

CONDITIONS OF SALE

1. DEFINITIONS

The following terms and conditions of a sale shall apply to the sale of goods or services ("Goods") by Border hydraulic Couplings Pty. Ltd. ACN 006 283 610 (hereinafter called Enzed Albany") to another party.

"Purchaser means a person whose order for the purchase of Goods are accepted by Enzed Albany.

"Order means an order to offer to purchase and can be made by the Purchaser verbally or in writing.

"Contract means a contract formed between Enzed Albany and the Purchaser by the provision of an order and production of a printed invoice by Enzed Albany.

"Terms and Conditions" means these terms and conditions as amended from time to time.

2. FORMATION OF CONTRACT OF SALE OF GOODS

2.1 Each Order will constitute an offer by the Purchaser to acquire Goods from Enzed Albany upon and subject to the Terms and Conditions and to the exclusion of all other Terms and Conditions notwithstanding any qualifications of the Terms and Conditions.

2.2 Terms of payment - Unless otherwise stated, terms of payment are net cash on delivery, or for approved monthly accounts, within thirty (30) days measured from the end of the month the Goods are delivered to the Purchaser, or the Purchaser's carrier or agent.

2.3 Interest may be charged at a rate of 4% per annum above the overdraft interest rate charged to Enzed Albany by its bankers on all monies outstanding beyond the terms above, and without prejudice to Enzed Albany's other rights under law in relation to non-payment.

3. RETENTION OF TITLE

3.1 Title of the Goods passes to the Purchaser when it pays the full purchase price in accordance with this clause.

3.2 Until title to the Goods passes to the Purchaser under clause 3.1 and without prejudice to any of Enzed Albany's rights, the Purchaser must not encumber or otherwise charge the Goods, it possess the Goods as bailee only and it acknowledges that Enzed Albany is entitled to maintain an action for the proceeds of sale of any of the Goods by the Purchaser.

3.3 If the Purchaser does not pay the full purchase price when due, Enzed Albany may enter the premises where the goods are situated and repossess them, the Purchaser must deliver up the Goods to Enzed Albany or its' agent if so directed by the Enzed Albany, and the Purchaser indemnifies Enzed Albany against any claim, damages, liability, cost, expenses or payment which it suffers, incurs or becomes liable for in respect of the exercise of Enzed Albany's rights under this clause.

3.4 Notwithstanding the foregoing, the Purchaser may sell the Goods to a third party in the ordinary course of business.

4. RISK

Risk of the Goods passes to the Purchaser upon delivery (including all risks associated with unloading); or upon title in the Goods passing to the Purchaser in accordance with Clause 3, whichever is the earliest.

5. DELIVERY/PICK UP

5.1 Enzed Albany will make all reasonable efforts to have the goods delivered to the Purchaser or its designated agent as agreed between the parties (or if there is no specific agreement then at Enzed Albany's reasonable discretion), but Enzed Albany shall not be liable for:

5.1.1 any failure to deliver or delay in delivery for any reason; or

5.1.2 any damage or loss due to unloading or packaging; or

5.1.3 damage to property caused upon entering upon premises to deliver the Goods.

5.2 Any costs incurred by Enzed Albany due to any failure by the Purchaser to accept the Goods at the time of delivery will be reimbursed by the Purchaser to Enzed Albany. Except as required by law, Enzed Albany will be under no obligation to accept Goods returned for any reason.

6. WARRANTIES

6.1 Legislation such as the Trade Practices Act 1974 (Cth) may apply to these Terms and Conditions, warranties or conditions or impose obligations which cannot be excluded, restricted or modified and these Terms and Conditions are read subject to such statutory provisions.

6.2 All other conditions, representations, liabilities and obligations, whether implied or imposed by statute, including any conditions or warranties as to merchantability, fitness for purpose or correspondence with description are excluded to the extent permitted by law.

6.3 In the event that Enzed Albany breaches its obligations referred to in Clause 6.1 to the extent allowed by law, its liability is limited to any one or more of the following at its election:

6.3.1 the replacement of the Goods or the supply of equivalent goods;

6.3.2 the repair of the Goods;

6.3.3 the payment of the costs of replacing the Goods or acquiring equivalent goods; or

6.3.4 the payment of the costs of having the Goods repaired.

6.4 The total liability of Enzed Albany under these Terms and Conditions is, to the extent permitted by law, expressed in this Clause 6 and Enzed Albany will under no circumstances be liable to the Purchaser for any loss incurred by the Purchaser or any other party resulting directly or indirectly out of the supply by Enzed Albany to the Purchaser or out of any breach of Enzed Albany under these Terms and Conditions or out of the negligence of Enzed Albany.

6.5 Nothing in these Terms and Conditions shall exclude or modify any conditional warranty implied by law where to do so would render these Terms and Conditions void.

7. PARKER AND ENZED FITTINGS

Parker and Enzed Goods (which are covered by design registration) are specifically manufactured for attachment only to the make and type of hose specified in its catalogue. Use of other than the specified hoses or assembly of the hose fittings contrary to the instructions contained in the catalogue may result in an unsatisfactory or even dangerous product, and any warranties express or implied as to the fitness or otherwise are expressly excluded and negated and all liabilities disclaimed.

8. VOIDED WARRANTY

8.1 Enzed Albany reserves the right to declare void any warranty claim where the user does not give Enzed Albany the opportunity to have its engineers or representatives inspect the application of the Goods.

8.2 Enzed Albany sets out suggestions as to the use, installation and care of its Goods on the understanding that these suggestions are made only from Enzed Albany's wish that the Purchaser shall get the best results from its purchase, and do not in any way nullify the Conditions of Sale.

9. GENERAL

9.1 These Terms and Conditions take effect, are governed by and will be continued in accordance with the laws of the state of New South Wales, Australia.

9.2 These Terms and Conditions are subject to any change without notice.

9.3 The parties agree that any action arising out of, or relating to these Terms may only be brought by a court of competent jurisdiction in the state of New South Wales, Australia.

9.4 If any of these Terms and Conditions are found by a court of competent jurisdiction to be invalid or unenforceable, it will be struck out and the remaining Terms and Conditions will remain in force.

9.5 If Enzed Albany does not act in relation to a breach by the Purchaser of the Terms and Conditions, this does not waive Enzed Albany's right to act with respect to subsequent or similar breaches.

9.6 The Purchaser may not assign or transfer any rights or benefits it may receive under these Terms and Conditions to any other person or entity without the prior written consent of Enzed Albany.