
GENERAL TERMS AND CONDITIONS FOR THE SALE OF PRODUCT

1. Application of Terms and Conditions

- 1.1 The Seller shall sell and the Buyer shall purchase the Product in accordance with the Contract for Sale attached hereto as Appendix 1; and
- 1.2. Present Terms and Conditions form an integral part of each Contract of Sale entered into by Seller and Buyer.

2. Interpretation

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day”	means any day other than a Saturday, Sunday or bank holiday;
“Buyer”	means the person who accepts a quotation or offer of the Seller for the sale of the Product or whose order for the Product is accepted by the Seller;
“Contract”	means the contract for the purchase and sale of the Product which shall incorporate, and be subject to, these Terms and Conditions and is attached hereto as Appendix 1;
“Contract Price”	means the price stated in the Contract payable for the Product;
“Delivery Date”	means the date on which the Product are to be delivered as stipulated in the Buyer’s order and accepted by the Seller, as evidenced in the Contract;
“Product”	means the Product (including any instalment of the Product or any parts for them) which the Seller is to supply in accordance with the Contract;
“Month”	means a calendar month; and
“Seller”	means Hydrogenica LTD, a company registered in UK under Company number 15852160, address 4 East Street, Crowland, Peterborough, United Kingdom, PE6 0EN12 and includes all employees and agents of Hydrogenica LTD.
“Buyer’s Vehicles”	Means each and every vehicle owned by the Buyer which the Product will be sold and purchased for and installed on;

- 2.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

- 2.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

- 2.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 2.2.3 “these Terms and Conditions” is a reference to these Terms and Conditions and any Schedules as amended or supplemented at the relevant time;
- 2.2.4 a Schedule is a schedule to these Terms and Conditions; and
- 2.2.5 a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule.
- 2.2.6 a “Party” or the “Parties” refer to the parties to these Terms and Conditions.
- 2.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 2.4 Words imparting the singular number shall include the plural and vice versa.
- 2.5 References to any gender shall include the other gender.

3. Basis of Sale

- 3.1 The Seller’s employees or agents are not authorised to make any representations concerning the Product unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 3.2 No variation to these Terms and Conditions, or to the Contract, shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.
- 3.3 Sales literature, price lists and other documents issued by the Seller in relation to the Product are subject to alteration without notice and do not constitute offers to sell the Product which are capable of acceptance. No contract for the sale of the Product shall be binding on the Seller unless the Seller has issued a quotation which is expressed to be an offer to sell the Product or has accepted an order placed by the Buyer by whichever is the earlier of:
 - 3.3.1 the Seller’s written acceptance;
 - 3.3.2 delivery of the Product; or
 - 3.3.3 the Seller’s invoice.
- 3.4 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

4. Orders and Specifications

- 4.1 No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in writing by the Seller’s authorised representative.
- 4.2 The specification for the Product shall be that set out in the Seller’s sales documentation unless varied expressly in the Buyer’s order (if such variation(s) is/are accepted by the Seller). The Product will only be supplied in the

minimum units thereof stated in the Seller's price list or in multiples of those units. Orders received for quantities other than these will be adjusted accordingly.

- 4.3 Illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Seller are intended as a guide only and shall not be binding on the Seller.
- 4.4 The Seller reserves the right to make any changes in the specification of the Product which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Product are to be supplied to the Buyer's specification, which do not materially affect their quality or performance.
- 4.5 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller on the terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a result of such cancellation.

5. Price

- 5.1 The Contract Price of the Product shall be the price published on the Seller's web page www.hydrogenica.co.uk at the date of acceptance of the Buyer's order or such other price as may be agreed in writing by the Seller and the Buyer.
- 5.2 Where the Seller has quoted a price for the Product other than in accordance with the Seller's price published on the Seller's web page www.hydrogenica.co.uk the price quoted shall be valid for 30 (thirty) Business days only or such lesser time as the Seller may specify.
- 5.3 The Seller reserves the right, by giving written notice to the Buyer at any time before delivery, to increase the price of the Product to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (including, without limitation, any currency regulation and alteration of duties), any change in delivery dates, quantities or specifications for the Product which are requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
- 5.4 The Seller may allow the Buyer quantity discounts subject to and in accordance with the conditions set out in the Seller's published price on the Seller's web page www.hydrogenica.co.uk for the Product current at the date of acceptance of the Buyer's order or such other discounts as may be agreed in writing by the Seller and the Buyer.
- 5.5 Except as otherwise stated under the terms of any quotation of the Seller, and unless otherwise agreed in writing between the Buyer and the Seller, all prices are inclusive of the Seller's charges for packaging, transport and installation costs.
- 5.6 The Price stated under the terms of any quotation of the Seller is exclusive of any applicable value added tax, excise, sales taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Product, which the Buyer shall be additionally liable to pay to the Seller.

6. Payment

- 6.1 Unless otherwise agreed in writing between the Buyer and the Seller in Appendix 1 – Contract of Sale, the Seller shall invoice the Buyer on:
 - 6.1.1 the Schedule 1 – Contract of Sale execution date the Seller shall invoice for 25 (twenty five) % (percent) of the Contract Price of the Product.
 - 6.1.2 at any time after delivery of the Product the Seller shall invoice for 75 (seventy five) % (percent), representing the balance of the Contract Price of the Product.
- 6.2. In case the Product are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Product, the Seller shall be entitled to invoice the Buyer for the remaining balance of the Contract Price at any time after the Seller has notified the Buyer that the Product are ready for collection or (as the case may be) the Seller has tendered delivery of the Product.
- 6.3. The Buyer shall pay the invoice as per sub-clause 6.1.1 (less any discount or credit allowed by the Seller, but without any other deduction, credit or set off) within 3 (three) Business Days of the date of the Seller's invoice.
- 6.4. The Buyer shall pay the invoice as per sub-clause 6.1.2 (less any discount or credit allowed by the Seller, but without any other deduction, credit or set off) within 14 (fourteen) Business Days of the date of the Seller's invoice.
- 6.5. Payment as per clause 6.3 shall be made on the due date notwithstanding that delivery have not taken place.
- 6.6. Payment as per clause 6.4 shall be made on the due date notwithstanding that the property of the Product might have not passed to the Buyer.
- 6.7. The time for the payments of the Contract Price as per clauses 6.3 and 6.4 shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 6.8. All payments shall be made to the Seller as indicated on the form of acceptance or invoice issued by the Seller.
- 6.9. The Seller is not obliged to accept orders from any Buyer who has not supplied the Seller with references satisfactory to the Seller. If at any time the Seller is not satisfied as to the creditworthiness of the Buyer he may give notice in writing to the Buyer that no further credit will be allowed to the Buyer in which event no further Product will be delivered to the Buyer other than against cash payment and notwithstanding sub-Clause 6.4 of these Terms and Conditions, all amounts owing by the Buyer to the Seller shall be immediately payable in cash.

7. Delivery. Delivery Date.

- 7.1 Delivery of the Product shall be made by the Seller delivering the Product to the place in the United Kingdom specified in Appendix 1 - Contract for Sale as the location to which the Product are to be delivered by the Seller or, if no place of delivery is so specified, at the Seller's premises at any time after the Seller has notified the Buyer that the Product are ready for collection.
- 7.2 The Delivery Date shall be the date of installation of the Product on Buyer's vehicle/vehicles. Such installation to be executed at Seller's premises by Sellers authorised personnel. The Delivery Date shall be as per Appendix 1 - Contract for Sale. Alternatively the installation shall be executed by Sellers authorised

personnel at Buyers premises. In such case the Buyers shall cover the expenses of Sellers authorised personnel. The daily amount of such expenses will be as per Appendix 1 – Contract for Sale.

- 7.3 In case the Appendix 1 – Contract for Sale stipulates that the Product shall be delivered at the Seller's premises, with no installation included, as the case may be, the Delivery Date shall be the date the Buyer collects the Product. Such date to be not later than 3 (three) business days from Sellers written notice to the Buyer that the Product is ready for collection.
- 7.4 The Product may be delivered by the Seller in advance of the Delivery Date upon giving reasonable notice to the Buyer.
- 7.5 Where the Product are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Terms and Conditions or any claim by the Buyer in respect of one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 7.6 If the Buyer fails to take delivery of the Product or any part of them on the Delivery Date, fails to provide his vehicle/vehicles for installation and/or fails to provide any instructions, documents, consents or authorisations required to enable the Product to be delivered on that date, the Seller shall be entitled upon giving written notice to the Buyer to store or arrange for the storage of the Product and then notwithstanding the provisions of sub-Clause 10.1, risk in the Product shall pass to the Buyer, delivery shall be deemed to have taken place and the Buyer shall pay to the Seller all costs and expenses including storage and insurance charges arising from such failure.

8. Non-Delivery

- 8.1 If the Seller fails to deliver the Product or any part thereof on the Delivery Date other than for reasons outside the Seller's reasonable control but the Seller delivers the Product within 14 (fourteen) Business Days thereafter, the Seller shall have no liability in respect of such late delivery.
- 8.2 if the Buyer gives written notice to the Seller within 14 (fourteen) Business Days after the Delivery Date and the Seller fails to deliver the Product within 14 (fourteen) Business Days after receiving such notice the Buyer may cancel the order. In such case, the Seller's liability shall be limited to the Contract Price of the Product paid by the Buyer in accordance with Sellers invoice as per sub-clause 6.1.1.

9. Inspection/Shortage

- 9.1 The Buyer is under a duty whenever possible to examine the Product on Delivery Date or on collection as the case may be.
- 9.2 Where the Product cannot be examined the carrier's note or such other note as appropriate shall be marked "not examined".
- 9.3 The Seller shall be under no liability for any damage or shortages that would be apparent on reasonable careful inspection if the provisions of this Clause 9 are not complied with and, in any event, will be under no liability if a written complaint is not delivered to the Seller within 14 (fourteen) Business Days of Delivery Date detailing the alleged damage or shortage.
- 9.4 In all cases where defects or shortages are complained of, the Seller shall be under no liability in respect thereof unless an opportunity to inspect the Product

is supplied to the Seller before any use is made thereof or any alteration or modification is made thereto by the Buyer.

- 9.5 Subject to sub-Clauses 9.3 and 9.4, the Seller shall make good any shortage in the Product and where appropriate replace any Product damaged in transit as soon as it is reasonable to do so, but otherwise shall be under no liability whatsoever arising from such shortage or damage.

10. Risk and Retention of Title

- 10.1 Risk of damage to or loss of the Product shall pass to the Buyer at:

10.1.1 in the case of Product to be delivered at the Seller's premises, on the 5th business day following the Seller notification to the Buyer that the Product are available for collection; or

10.1.2 in the case of Product to be delivered otherwise than at the Seller's premises, the Delivery Date.

- 10.2 Notwithstanding delivery and the passing of risk in the Product, or any other provision of these Terms and Conditions, legal and beneficial title of the Product shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Product.

- 10.3 Until payment has been made to the Seller in accordance with these Terms and Conditions and the Contract and title in the Product has passed to the Buyer, the Buyer shall be in possession of the Product as bailee for the Seller. Notwithstanding his status of bailee, the Buyer shall be entitled to use the Product already installed on Buyers vehicle/vehicle or, in case the Product is delivered at Sellers premises, to install such Product on his vehicle/vehicles and use it until the Seller has received in cash or cleared funds payment in full of the price of the Product.

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

- 10.5 In case The Buyer's right to possession of the Product in which the Seller maintains legal and beneficial title is terminated, The Seller reserves the right to repossess any Product in which the Seller retains title without notice. The Buyer irrevocably authorises the Seller to enter the Buyer's premises during normal business hours for the purpose of repossessing the Product in which the Seller retains title.

- 10.6 In case the Seller exercises the right to repossess any Product as per clause 10.5, the Buyer shall be liable for all expenses related to Product installation and de-installation. Such expenses not to be unreasonably increased by the Seller.

- 10.7 The Buyer's right to possession of the Product in which the Seller maintains legal and beneficial title shall terminate if:

10.7.1 the Buyer fails to pay in cash or cleared funds full price of the Product.

10.7.2 the Buyer enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986, the Insolvent Partnerships Order 1994 (as amended), or any other scheme or arrangement is made with his creditors;

10.7.3 the Buyer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;

10.7.4 the Buyer convenes any meeting of its creditors, enters into voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed in respect of its assets or undertaking or any part thereof, any documents are filed with the court for the appointment of an administrator in respect of the Buyer, notice of intention to appoint an administrator is given by the Buyer or any of its directors or by a qualifying floating charge-holder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer.

11. Assignment

11.1 The Seller shall not be entitled to assign the Contract or any part of it without the prior written consent of the Buyer.

11.2 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller.

12. Defective Product. Product Guarantee.

12.1 If on delivery any of the Product are defective in any material respect and either the Buyer lawfully refuses delivery of the defective Product or, if they are marked on delivery as "not examined" the Buyer gives written notice of such defect to the Seller within 14 (fourteen) Business Days of such delivery, the Seller shall at its option:

12.1.1 replace the defective Product or any defective parts of the Product thereof within 30 (thirty) Business Days of receiving the Buyer's notice; or

12.1.2 refund to the Buyer the price for those Product (or parts thereof, as appropriate) which are defective; In such case the defective Product shall be returned to the Seller;

but the Seller shall have no further liability to the Buyer in respect thereof and the Buyer may not reject the Product if delivery is not refused or notice given by the Buyer as set out above.

12.2 The Seller is responsible for Manufacturing Defects for the Product by providing a guarantee that:

a) the electrolyser part of the Product shall be free from any manufacturing defects for the period of 10 (ten) years or 300 000 (three hundred thousand) miles of usage from the Delivery Date, whichever first;

b) any other part of the Product (such part being, but not limited to any electronic components and any part of the water supply system) shall be free of any manufacturing defects for the period of 2 (two) years or 60 000 (sixty thousand) miles of usage from the Delivery Date, whichever first;

12.3 If any defect covered by this Manufacturing Defects Guarantee occurs during

the guarantee periods, as per clause 12.2, a) and b), the Buyer shall notify the Seller in writing within 10 (ten) Business days of discovering such defect. Upon receipt of such notice, the Seller shall within 30 (thirty) Business days, at its option and at its own cost:

- a) repair the defective part/s or;
- b) replace the defective part/s with equivalent parts thereof;

The Manufacturing Defects Guarantee does not cover defects arising from improper installation, not carried out by Sellers authorised personnel, misuse, negligence, or damage caused by external factors, including but not limited to accidents, neglect, or acts of nature. However, where the Buyer's engineers have been trained and certified as competent by Hydrogenica LTD, such personnel shall be deemed authorised for the purposes of installation. Any work carried out by them shall not affect the validity of the warranties available, in case such works has been approved in writing by the Seller.

- 12.4 The Seller shall be liable to the Buyer for any damage caused to Buyer vehicle by the Product. Such damage caused by the Product to be certified by an independent third party appointed jointly by the Buyer and the Seller.
- 12.5 The Seller shall hold a minimum £10,000,000 (ten million) pounds limit of Public Liability insurance against legal claims for accidental injury to Buyer personnel /or for damage to Buyer vehicles.
- 12.6 The Manufacturing Defects Guarantee is non-transferable and applies only to the Buyer unless otherwise agreed in writing by the Seller.
- 12.7 No Product may be returned to the Seller without the prior agreement in writing of the Seller. Subject thereto any Product returned which the Seller is satisfied were supplied subject to defects of quality or condition which would not be apparent on inspection shall either be replaced free of charge or, at the Seller's sole discretion the Seller shall refund or credit to the Buyer the price of such defective Product but the Seller shall have no further liability to the Buyer.
- 12.8 The Seller shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to normal conditions, failure to follow the Seller's instructions (whether given orally or in writing), misuse or alteration of the Product without the Seller's prior approval, or any other act or omission on the part of the Buyer, its employees or agents or any third party.
- 12.9 Subject as expressly provided in these Terms and Conditions, and except where the Product are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 12.10 The Buyer shall be responsible for ensuring that, except to the extent that instructions as to the use or sale of the Product are contained in the packaging or labelling of the Product, any use or sale of the Product by the Buyer is in compliance with all applicable statutory requirements and that handling and sale of the Product by the Buyer is carried out in accordance with directions given by the Seller or any competent governmental or regulatory authority and the Buyer will indemnify the Seller against any liability loss or damage which the Seller might suffer as a result of the Buyer's failure to comply with this condition.

13. Buyer's Default

- 13.1 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 13.1.1 cancel the order or suspend any further deliveries to the Buyer;
 - 13.1.2 appropriate any payment made by the Buyer to such of the Product (or the Product supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
 - 13.1.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 5 (five)% per annum above base rate of Bank of England 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).
- 13.2 This condition applies if:
- 13.2.1 the Buyer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract;
 - 13.2.2 the Buyer becomes subject to an administration order or enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986 or the Insolvent Partnerships Order 1994 (as amended) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation;
 - 13.2.3 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer;
 - 13.2.4 the Buyer ceases, or threatens to cease, to carry on business; or
 - 13.2.5 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.
- 13.3 If sub-Clause 13.2 applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Seller, and if the Product have been delivered but not paid, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

14. Limitation of Liability

- 14.1 Subject to the provisions of Clauses 7, 8 and 12 the following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- 14.1.1 any breach of these Terms and Conditions or the Contract;
 - 14.1.2 any use made (including but not limited to modifications) or resale by the Buyer of any of the Product, or of any product incorporating any of the Product; and
 - 14.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

- 14.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Product Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 14.3 Nothing in these Terms and Conditions excludes or limits the liability of the Seller:
 - 14.3.1 for death or personal injury caused by the Seller's negligence;
 - 14.3.2 for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or
 - 14.3.3 for fraud or fraudulent misrepresentation.
- 14.4 Subject to sub-Clauses 14.2 and 14.3:
 - 14.4.1 the Seller's total liability in contract (including gross negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract Price; and
 - 14.4.2 the Seller shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

15. Confidentiality, Publications and Endorsements

- 15.1 The Buyer will regard as confidential the contract and all information obtained by the Buyer relating to the business and/or products of the Seller and will not use or disclose to any third party such information without the Seller's prior written consent provided that this undertaking shall not apply to information which is in the public domain other than by reason of the Buyer's default.
- 15.2 The Buyer will not use, authorise or permit any other person to use any Intellectual Property rights, name, trademark, house mark, emblem or symbol which the Seller is licensed to use or which is owned by the Seller upon any premises, note paper, visiting cards, advertisement or other printed matter or in any other manner whatsoever unless such use shall have been previously authorised in writing by the Seller and (where appropriate) its licensor.
- 15.3 The Buyer will use all reasonable endeavours to ensure compliance with this Clause 15 by its employees, servants and agents.
- 15.4 The provisions of this Clause 15 shall survive the termination of the Contract.

16. Communications

- 16.1 All notices under these Terms and Conditions and under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 16.2 Notices shall be deemed to have been duly given:
 - 16.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or
 - 16.2.2 when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or

16.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

16.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.

16.3 All notices under this Terms and Conditions shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

17. Force Majeure

Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

18. Waiver

The Parties agree that no failure by either Party to enforce the performance of any provision in these Terms and Conditions or under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

19. Severance

The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions or the Contract are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (and, by extension, the Contract). The remainder of these and the Contract shall be valid and enforceable.

20. Third Party Rights

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

21. Dispute Resolution

21.1 The Seller and the Buyer shall attempt to resolve any dispute arising out of or relating to this Terms and Conditions through negotiations between their appointed representatives who have the authority to settle such disputes.

21.2 If negotiations under sub-Clause 21.1 do not resolve the matter within 14 (fourteen) Business Days of receipt of a written invitation to negotiate, the Seller and the Buyer shall attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution ("ADR") procedure.

21.3 If the ADR procedure under sub-Clause 21.2 does not resolve the matter with

in 30 (thirty) Business Days of the initiation of that procedure, or if either the Seller or the Buyer will not participate in the ADR procedure, the dispute may be referred to arbitration by either the Seller or the Buyer.

21.4 The seat of the arbitration under sub-clause 21.3 shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed between the Seller and the Buyer. In the event that the Seller and the Buyer are unable to agree on the arbitrator(s) or the Rules for Arbitration, either the Seller or the Buyer may, upon giving written notice to the other, apply to the President or Deputy President of the Chartered Institute of Arbitrators for the appointment of an arbitrator or arbitrators.

21.5 Both the Seller and the Buyer hereby agree that the decision and outcome of the final method of dispute resolution under this Clause 21 shall be final and binding on both the Seller and the Buyer.

22. Law and Jurisdiction

These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

APPENDIX 1

CONTRACT OF SALE No.....

THIS CONTRACT is made the day of

BETWEEN:

- (1) Hydrogenica LTD, a company registered in UK under number 15852160 whose registered office is at 4 East Street, Crowland, Peterborough, United Kingdom, PE6 0EN12 ("the Seller") and
- (2) <<Name of Buyer>> [a company registered in <<Country of Registration>> under number <<Company Registration Number>> whose registered office is at] **OR** [of] <<insert Address>> ("the Buyer")

WHEREAS:

The Seller is the owner of UK patent for an invention representing "Oxyhydrogen generator and method for producing oxyhydrogen gas", published in the Official Bulletin of the European Patent Office 2018/27 dated 04.07.2018, No EP 3 161 186 B1, named HG2014 with trade name HHydrOdrive, hereinafter known as the Product and hereby agrees to sell the Product, as specified herein ("the Product") in accordance with, and subject to, the Terms and Conditions and this Contract.

The Buyer wishes to purchase the Product in accordance with, and subject to, the Terms and Conditions and this Contract.

IT IS AGREED as follows:

1. The Contract

- 1.1 Any and all references to "this Contract", "the Contract", "the Terms and Conditions" and "these Terms and Conditions" shall be deemed to refer to this Contract or the attached Terms and Conditions, all of which shall constitute a contract for the sale of the Product between the Seller and the Buyer.
- 1.2 By executing this Contract on....., the Parties hereby agree to be bound by, and subject to, the General Terms and Conditions and the provisions of this Contract.

2. Description of The Product,

The Seller shall sell and deliver and the Buyer shall purchase and pay the following Product - Oxyhydrogen generator named HG2014 with trade name HHydrOdrive in accordance with the General Terms and Conditions and the provisions of this Contract.

3. **Product Unit Price**

The Seller and the Buyer hereby agrees that the unit price for the Product shall be £.....(.....). Agreed unit price for the Product is inclusive of the Seller's charges for packaging, transport and installation costs. The unit price is exclusive of any applicable value added tax, excise, sales taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Product which the Buyer shall be additionally liable to pay to the Seller.

4. **Quantity of the Product**

The Seller and the Buyer hereby agrees that the quantity of the Product to be sold by the Seller and purchased by the Buyer shall be(.....) units.

5. **Price of the Contract**

The Seller and the Buyer hereby agrees that the Price of the Contract shall be £.....(.....) exclusive of any applicable value added tax, excise, sales taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Product which the Buyer shall be additionally liable to pay to the Seller.

6. **Delivery of the Product. Delivery Date.**

6.1 Delivery of the Product shall be made at Sellers premises, as the case may be. In such case the Delivery Date shall be the date of installation of the Product on Buyer's vehicle/vehicles as per General Terms and Conditions.

or

6.2 Delivery of the Product shall be made by the Seller delivering the Product atwith installation included. In such case the Delivery Date shall be the date of installation of the Product on Buyer's vehicle/vehicles as per General Terms and Conditions. The Buyer shall be additionally liable to pay to the Seller the daily expenses for Sellers authorised personnel to execute the installation. Such expenses are capped to a lump sum of £.....(.....) per day.

or

6.3 Delivery of the Product shall be made by the Seller delivering the Product atwith no installation included. In such case the Delivery Date shall be the date the Product is delivered.

7. **Delivery Schedule.**

Delivery of the Product shall commence as per following schedule:

8. **Other considerations.**

This Contract incorporates and is governed by the Seller's General Terms and Conditions for the Sale of Product (Version 1.0) available at [www.hydrogenica.co.uk/terms]. The Buyer acknowledges having read and accepted them.

9. Entire Agreement

This Contract of Sale and the Seller's General Terms and Conditions for the Sale of Product (together, the "Agreement") constitute the entire agreement between the Seller and the Buyer in relation to the sale and purchase of the Product.

IN WITNESS WHEREOF this Contract has been duly executed the day and year first before written

SIGNED by
<<Name and Title of person signing for the Seller>>
for and on behalf of <<Seller's Name>>

In the presence of
<<Name & Address of Witness>>

SIGNED by
<<Name and Title of person signing for the Buyer>>
for and on behalf of <<Buyer's Name>>

In the presence of
<<Name & Address of Witness>>