



Hydrasun Limited – Standard Terms and Conditions for the Sale of Goods and Services, the provision of Training Courses & Consultancy Services and the provision of Rental Equipment to Customers

Multiple Solutions – One Company





1. INTERPRETATION

1.1 In these Conditions

"Affiliates"	means a subsidiary or holding company of any company or any other subsidiary of such a holding company (the terms "subsidiary" and "holding company" having the meanings assigned under Section 1159, Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee);
"ABC Programme"	means an anti-bribery and corruption policy and any related procedures as amended, varied or supplemented from time to time, which (without limitation) may include policies, procedures, and controls relating to recording of financial transactions; anti-bribery and corruption risk assessment and mitigation; training of personnel; whistle blowing facilities; due diligence on third party engagements/contracts; gifts and hospitality, promotional expenditures, sponsorship and charitable donations; and promoting and monitoring compliance;
"Applicable Anti-Bribery Laws"	means any laws, regulations and other legally binding measures relating to bribery, corruption or similar activities of (i) the United Kingdom, including without limitation the Bribery Act 2010; (ii) the United States of America including, to the extent applicable to either Party, the Foreign Corrupt Practices Act 1977; and (iii) any country or countries in which any of the obligations of The Order are to be or are performed;
"Authorised Representatives"	means the authorised representatives of each of the Customer and Hydrasun;
"Claim"	means claims, liens, judgments, penalties, awards, remedies, debts, liabilities, damages, demands, costs, losses, expenses (including without limitation legal costs and expenses) or causes of action, of any nature whatsoever;
"Client"	means a company which has entered into a contract with the Customer for performance of Work and Services, the supply of Goods and / or the supply of Rental Equipment is to be used and which is relevant to the Order;
"Conditions"	means the terms and conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Customer and Hydrasun;
"Consequential Loss"	means (a) consequential or indirect loss under Scots law; and (b) loss and/or deferral or production, loss of product, loss of use, loss of revenue, profit or anticipated profit (if any), in each case whether direct or indirect to the extent that these are not included in (a), and whether or not foreseeable at the date of the Order;
"Contact Data"	means personal data relating to each Party's Authorised Representatives which is processed by the parties for the purposes



	set out in Clause 31.4, such as email addresses, names and phone numbers;
"Contaminant"	means any substance which could cause harm to human health or the natural environment and " Contaminated " and shall be construed accordingly;
"Course Joining Instructions"	means the instructions provided by Hydrasun to the Customer in relation to the provision of any Training Courses;
"Co-Venturers"	means any co-venturer who is party to a joint operating agreement, unitisation agreement or similar agreement with the Customer or the Customer's customer (of any tier) in connection with which the Work is being performed under the Order, together with the successors in interest of such co-venturer and the assignees of any interest of such co-venturer;
"Customer"	means the person who accepts a Quotation or whose Order is accepted by Hydrasun;
"Customer Group"	means the Customer, its customers of any tier (where the Work being performed under the Order relates to such customers), its and their Co-Venturers, its and their third party contractors of any tier, its and their respective Affiliates and its and their officers, employees and personnel (including agency personnel), but shall not include any member of the Hydrasun Group;
"Document"	includes, in addition to a document in Writing, any plan, design drawing, data or other image or any other record of any information in any form;
"Electronic Document Interchange System"	means the electronic document interchange arrangements and protocols agreed, established and currently in force between Hydrasun and the Customer;
"Free Issue Materials"	means any materials provided by or on the Customer's behalf at no cost to Hydrasun, which is to be used in connection with the performance of the Services or incorporated into the Goods;
"GDPR Regulations"	means any applicable law relating to the processing, privacy, and use of personal data, as applicable to Hydrasun, the Customer and/or the Work, including: <ul style="list-style-type: none">a) Regulation no. 2016/679 of the General Data Protection Regulation ("GDPR") and/or any corresponding or equivalent national laws or regulations;b) the UK Data Protection Act 2018, and any legislation which implements or replaces the GDPR in the UK; andc) any judicial or administrative interpretation of them, any guidance, guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant competent authority under the GDPR;
"Good Industry Practice"	means the application of those methods and practices customarily used in good and prudent industry practice with that degree of diligence and prudence reasonably and ordinarily exercised by



	experienced companies engaged in a similar activity under similar circumstances and conditions;
"Goods"	means the goods (including any instalment of the goods or any parts for them) which Hydrasun is to sell or supply to the Customer in connection with the Order;
"Gross Negligence"	means any act or failure to act which materially and substantially deviates from a diligent course of action and which is in reckless disregard of the harmful consequences taking into account the seriousness of the loss or damage reasonably foreseeable as a result of the relevant act or omission and the degree or likelihood of such loss or damage arising;
"Hire"	means the rental of the Rental Equipment by the Customer from Hydrasun under the Order;
"HSE and Quality Management Systems"	means Hydrasun's health and safety and quality management rules and procedures;
"Hydrasun"	means Hydrasun Limited, a company incorporated in Scotland (company number SC059688) whose registered office at Gateway Business Park, Moss Road Aberdeen AB12 3GQ;
"Hydrasun Group"	means Hydrasun, its Sub-contractors, its and their Affiliates and its and their respective officers, employees and personnel (including agency personnel), but shall not include any member of the Customer Group;
"Input Material"	means any Document or other material (including Free Issue Materials), and any data or other information provided by the Customer relating to the Order;
"Intellectual Property Rights"	means patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade-marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to us, and protect the confidentiality of, confidential information (including Know-How) and all other intellectual property rights, in each case whether registered or un registered and including all applications and rights to apply for and be granted, renewals or extensions of, and right to claim priority from, such rights and all similar or equivalent rights of forms of protection which subsist or will subsist now or in the future in any part of the world;
"Know-How"	means techniques, methods, skills comprised within technical information, data, notes, reports, specifications, formulae, drawings, manuals, components, lists, instructions, descriptions, and other knowledge of a secret and confidential nature;
"Operator"	means Hydrasun personnel supplied under Order to operate the Rental Equipment on behalf of the Customer;
"Order"	means the Customer's Written order for any Work subsequently accepted by Hydrasun, which by reference incorporates these Conditions;



"Order Price"	means the entire price, exclusive of VAT, payable to Hydrasun by the Customer in connection with the performance of the Order;
"Output Material"	means any Document or other material and any data or other information provided by Hydrasun relating to the Service;
"Parties"	means collectively the Customer and Hydrasun;
"Pollutant"	means any harmful or potentially harmful substance which may cause contamination of the air, water or earth;
"Quotation"	means Hydrasun's Written quotation which is subsequently accepted by the Customer;
"Recertification Goods"	means any goods which are returned by the Customer under warranty or any other goods (whether such goods were originally supplied by Hydrasun or otherwise) in respect of which the Customer requires Hydrasun to provide recertification services;
"Rental Equipment"	means the equipment hired by the Customer from Hydrasun;
"Rental Charges"	means the charges defined under Clause 7.3 in relation to the supply of the Rental Equipment;
"Rental Period"	means the period defined in Clause 5 in relation to the supply of the Rental Equipment;
"Replacement Value"	means the manufacturer's list price for the time being applicable (including the costs of any modifications in relation to the relevant item of Rental Equipment), or if none exists, the list price of that item of Rental Equipment which most closely matches the relevant Rental Equipment, together with all associated costs including but not limited to the costs of transportation, tax and licenses;
"Training Course(s)"	means the training courses provided by Hydrasun to the Customer under the Order;
"Service(s)"	means any Service to be provided by Hydrasun for the Customer detailed in any Order or Quotation;
"Subcontractors"	means all sub-contractors of any tier who are engaged directly or indirectly by Hydrasun and are engaged in performing the Work in connection with the Order;
"Wilful Misconduct"	means an intentional or reckless disregard of Good Industry Practice in utter disregard of avoidable and harmful consequences but shall not include any act, omission, error of judgement or mistake made in the exercise in good faith of any function, authority or discretion which is justifiable by special circumstances, including safeguarding of life, property or the environment and other emergencies;
"Work"	means collectively the supply of Goods, the supply of the Rental Equipment, the provision of Training Courses, the provision of consultancy Services, and the performance of the Services by Hydrasun pursuant to the Order;
"Working Days"	means the days when the banks in London are customarily open for business other than Saturdays; and



"Writing" means in writing and also includes the Electronic Document Interchange System, electronic mail, fax transmission and equivalent means of communication.

1.2 A reference in these Conditions to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 Words importing the singular include the plural and vice versa and words importing a particular gender include all genders.

1.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. **BASIS OF SUPPLY**

2.1 **GENERAL**

2.1.1 Hydrasun shall perform the Work in accordance with the terms of the relevant Order.

2.1.2 No variation to the Order shall be binding unless agreed in Writing between the authorised signatories of the Parties.

2.1.3 In entering into the Order, the Customer acknowledges that it has not relied on any representations which may have been given on by or on behalf of Hydrasun, but no provision of these Conditions affects the liability of either Party for fraudulent misrepresentation.

2.1.4 Any typographical, clerical or other error or omission in any sales literature, Quotation, price list, acceptance of offer, invoice or Output Material issued by Hydrasun on whatever medium whether as hard copy, on CD Rom or otherwise shall be subject to correction without any liability on the part of Hydrasun.

2.1.5 Hydrasun shall carry out all of its obligations under the Order and shall execute the Work with all due care and diligence and with the skill to be expected of a reputable contractor experienced in the types of Work to be carried out under the Order.

2.1.6 Materials and equipment provided by Hydrasun shall be of good quality and workmanship.

2.1.7 All Rental Equipment shall be of good quality and in good working condition at the commencement of the Rental Period.

3. **ORDERS, SPECIFICATIONS AND BOOKINGS**

3.1 No Order submitted by the Customer shall be deemed to be accepted by Hydrasun unless and until confirmed in Writing by Hydrasun's Authorised Representative.

3.2 The Customer shall ensure that the terms of any Order (including any applicable specification) which it submits to Hydrasun are accurate. The Customer will also ensure it gives Hydrasun any necessary information (including details of the proposed use or purpose) relating to the Goods, Services or Rental Equipment in a prompt manner in order to enable Hydrasun to perform the Order in accordance with its terms.

3.3 The quantity, quality and description of the Goods, Services or Rental Equipment and any specification for them shall be as set out in the Order.

3.4 Orders will only be accepted by Hydrasun if a valid purchase order is received from the Customer and the Customer has a valid credit arrangement with Hydrasun, or the full purchase price is received by Hydrasun in advance.

3.5 Hydrasun has the right to make any changes to the specification of any Goods, Services or Rental Equipment which are required in order to ensure the Goods, Services or Rental Equipment to conform



with applicable laws, provided such changes do not materially affect the quality or performance of the Goods, Services or Rental Equipment.

- 3.6 No Order or accepted Quotation may be terminated or varied by the Customer except with Hydrasun's Written agreement. The Customer shall indemnify Hydrasun in full against all costs and expenses incurred by Hydrasun as a result of such termination or variation (including, without limitation, the cost of any labour and/or materials used).

4. **RECERTIFICATION SERVICES**

- 4.1 The Customer shall ensure that any Recertification Goods are free from Pollutants and Contaminants.
- 4.2 Hydrasun shall have the right not to accept any Recertification Goods which, in the sole opinion of Hydrasun, have not been delivered by the Customer in the condition required by Clause 4.1.

5. **PERIOD OF RENTAL**

- 5.1 The Rental Period commences upon the day the Rental Equipment is despatched by Hydrasun or collected by or on behalf of the Customer from Hydrasun's premises or such other premises as specified by Hydrasun and shall continue until either (i) the Rental Equipment is returned to the collection location between the hours of 8.30am and 5.00pm Monday to Friday and a receipt is issued by Hydrasun to the Customer or (ii) the Rental Equipment is collected by Hydrasun. The foregoing shall apply even if Hydrasun has agreed to waive any Rental Charges.
- 5.2 Where the Rental Equipment is lost during the Rental Period or the Rental Equipment is returned or collected at the end of the in a damaged condition, the Rental Period shall continue for such period as is necessary in the circumstances for the Rental Equipment to be repaired, restored to full working order or replaced (as considered necessary by Hydrasun, acting reasonably) or the Replacement Value is received by Hydrasun from the Customer, whichever occurs first.
- 5.3 If the Customer is an individual within the meaning of the Consumer Credit Act 1974 (as amended) the maximum Rental Period shall not exceed three months.

6. **INDEMNITIES**

- 6.1 Hydrasun shall be responsible for and shall save, indemnify, defend and hold harmless the Customer Group from and against all Claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of:
- 6.1.1 subject to Clause 6.2.5, loss of or damage to the property of the Hydrasun Group whether owned, hired, leased or otherwise provided by the Hydrasun Group arising from or relating to the performance of the Order; and
 - 6.1.2 personal injury including death or disease to any person employed by the Hydrasun Group arising from or relating to the performance of the Order;
 - 6.1.3 subject to any other express provisions of the Order, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of Hydrasun Group arising from or relating to the performance of the Order; and
 - 6.1.4 subject to Clauses 6.2.1 and 6.2.2, any Claim of any nature arising from pollution occurring on the premises of the Hydrasun Group or originating from the property and equipment of the Hydrasun Group (including but not limited to marine vessels) arising from or relating to the performance of the Order, but excluding (i) any pollution emanating from the Rental Equipment during the Rental Period and (ii) the escape of any Contaminant while the Goods are in transit or at Hydrasun's premises.



- 6.2 The Customer shall be responsible for and shall save, indemnify, defend and hold harmless the Hydrasun Group from and against all Claims, losses, damages, costs (including legal costs), expenses and liabilities in respect of:
- 6.2.1 loss of or damage to property of the Customer Group which is located at any site where Work is being performed arising from or related to the performance of the Order; and
 - 6.2.2 personal injury including death or disease to any person employed by the Customer Group arising from or relating to the performance of the Order; and
 - 6.2.3 subject to any other express provisions of the Order, personal injury including death or disease or loss of or damage to the property of any third party to the extent that any such injury is caused by the negligence or breach of duty of the Customer Group arising from or relating to the performance of the Order; and
 - 6.2.4 except as provided by Clauses 6.1.1 and 6.1.2: (i) any Claim of any nature arising from pollution occurring on the premises of the Customer Group or originating from the property and equipment of the Customer Group (including but not limited to marine vessels) arising from or relating to the performance of the Order, (ii) any pollution emanating from the Rental Equipment during the Rental Period and (iii) the escape of any Contaminant while the Goods are in transit or are located at Hydrasun's premises; and
 - 6.2.5 loss of or damage to the Rental Equipment during the Rental Period arising from or relating to the performance of the Order.
- 6.3 Notwithstanding any provision to the contrary elsewhere in these Conditions and except to the extent of any agreed liquidated damages (including, without limitation, any predetermined termination fees) provided for in these Conditions, Hydrasun shall save indemnify, defend and hold harmless the Customer Group from the Hydrasun Group's own Consequential Loss and the Customer shall save, indemnify, defend and hold harmless the Hydrasun Group from the Customer Group's own Consequential Loss, arising from, relating to or in connection with the performance or non-performance of the Order.
- 6.4 All exclusions and indemnities given under this Clause 6 (save for those under Clauses 6.1.3 and 6.2.3, shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) but excluding the Gross Negligence and/or the Wilful Misconduct of the indemnified Party or any other entity or Party and shall apply irrespective of any Claim in tort, under contract or otherwise at law.
- 6.5 The indemnities given by the Parties under the Order are full and primary and shall apply irrespective of whether the indemnified Party or indemnifying Party has, or has not insurance in place in connection with any Claims in respect of the subject matter of any indemnity given under the Order.
- 6.6 If either Party becomes aware of any incident likely to give rise to a Claim under the above indemnities, they shall notify the other Party and both Parties shall co-operate fully in investigating the incident.

7. PRICE

7.1 GENERAL

- 7.1.1 The Customer shall pay to Hydrasun the Order Price and any additional sums which are agreed between Hydrasun and the Customer in connection with the performance of the Work. In addition, the Customer shall make payment of such additional sums that in Hydrasun's sole discretion, are required as a result of the Customer's instructions or lack of instructions, the inaccuracy of any Input Material or any other cause attributable to the Customer (including, without limitation, the failure to give Hydrasun a reasonable period of time in which to review Input Material in advance of providing a Quotation).
- 7.1.2 The Customer shall be liable to pay to Hydrasun any applicable VAT pursuant to the Order.

7.2 GOODS AND SERVICES

- 7.2.1 The Order Price shall be Hydrasun's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in Hydrasun's internal price list at the date of acceptance of the Order. Where the Goods are supplied for export from the United Kingdom, Hydrasun's internal export price list shall apply. All prices quoted by Hydrasun are valid for acceptance by the Customer for strictly thirty (30) days only. After expiry of this period, such quoted prices may be altered by Hydrasun at Hydrasun's sole discretion without any obligation for Hydrasun to give notice of such price alteration to the Customer.
- 7.2.2 Hydrasun shall have the right, by giving Written notice to the Customer at any time before delivery or completion of any Work, to increase the Order Price to reflect any increase in the cost to Hydrasun in connection with the performance of the Work which is due to any factor beyond Hydrasun's control (including, without limitation, any foreign currency exchange fluctuation, currency regulation, alteration of duties, changes of legislation, significant increase in the costs of labour, materials or other costs of manufacture, any changes in delivery dates, quantities or specifications which are requested by the Customer, any delay caused by any instructions of the Customer, any failure by the Customer to give Hydrasun adequate information or instructions, or any failure by the Customer to provide Hydrasun with the correct use or purpose of the Work).
- 7.2.3 Unless otherwise stated in the Order, any Hydrasun price list or unless otherwise agreed in Writing between the Parties, the Order Price is based on delivery of the Goods on an ex works basis. Where Hydrasun agrees to deliver the Goods to a location other than Hydrasun's premises, the Customer shall pay any charges for transport, packaging and insurance of the Goods.

7.3 RENTAL CHARGES

- 7.3.1 Rental Charges will be calculated daily with part days being charged as full days. The Customer will pay any deposit which is set out in the Order and is required to be paid in connection with the Rental Equipment.
- 7.3.2 Rental Charges relate solely to the Hire of the Rental Equipment. The Customer will pay any additional charges listed on the Order in relation to the installation and transportation of the Rental Equipment where this is provided by Hydrasun.
- 7.3.3 Without prejudice to Clause 5.2, where the Rental Equipment is returned or collected and is found not to be in the same condition (fair wear and tear excepted) that it was at the time of delivery, the Customer shall be responsible for the costs of Hydrasun returning the Rental Equipment to its condition at the time of delivery. Without limitation, the Customer shall reimburse Hydrasun for any necessary cleaning and other related charges associated with restoring the Rental Equipment to the condition it was in at delivery, plus an administration charge of fifteen per cent (15%). Where the Rental Equipment is incapable of being restored to its original condition, the Customer shall be responsible for, and shall pay to Hydrasun on demand, the Replacement Value (on a full indemnity basis).
- 7.3.4 Without prejudice to Clause 5.2, where the Rental Equipment is lost during the Rental Period, the Customer shall pay to Hydrasun on demand the Replacement Value (on a full indemnity basis).
- 7.3.5 Where applicable under the Order, the Customer shall be responsible for payment of the Operator charges in relation the Rental Equipment in accordance with Clause 25.
- 7.3.6 The Customer agrees to pay all costs (including, without limitation, export and import costs), taxes (including, without limitation, withholding tax), levies and duties assessed by any foreign government or body against the Rental Equipment and associated apparatus in connection with the temporary importation and/or exportation of the Rental Equipment and associated apparatus outwith the UK and the Customer shall indemnify the Hydrasun Group from and against any such costs, taxes, levies and duties.

- 7.3.7 The Customer agrees to pay all costs, taxes, levies, or duties assessed by any foreign government in respect of the salary and other payments made by the Hydrasun Group to any Operator provided by Hydrasun under the Order. The Customer shall indemnify the Hydrasun Group from and against any such costs, taxes, levies, or duties.
- 7.3.8 The Customer shall obtain and pay for all and any permits, licences and other consents and permissions required to enable the Rental Equipment (and where applicable, the Operator) to perform the work required by the Customer. The Customer shall indemnify the Hydrasun Group and the Operator from and against any Claims, losses or damages suffered by them arising from a failure to obtain such permits, licences and other consents and permissions.
- 7.3.9 Mobilisation and demobilisation expenses relating to the supply of the Rental Equipment and the supply of any Operators under the Order (including, without limitation, all Operators' air fares and other travel costs, subsistence and hotel charges, freight charges and all other reasonable expenses associated with the mobilisation and demobilisation of Hydrasun's personnel and Rental Equipment) will be recharged to the Customer at cost plus an administration charge of fifteen per cent (15%).
- 7.3.10 The Customer shall pay all charges arising under Clauses 25.5 and 25.6.
- 7.3.11 The Rental Charges are exclusive of any applicable VAT or equivalent sales tax which is applicable. The Customer shall be liable to pay VAT or equivalent sales tax in connection with such Rental Charges where applicable to Hydrasun.

7.4 TRAINING

- 7.4.1 Rates are based on a 'per course' basis for a maximum number of delegates. Where the delegate rate is based on a per delegate basis, this will be clearly shown Hydrasun's proposal.
- 7.4.2 Where a minimum number of delegates figure has been stated, but fewer delegates than this minimum number attend the Training Course, the charge applicable to the minimum number of delegates shall apply.
- 7.4.3 The Customer shall ensure that delegates are in possession of all necessary equipment etc when they attend the Training Course (as detailed in the relevant Course Joining Instructions) and that all required course prerequisites are met.
- 7.4.4 Any daily rates which apply to the Order are based on an eight (8) hour Working Day (or twelve (12) hour Working Day if work is being performed offshore). Any requirement and rates for overtime during the week or for weekend working will be agreed in advance with the Customer or otherwise such work shall be charged at Hydrasun's standard rate. A travel day is defined as a day or days spent travelling to or from a destination when no Client preparation or delivery work is undertaken. Such travel days will be charged at normal training day rate.
- 7.4.5 Where expenses have not been included in the proposal price and the Customer does not arrange and directly cover the expenses relating to the provision of Hydrasun personnel, such expenses will be recharged at cost plus ten percent (10%). Hydrasun will evidence such expenses by providing receipts wherever possible. For the purposes of this Clause 7.4.5, without limitation, expenses may include the following costs: travel, accommodation, subsistence, visa costs, vaccination charges, country specific costs, additional medical, insurance or security costs. Where applicable, the Customer shall arrange suitable security and support to ensure the welfare of all personnel provided by Hydrasun. This shall include, without limitation, the collection of Hydrasun personnel from the airport, surface transport to/from the airport, accommodation/secure compound and relevant security.



8. CONDITIONS OF PAYMENT

8.1 GENERAL

8.1.1 Hydrasun shall invoice the Customer in accordance with the terms of the Order.

8.1.2 The Customer shall pay the Order Price within thirty (30) days of the date of Hydrasun's invoice. The time of payment of the Order Price shall be of the essence of the Order. Receipts for payment will be issued only upon the Customer's request.

8.2 If the Customer fails to make any payment on any due date then, without prejudice to any other right or remedy available to Hydrasun, Hydrasun may:

8.2.1 suspend or terminate the Order or any other contract between the Parties and/or suspend any further deliveries to the Customer under the Order;

8.2.2 appropriate any payment made by the Customer to such Work (or goods or services supplied under any other contract between the Parties) as Hydrasun may think fit (notwithstanding any purported appropriation by the Customer); and/or

8.2.3 charge the Customer interest (both before and after any judgment) on any amount unpaid, at the rate of three (3) per cent per annum above Bank of England base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

8.3 RENTAL EQUIPMENT

8.3.1 This Clause 8.3 relates to payment in connection with the provision of Rental Equipment.

8.3.2 If the Customer fails to make any payment on any due date then, without prejudice to any other right or remedy available to Hydrasun, Hydrasun may visit the Customer's site without notice and uplift the Rental Equipment or take all such other steps, as may be required in order to take possession of the Rental Equipment and return it to Hydrasun's premises at the Customer's cost and expense.

9. DELIVERY

9.1 GOODS AND SERVICES

9.1.1 Delivery of the Goods shall be made on the earlier of:

- the Customer collecting the Goods from Hydrasun's premises;
- Hydrasun notifying the Customer that the Goods are ready for collection; or
- delivery of the Goods to an alternative location (where Hydrasun has agreed to deliver the Goods to an alternative location in Writing). Where Hydrasun agrees to deliver the Goods to a location other than Hydrasun's premises, Hydrasun shall be under no obligation under Section 32(2) of the Sale of Goods Act 1979.

9.1.2 Any dates quoted for delivery of the Goods or performance of the Services are approximate only and Hydrasun shall not be liable for any delay in such delivery or performance, however caused. Hydrasun will notify the Customer of any such delay as soon as reasonably practicable, and the Parties shall arrange a revised delivery/performance date.

9.1.3 Time for delivery/performance shall not be of the essence of the Order, unless previously agreed by Hydrasun in Writing. Goods may be delivered by Hydrasun in advance of any quoted delivery date provided that Hydrasun has given reasonable notice of the advance delivery to the Customer.



- 9.1.4 Where delivery of the Goods is to be made by Hydrasun in bulk, Hydrasun shall have the right to deliver up to ten per cent (10%) more or ten per cent (10%) less than the quantity ordered without any adjustment in the Order Price, and the quantity so delivered to the Customer shall be deemed to be the quantity ordered.
- 9.1.5 Where the Goods are to be delivered in instalments, any failure by Hydrasun to deliver any one or more of the instalments in accordance with the Order or any Claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the entire Order as repudiated.
- 9.1.6 If Hydrasun fails to deliver the Goods or perform the Services (or any instalment) for any reason other than any cause beyond Hydrasun's reasonable control, Hydrasun's liability to the Customer in respect of such failure shall be limited to Hydrasun having no entitlement to payment for the supply of such Goods or performance of such Services.
- 9.1.7 If the Customer fails to give Hydrasun adequate delivery instructions or fails to take delivery of the Goods at the time stated for delivery (other than by reason of any cause which is beyond the Customer's reasonable control or as a consequence of any default by Hydrasun), without limitation to any other right or remedy available to Hydrasun, Hydrasun may:
- store the Goods until actual delivery and charge the Customer for the reasonable costs of storage and any related insurance costs; or
 - sell the Goods at the best price readily obtainable and (after deducting all reasonable storage, insurance and selling expenses) account to the Customer for any excess over the Order Price or alternatively charge the Customer for any shortfall below the Order Price.

9.2 RENTAL EQUIPMENT

- 9.2.1 Delivery of the Rental Equipment shall be made on the earlier of:
- the Customer collecting the Rental Equipment from Hydrasun's premises;
 - Hydrasun notifying the Customer that the Rental Equipment is ready for collection; or
 - delivery of the Rental Equipment to an alternative location (where Hydrasun has agreed to deliver the Rental Equipment to an alternative location in Writing).
- 9.2.2 Any dates quoted for the delivery of Rental Equipment or the supply of an Operator are approximate only and Hydrasun shall not be liable for any delay in such delivery or supply irrespective of the cause of such delay. Hydrasun will notify the Customer of any such delay as soon as is reasonably practicable and the Parties shall arrange a revised delivery/performance date. Time for delivery/performance shall not be of the essence of the Order.
- 9.2.3 Rental Equipment may be delivered by Hydrasun in advance of any quoted delivery date provided that reasonable notice of such advance delivery has been given by Hydrasun to the Customer.
- 9.2.4 Where the Rental Equipment is to be delivered in instalments, failure by Hydrasun to deliver any instalments in accordance with the Order shall not give the Customer the right to treat the entire Order as repudiated.
- 9.2.5 Where Hydrasun is liable to the Customer as a result of Hydrasun failing to deliver the Rental Equipment for any reason other than any cause beyond Hydrasun's reasonable



control or any default by the Customer, Hydrasun's liability shall be limited to Hydrasun having no right to payment in relation to the non-provision of the Rental Equipment.

9.2.6 The Customer shall provide at the delivery point, all adequate and appropriate equipment and manual labour which is required for loading the Rental Equipment. Such equipment and labour shall be required at the Customer's cost and expense.

9.2.7 The quantity of any consignment of Rental Equipment as recorded by Hydrasun on despatch from Hydrasun's place of business shall be conclusive evidence of the quantity of Rental Equipment received by the Customer on delivery unless the Customer can provide conclusive evidence to the contrary.

10. **GOODS RETURNS POLICY**

10.1 Subject to Hydrasun's prior Written agreement and the following provisions, the Customer may, within twenty-eight (28) days of delivery, return unopened Goods to Hydrasun's premises provided that purchase of such Goods have not been discontinued nor purchased or manufactured to meet a specific requirement.

10.2 When returning Goods to Hydrasun, the Customer must include documentation detailing: -

10.2.1 the Customer's details;

10.2.2 the Order and Quotation numbers;

10.2.3 a description and quantity of the Goods being returned; and

10.2.4 the reason for the return of the Goods.

10.3 Where Goods are returned under this Clause 10 and subject to Clause 14.1.5, Hydrasun will reimburse the purchase price of such Goods, less a twenty-five per cent (25%) re-stocking charge.

10.4 If the Customer returns Goods to Hydrasun that are in a used condition, and such Goods are found to be (or are suspected to be) Contaminated, such Goods may be rejected at Hydrasun's sole discretion.

10.5 If Hydrasun accepts the Goods and thereafter it is discovered that the Goods are Contaminated, Hydrasun shall have the right to arrange for the Contaminated Goods to be appropriately cleaned at the Customer's cost.

10.6 Hydrasun shall not be liable at any time, irrespective of any sole, joint or concurrent negligence, breach of contract, breach of warranty, or breach of duty (statutory or otherwise), for the escape of any Contaminant while the Goods are in transit or at while the Goods are situated Hydrasun's premises.

10.7 The Customer shall comply with all applicable laws in connection with all activities relating to the Order.

11. **DEFECTS CORRECTION**

11.1 **GOODS AND SERVICES**

11.1.1 Hydrasun warrants and guarantees that it has performed and shall perform the Work in accordance with the provisions of the Order, and that all Goods and Services shall be free from defects.

11.1.2 If the Customer notifies Hydrasun of any defect in the Goods within twelve (12) months of the date on which the Goods were physically transferred to the Customer, at Hydrasun's sole option Hydrasun shall either;



- repair the defective Goods; or
- replace the defective Goods.

11.1.3 Any repair of any Goods which is performed by Hydrasun pursuant to Clause 11.1.1 shall be performed at the location where the Goods are currently located unless Hydrasun directs otherwise. Any replacement Goods which are supplied by Hydrasun pursuant to Clause 11.1.1 shall be delivered to the location where the Goods were originally delivered to by Hydrasun unless Hydrasun reasonably directs otherwise.

11.1.4 If the Customer notifies Hydrasun in Writing of any defects in the Services which arise within twelve (12) months of the completion of the Services to be performed pursuant to the Order, Hydrasun shall promptly carry out all works necessary to correct any defects in the Services. Hydrasun shall have no obligation to remedy any defects in any Training Courses.

11.2 RENTAL EQUIPMENT

11.2.1 If any Rental Equipment ceases to fully operate in accordance with the terms of the Order during any Rental Period, Hydrasun shall at Hydrasun's sole option either:

- repair the Rental Equipment; or
- replace the Rental Equipment with alternative equipment which is of at least the equivalent specification.

11.2.2 Any repair of any Rental Equipment which is performed by Hydrasun pursuant to Clause 11.2.1 shall be performed at the location where the Rental Equipment was located when the fault was discovered by the Customer unless Hydrasun reasonably directs otherwise. Any replacement Rental Equipment which is supplied by Hydrasun pursuant to Clause 11.2.1 shall be delivered to the location where the Rental Equipment was originally delivered to by Hydrasun unless Hydrasun directs otherwise.

11.2.3 The Customer shall have no obligation to make payment to Hydrasun in connection with the provision of any Rental Equipment solely during the period when such Rental Equipment fails to fully operate in accordance with the terms of the Order. In addition, the Customer shall have no obligation to make payment to Hydrasun for any labour supplied in connection with the provision of any Rental Equipment whilst such Rental Equipment fails to fully operate in accordance with the terms of the Order provided that any such failure has not been caused by any breach of the Customer's obligations under the Order in relation to the Rental Equipment.

12. INTELLECTUAL PROPERTY

12.1 Where any registrable Intellectual Property Rights in any country in the world result from:

12.1.1 developments by the Hydrasun Group which are based wholly on data, equipment, processes, substances and the like in the possession of the Hydrasun Group at the date of the Order or are otherwise produced outside the Order; or

12.1.2 enhancements of or in the existing Intellectual Property Rights of the Hydrasun Group,

such Intellectual Property Rights shall vest in Hydrasun or another company within the Hydrasun Group as the case may be.

12.2 Where any registrable Intellectual Property Rights in any country in the world result from:

12.2.1 developments by the Customer Group which are based wholly on data, equipment, processes, substances and the like in the possession of the Hydrasun Group at the date of the Order or are otherwise produced outside the Order; or



12.2.2 enhancements of or in the existing Intellectual Property Rights of the Customer Group,

such Intellectual Property Rights shall vest in the Customer or another company within the Customer Group as the case may be.

12.3 Except as provided in Clauses 12.1 and 12.2, where any Intellectual Property Rights in any country in the world arises out of the performance of the Work and is invented during the term of the Order, such rights shall vest in Hydrasun.

12.4 Hydrasun shall save, defend and hold harmless the Customer Group from all Claims, losses, damages and costs (including legal costs), expenses, and liabilities of every kind and nature for, or arising out of, any alleged infringement of any Intellectual Property Rights of any nature, arising out of or in connection with the performance of the obligations of Hydrasun under the Order except where such infringement necessarily arises from information provided to Hydrasun by the Customer or from the Customer's instructions.

12.5 The Customer shall save, defend and hold harmless the Hydrasun Group from all Claims, losses, damages and costs (including legal costs), expenses, and liabilities of every kind and nature for, or arising out of, any alleged infringement of any Intellectual Property Rights of any nature, arising out of or in connection with the performance of the obligations of the Customer under the Order, the use by the Hydrasun Group of information supplied to it by the Customer and/or from the Customer's instructions.

12.6 Save where disclosure is required to be made by Hydrasun in connection with the performance of any Service, all Input Material provided by the Customer (which is so designated by the Customer) and any Output Material shall be kept confidential by Hydrasun. In addition, all Output Material provided by Hydrasun (which is so designated by Hydrasun) shall be kept confidential by the Customer. The confidentiality obligations in this Clause 12.6 shall not apply to any information (in any form) which is public knowledge at the time when it is so provided by either Party, or which becomes public knowledge through no fault of the other Party.

13. **RISK AND PROPERTY**

13.1 The risk of damage to or loss of the Goods shall pass to the Customer:

13.1.1 where the Goods are to be delivered at Hydrasun's premises - at the time when Hydrasun notifies the Customer that the Goods are available for collection; or

13.1.2 where the Goods are to be delivered otherwise than at Hydrasun's premises - at the time of delivery or, if the Customer fails to take delivery of the Goods, at the time when Hydrasun has tendered delivery of the Goods.

13.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, property in the Goods shall not pass to the Customer until Hydrasun has received payment in full of the Order Price in cleared funds.

13.3 Until title to the Goods has passed to the Customer under the Order (and provided the Goods are still in existence and have not been resold) Hydrasun may, at any time, require the Goods to be returned to Hydrasun. If the Customer fails to return the Goods to Hydrasun, Hydrasun shall be entitled to enter the Customer's premises, or the premises of any third party where the Goods are stored in order to take possession of the Goods. Hydrasun's rights under this Clause 13.3 shall be without prejudice to the Customer's obligation to make payment for the Goods under the Order and without prejudice to any other rights available to Hydrasun under applicable law.

13.4 Until title to the Goods passes to the Customer, the Customer shall hold the Goods as Hydrasun's agent and shall keep the Goods separate from those of the Customer and third parties. The Customer shall also ensure such Goods are properly stored, protected and insured and are labelled/identified as Hydrasun's Goods. Until title to the Goods transfers to the Customer, the Customer shall not have the right to resell or use the Goods.



13.5 Until title to the Goods passes to the Customer, the Customer shall pledge or in any way charge (by way of security for any indebtedness) any of the Goods. If the Customer does so in breach of this Clause 13.5, all monies owing by the Customer to Hydrasun under the Order shall (without prejudice to other right or remedy of Hydrasun) become immediately due and payable.

14. WARRANTIES AND LIABILITY

14.1 GOODS AND SERVICES

14.1.1 Subject to the following provisions, Hydrasun warrants that the Goods will correspond with their specification at the date of delivery (the date of delivery being as determined in accordance with Clause 9.1) and will be free from defects in material and workmanship for a maximum period of twelve (12) months from such date.

14.1.2 The warranty given by Hydrasun in Clause 14.1.1 is subject to the following conditions:

- Hydrasun shall have no liability for any defect in the Goods arising from any Input Material supplied by or on behalf of the Customer;
- Hydrasun shall have no liability for any defect arising from fair wear and tear, intentional I damage, negligence, abnormal working conditions, failure to follow Hydrasun's instructions (whether oral or Written), misuse or alteration or repair of the Goods without Hydrasun's prior approval or failure to use the Goods in accordance with the proposed use or purpose;
- Hydrasun shall have no liability under the above warranty (or any other warranty, condition or guarantee) if the Order Price has not been paid;
- unless otherwise agreed in Writing by Hydrasun, the above warranty set out in Clause 14.1.1 does not extend to parts, materials or equipment which have not been manufactured by Hydrasun, in which case the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to Hydrasun; and
- Hydrasun shall have no liability for any defects in the Goods where the Goods are used outwith the manufacturer's recommendations.

14.1.3 All warranties, terms or other conditions implied under applicable law in relation to the performance of the Work are excluded to the fullest extent permitted by law.

14.1.4 Any Claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with the relevant specification under the Order shall (whether or not delivery is refused by the Customer) be notified to Hydrasun within seven (7) days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If the Customer fails to notify Hydrasun of any defect in the Goods within this timescale: (i) the Customer shall not be entitled to reject the Goods, (ii) Hydrasun shall have no liability for any such defect or failure, and (iii) the Customer shall be bound to pay the Order Price as if the Goods had been delivered in accordance with the Order.

14.1.5 Where a valid Claim in respect of any of the Goods which is based on a defect in the quality or condition of the Goods or their failure to meet the relevant specification under the Order is notified to Hydrasun in accordance with these Conditions, Hydrasun may: (i) replace the Goods (or the part in question) free of charge or (ii) at Hydrasun's sole discretion, refund to the Customer the Order Price (or a proportionate part of the Order Price), in which case Hydrasun shall have no further liability to the Customer.

14.1.6 Hydrasun warrants to the Customer that Services will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Order.

- 14.1.7 Hydrasun shall have no liability to the Customer for any loss, damage, costs, expenses or other Claims for compensation arising from any Input Material or instructions (including, without limitation, details of the proposed use or purpose of the Goods or Services) supplied to Hydrasun by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late or non-arrival, or any other fault of the Customer.
- 14.1.8 Except in respect of death or personal injury caused by Hydrasun's negligence or as expressly provided in these Conditions, Hydrasun shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Order for any indirect, special or Consequential Loss or damage (whether for loss of profit, business or otherwise), costs, expenses or other Claims for compensation whatsoever (whether caused by negligence of Hydrasun, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or Service (including any delay in supplying or any failure to supply the Goods or Service in accordance with the Order or at all) or their use or sale by the Customer, and Hydrasun's entire liability under or in connection with the Order shall not exceed the Order Price, except as expressly provided in these Conditions.

14.2 RENTAL EQUIPMENT

- 14.2.1 Subject to the remainder of this Clause 14.2, Hydrasun warrants that the Rental Equipment will correspond with its specification set out under the Order at the date of delivery. (The date of delivery of the Rental Equipment shall be determined in accordance with Clause 9.2.)
- 14.2.2 The warranty given by Hydrasun in Clause 14.2.1 is subject to the following conditions:
- Hydrasun shall have no liability for any defect in the Rental Equipment to the extent that such defect arises from any Input Material supplied by or on behalf of the Customer;
 - Hydrasun shall have no liability for any defect in any Rental Equipment arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Hydrasun's instructions (whether oral or Written), misuse or alteration or repair of the Rental Equipment without Hydrasun's approval;
 - Hydrasun shall have no liability under the above warranty set out in Clause 14.2.1 (or any other warranty condition or guarantee) if the Rental Charges have not been paid;
 - unless otherwise agreed in Writing by Hydrasun, the above warranty set out in Clause 14.2.1 does not extend to parts, materials or equipment not manufactured by Hydrasun, in respect of which the Customer shall only be entitled to the benefit of any warranty or guarantee which is given by the manufacturer to Hydrasun to the extent that such warranty or guarantee is assignable to the Customer.
- 14.2.3 The warranty stated above in Clause 14.2.1 is the only warranty given made by Hydrasun in respect of the hire of the Rental Equipment. Hydrasun does not make, and the Customer hereby expressly waives, all other warranties of merchantability and fitness for a particular purpose to the fullest extent permitted by law.
- 14.2.4 Any Claim by the Customer which is based on any defect in the quality or condition of the Rental Equipment or its failure to correspond with specification shall be notified to Hydrasun within seven (7) days from the date of delivery (whether or not delivery is refused by the Customer). If delivery is not refused, and the Customer does not notify Hydrasun accordingly, the Customer shall not be entitled to reject the Rental Equipment and Hydrasun shall have no liability for any such defect or failure, and the Customer shall be bound to pay the Rental Charges as if the Rental Equipment had been delivered in accordance with the Order. Where a defect is identified by the Customer and notified to



Hydrasun within seven (7) days of collection or delivery, Hydrasun shall undertake commercially reasonable efforts to remedy any part of the Rental Equipment that does not substantially perform the functions specified in the manufacturer's specification.

14.2.5 Hydrasun shall have no liability to the Customer for any loss, damage, costs, expenses or other Claims for compensation arising from any Input Material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late or non-arrival, or any other fault of the Customer.

15. **HYDRASUN LIABILITY LIMITATION**

15.1 Subject to Clause 15.2, Hydrasun's total cumulative liability to the Customer arising under the Order shall be limited to the Order Price.

15.2 Hydrasun's liability limitation set out in Clause 15.1 shall not apply in connection with the liabilities assumed by Hydrasun under Clauses 23.8, 6, 20, and 29.

16. **RECOVERY OF SUNKEN OBJECTS**

16.1 Customer shall, as required by any authority, raise, remove, mark or light any sunken object, including plant, Rental Equipment, or permanent works, lost whilst in the custody of the Customer Group. Where any such sunken object interferes or will interfere with Customer operations which are existing or planned, the Customer shall raise and/or remove such sunken object to allow Customer operations to be properly and safely performed. The Customer indemnifies the Hydrasun Group against all costs and expenses which the Customer may incur in connection with the performance of its obligations under this Clause 16.

17. **OBLIGATIONS OF THE CUSTOMER IN RELATION TO RENTAL EQUIPMENT**

17.1 Throughout the term of the Order, the Customer shall:

17.1.1 give Hydrasun immediate Written notice of any loss, damage or Claim relating to the Rental Equipment and shall reimburse the Company on demand in accordance with Clause 5;

17.1.2 ensure that the Rental Equipment is located at the delivery address (or vessel) stated in the Order or such other address as may be expressly agreed between the Parties in Writing;

17.1.3 maintain effective control of the Rental Equipment and maintain the Rental Equipment in a secure location when not in use;

17.1.4 ensure that the Rental Equipment will only be operated in a proper manner (in accordance with the manufacturer's recommendations) by persons competent to operate the Rental Equipment;

17.1.5 at the Customer's expense ensure that the Rental Equipment is kept in good repair and condition;

17.1.6 undertake routine maintenance and carry out all necessary repairs to the Rental Equipment in accordance with the manufacturer's specifications;

17.1.7 permit Hydrasun, or an Authorised Representative of Hydrasun, on reasonable notice to inspect and/or repair the Rental Equipment;

17.1.8 preserve Hydrasun or manufacturer's identification number, mark or nameplate that is or should be on the Rental Equipment;

17.1.9 ensure that the Rental Equipment is kept safe at the Customer's expense;

17.1.10 ensure that the Rental Equipment is used in accordance with applicable law;



- 17.1.11 obtain and maintain all necessary licences, certificates, permits, authorisations required for the operation of, or in connection with, the Rental Equipment at the Customer's sole expense;
- 17.1.12 punctually pay all duties relating to the Rental Equipment;
- 17.1.13 not by any act or default render the Rental Equipment liable to any distress, execution or other legal process;
- 17.1.14 immediately inform Hydrasun by telephone and subsequently confirm in Writing if the Rental Equipment is involved in any accident resulting in injury to persons or damage to property. The Customer shall not admit liability or compromise any Claim relating to the Rental Equipment without the prior express Written consent of Hydrasun;
- 17.1.15 not assign, sell, mortgage, pledge, let on hire or rental, part with possession, or otherwise deal with the Rental Equipment or with any interest in the Rental Equipment;
- 17.1.16 not assign the Order without the express prior Written consent of Hydrasun;
- 17.1.17 not permit the Rental Equipment to be used by any other party other than the Customer and its employees without the express prior Written consent of Hydrasun;
- 17.1.18 procure that under the terms of any mortgage, charge or debenture of or in respect of the Customer's assets or any premises or vessel in which the Rental Equipment may be installed or stored, no rights whether present, future or contingent may be created or become exercisable by any third party in connection with the Rental Equipment. The Customer acknowledges Hydrasun's rights to notify any such mortgagee or chargee from time to time of Hydrasun's ownership of the Rental Equipment;
- 17.1.19 pay all invoices in accordance with Clause 7.3; and
- 17.1.20 upon expiry of the Rental Period, return the Rental Equipment to Hydrasun in accordance with the Order.

18. SAFETY TRAINING COURSES

- 18.1 Details of any safety equipment and/or protective clothing which the Customer is required to provide in connection with any Training Courses will be set out in the Course Joining Instructions. The Customer shall ensure that any such equipment and/or clothing is in good order and repair and is fit for the purposes for which it is required. Hydrasun shall have the right at any time to postpone or suspend the provision of any Training Course if in Hydrasun's opinion there is or is likely to be any risk to the safety of any personnel or any risk of loss or damage to any plant, machinery, equipment or material at the premises. Hydrasun shall have no liability to the Customer in connection with any such postponement or suspension. Hydrasun shall, in the interests of safety (whether of personnel, property or otherwise), have the right at any time to require a delegate to leave the premises, to refuse a delegate entry to any premises and/or to refuse to continue to provide training to a delegate. Hydrasun shall have no liability to the Customer in respect of any such actions. The Customer shall ensure that the delegates shall (throughout the duration of any Training Course) comply in all respects with the Hydrasun's safety policies and regulations applicable to the premises.

19. FORCE MAJEURE

Hydrasun shall not be liable to the Customer or be deemed to be in breach of the Order by reason of any delay in performing, or any failure to perform, any of Hydrasun's obligations under the Order, if the delay or failure was due to any cause beyond Hydrasun's reasonable control. Without limit to the foregoing, the following shall be regarded as causes which are beyond Hydrasun's reasonable control:

- 19.1.1 acts of god, explosion, flood, tempest, fire or accident;



- 19.1.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- 19.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- 19.1.4 import or export regulations or embargoes;
- 19.1.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of Hydrasun or of a third party);
- 19.1.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
- 19.1.7 epidemics; and
- 19.1.8 power failure or breakdown in machinery.

20. **INSURANCE**

- 20.1 The Parties shall maintain levels of insurance sufficient to cover their liabilities and obligations under the Order and at law and shall exhibit such certificates of insurance and evidence of payment of premiums where reasonably requested by the other Party.
 - 20.2 The Customer shall procure and maintain the following insurance cover during the term of the Order:
 - 20.2.1 employers' liability insurance which complies with all applicable law;
 - 20.2.2 third party liability insurance; and
 - 20.2.3 any other insurance which is listed in the Order; and
 - 20.2.4 insurance relating to the Rental Equipment to the full Replacement Value of such Rental Equipment.
 - 20.3 The Customer shall produce on demand to Hydrasun a copy of the insurance policy or policies held by the Customer in relation to the Order and shall hold on trust for Hydrasun all policy proceeds in or towards satisfaction of the Customer's obligations under the Order.
 - 20.4 Hydrasun shall procure and maintain the following insurance cover during the term of the Order:
 - 20.4.1 employers' liability insurance which complies with all applicable law;
 - 20.4.2 third party liability insurance; and
 - 20.4.3 any further insurance cover which is listed on the Order.
 - 20.5 Hydrasun's and the Customer's insurance cover shall be endorsed to provide that underwriters waive any rights of recourse including in particular any subrogation rights.
- ## 21. **TERMINATION**
- 21.1 Without limit to any other right or remedy available to Hydrasun, Hydrasun may terminate the Order or suspend any further deliveries under the Order without any liability to the Customer:
 - 21.1.1 to suit the convenience of Hydrasun; or
 - 21.1.2 subject only to Clause 21.2, in the event of any default on the part of the Customer; or

21.1.3 in respect of the Customer, in the event:

- an order is made, or a meeting is called to pass a resolution, for the winding up (except for the purposed of amalgamation or reconstruction), administration, appointment of a receiver or similar procedure;
- a receiver, administrative receiver, administrator, provisional liquidator, liquidator or similar official is appointed or notice of the proposed appointment of any of the foregoing in given to any party;
- a voluntary arrangement or scheme of arrangement is proposed, or negotiations are commenced, or a composition, compromise, assignment or arrangement, is entered into with one or more of its creditors with a view to rescheduling any of its indebtedness (because of actual or anticipated financial difficulties); or
- any equivalent act or thing is done or suffered under any applicable or analogous law in any jurisdiction.

21.2 In the event of default on the part of the Customer and before the issue by Hydrasun of an order of termination of all or any part of the Order, Hydrasun shall give notice of default to the Customer giving the details of such default. If the Customer upon receipt of such notice does not commence and thereafter continuously proceed with action satisfactory to Hydrasun to remedy such default, Hydrasun may issue a notice of termination in accordance with the provisions of Clause 21.1.

21.3 In the event of termination under Clause 21.1.1, Hydrasun shall be entitled to such reasonable costs as are agreed between the Parties at the time of termination.

21.4 In the event of termination of part of the Work in accordance with Clause 21.1.2, Hydrasun shall be entitled to payment for part of the Work performed in accordance with the Order. Any additional costs reasonably incurred by the Hydrasun as a direct result of such termination shall be recoverable from the Customer.

21.5 In the event of termination of all of the Work or the Order in accordance with Clause 21.1.2 or 21.1.3 the following conditions shall apply:

21.5.1 Hydrasun shall cease to be entitled to receive any money or monies on account of the Order until the costs of completion and all other costs arising as a result of the Customer's default or other events giving rise to the termination have finally be ascertained;

21.5.2 thereafter and subject to any deductions that may be made under the provision of the Order, Hydrasun shall be entitled to payment only for the part of Work completed in accordance with the Order up to the date of termination; and

21.5.3 any additional costs reasonably incurred by Hydrasun as a direct result of the Customer's default or other events giving rise to termination shall be recoverable from the Customer.

22. **CANCELLATION OR POSTPONEMENT OF TRAINING COURSES**

22.1 If the Customer cancels or postpones all or part of any Training Courses whether in Writing or otherwise, the following cancellation charges will apply:

- seven (7) Working Days' notice or less - a 100% cancellation charge of the agreed cost of the Training Course will apply;
- eight to fourteen (8 – 14) Working Days' notice - a 50% cancellation charge of the agreed cost of the Training Course will apply; and
- fifteen (15) Working Days or more notice of cancellation or postponement - no cancellation charge will apply.



22.2 The Customer will also pay any additional expenses incurred by Hydrasun for the purposes of or in connection with any cancelled or postponed Training Courses.

22.3 All costs incurred by Hydrasun will be reimbursed in the event of course postponement or cancellation. This includes, but is not limited to, non-refundable travel and accommodation charges.

23. EXPORT CONDITIONS

23.1 The terms of this Clause 23 apply in connection with the export of Goods outwith the UK.

23.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this Clause 23 shall (subject to any special Written terms agreed between the Parties) apply notwithstanding any other provision of these Conditions.

23.3 The Customer shall be responsible for complying with applicable law governing the importation of the Goods into the country of destination and for the payment of any duties relating to the importation of the Goods.

23.4 Unless otherwise agreed in Writing between the Parties, the Goods shall be delivered ex works at Hydrasun's premises.

23.5 The Customer shall be responsible for arranging for third party testing and inspection (if applicable) of the Goods at Hydrasun's premises before shipment. Hydrasun shall have no liability for any Claim in respect of any defect in the Goods (where the Goods have been shipped to a location outwith the UK) if the defect would be apparent on inspection of the Goods prior to delivery to the Customer.

23.6 Subject to any other Written terms agreed between the Parties, payment of all amounts due to Hydrasun under the Order shall be made by irrevocable letter of credit provided on behalf of the Customer in favour of Hydrasun and issued by a bank in the UK which is acceptable to Hydrasun.

23.7 Unless Hydrasun has agreed in Writing that this Clause 23.7 will apply in relation to the Order, the Customer undertakes not to offer the Goods for sale or sell the Goods to any person if the Customer knows or has reason to believe that that person intends to resell the Goods.

23.8 Where Goods are being exported outside of the UK, the Customer shall provide Hydrasun with a valid proof of export certificate within three (3) months of the date of sale. Where a proof of export certificate is not provided within such period and the Customer has not accounted to Hydrasun for VAT the Customer will make payment to Hydrasun of the full amount of UK VAT in relation to the Order together with an administration fee of two hundred and fifty pounds sterling (£250) plus VAT.

23.9 Where a UK registered company requests Goods to be delivered to a UK address but intends to export the Goods outside of the UK after delivery, the shipment shall be classed as an Indirect Export and as such the Customer shall be liable to pay UK VAT in connection with the Goods and will be invoiced accordingly.

24. TESTING, INSPECTION AND DOCUMENTATION

24.1 GOODS AND SERVICES

24.1.1 Hydrasun will carry out such testing and inspection on hose assemblies supplied to the Customer in accordance with Hydrasun's standard operating procedure. In addition, Hydrasun will provide the Customer with test certificates and/or delivery notification documents in connection with the performance of such testing.

24.1.2 Subject to Clause 24.1.1, Hydrasun will only carry out such testing as is expressly set out in the Order. The Customer will make payment to Hydrasun for the charges which apply to such testing as set out in the Order.



24.2 RENTAL EQUIPMENT

24.2.1 Throughout the Rental Period, the Customer shall permit Hydrasun to access the Rental Equipment at all reasonable times in order to inspect, maintain, repair, test and recover the Rental Equipment (where the Customer's right to possession has terminated).

25. RENTAL EQUIPMENT OPERATORS

25.1 Where Hydrasun supplies an Operator in connection with the Rental Equipment, the Customer:

25.1.1 shall provide at its own cost all support equipment necessary to enable Rental Equipment to be operated in a safe and satisfactory manner;

25.1.2 acknowledges that the work intended to be carried out by the Customer using the Rental Equipment shall remain the sole responsibility of the Customer;

25.1.3 shall provide at its own cost reasonable sleeping and living accommodation and food for the Operator;

25.1.4 shall provide at its own cost an appropriate operating environment for the Rental Equipment which is in accordance with the manufacturer's recommendations and applicable law.

25.2 The Customer will take all necessary steps to ensure, so far as reasonably practicable that the Operator is not exposed to risks relating to health, safety or security.

25.3 Hydrasun shall, on request, be provided with details of the arrangements and measures taken by the Customer to ensure that the Operator is not exposed to risks to health, safety or security, including but not limited to risk assessments and emergency plans.

25.4 Hydrasun shall notify the Customer of all conditions which, in the opinion of Hydrasun, are necessary to ensure that the Operator is not exposed to risks to health, safety or security, including, but not limited to, escorted transportation, secure accommodation and approval from Hydrasun's insurance company.

25.5 Hydrasun shall have the right at its sole discretion and without any liability to the Customer to reject any Order or other request by the Customer to supply an Operator in connection with Rental Equipment until Hydrasun is satisfied that suitable and sufficient measures are in place in order to adequately prevent or control risks to health, safety or security.

25.6 Hydrasun shall have the right at its sole discretion from time to time to substitute both Rental Equipment and/or the Operator upon giving reasonable notification to the Customer. The Customer shall co-operate with and assist Hydrasun in making such substitutions.

25.7 Hydrasun shall be responsible for the payment of the salaries and all UK social security and other payments and taxes relating to the provision of the Operator whilst the Operator is engaged in work under the Order.

25.8 In so far as practicable, the Operator will service and repair the Rental Equipment on the Customer's site. Any servicing or repair of the Rental Equipment requiring the return of any vessel to port or the return of any Rental Equipment to Hydrasun's premises will be made known as soon as is reasonably practicable to the Customer's Authorised Representative. The costs of returning the Rental Equipment under this Clause 25.8 will be borne by the Customer who shall reimburse Hydrasun in relation to any such costs incurred by Hydrasun on a full indemnity basis.

25.9 Where it is agreed between the Parties that an engineer designated by Hydrasun should visit the Customer's site to repair the Rental Equipment, the Customer shall be responsible for the cost of providing the engineer together with all related costs (including, without limitation, travel costs, subsistence and related expenses). The Customer shall reimburse Hydrasun on a full indemnity basis in connection with all such costs.



- 25.10 All work undertaken by the Operator which the Rental Equipment is being used in relation to shall be under the direction of the Customer, but the actual operation of the Rental Equipment shall be under the direction and control of Hydrasun. The Operator will co-operate with the Customer's personnel in connection with the operation of the Rental Equipment and shall try to accommodate the Customer's reasonable requirements.
- 25.11 The Customer undertakes not to request that any Operator shall be involved in the operation of any vessel or any other equipment other than the Rental Equipment for any reason whatsoever.
- 25.12 The Customer shall have no right to a reduction in the Rental Charges during the periods when the Rental Equipment is being repaired or maintained.
26. **RECERTIFICATION SERVICES**
- 26.1 The Customer shall ensure that any Recertification Goods are free from Pollutants and Contaminants.
- 26.2 Hydrasun shall have the right to refuse acceptance of any Recertification Goods which, in the sole opinion of Hydrasun, have not been delivered by the Customer in the condition required by Clause 26.1.
- 26.3 Notwithstanding Clause 6, the Customer shall indemnify Hydrasun from and against any Claims, losses, costs, damages, expenses and liabilities incurred by the Hydrasun Group or a third party in respect of damage to property, death and personal injury arising from the Customer's failure to comply with the requirements of Clause 26.1.
27. **PACKAGING AND MARKING**
- 27.1 Goods will be packed, secured and labelled in accordance with accepted industry practice. Unless otherwise agreed in Writing, Hydrasun will apply its own labelling to the Goods.
28. **NON-SOLICITATION OF STAFF**
- 28.1 The Customer agrees that during the term of the Order and for an additional period of six months after expiry or termination of the Order, the Customer shall not directly or indirectly canvass with a view to offering or providing employment to, offer to contract with or entice to leave, any employee of or contractor to Hydrasun who is or has been engaged in the performance of the Work without Hydrasun's prior Written consent.
29. **ANTI-BRIBERY AND CORRUPTION / TRADE SANCTIONS**
- 29.1 Hydrasun represents and warrants that it will comply with all Applicable Anti-Bribery Laws at all times when performing its obligations under the Order. Hydrasun warrants that it has an ABC Programme which sets out adequate procedures to comply with Applicable Anti-Bribery Laws.
- 29.2 Hydrasun will save, indemnify, defend and hold harmless the Customer Group against all Claims relating to breaches of Applicable Anti-Bribery Laws by the Hydrasun Group in connection with the Order.
- 29.3 The Customer represents and warrants that it will comply with all Applicable Anti-Bribery Laws at all times when performing its obligations under the Order. The Customer warrants that it has an ABC Programme which sets out adequate procedures to comply with Applicable Anti-Bribery Laws.
- 29.4 The Customer will save, indemnify, defend and hold harmless the Hydrasun Group against all Claims relating to breaches of Applicable Anti-Bribery Laws by the Customer Group in connection with the Order.



30. **SAFETY OF EMPLOYEES**

- 30.1 The Customer will take all necessary steps to ensure, so far as reasonably practicable that any personnel engaged by the Hydrasun Group who are involved in the performance of any of the Work are not exposed to risks to health, safety or security.
- 30.2 Hydrasun shall, on request, be provided with details of the arrangements and measures taken by the Customer to ensure that any personnel who are engaged in connection with the performance of the Work are not exposed to risks relating to health, safety or security, including but not limited to risk assessments and emergency plans.
- 30.3 Hydrasun shall notify the Customer of all measures which, in the opinion of Hydrasun, are necessary to ensure that the Hydrasun Group's personnel are not exposed to risks to health, safety or security in connection with the performance of the Work, including, but not limited to, escorted transportation, secure accommodation and approval from the Customer's insurance company.
- 30.4 Hydrasun shall have the right at its sole discretion and without any liability to the Customer to refuse to perform the Work until it is satisfied that suitable and sufficient measures are in place to adequately prevent or control risks to health, safety or security of its employees provided to perform the Work.

31. **PERSONAL DATA**

- 31.1 The terms used in this Clause 30.4 shall have the meaning given to them in Article 4 of the GDPR Regulations unless they are otherwise defined in Clause 1 above.
- 31.2 The Customer undertakes to comply with the regulations in force on the processing of personal data and in particular with the GDPR Regulations, and not to cause Hydrasun to breach its obligations under such regulations.
- 31.3 The Parties acknowledge that the factual arrangements between them dictate the role of each Party in respect of the GDPR Regulations. The Parties envisage that they will each be a controller, acting independently, with respect to any processing of personal data carried out by them under or in connection with the Order. The Parties each acknowledge that nothing in the Order purports to appoint either Party as a data processor for and on behalf of the other Party in respect of any personal data, and each Party shall not otherwise act as a processor unless it has been expressly appointed as such by the other Party. Such appointment shall be conditional upon the Parties, agreeing, in good faith, a set of data processor obligations that comply with the GDPR Regulations.
- 31.4 The Parties each acknowledge and agree that they may need to process Contact Data relating to the other Party's Authorised Representative (in their respective capacities as controllers) in order to (as appropriate): (a) administer and perform the Work; (b) request and receive the Work; (c) compile, dispatch and manage the payment of invoices relating to the Work; (d) manage the Order (including undertaking audits or seeking further information to confirm performance and payment) and resolve any disputes relating to it; (e) respond and/or raise general queries relating to the Work; (f) to confirm identification and security for systems access; and (g) manage termination of the Order.
- 31.5 Each Party shall process Contact Data for the purposes set out in Clause 31.4 in accordance with their own privacy notices. The Parties acknowledge that they may be required to share such Contact Data with their Affiliates, group companies and other relevant parties, in order to carry out the activities listed in Clause 31.4, and in doing so each Party will ensure that the sharing and use of this personal data complies with the GDPR Regulations.
- 31.6 If the Customer processes (or accesses) any personal data relating to Hydrasun's personnel, the Customer shall only process such data to the extent required to perform its obligations under the Order and for no other purpose. The Customer shall notify Hydrasun, without undue delay and within seventy two (72) hours of becoming aware, that any such personal data relating to Hydrasun's personnel is or may have been affected by a personal data breach.
- 31.7 The Customer shall defend, indemnify and hold harmless the Hydrasun Group from and against any Claim in tort contract or otherwise arising from any error or omission by Customer in processing



personal data. The Parties agree that without limitation, this Clause 31.7 shall apply if the UK Information Commissioner (or any other competent authority) imposes a fine or penalty on the Hydrasun Group and/or a data subject claims compensation from the Hydrasun Group resulting from either the Customer's error or omission in processing the personal data.

32. GENERAL

- 32.1 The Order and inclusive of these Conditions (together with any terms set out in the Quotation) constitutes the entire agreement between the Parties, supersedes any previous agreement or understanding and may not be varied except in Writing between the Parties. All other terms, express or implied by applicable law or otherwise, are excluded to the fullest extent permitted by law.
- 32.2 Hydrasun may assign, novate or sub-contract any or all of its rights or obligations under the Order without any requirement to obtain the consent of the Customer.
- 32.3 Notices relating to the Order which are to be given by either Party to the other under the Order shall be given in Writing and shall be addressed to the other Party at its registered office or principal place of business or such other address as may at the relevant time have been notified to the Party giving the notice.
- 32.4 No waiver by Hydrasun of any breach of the Order by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 32.5 If any provision of the Order is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the validity of all other provisions of the Order shall not be affected.
- 32.6 The law of Scotland shall apply to the Order, and the Parties agree to submit to the non-exclusive jurisdiction of the Scottish courts in respect of any Claim, dispute or matters (including non-contractual disputes or Claims) arising out of or in connection with the Order and its implementation and effect.