and software is provided on an "as is" and "as available" basis without warranties of any kind, either express or implied, including but not limited to warranties of title or implied warranties of merchantability or fitness for a particular purpose or otherwise, except for (a) the limited warranty that applies to the equipment and (b) those implied warranties, if any, which are incapable of exclusion, restriction or modification under the laws applicable to this agreement. No oral or written information or advice given by the Company or any of the disclaiming parties shall create any warranty in or to the service, equipment, software or content, and you may not rely on any such information. You acknowledge that the content available on the service is originated by independent publishers and/or providers and the Company and the disclaiming parties (a) cannot and do not warrant the accuracy of such and (b) shall not be liable in any manner whatsoever for the nature of such content or any errors, omissions or inaccuracies relating thereto.

**16.1 Your Sole and Exclusive Remedy.** Your sole and exclusive remedy in the event of any material breach of this agreement by the Company, or for any other matter arising from or relating to this agreement, the services, equipment, software or the internet generally, shall be to discontinue use of the service and terminate this agreement in accordance with these terms.

**16.2 LIMITATION OF LIABILITY.** Under no circumstances shall the Company or any of the disclaiming parties be liable to you or any other person for any indirect, incidental, consequential, special or punitive damages (including, but not limited to, lost revenue, lost profits, replacement goods, cost of replacement goods, loss of technology, rights or services, loss of information, or interruption or loss of use of service or equipment) for any matter arising from or relating to this agreement, the services, equipment, software or the internet generally, including, without limitation, (a) subscriber's use or inability to use the service, (b) any changes to or inaccessibility of the service, (c) delay, failure, unauthorized access to or alteration of any transmission or data, (d) any material or data sent or received or not sent or received, (e) any transaction or agreement entered into through the service, or (f) any data or material from a third person accessed on or through the service, whether such liability is asserted on the basis of contract, tort or otherwise, and even if the Company is advised of the possibility of such damages, or even if your sole and exclusive remedy is held invalid or void for failing of its essential purpose or otherwise. In no event shall the liability of the Company and its disclaiming parties for direct damages, should your sole and exclusive remedy be held invalid or void for failing of its essential purpose or otherwise, exceed the total fees actually paid by you to the Company hereunder. Some states may prohibit the exclusion or limitation of incidental or consequential damages, thus the limitation of liability may not apply to you in full.

**16.3 Force Majeure.** The Company shall not be liable for and will not be responsible to you for any delay or failure to perform under this Agreement if such delay or failure is due, in whole or in part, to any cause, reason, action or inaction beyond the reasonable control of the Company.

**16.4 INDEMNITY** You agree to indemnify, hold harmless and defend the Company and the Disclaiming Parties from and against all claims, liability, damages, costs and expenses, including but not limited to reasonable attorneys fees, asserted by any person or entity, arising out of or related to any and all use of your Account, and any breach by you, or by anyone using your Account, of any provision in this Agreement. The Company reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you hereunder, and in such event, you shall have no further obligation to defend or pay the attorneys fees for defending such matter, but shall otherwise remain responsible for indemnification.

### **17. Patents**

In the event of any claim being made or action being brought against the buyer in respect of infringement of British Patents by the use or sale of goods supplied by the Company, the buyer shall notify the Company immediately and the Company shall be at liberty with the buyer's assistance if required, but at the Company's expense, to conduct through the Company's own lawyers and experts all negotiations for the settlement of the same or any litigation that may arise there from: subject to such notifications and provided that no goods or any part thereof, shall be used for any purpose other than that for which the Company supplied them, the Company will indemnify the buyer in respect of any such claims.

### **18. Bankruptcy**

In the event of the buyer committing any breach of contract with the Company or if any distress or execution is levied upon the goods of the buyer or if he offers to make any arrangement with or for the benefit of his creditors or commits any act of bankruptcy or, being a Limited Company, has a receiver appointed of its undertaking or assets or any part thereof or, for the purposes of reconstruction or amalgamation without insolvency, goes into liquidation, the Company shall there upon be entitled without prejudice to its other rights forthwith to suspend all further deliveries until the fault has been made good or to determine the contract or any unfulfilled part thereof, or at the Company's option to make partial deliveries.

### **19. Copyright**

All drawings, descriptions and other information submitted by the Company shall remain the property of the Company together with the copyright therein.

### **20. Value Added Tax**

Where chargeable, Value Added Tax will be charged at the rate applicable at the date of despatch.

### **21. Legal Construction**

Unless otherwise agreed by the Company in writing, these conditions shall in all respects be constructed and operate as an English contract, in conformity with English Law.

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