

Hydraulic know-how - The reliable solution...

General Conditions for Sales and Delivery - Hytek A/S

- Preamble/Scope.** The following conditions shall apply to all quotations, orders and supplies as long as these are not deviated from in any other written agreement between both parties. The conditions also apply to Erection, Service and Repair Works mentioned in clause 9.
- Quotations.** Unless otherwise stated, quotations submitted by Hytek A/S are valid for a period of 60 days from the date of issue. See order confirmation in clause 3. For orders placed after expiration of the time limit, Hytek A/S reserves the right to alter the offer. All prices are excl. of value added taxes or any other duties, installation and packing, unless otherwise stated in the quotation. Hytek A/S has the ownership of drawings and proposals, and these must not be copied or handed over to third party without the consent of Hytek A/S.
No agent or distributor is authorized to make alterations or additions to Hytek A/S' offer, and Hytek A/S shall undertake no responsibility whatsoever for such changes, unless Hytek A/S has consented in writing.
- Orders.** Any order shall be confirmed in writing by Hytek A/S, in order that an agreement on supplies can be considered as binding. The order will be supplied at a confirmed price subject to price increases resulting from changes in trade conditions, duties, rates of exchange, raw material supplies, and similar conditions beyond Hytek A/S' control. Cancellation of orders will only be accepted as per agreement and against payment of Hytek A/S' loss incurred. Illustrations, dimension sketches, as well as the contents of leaflets, catalogues, circular letters, etc. are approximate and with no binding effect. When executing the order Hytek A/S reserves the right to make any changes which are deemed necessary from a technical point of view. The order will be produced and delivered according to Danish standards and regulations, unless otherwise agreed upon and explicitly mentioned in the order confirmation.
No agent or distributor is authorized to make additions or alterations to any confirmation or contract, and Hytek A/S shall undertake no responsibility whatsoever, unless Hytek A/S has consented in writing.
- Delivery Conditions.** Unless otherwise specified in writing, the goods are sold "Ex Works" of Incoterms 2000. The delivery time is counted from the date of Hytek A/S' written confirmation, on the condition that all technical details and formalities for the execution of the order are available at that date. If confirmed, irrevocable Letter of Credit (L/C) is agreed upon, this must be available. If not, the delivery time is counted from the date when all details are available. If the buyer omits to receive the supplies on the date agreed upon, he is nevertheless obligated to effect any payment conditioned by the delivery as if the delivery had taken place. Furthermore Hytek A/S can cancel the agreement and claim damages for the loss inflicted on Hytek A/S by the failure of the buyer. If delay in delivery is due to war, strike, lockout, and other force majeure or political conditions, or lack of sub-supplies, raw materials and supplies beyond Hytek A/S' control, or to the buyer's action or failure, the delivery time is extended accordingly. In these cases Hytek A/S is not liable for damages to the buyer. If the buyer should not observe the conditions stipulated for payment of the purchase amount, Hytek A/S shall be under no obligation to deliver. No claims will be accepted at delays in delivery, and the buyer is not entitled to cancel the agreement for this reason. The goods will be packed according to Hytek A/S' judgement, and expenses will be charged to the buyer, unless packing has been explicitly incorporated into the quotation. Shipment is always carried out on the account and risk of the buyer, even in case of carriage paid, and the buyer must therefore arrange for the necessary insurance unless otherwise agreed.
- Payment.** Payment is to be secured by a banker's guarantee or an irrevocable Letter of Credit, confirmed by a Danish bank, at Hytek A/S' choice, if no other written agreement exists. The terms of payment are 14 days net from delivery. The buyer shall not be entitled to withhold payment because of any counterclaims, unless accepted by Hytek A/S. If payment should be effected later than the stipulated settling date, interest shall be paid on overdue payments at the rate of 1,5 per cent a month added from the beginning of every new month.
In case prepayment has been agreed upon, punctual payment will be a condition for initiation and finalization of the job within the agreed time of delivery. Any payment should be effected directly to Hytek A/S, Virkelystvej 6, DK-9870 Sindal, Denmark.
- Ownership.** The ownership of the delivered goods remains with Hytek A/S, as long as the goods have not been paid for or the agreement has not been fulfilled. The buyer is under obligation to keep the goods insured at the total new value from the date of delivery until full payment has been made.
- Liabilities for Defects.** Hytek A/S undertakes to remedy any defect in or failure of the goods supplied within a period of 12 consecutive months from the date of delivery, provided normal use. This liability of Hytek A/S shall be accepted and acknowledged by the buyer. The right to remedy comprises remedy of faults which are due to construction, manufacturing or materials. This liability does not apply to defects caused by the omission of the buyer to maintain and use the goods in full accordance with given instructions, or if remedy is carried out by other than the workshops approved by Hytek A/S, or incorrect or inappropriate use of the goods or modifications or technical changes without the prior written consent of Hytek A/S, or extraordinary conditions, or if unoriginal spare parts have been used. The same applies to damage to products supplied by the buyer or a construction ordered by the buyer. If the buyer wants to complain about any defects, the complaint is to be made in writing immediately when the defect has been discovered or should have been discovered. Parts subject to wear and tear, are not covered by this guarantee. Defect parts that are replaced are to be placed at Hytek A/S' disposal. Unless stipulated otherwise, demounting, all transport and mounting of defective, repaired, and replaced equipment shall be for the buyer's account and risk, and any damage in connection with replacement of product is not covered either. The right to remedy for the supply is annulled by change of owner. Parts of the supply which have not been manufactured by Hytek A/S will only be compensated for to the same extent as Hytek A/S is compensated by sub-supplier.
- Liability for Damage Caused by the Goods (Product Liability)**
Hytek A/S shall only be liable for personal injury caused by a product made by Hytek A/S if it has been proved that such injury was caused by fault or negligence by Hytek A/S or others, for which Hytek A/S is responsible and provided that the product was not in optimum condition upon delivery. Hytek A/S is, however, not responsible for damage to real property or movables which has taken place while the supply is in the buyer's possession, or damage to products manufactured by the buyer or products in which these are included. The same applies to damage in connection with any of the events mentioned in clause 4. Hytek A/S is not responsible for trading loss, loss of time, lost profits, lost wages, or any other indirect loss. Hytek A/S accepts no liability for damage later than 6 months from the damage has occurred or for damage caused by goods later than 5 years from the date of delivery. As far as product liability to third party will be imposed on Hytek A/S, the buyer is under an obligation to indemnify Hytek A/S to the same extent as [FIRMA] liability is limited by the above clause.
- Erection, Service and Repair Works.** All supplies are excl. of erection unless otherwise agreed upon. Erection can be arranged by [FIRMA]'s fitters in accordance with the conditions for erection. The positioning and installation of [FIRMA]'s equipment is the responsibility of the buyer, and buyer is responsible for approvals. All expenses to cover building works, including changes and reinforcements that will prove necessary before, under and after installation, must be covered by buyer. Prices stated for service and repair works are calculated to the best of Hytek A/S judgement on the basis of available information and shall be considered as rough estimates unless otherwise specified in writing. The main prerequisite for the performance of a correct and punctual job by Hytek A/S is that the purchaser ensures free and unobstructed access to the site. As regards service and repair works Hytek A/S's liability comprises solely those spare parts provided by Hytek A/S and repair and modifications carried out by Hytek A/S.
- Special Conditions.** Where the above is not applicable, and where erection of plant is included, Hytek A/S refers to "ECE 188A" with Addendum.
In the event of discrepancy between "ECE 188A" with Addendum and these "Conditions for Sales and Delivery", the latter shall take precedence.
- ICC Arbitration Clause.** All disputes arising in connection with the contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitration shall take place at 'Copenhagen Arbitration', Denmark. The law, CISG, shall be applicable for the settlement of all disputes.