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## TERMS AND CONDITIONS OF SALE - 1/3

### 1. Definitions

- 1.1 "Contract" means the contract for the sale and purchase of the goods.
- 1.2 "Delivery" means when goods arrive with You.
- 1.3 "Dispatch" means when goods leave Us.
- 1.4 "In writing" means communication by letter, fax or email providing that it is in conformance with these Terms.
- 1.5 "Order Confirmation" means a written confirmation of Acceptance of Your order by Us sent to You by email, fax or letter.
- 1.6 "Parties" means You and Us.
- 1.7 "Quotation" means a formal written quotation describing the specification of the goods to be supplied by Us
- 1.8 "Terms" are these Terms and Conditions of sale
- 1.9 "Us" or "Our" or "We" are Hydrajaws Limited trading as "Hydrajaws Limited" or "Hydrajaws", a company registered in England number 2230733. Our registered office is 20/21 The Courtyard, Gorse Lane, Coleshill, Birmingham, B46 1JA, United Kingdom. Our switchboard telephone number is +44/0 1675 430 370 and our contact email is tester@hydrajaws.co.uk.
- 1.10 "You" or "your" is you, the customer, the purchaser of our goods and services contracting with Us.

### 2. General Terms & Conditions

2.1 Please read these Terms carefully as these Terms tell You the rights and obligations You have and shall govern the Contract between the Parties to the entire exclusion of any other express or implied conditions including any terms or conditions which You may purport to apply under any purchase order, confirmation of order or similar document. Acceptance by Us of any order is Conditional on You accepting that the contract will be governed solely by these Terms. In particular, it is agreed that any Purchase Order or similar document from You relating to Our quotation is intended to accept these Terms and the Quotation, but is otherwise for Your own administrative purposes only.

2.2 These Terms and the Quotation embody the entire understanding of the Parties and supersede any prior promises representations, undertakings and understandings between the Parties and may only be modified by a variation in writing signed on behalf of Us by one of Our Company Directors and no other action on the part of Us (whether delivery of the goods or otherwise) shall be construed as an acceptance of any other condition.

2.4 You may have other rights granted by law including statutory rights and these Terms do not affect these.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, order confirmation or other document or information issued by Us shall be subject to correction without any liability on the part of Us.

2.6 Communication by telephone, verbal instruction, fax or email is legally binding providing that it is in conformance with these Terms.

2.7 The opening or receipt of any documentation by You referring to our Terms and Conditions indicates an acceptance of and agreement to them unless otherwise expressly rejected or disputed by You and with direct reference to the offending clause or term.

### 3. Secrets and Intellectual Property Rights

3.2 Intellectual Property Rights in any documents, correspondence, software or goods originating from Us are and remain Our property.

### 4. Your Obligations

4.1 You warrant that:

4.1.1 You are solely responsible for satisfying Yourself as to the

suitability of the goods for any particular purpose and You rely solely on Your own skill and judgment and not Our skill and judgment in determining such suitability.

4.1.2 The individual who is placing the order on behalf of You is authorised by Your company to do so.

4.1.3 All Customer Material instruction or advice submitted by You or by any third party on behalf of You in relation to the goods at any time is accurate and suitable for use;

4.1.4 You, Your employees and any third party You do business with, have not and will not offer, promise, give or accept any bribes, gifts, hospitality or expenses to any party (including foreign officials, private businesses and public bodies) that could influence the outcome of any business transaction with Us as we have a zero tolerance policy to bribery in accordance with UK legislation.

4.2 You shall indemnify Us against any loss, costs (including legal fees and VAT thereon), damages, claims, charges and expenses incurred by Us as a result of:

4.2.1 any breach by You of the warranties set out in these Terms;

4.2.2 the inaccuracy of the Customer Material, instructions or advice;

4.2.3 failure to supply the same within a sufficient time to enable Us to perform the contract to produce the goods in accordance with its terms;

4.2.4 any claim by a third party against Us for an infringement of any intellectual property rights of any other person or organisation which results from the Our use of Your specification or the Customer Material.

Customers are responsible to advise us of all claims for shortage, damaged goods or non-delivery and must be made in writing within 14 days of the date of the relevant Invoice.

### 5. Liability For Defective Goods

The liability of Hydrajaws Ltd in respect of any sale is restricted to an obligation to repair or replace equipment becoming faulty within a reasonable period. Unauthorised stripping or use of incorrect Hydraulic oil renders the warranty void. No responsibility is accepted for any consequential loss suffered, or delay in either origin delivery or subsequent rectification.

Every effort will be made to deliver goods on time, but any delivery date stated is an estimate only and Hydrajaws Ltd shall have no liability for any loss or damage caused by delay in delivery.

### 6. Prices & payment

- 6.1 a) Payment in advance unless Credit facilities have been previously arranged and agreed (30 days from date of invoice).  
b) Price applicable is that ruling at date of dispatch and the right is reserved to amend these without notice if necessary.  
c) All prices are in Sterling.  
d) Customers outside the UK are required to pay in Sterling, Euro or Dollar as shown on our invoice by an approved method i.e. - direct to our Bank account, details of which will be shown on our Invoice.

6.2 All late payment interest payable by the Customer pursuant to this Clause 6 shall accrue on a daily basis and the Customer shall pay such interest to the Company together with the overdue sum to which it relates.

6.3 Prices shown do not include Value Added Tax, which will be shown on the Invoices as a separate charge at the rate specified by Government Regulations at the tax point date.

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6.4 Additional costs due because orders exported from the United Kingdom are subject to import duty or license in Your own country or the country of delivery are Your responsibility.

6.5 Delivery charges are deemed to be acceptable by the action of You placing an order.

## 7. Ordering

7.1 Any quotation or estimate given by Us is given subject to these Terms and does not constitute an offer to supply You and merely serves as an invitation for You to place an order.

7.2 Quotations and specifications for the goods are provided by Us in good faith based on the information provided by You to Us.

7.3 No order submitted by You shall be deemed to be accepted by Us until We accept Your order by communicating to You an order confirmation accepting your order ("Order Confirmation") or We commence the manufacture of Your goods or We place an order with any of our suppliers for materials or tooling specifically related to Your order, whatever is the earlier. For the avoidance of doubt the commencement of preparatory work by Us shall not be construed as the Contract being made or an order being accepted.

7.4 Subject to any specification issued by You and referred to in the Order Confirmation or Quotation and accepted by Us, We shall be entitled to exercise control as to the method of the performance of the Services or production or supply of the goods We may at our sole and absolute discretion refuse to use or reproduce any Customer Material which We deem to be offensive, inappropriate, libellous or consider may infringe the intellectual property rights or other rights of a third party.

7.5 If You discover You have made a mistake with Your order You must inform Us immediately. No order which has been accepted by Us may be cancelled or varied in any way by You except with the agreement in writing of Us and on terms that You shall indemnify Us 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 Us as a result of cancellation or variation.

## 8. Payment

8.1 You must not make payment in cash or in any other way to a delivery driver or any other third party outside the normal banking system who is not one of Our Employees and You accept that We will not accept that any such payments discharge Your liabilities to pay Us in this manner.

8.2 Where any sum owed by You to Us under this or any other contract is overdue or a winding-up petition is issued against You or being a person commits an act of bankruptcy or has a bankruptcy petition issued against him or if at any time Your credit standing has in Our opinion been impaired for any other reason :

8.3 We may suspend any work and/or withhold any deliveries of goods due to be made under this Contract until arrangements as to payment or credit have been established which are satisfactory to Us.

8.4 We without prejudice to other remedies shall in respect of all unpaid debts due from You have a general lien on all goods and property in Our possession (whether worked upon or not) and shall be entitled on the expiration of fourteen days notice to You to dispose of such goods or property in such manner and at such price as We think fit and to apply the proceeds towards such debts.

8.5 You will indemnify Us against all loss, damage, costs and expenses (including legal expenses on the indemnity basis) incurred by us in connection with Your non payment of any sum due.

## 9. Carriage & packing

9.1 Terms are Ex-Works (EXW). Carriage, packing and Insurance are chargeable to destinations in the UK in addition to the list price shown. Overseas consignments as advised, shipping do not include local Taxes and Duties. Normal method of dispatch is by post/carrier for UK. Dispatch by other methods will be subject to an extra charge. Use of Your carrier will be taken at Your own risk.

9.2 Without prejudice to the generality of the foregoing, the delivery date for the goods may be varied with the consent of both You and Us.

9.3 You acknowledge that it is Your responsibility to check all deliveries before signing for them, and that We are entitled to treat Your signature (or that of your agent) as conclusive proof that all such goods as are signed for have been delivered.

9.4 You shall be deemed to have accepted the goods upon delivery.

9.5 We will not be responsible for the delivery of goods to a requested third-party address.

9.6 Hydrajaws Limited will only be responsible for a maximum amount of £500 in any claim for loss or damage to UK customers equipment being returned after service and repair. The age and general condition of the equipment being the subject of any claim is at Hydrajaws discretion and is non-negotiable.

## 10. Title of goods

10.1 \*The title of all goods sold remains with Hydrajaws Ltd, until payment has been received in full, but once delivered goods are at buyer's risk. (Please see Retention of Title details\*).

10.2 Property and title to the Goods will not pass to Purchaser until such time as payment is made in full to Seller of all sums and debts due in respect of the Goods supplied under the Contract but also all other sums for the time being howsoever due or to become due by Purchaser to Seller.

10.3 Payment of the full price of the goods shall include the amount of any interest or other sum payable under the terms of this agreement and all other contracts between Us and You under which the goods were delivered.

## 11. Termination and Consequences

11.1 Either party may end a contract by immediate Written Notice if the other is in serious breach of contract and has failed to rectify the breach within 30 days of receiving Written Notice from the other party to do so.

11.2 Upon termination for whatever reason, You shall pay Us for all services provided and goods manufactured for You on a quantum meruit basis.

11.3 Goods are not accepted back for credit if they have been correctly dispatched against a firm order. Any goods taken back by prior agreement will be subject to a 15% handling and re-warehousing charge. All returns must be carriage paid.

## 12. Force Majeure

12.1 We shall not be liable to You or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Our obligations in relation to the goods and/or Services, if the delay or failure was due to any cause beyond Our reasonable control. Without limiting the foregoing, the following shall be regarded as causes beyond Our reasonable control: an Act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; import or export regulations or embargoes; strikes, lock outs or other industrial actions or trade disputes (whether involving Our employees or of a third party); difficulties in obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery or a failure of Our suppliers or sub-contractors.

## 13. Law

13.1 The construction, validity, meaning and effect of any contract between You and Us shall be governed by the laws of England

13.2 The headings of these Terms are inserted for convenience of reference only and are not intended to be part of or to affect their meaning or interpretation.

13.3 We shall be entitled to assign or sub-contract to any third party its rights and/or obligations (as the case may be) arising from any Contract. You may not assign Your rights under the Contract except with Our prior written consent. The Contracts (Rights of Third Parties) Act 1999 shall not apply in relation to the Contract.

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13.4 A Written Notice required or permitted to be given by either party to the other under these Terms shall be in writing and sent by Royal Mail Special Delivery or other similar recorded delivery service addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and shall be deemed to be served 2 days following the date of posting.

13.5 No waiver by Us of any breach of the Contract by You shall be considered as a waiver of any subsequent breach of the same or any other provision. The rights and remedies provided by this Agreement are cumulative and (subject as otherwise provided in these Terms) are not exclusive of any rights or remedies provided by law.

13.6 If any provision of these Terms is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of all the other provisions of the Contract and the remainder of the provision in question shall not be affected.

## 14. Hydrajaws Bluetooth Digital Terms and Conditions

14.1 Digital Bluetooth Gauges are subject to an annual utilisation fee after initial year. The annual fee includes Firmware application renewal and Software upgrades.

*Note: While the general operation of the gauge is unaffected, the software application will stop working 12 months after the previous utilisation date. A reminder will appear when the gauge is connected to a mobile device after 11 months. Therefore, it will have to be renewed to function.*

14.2 It is strongly recommended that a physical calibration check is performed by Hydrajaws on the gauge every twelve months. By having this calibration the important accuracy of the gauge remains valid and a certificate of calibration is issued.

The detachable gauge can be sent on its own to be calibrated if wished, but returning the whole tester will give a calibration engineer the opportunity to inspect the machine.

14.3 The process will provide Hydrajaws with the opportunity to upgrade the gauge firmware to ensure that the gauge will be able to benefit completely from future software upgrades. The gauge is reactivated for a further 12 months, the gauge accuracy is confirmed and a new calibration certificate is issued.

In the meantime the mobile app is constantly being updated and improved and is generally automatically updated via the mobile device via the Google Play Store and Apple App Store.

14.4 Additional Costs. Please return the gauge only. Receiving the complete tester kit back with the gauge gives the calibration engineer the opportunity to check for any issues with the tester to be identified and rectified but may incur additional charges for parts and labour and the increased cost of collection and return carriage of an entire tester unit which are not covered by the 'Annual Fee'. To avoid these potential additional costs, please return the detached gauge ONLY. The gauge (only) is returned to our head office in the UK and worked on as a priority.

14.5 Mobile device requirements:

### Android Devices

System: Android 4.4 OS onwards compatible mobile device with GPS. Bluetooth: Low Energy, Smart or Bluetooth 4.0+. For installation of software a USB connection, a data enabled SIM with email function or a connection to the Google Play Store is required. For emailing reports, a data enabled SIM with email function is required.

### Apple Devices

Any Apple ipod, iphone or ipad with operating system of iOS 7 onwards.

Bluetooth: Low Energy, Smart or Bluetooth 4.0+, GPS and access to the Apple app store.

For emailing reports, a data enabled SIM with email function is required.

Please note: When you make a purchase of the Hydrajaws Bluetooth Digital you agree to accept these Terms and Conditions.

These terms & conditions are subject to change, the latest up-to-date version can be found on the Hydrajaws website.

### \*Retention of title clause

1) Risk of damage to or loss of the goods shall pass to the buyer:

a) In the case of goods to be delivered at the seller's premises, at the time when the Seller notifies the buyer that the goods are available for collection; or

b) In the case of goods to be delivered otherwise than at the Sellers premises, at the actual delivery or, if the buyer wrongfully fails to accept delivery of the goods, the time when the Seller has tendered delivery of the goods.

2) Notwithstanding delivery and the passing of risk in the goods, or any other provision of these Conditions, the property in the goods shall not pass to the buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Seller to the Buyer for which payment is then due.

3) Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Sellers 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 Sellers property. Until that time the Buyer shall be entitled to resell the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds of sale or otherwise of the Goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured.

4) Until such time as the property in the Goods passes to the Buyer and provided that the Goods are still in existence and have not been resold the Seller shall be entitled at any time 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 of any third party where the Goods are stored and repossess the Goods.

5) The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all monies owing by the Buyer to the Seller shall (without prejudice to an right or remedy of the Seller) forthwith become due and payable.

## 15. Data Protection

15.1 Hydrajaws Limited proposes to take all precautions necessary to protect all business and personal data received.

For full details please see our Data Protection Document.