

Terms & Conditions of Sale

These terms and conditions should be read in conjunction with any offers or proposals YorPower Ltd has made to you, in writing and confirms acceptance of your order, and your acceptance of our terms and conditions. You also accept all conditions stated in our quotation proposal, for supply, installation, commissioning and any other products and services. All generators, spare parts or related equipment are subject to product lead times and are purely indicative and subject to variation by our supply chain – no liability is accepted for variations in the lead times stated. Our contract with you is formed expressly and solely based on the content of these terms and condition and our written quotation to you. YorPower Ltd take no responsibility for sizing of Generators to meet client's requirements unless we have taken design responsibility. You are advised that installation of generator sets will probably cause short term disruption at your premises, including temporary loss of mains power. YorPower Ltd will not be held responsible nor liable for any delays, problems or other matters arising that form part.

YORPOWER LTD CONDITIONS OF SALE

(1) **GENERAL.** The acceptance of our tender (or quotation) includes the acceptance of the following terms and conditions.

(2) **VALIDITY.** Unless previously withdrawn our tender is open for the acceptance for the period stated therein or when no period is stated, within 30 days only from the date of our tender.

(3) **ACCEPTANCE.** The acceptance of our tender must be accompanied by sufficient information to enable us to proceed with the order forthwith, otherwise we are to be at liberty to amend the tender prices to cover any increase in cost which has taken place after acceptance. Our tender shall not constitute a contract between us unless and until we expressly confirm our acceptance in writing. Upon such written confirmation a contract in accordance with our conditions of sale shall thereupon subsist between us.

(4) **CANCELLATION.** Once a contract comes into force between us, it cannot be cancelled by you except with our consent and on terms which will indemnify us against all resulting loss.

(5) **LIMITS OF CONTRACT.** An acknowledgment of order by YorPower includes only such goods, accessories and work as specified herein.

(6) **DRAWINGS. Etc.-** All drawings, descriptive matter, weights dimensions, and shipping specifications, submitted with our tender, and the descriptions and illustrations contained in our catalogues, price lists and other advertising matter are approximate only, and are intended merely to represent a general idea of the goods described therein, and none of these shall form part of the contract.

(7) **TESTS.** Our goods are carefully inspected, and standard tests are made before despatch. A certificate of test is supplied if required, and this certificate shall be accepted as evidence that the goods are as specified.

(8) **PERFORMANCE.** Any figures given for performance are based upon our experience and are such as we expect to obtain on test. You assume responsibility for the capacity and performance of the goods being sufficient and suitable for your purpose. We accept no responsibility for verbal undertakings by travellers or sales representatives unless confirmed in writing by our head office.

(9) **DESPATCH.** The time given for Despatch and/or completion is to date from receipt by us of a written or telegraphic order to proceed, and all the necessary information, and drawings to enable us to put the work in hand. We will use our best endeavours to keep the dates given but will accept no liability for failure to do so. Should Despatch be delayed by your instructions, or lack of instructions, or by any cause whatsoever beyond our reasonable control, including strikes, lockouts, war, fire, accidents or defective material, or failure by our suppliers to keep their promise of delivery, through no fault of ours, a reasonable extension of time shall be granted. In the event of suspension of the work by your instructions or lack of instructions, the contract price shall be increased to cover any extra expense thereby incurred by us.

(10) **TERMS OF PAYMENT.** For stock items: full payment on order. For non-stock items a deposit payment is required and full balance payment on advice that goods are ready for Despatch. If collection/despatch of goods is delayed due to any cause beyond our control when the plant is ready at our factory, balance payment(s) must not be withheld, and in the event of special terms having been arranged, the respective instalments must be paid by the date on which such payments can reasonably be assumed to have fallen due. Any liability on our part is subject to the terms of payment and all your other obligations to us under the contract being strictly observed. Interest at the rate of 4% over bank rate (minimum 5% is charged on all overdue accounts).

(11) **ERECTION.** Erection is not included unless detailed in our tender. If erection is required on a day-to-day basis, the agreed charge is to be reckoned from the time the erector leaves our works to the time of his return, all travelling expenses being chargeable to you at cost.

You shall provide suitable access to and possession of the site, or vessel, proper foundation, or settings ready to receive the plant as and when delivered, adequate crane lifting tackle and scaffolding, all other labour, suitable protection of the plant from time of delivery, and all necessary facilities and adequate assistance. All of these to be supplied at your expense, both for unloading and erection, to enable the work to be expeditiously and continuously carried out under our supervision, and any cost incurred by keeping any of our men at your works or on the vessel after completion of erection, except for necessary attendance at trials shall be charged for as an extra. All assistants supplied by you will remain in your employ, and you undertake all employers' liability in respect of claims that may arise under the Workmen's Compensation Acts, Employer's Liability Acts, or other relevant legislation. We accept such responsibility in respect of our employees provided they are engaged only on such work as is outlined in our contract and do not attend to any other work for you outside the contract. Should we incur extra cost for erection owing to interruptions, delays, overtime, unusual hours, mistakes or work for which we are not responsible, or water and exhaust piping, etc., additional to the quantities included in our estimate, such extra cost, as well as the cost incurred by keeping any of our men on site or vessel, after completion or erection, shall be added to the contract price and paid for accordingly. All necessary fuel, lubricating oil and stores required when starting up the plant or subsequently, are to be supplied at your expense.

(12) **DIVISIBILITY.** In reference to blanket orders for products that are subject to call off and invoiced separately for work that has been completed prior to completion of the blanket order, it is agreed that

these invoices will become due and payable on agreed terms in their own right notwithstanding that they are part of a blanket order.

(13) **LIABILITY FOR ACCIDENTS AND DAMAGES.** Until the goods shall have been taken over, or the deemed to be taken over under Clause 12, and subject to Clause 15, our sole liability for accidents and damages is as follows:

We will indemnify you against damage or injury to your property or person or that of others caused by the negligence of ourselves or our servants, but not otherwise, to the extent of repairing the damage to property or compensating the personal injury provided that such damage or injury is not caused or does not arise wholly or partially from the acts or omissions of yourselves or others or is not due to circumstances over which we have no reasonable control, and provided always that our total liability shall not exceed the total value of the contract. After such taking over, all liability on our part under this clause ceases.

(14) **STORAGE.** If we do not receive forwarding instructions sufficient to enable us to despatch within fourteen days after notification that the goods have been tested under Clause 7, or that they are ready for despatch, you shall take delivery or arrange for storage. We are prepared, however, if our storage facilities permit, to store the goods at a charge of not less than £50.00 per tonne per week (with a minimum fee of £100.00 per week) until the goods are despatched, and the goods shall be paid for as if they had been despatched.

(15) **DAMAGE IN TRANSIT.** We will not be responsible for loss or damage to goods beyond the delivery stated in our tender. We will repair or replace free of charge goods damaged in transit up to the point or port of delivery, but not beyond. When bills of lading are taken out by us on your behalf and at your request, we will take out on your behalf and at your expense, insurance against loss or other risk and we will on your behalf and at your expense, take all reasonable steps to recover from the Insurance Company any loss or damage for which they may be liable, provided that, in the case of order for delivery within the United Kingdom, we receive written notification of any damage within three days of delivery, and in the case of order for delivery outside the United Kingdom, we receive written notification of any damage within 28 days of delivery.

(16) **GUARANTEE.** The goods are warranted in accordance with our warranty terms (Clause 23) at the date of order. After the goods have been taken over or deemed to have been taken over under Clause 12 and subject to Clause 15 we expressly guarantee in lieu of any warranty implied by law to make good any defective parts in machinery of our own supply defects developed under proper use, and arising solely from faulty material or workmanship, provided always that such defective parts are promptly returned carriage paid to our works, and provided that fuel and lubricant approved by us have been used continuously. The repaired or new parts will be delivered free to nearest railway station or f.o.b. supplier's choice of English port. At the termination of the Warranty Period, all liability on our part ceases. All goods are supplied on the condition that we shall not be liable for any loss incurred through stoppages nor for any consequential damages. This guarantee shall not apply to fair wear and tear or to damage due to negligence or improper handling by the purchaser without our knowledge or approval, or due to damage by any cause beyond our control. This guarantee shall not apply to second hand or refurbished goods supplied by us. Where goods are sold F.O.B. English port, our responsibility under this clause shall end immediately we have delivered the goods on board ship, and we shall be under no obligations to give notice as per section 32 (3) of the Sales of Goods Act, 1983.

(17) **PATENTS.** In the event of any claim being made or action being brought against you in respect of infringement of patents by the manufacturing or sale by us of goods supplied to you hereunder you are to notify us immediately, and we shall be at liberty with your assistance, if required, but at our expense, to contact all negotiations for the settlement of the same or any litigation that may arise there from; subject to such notification, and provided that no such goods or any part thereof, shall be used for any purpose other than that for which we supply them, we will indemnify you in respect of any such claims. If during the period of the guarantee referred to in Clause 16, any question, dispute or difference whatsoever shall arise between you and ourselves upon, in relation to, or in connection with the contract, either of us may give to the other notice in writing of the existence of such question, dispute or difference and the same shall be referred to the arbitration in England of a person to be mutually agreed upon, or failing agreement, of some person appointed by the President the time being of the Institution of Mechanical Engineers, neither side to appear before the Arbitrator by solicitor or counsel. This submission shall be deemed to be a submission to arbitration thin the meaning of the Arbitration Act, 1889, or any statutory modification thereof.

(18) **PRICING.** In the event of incorrect pricing due to website or administrative error, we reserve the right to refuse or refund orders.

(19) **LEGAL CONSTRUCTION.** The contract shall in all respects be construed and operates as an English contract and in conformity with English law, and unless otherwise arranged is subject to the jurisdiction of the English Courts.

(20) **TITLES.** The titles of the clauses shall not affect their legal construction.

(21) **SUPPLEMENTARY CONDITIONS OF CONTRACT.** Our offer is made subject to our usual Conditions of sale and is subject to confirmation or revision by us in any event, at time of ordering. During the continuance of abnormal conditions likely to prevail for some time the contractor shall be relieved of liabilities incurred under this contract wherever and to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded by any statute, rules regulations, orders or requisitions issued by any Government Department, Council, or other duly constituted authority. In view of the uncertainty of the future cost of manufacture we are compelled to stipulate that, notwithstanding any price quoted by us or stated in your order, the goods will be invoiced at our prices current at the date of despatch.

(22) **VALUE ADDED TAX.** We shall be entitled to recover from you by way of addition to the Contract Prices(s), such amounts(s) which we may become liable to pay in respect of Value Added Tax in relation to goods or services supplied under this contract

(23) **LEGAL TITLE OF GOODS.** The risk in the Goods and Services shall pass to the Customer on completion of delivery. Title to the Goods and Services shall not pass to the Customer until the Supplier has received payment in full (in cash or cleared funds) for the Goods and any other goods or Services that the Supplier has supplied to the Customer in respect of which payment (including any interest or other such sums) has become due.

Until title to the Goods and Services has passed to the Customer, the Customer shall:

- a) hold the Goods on a fiduciary basis as the Supplier's bailee;

- b) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
- c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods and maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- d) notify the Supplier immediately if it ceases, or intends to cease, all or substantially all of its business operations,
- e) If before title to the Goods passes to the Customer the Customer becomes subject to the event listed in clause 23
- f) or the Supplier reasonably believes that any such event is about to happen and notifies the Customer accordingly, then without limiting any other right or remedy the Supplier may have, the Supplier may at any time require the Customer to deliver up the Goods and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

(24) **WARRANTY.** This is a warranty which applies to all new generating sets supplied by YorPower Ltd (herein after referred to as "the company"). All generating sets are warranted against defects in material and workmanship. This warranty is applicable to the first end user ("The user") of the generating set only.

The Company's Responsibilities. If a defect in material or workmanship arises during the warranty period, the company will replace or at the company's discretion repair the defective parts. Replacement or repair is subject to availability of the defective parts. YorPower reserve the right to attend site within a reasonable period. Immediate attention to site is not guaranteed unless the user enters into a separate service contract with the company.

The User's Responsibilities The user is responsible for:

- Installing (unless installed by the company) and operating the generating set in accordance with the manufacturer's instructions.
- Accepting the company's judgement as to whether the faulty part is defective in material or workmanship.
- Costs and risks for transportation/shipping and other charges associated with the replacement of the defective parts or equipment.
- Miscellaneous costs including but not limited to travel, mileage, lodging, taxes, telephone calls, overtime, except as stated under "The Company's Responsibilities."
- If the genset is to be used for Rental or Hire or will be moved from place to place on a regular basis, i.e., does not form part of a permanent integral electrical infrastructure, it is the responsibility of the customer to check to establish whether the equipment meets current emissions legislation, as defined by NRMM (Non-Road Mobile Machinery). It is the responsibility of the user to ensure compliance with the law, not YorPower Ltd. No refund or return of equipment will apply if non-compliance is established after the Order Acknowledgement has been raised.

Medium Combustion Plant Directive

New legislation came into force on the 1st of January 2019 which aims to reduce the allowable CO2 and NOx emissions. To that end, any genset plant that is in use for more than 50 hours per annum, may require an additional exhaust silencer, Catalytic converter, or a stage V emissions compliant engine. You the user are responsible for defining the use of equipment and should contact YorPower if you are in doubt or need advice to manage any after treatment.

Limitations

The warranty is invalidated by:

- Defects due to the user's improper installation, maintenance, or use.
- Alterations or repairs not authorised by the company in writing.
- Use of spare parts not supplied by YorPower.
- Any operation in excess of the generator rating or outside the stated site conditions and/or ISO conditions.
- The first service must be carried out by YorPower or its nominated representative within 12 months of receiving the generator and before the generator has run for 300 hours in total

The warranty excludes:

- Indirect costs / Consequential loss/ costs such as, but not limited to downtime and equipment rental.
- Outside normal working hours.
- Normal wear and tear.
- Emergency call-outs – a minimum charge of £400 will be applied to any call-out if there is no service agreement in place with YorPower Ltd.

Warranty Period The warranty period is 12 months from the date of first running or 18 months from the date of supply, whichever occurs soonest. The warranty is limited by hours of running as follows:

(i) New generators:

Generator kVA Rating	1 – 5.9	6 – 26	27 – 100	101 – 500	> 500
Hours Run	300	750	1000	1250	1500

(ii) Second Hand generators:

No warranty is given for second-hand generators.

This warranty is expressly in lieu of all other warranties, express or implied, including, but not limited to, any warranty of merchantability or fitness for a particular purpose. All warranties which exceed the aforementioned obligations are hereby disclaimed by the company and excluded from this warranty. The company shall, under no circumstances, be held liable for any special direct, indirect, incidental, or consequential damages. All claims made under this warranty should be made by

contacting your local distributor or agent or the company who will outline the administration and scope.

GDPR

By accepting our terms and conditions you are consenting to YorPower to, send you periodical updates by email and/or by post sure that you are kept up to date with all the latest, details of new generator products, updates on servicing procedures and schedules and information on stock availability. You can un-subscribe at any time by clicking on the 'un-subscribe' button at the bottom of any emails we send to you. YorPower will not pass your information to any third party. See our Separate GDPR and Privacy Policy

<https://yorpower.com/privacy-and-cookie-policy/>

