

TERMS & CONDITIONS: SALE OF EQUIPMENT

These Terms and Conditions apply to the sale of equipment by HydroTerra Pty Ltd (ACN 154 889 559) to an individual or organisation ("Customer") placing a purchase order with HydroTerra.

The Customer's purchase order constitutes automatic acceptance of HydroTerra's Terms and Conditions herein.

1.0 Prices:

Unless stated otherwise prices quoted are in Australian dollars and are based on rates of freight, insurance, customs duty, foreign exchange, shipping expenses, cartage and sorting and tracking charges, State and Federal taxes and Charges applying at the date of quotation.

2.0 Quotations:

Unless otherwise stated, quotations will remain open for acceptance for a period of thirty days (30) after which they will be subject to reconfirmation by HydroTerra before acceptance of a purchase order.

3.0 Ordering:

Placing an order with HydroTerra will indicate the Customer's acceptance of these terms and conditions. Orders placed for goods with a total value of less than \$100.00 may incur a \$50.00 administration fee. No order for goods will be accepted by HydroTerra unless and until it is received by HydroTerra in writing.

4.0 Delivery:

Delivery of goods using HydroTerra's nominated carrier is deemed to have occurred upon receipt of the goods at the Customer's premises. Where the Customer nominates a carrier instead, delivery is deemed to have occurred upon HydroTerra's delivery to or collection by the Customer's nominated carrier. Where goods are to be collected by the Customer from HydroTerra, delivery is deemed to have occurred when the Customer collects those goods.

5.0 Risk and Ownership:

- (a) The risk in all goods supplied shall pass to the customer on delivery (as defined above) by HydroTerra to the Customer.
- (b) Title in the goods shall not pass from HydroTerra to the Customer until payment is made by the Customer to HydroTerra for the invoice price of the goods. Until payment in full has been made, the Customer holds the goods merely as a bailee on trust for HydroTerra. By giving reasonable notice HydroTerra may require the Customer to return any goods which remain the property of HydroTerra.

6.0 Payment Terms:

Unless HydroTerra otherwise agrees in writing, payment terms are strictly payment prior to delivery. HydroTerra reserves the right to suspend shipments to the Customer if any of the Customer's accounts is overdue. Goods to be purchased under finance will normally not be dispatched until HydroTerra has been notified by the finance company that the finance has been approved.

7.0 Goods and Services Tax (GST):



GST at prevailing rates will be charged on all goods and services supplied and will be collected by HydroTerra on behalf of the Commissioner of Taxation. No exemptions apply.

8.0 Claims:

Claims for non-delivery of goods, incorrect delivery of goods and or receipt of goods not in accordance with the order (apart from claims of defects) must be notified in writing to HydroTerra within 7 days from date of delivery, failing which (and except to the extent that may be otherwise required by law) the said goods will be deemed to be in all respects in accordance with the order and the Customer shall be liable for and bound to pay for the goods. Any written notice must give details of the invoice number, invoice date and reason for claim.

9.0 Returns:

Goods ordered and shipped may (except where the law, including the Australian Consumer Law, requires otherwise) only be returned after written approval (Return Authorisation Form) has been given by HydroTerra and any credit due or any repairs/replacement under warranty shall be determined after inspection. A re-stocking fee equal to 30% of the sale price may be applied to goods returned for credit for change of mind reasons. Except for warranty claims, returns will not be accepted for any reason after 60 days from the date of shipment. Goods approved by HydroTerra for return must be sent freight pre-paid unless otherwise arranged with HydroTerra. Goods approved by HydroTerra for return freight collect will only be accepted if sent by HydroTerra's nominated carrier.

When goods are returned under warranty claim but found by HydroTerra to be within specification and in good working order, assessment time and return freight will be charged.

10.0 Delay in Delivery:

HydroTerra undertakes to make every effort to ensure that goods are delivered within the estimated delivery time. Orders for goods not delivered within the estimated delivery time may only be cancelled by the customer giving HydroTerra 7 days' notice in writing of the intention to cancel such order and provided the goods have not been delivered by HydroTerra within those 7 days.

11.0 Overdue Accounts:

Unless agreed otherwise all monies payable by the Customer to HydroTerra shall be paid within thirty (30) days of from the date of the invoice. Monies not paid within that period shall attract interest from the date of the invoice until payment at a rate of 1.5% per month. HydroTerra may charge the customer bona fide reasonable costs including the costs of any bank fees for dishonoured cheques, collection agencies, solicitor or other legal or accounting costs incurred in the collection of overdue monies. These costs are in addition to any costs awarded by a court of competent jurisdiction.

12.0 Warranty:

HydroTerra's goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. The Customer is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

To the extent provided by law, the Customer acknowledges that in most cases HydroTerra is not the manufacturer or distributor (but only a reseller) of the goods and that the manufacturer/ distributor bears primary responsibility for meeting any warranty or similar claims regarding product quality, defects in material and workmanship in the goods. To the extent permissible at law the Customer acknowledges this and indemnifies and holds harmless HydroTerra against any and all claims relating to



defects in materials and workmanship in the goods supplied, which shall be the responsibility of the manufacturer/ distributor.

13.0 Liability:

- (a) To the extent permissible at law and without limiting any obligations that cannot be excluded at law including under the Australian Consumer Law (including those mentioned above) ; (i) HydroTerra limits its liability to the Customer to the amount of the purchase price of the goods for which liability arises, whether in contract or tort or otherwise and (ii) HydroTerra shall not be liable to the Customer for any damages or consequential loss including loss of profit or any account however arising from any breach of contract and the customer releases HydroTerra from any such claim.
- (b) Subject to the provisions of the Australian Consumer Law which cannot be modified or excluded, no warranty, term or condition shall be implied against HydroTerra by statute, common law or otherwise. No representation, condition, term or warranty shall be binding upon HydroTerra unless it is written and signed by HydroTerra, or a person authorised in writing by HydroTerra.

14.0 Repairs:

If the Customer seeks to have goods repaired, they must obtain from HydroTerra a 'Return Authorisation Form' and must accompany the goods with such a completed form listing the faults found and the work the Customer believes is required to be done. No work shall commence until the Customer provides HydroTerra with a written authorisation from HydroTerra (following completion of a Return Authorisation Form) to proceed with the repairs.

15.0 Installation and Commissioning:

Unless otherwise provided in writing, prices quoted for goods do not include installation, commissioning or any other services. Such services will be undertaken in accordance with HydroTerra's standard Terms and Conditions for Professional Services.

16.0 Intellectual Property and Confidentiality:

The Customer acknowledges that documentation accompanying the goods supplied and in particular any drawings, diagrams, descriptions or illustrations of goods, tables and specifications are or may be the intellectual property of HydroTerra and/or the Manufacturer of the goods and may contain knowledge and information confidential to HydroTerra and/or the Manufacturer. The Customer undertakes to keep confidential such information and not disclose it to third parties except in so far as it is already in the public domain or required to be exposed by law.

17.0 Termination:

Either party may terminate these terms and conditions by providing written notice if there is a material breach by the other party and such breach is either not capable of remedy, or if capable of remedy, has not been remedied within 10 days of receiving notice from the non-defaulting party to so remedy. Those rights and obligations that are capable of surviving termination shall do so.

18.0 Force Majeure:

- (a) Neither HydroTerra nor the customer shall be responsible for any failure to fulfil their respective obligations under these terms and conditions if fulfilment has been delayed, hindered, interfered with curtailed or prevented by any circumstance which is not within the reasonable control of the effected party or by compliance with any order, demand, requirement, recommendation or request of any international, national, port, transportation, local or other authority or court



having the appropriate jurisdiction or any person purporting to be or to act for such authority or court or any strike, lock out or industrial dispute whether or not HydroTerra or the Customer are parties thereto.

- (b) If either party fails to perform its duties and/or obligations under these terms and conditions as a result of one or more of the reasons specified above, that party shall give written notice to the other of its inability setting out the reason in question and the operation of the contract shall be suspended during the period in which the reason continues. Forthwith upon the reason ceasing to exist, the party relying upon it shall give written notice to the other of this fact. If the reason continues for a period of more than thirty (30) days and substantially affects the commercial intention of the transaction between the parties, the party not claiming relief under this term may terminate the contract upon giving seven days (7) written notice of termination to the other party. Termination shall be without prejudice to any of the rights and obligations of either party approved prior to the date of termination.

19.0 Notices:

Any notice required under these terms and conditions must be in writing, addressed to the other party and either delivered to that party's address, sent by mail, or transmitted by email.

A notice given to a party under (a) above shall be duly given and received on the date of delivery on the third day after posting or on the day of transmission in the case of an email.

20.0 Governing Law:

The Law of the State of Victoria governs these terms and conditions and any legal proceedings pursuant to them. The Courts of that State will have exclusive jurisdiction to hear disputes in relation to these terms and conditions.