

# Qualiteam International

## ExtruPreX / Membership Agreement / General Conditions

### I. General Terms and Conditions

Qualiteam International (QI for short) provides a website on the Internet at [www.qualiteam.net](http://www.qualiteam.net) under the chapter "ExtruPrex" (the "Site" ) and at [www.extruprex.com](http://www.extruprex.com), allowing registered customers ("Members" ) to post "Offers for Sale" for used aluminium extrusion presses, auxiliary equipment and other aluminium processing equipment, post a search ("Want to buy") for equipment and submit "Request for Information" of equipment posted on the site, engage in offers, bids, negotiations and finally conclude transactions with other Members through the intervention of Qualiteam International officers or by means of electronic auctions when available on the site. Members are able to access other services such as assistance in the evaluation (assessment) of the value of the equipment, revamping, retrofitting, dismantling and transportation, rebuilding, commissioning and start up of the equipment, as well as training of factory personnel.

#### 1. Agreement with Terms and Conditions

This Membership Agreement (the "Agreement" ) describes the Terms and Conditions applicable to the use of the Site. By either clicking the "I AGREE " button in the > Membership Application Form or by signing a hard copy of the application and faxing it to Qualiteam International, the candidate Member accepts the Terms and Conditions of this Agreement.

Please print a copy of these Terms and Conditions with for your records.

Qualiteam International may amend the Membership's Agreement at any time by posting the amended Membership's Agreement on the Site and the effective date of any such amendment will be the date on which the amended Membership's Agreement is so posted on the Site.

Without limiting the generality or effect of the foregoing, QI may also add, delete or modify some or all of our services at any time at its sole discretion.

To become a Member, the candidate Member must register as such by filling out the > Membership Application Form. A Member's User Name (ID) and Password will be sent to the Member by QI allowing him the access to the site.

#### 2. Eligibility for Membership

The Site is available to any qualified participants in the aluminium extrusion industry who are capable of forming legally binding contracts under applicable law. Notwithstanding anything to the contrary contained in this Agreement, QI may refuse to accept an application for membership at its sole discretion and/or limit a Member's use of the Site at any time at its sole discretion.

#### 3. Terms and Conditions Between Members

The specific terms and conditions of a Member's purchase or sale of equipment through the Site are established between Buyer and Seller, subject to compliance with the Transaction Rules (II).

Each Buyer or Seller with whom the Member does business via the Site or through mediation of QI has the option to add its own terms and conditions. Although Sellers will post equipment to the Site and Buyers will post inquiries to the Site, QI is merely a venue for Buyers and Sellers to agree upon the terms of transactions. Qualiteam International does not set nor endorse the price, contract terms, quality, safety, conformity to any standards or legality of the equipment offered for sale, the ability of Sellers to sell equipment or the ability of Buyers to buy equipment. QI cannot and does not control whether Sellers will complete the sale of the equipment they offer. QI is not responsible with respect to payment or collection for orders made and bids placed via the Site.

Sellers determine, at their sole discretion, which Buyers are authorized to do business with them.

Buyers determine, at their sole discretion, which Sellers are authorized to do business with them.

Qualiteam International provides the site on an "as is" and "as available" basis and without warranty or condition, express or implied.

Member agrees that use of the site is at member's sole risk.

Qualiteam International expressly disclaims all warranties of any kind, including, but not limited to, (a) the implied warranties of merchantability, (b) fitness for a particular purpose and non-infringement, (c) that service will be continuous, uninterrupted and/or error-free, (d) as to the quality, identity or reliability of any buyer or seller and whether the Member should do business with such buyer or seller, and (e) as to the accuracy of postings made on the site by or on behalf of seller or buyer.

The parties desire and agree to comply fully with all applicable laws, rules and regulations. Specifically, the parties agree that the Site is not to be utilized to facilitate collusion or other conduct in violation of the antitrust laws. The Site acts as the venue for Members to purchase and sell aluminium extrusion, auxiliary equipment and other aluminium processing equipment. Qualiteam International is solely involved in the actual Transactions between Members as a messenger and "Go Between". Accordingly, QI has no control over the truth or accuracy of postings, the ability of sellers to sell listed equipment or buyers to purchase equipment.

Because QI is only involved in Member-to-Member Transactions as messengers, in the event of any dispute between Members, these Members release Qualiteam International, its agents and employees from any claims and damages of every nature (including, without limitation, actual, special, incidental and consequential), known and unknown, disclosed and undisclosed, arising out of or in any way connected with such dispute.

#### **4. Transaction Fees**

Seller agrees to pay the Qualiteam International Transaction Fee or Commission on any Transaction concluded on or via the Site or by mediation of QI, that becomes binding for Buyer and such Seller in accordance with the Transaction Rules whether or not such Transaction is consummated. This fee or commission is determined by the rule and/or the calculation set forth in the ExtruPreX Transaction Fee Schedule (III,1). The Seller's obligation to pay Qualiteam International the Transaction Fee arises at the time that becomes binding for Buyer and such Seller in accordance with the Transaction Rules and will be due to Qualiteam International within ten (10) days after receipt of the applicable Qualiteam International invoice.

## **5. Circumvention of Qualiteam International**

Member agrees not to identify and engage in negotiations with a counter party via or on the Site and then agree on the terms of the same Transaction off the Site or otherwise circumvent the payment of the Qualiteam International Transaction Fee as mentioned in Section 4. A Seller who agrees on the terms of a Transaction off the Site is still liable to pay Qualiteam International the applicable Transaction Fee for such Transaction. In addition, any Member who engages in circumvention is subject to having their membership in The ExtruPreX immediately and permanently revoked.

## **6. Access to the Site**

The Site is usually available 24 hours a day, 7 days a week. However, we retain the right to make the Site unavailable from time to time for any reason. Member agrees that Qualiteam International shall not be liable for any damages arising from any interruption, suspension or termination of the Site and/or the Exchange Market.

Access to and use of the Site is through a combination of a User Name (ID) and Password sent to Member by Qualiteam International upon acceptance of a > Membership Application. No Member or other person is permitted to access the Site using the User Name (ID) and Password of any other Member.

## **7. System Integrity**

Members agree to comply with all applicable local, state, federal, and international laws, statutes, rules and regulations relating to Member's use of the Site. Without limiting the foregoing, Members are responsible for observing all applicable tariffs and trade laws.

Member shall not provide access to the Site to other persons through use of Member's User Name (ID) and Password. The Member is solely responsible to ensure that it takes no action or omits to take action which in either case results in any other person utilizing Member's User Name (ID) and Password. Qualiteam International is specifically not responsible for the use of any Member's User Name (ID) and Password by another party.

Member agrees not to tamper in any way with the software or functionality of the Site. Without limiting the foregoing, Member agrees not to put any material into the Site which contains any viruses, time bombs, Trojan horses, worms, cancel bots or other computer programming routines that may damage, interfere with, intercept or expropriate any system, data or information.

Members agree not to disclose other Members' confidential information consistent with accepted industry practices. In addition, Members agree not to disclose Qualiteam International's confidential information, such as User Name (ID) and Password, even within Member's own organization, except on a need-to-know basis. Members agree not to invade another Member's privacy. This includes, but is not limited to, the breach or attempted breach of the security of another Member's computer, software or data without the knowledge and express consent of such Member. Use or distribution of tools designed for compromising privacy or security is strictly prohibited. Qualiteam International 's use of information set forth on the Site will be made in accordance with the current good business practise as is usual for well reputed brokers.

## **8. Information posted on the Site**

Member is solely responsible for information which it posts on the Site. Qualiteam International does not endorse any information posted on the Site by Members or third parties. Member agrees that Qualiteam International has no obligation to monitor the content on the Site or links to other web sites, and expressly disclaims any responsibility of Qualiteam International to filter any such content. However, QI may take any action with respect to such information QI deems necessary or appropriate in QI's sole discretion if QI

believes such information may give rise to liability to QI or other parties or interfere or impair the relationship of QI with any Member.

Information posted on the Site (a) must not be fraudulent or involve the sale of stolen items; (b) must not infringe any third party's rights, including but not limited to copyright, patent, trademark, trade secret, or other proprietary rights or rights of publicity or privacy; (c) must not violate any applicable law, statute, rule or regulation; (d) must not be obscene, indecent or contain pornography; (e) must not be defamatory, trade libellous, threatening or harassing; and (f) must not link directly or indirectly to or include descriptions of products or services that (i) are prohibited by this Agreement. In addition, Members may not post on the Site or sell on the Site any equipment which, by paying QI a Transaction Fee, could reasonably be expected to result in a violation of any applicable law, statute, rule or regulation.

## **9. Intellectual Property Matters**

Member acknowledges that all data developed and/or collected by Qualiteam International in connection with the operation of the Site shall be the exclusive property of Qualiteam International. Qualiteam International will use such data with the highest degree of discretion and no information concerning Member shall be shared with any third parties without the prior written consent of Member, except (i) for the fact that Member is a member of the ExtruPreX, (ii) pursuant to the license granted below, and (iii) for data derived from Transactions.

All content published on the Site is property of Qualiteam International and / or the respective copyright owners and may not be copied or distributed in any way by Members for commercial purposes.

To enable QI to use information provided by the Member in connection with the operation of the Site and the advertisement thereof by the Company without violating any rights the Member has in the information, Member grants to Qualiteam International a non-exclusive, worldwide, perpetual, irrevocable, royalty-free right to exercise the copyright, trademark and publicity rights (but not other rights) the Member has in such information on the Internet and otherwise in any publicity material of the Company. Qualiteam International 's use of such information will use such data with the highest degree of discretion and no information concerning Member shall be shared with any third parties without the prior written consent of Member, except (i) for the fact that Member is a member of the ExtruPreX, (ii) pursuant to the license granted below, and (iii) for data derived from Transactions.

The foregoing license will terminate upon the termination of Member's membership in the ExtruPreX.

## **10. Termination and Expiration**

Either Qualiteam International or Member may immediately terminate this Membership Agreement at will in writing or via e-mail.

Member agrees that, upon termination of this Membership Agreement, Member will:

- Pay all outstanding debts to Qualiteam International in full within ten (10) days.
- Honor all outstanding Transactions.
- Honor all outstanding Firm Offers and/or Firm Counteroffers with third parties until, and unless, withdrawn by the Member.

## **11. Dispute Resolution and Applicable Law**

This Membership Agreement and the Member's Terms and Conditions and the relationship between Member and Qualiteam International shall be governed by and construed in

Monday, January 5, 2009

accordance with the laws of Switzerland, Geneva canton, without regard to its conflict of law provisions. Member and Qualiteam International agree that any controversy or claim arising out of or relating to the Member's Terms and Conditions and the relationship between Member and Qualiteam International shall be submitted to the personal and exclusive jurisdiction of the courts located within the canton of Geneva, Switzerland.

## **12. Limitation of Liability**

As a condition of membership to the Site, and in consideration of the services provided by Qualiteam International, Member agrees that neither Qualiteam International, nor any officer, affiliate, director, shareholder, agent or employee of Qualiteam International will be liable to Member or any third party for any direct, indirect, incidental, special, punitive, or consequential loss of profits, loss of earnings, loss of business opportunities, damages, expense, or costs resulting directly or indirectly from, or otherwise arising in connection with:

1. the use of the Site by the Member, including but not limited to damages resulting from or arising from Member's reliance on the Site, or the mistakes, omissions, interruptions, errors, defects, delays in operation, non-deliveries, transmissions, eavesdropping by third parties, or any failure of performance of the Site;
2. the termination of Member's membership by Qualiteam International pursuant to the Member's Terms and Conditions;
3. the failure, or alleged failure, of any product purchased or transferred pursuant to the Site to conform to any specifications or terms, whether published on the Site or not;
4. the breach, or alleged breach, of any warranty, express or implied, relating to any such product or shipment; or
5. government restriction, strikes, war, any natural disaster or force majeure, or any other condition beyond Qualiteam International 's reasonable control.

The limitations set forth in this section do not apply to the gross negligence or wilful misconduct of Qualiteam International and its affiliates (excluding Members), subcontractors, employees, and agents, which, but for this provision, would give rise to a course of action in contract, or any other legal doctrine.

## **13. Indemnification**

Without limiting the generality or effect of other provisions of this Agreement, as a condition of membership, each Member agrees to indemnify, hold harmless, and defend Qualiteam International, and each of its respective affiliates, sub-contractors, agents, and employees against all third party claims, liabilities and damages incurred or allegedly incurred by Qualiteam International arising out of such Member's engagement in transactions on the Site, including but not limited to any product or services sold on the Site for failure of a product to meet specifications or breach of warranty, but excluding such damages arising out of Qualiteam International s gross negligence or wilful misconduct.

## **14. Other General Provisions**

This Agreement and the Member's Terms and Conditions constitute the entire agreement and understanding between the parties with respect to the subject matter of this Membership Agreement and supersedes and replaces any and all prior written or verbal agreements. Headings are for references only. A party's failure to insist upon or enforce strict performance of any provision of the Member's Terms and Conditions shall not be construed as a waiver of any provision or right. Neither the course of conduct between Member and Qualiteam International nor trade practice shall act to modify any provision of the Member's Terms and Conditions. If any provision of this Agreement is held to be invalid or unenforceable, such determination shall not affect such provision in any other respect or any other provision of the Member's Terms and Conditions which shall remain in full force and effect. This Agreement may not be assigned or transferred to third parties by Member without prior written permission from Qualiteam International.

## **II. Transaction Rules**

The provisions under Chapter II do apply at all times, although some provisions are specifically written for electronic auction on the Site. This is not the case (yet) at the moment.

The following Transaction Rules are incorporated into and subject to the terms of the Membership Agreement between the Member and Qualiteam International. The Member agrees to abide by such Transaction Rules as a condition to Member's use of the Site and participation on the Site.

### **1. Transaction Rules - General**

- Only Members may sell or purchase equipments through the Site
- Members must keep their User Name (ID) and Password confidential at all times.
- A "Transaction" is created within or via the use of the Site when a Transaction Confirmation is created.
- A "Transaction Confirmation" is created when either party accepts a Firm Offer or Firm Counteroffer from the other party.
- A Transaction is binding on both parties under the terms contained within the Transaction Confirmation and may not be unilaterally altered by any party.
- All Transactions on the Site are confidential among the Buyer, Seller and Qualiteam International.
- Buyers and Sellers determine which information, offers or inquiries to make available to which Members based on their own criteria.
- Qualiteam International reserves the right to revoke the access privileges of any Members that fail to conduct business in an honest and fair manner or abide by applicable laws, or who engage in activities or practices in order to manipulate or circumvent the Site.
- Sellers agree not to manipulate the price of any products or services offered on the Site, either through the use of shills, alias or decoys, or by acting as a Buyer in respect of such proposed sale.

### **2. Transaction Rules - Buyer**

#### **General Rules for Buyers**

- Buyers may apply to buy from any Seller. It is the Buyer's responsibility to select the Sellers with whom he or she wants to do business.
- Buyers can put up an unlimited amount of inquiries and respond to an unlimited amount of offers. However, Buyers are solely responsible for their ability to meet all financial commitments made.
- Qualiteam International does not charge Buyers any Transaction Fees for buying equipment on the Site.

#### **Placing an Inquiry**

- Buyers can initiate a Transaction by placing an inquiry ("Search for Equipment", or "Want to Buy") on the Site.

### **3. Transaction Rules - Sellers**

#### **General Rules for Sellers**

- Sellers will determine which Buyers are authorized to do business with them based on their own criteria.
- Sellers are solely responsible for the Buyer's credit worthiness and authority based on their own criteria.
- Sellers are solely responsible for all Transaction Fees and commissions.

- The Seller's obligation to pay Qualiteam International the Transaction Fee or Commission arises at the time the terms of Transaction are agreed upon and a Transaction or Contract is concluded on or via the Site or by mediation of QI. Unless otherwise stated, all fees are quoted in Euro and are due for payment in full ten (10) days after receipt of an Qualiteam International invoice. Transaction Fees are due and payable in respect of all Transactions and contracts which are created on the Site or via the Site with intervention of Qualiteam International as brokers. Members are responsible for paying all applicable taxes and for all hardware, software, services and other costs and expenses they incur to sell, buy, or access via the Site or by mediation of QI. A Buyer's breach of its obligations in respect of any Transaction will not relieve Seller of its obligation to pay to Qualiteam International a Transaction Fee in respect of such breached Transaction.
- Sellers can only sell their own equipment.

### **Creating Offers**

- Sellers can initiate a Transaction by placing an offer on the Site. By either clicking the "I agree" button in The Membership Application Form or signing a hard copy of that application and faxing it to the number +31-43-3212565, the Member represent and warrant that he, as a duly authorized representative of his company, can form legally binding contracts under applicable law, and that he is a merchant and/or industrial party involved in the aluminium industry and not a consumer user, for purposes of transacting business on this site.

### **III. The ExtruPreX Transaction Fee Schedule**

#### **Fees and/or commissions**

The fee or commission for Qualiteam International is negotiated between the Seller and QI. In case no prior negotiation has taken place or in case of electronic auction on or via the Site, the fees or commission will be as follows:

Up to USD 1.000.000	8 %
Part above USD 1.000.000	7 %