

WELD QUIP GROUP PTY LTD - TRADING TERMS & CONDITIONS

1. INTERPRETATION

Reference in these terms to:-

- (a) "Weld Quip" means Weld Quip Group Pty Ltd and its successors and assigns.
- (b) "ACL" means the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth).
- (c) "Goods" or "Services" refers to goods or services supplied by Weld Quip to You.
- (d) "PPSA" means the Personal Property Securities Act 2009 (Cth).
- (e) "You" means the person named in the Customer Account Application as the Customer.

Terms used in these Terms and Conditions which have defined meanings in the PPSA or ACL have the same meanings in these Terms and Conditions

2. PRICE

- 2.1 The "price" of Goods and/or Services will be the then current price as determined by Weld Quip and notified to You.
- 2.2 All prices are GST exclusive. GST is payable by You in addition to the price at the same time as the price is payable.
- 2.3 A \$15.00 handling charge will apply to all invoices under \$50.00 for retail sales and to all invoices under \$150.00 for wholesale sales.

3. LIABILITY

Where You comprises more than one person, each such person shall be jointly and severally liable to Weld Quip under these Terms and Conditions.

4. PAYMENT

- 4.1 The price shall be paid by You in cash or by cheque not later than thirty (30) days after Weld Quip invoices You. Time is of the essence in that regard.
- 4.2 If You fail to make any payment when due all other amounts whether then due or not will become immediately due and payable
- 4.3 Weld Quip reserves the right to recover from You a default charge on overdue amounts calculated on a daily basis at the rate which is of 4% above the Westpac Reference lending rate as published from time to time upon the outstanding balance of the price and to be payable by way of liquidated damages for breach of contract.
- 4.4 You must pay all costs and expenses (on a solicitor-client basis) reasonably incurred by Weld Quip arising out of any breach by you of these Terms and Conditions.

5. SUPPLY

- 5.1 Every endeavour will be made by Weld Quip to supply the Goods and/or Services within the period, if any, requested by You but no liability is accepted by Weld Quip for delay in delivery or non-delivery.
- 5.2 Weld Quip reserves the right at its discretion to discontinue supply to You at any time.

6. EXAMINATION

You are responsible for examination of the Goods upon delivery or collection and any alleged damage, deficiency or non conformity with order must be reported to Weld Quip in writing within two (2) business days of such delivery/collection otherwise no claims shall be considered.

7. TITLE AND TRANSFER

- 7.1 Title in Goods shall remain with Weld Quip until You have paid all monies due to Weld Quip on any account whatsoever. Until that time You must-
 - 7.1.1 At all times ensure that Goods are marked in a way that will enable their identification as property of Weld Quip;
 - 7.1.2 Except as mentioned in clause 7.2 not purport to mortgage, charge, transfer, convey or otherwise deal with Goods without the prior consent of Weld Quip;
 - 7.1.3 At all times allow Weld Quip access to Goods to inspect them and to re-take possession at its discretion and indemnify Weld Quip against all claims whatsoever (including claims of trespass) arising out of the exercise or purported exercise of rights under this clause;
 - 7.1.4 Insure Goods; and
 - 7.1.5 Account to Weld Quip for all proceeds of Goods including any insurance proceeds.
- 7.2 You shall be entitled to sell or consume Goods in the ordinary course of your business subject to –
 - 7.2.1 In the case of a sale of Goods You must hold the proceeds of sale on trust for Weld Quip;
 - 7.2.2 Your right to deal with Goods shall cease automatically if You-
 - (a) breach any provision of these conditions of sale;
 - (b) cease to or threaten to cease to carry on your business; or
 - (c) becomes the subject of any form of insolvency administration whether formal or informal.

8. PPSA

- 8.1 You hereby grant to Weld Quip a Security Interest in all present and after acquired Goods and their proceeds (including any accounts and accessions) to secure all monies owing to Weld Quip now and/or in the future by You.
- 8.2 You agree that:
 - (a) Weld Quip will continue to hold a Security Interest in the Goods in accordance with the PPSA, notwithstanding that the Goods may be processed, commingled or become an accession with other Goods.
 - (b) You will do all the things necessary to enable Weld Quip to perfect and maintain its security interest including providing all information Weld Quip requires to register a Financing Statement or Financing Change Statement on the Personal Properties Securities Register ("PPSR") as a Security Interest and a Purchase Money Security Interest pursuant to the PPSA;
 - (c) You will not change your name, ACN or ABN or other details required on the PPSR, without first notifying Weld Quip;
 - (d) Weld Quip need not give You any notice required under the PPSA unless the requirement to give notice cannot be excluded;
 - (e) You must pay any and all costs, expenses and other charges incurred, expended or payable by Weld Quip in relation to the filing, discharge or necessary amendment of any Financing Statement or Financing Change Statement.
 - (f) You will not allow security interests to be created or registered over the Goods in priority to the security interest(s) held by Weld Quip.
 - (g) To the extent the law permits them to be excluded Sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA shall not apply.

9. CONSUMER GUARANTEES

- 9.1 If Goods and/or Services are supplied to You as a Consumer, the ACL provides for You to have the benefit of consumer guarantees which cannot be excluded. You will be entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You will also be entitled to have goods and/or services repaired, replaced or re-supplied if they fail to be of acceptable quality and the failure does not amount to a major failure.
- 9.2 To the extent permissible by law, the liability of Weld Quip in respect of a breach of a consumer guarantee or any warranty made under these Terms and Conditions for any Goods and/or Services not of a kind ordinarily acquired for personal, domestic or household use is limited at the option of Weld Quip:

In the case of Goods to -

 - (a) replacing Goods or the supply of equivalent Goods;
 - (b) the repair of the Goods;
 - (c) the payment of the cost of replacing Goods or of acquiring equivalent Goods; or
 - (d) the payment of the cost of having Goods repaired.

In the case of Services to -

 - (a) the supplying of the Services again; or
 - (b) the payment of the cost of having the Services supplied again.
- 9.3 To the extent permitted by law, all other warranties whether implied or otherwise, not set out in these Terms and Conditions are excluded and Weld Quip is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate You for:
 - (a) any increased costs or expenses;
 - (b) any loss of profit, revenue, business, contracts or anticipated savings;
 - (c) any loss or expense resulting from a claim by a third party; or
 - (d) any special, indirect or consequential loss or damage of any nature whatsoever; arising out of the Weld Quip' supply of Goods and/or services to You or caused by Weld Quip's failure to provide or delay in providing Goods and/or Services.