

TRADING TERMS AND CONDITIONS OF SALE

1. Definition

- a) The headings used do not form part of this agreement but are for aid in interpretation only.
- b) "Supplier" means Webforge NSW a division of Webforge Australia Pty Ltd.
- c) "Customer" means the applicant named in this application. Where more than one person is a party hereto, the word "Customer" shall be read as "Customers" and this agreement shall bind the Customers jointly and severally and their respective successors and assigns.
- d) A "duly authorised officer" shall mean any of the general manager, sales manager, accountant, and any other manager of the Supplier from time to time.

2. General

- a) The Customer agrees to comply with and abide by the terms and conditions of this agreement.
- b) Any order placed by a Customer is deemed to be an order incorporating these terms and conditions and these terms and conditions shall prevail over all conditions in the Customer's order or acceptance to the extent of any inconsistency, unless expressly agreed to by the Supplier in writing.
- c) All goods sold to the Customer by the Supplier are sold on these terms and conditions, unless otherwise expressly varied by the Supplier in writing.
- d) Where drawing layouts are required, the estimated delivery period commences progressively from date of receipt of final "approved for construction" drawings showing full grating outlines as per the current Webforge grating catalogue "ordering information" and "information required from the client". Quoted prices include the preparation of manufacturing drawings if required by Webforge. Any additional costs resulting from changes initiated by the client will be charged to the client.
- e) This contract is governed by and is constructed in accordance with the laws of the State of New South Wales, Australia. The parties hereby submit to the exclusive jurisdiction of the courts of New South Wales.

3. Payment / Account Terms

- a) All goods and services supplied by the Supplier to the Customer shall be paid for in full by the Customer no later than 30 days from Invoice Date issued by the supplier. ("the Due Date").
- b) The Supplier reserves the right to vary the terms of payment and to require payment in cash in full prior to delivery should the credit worthiness of the Customer at the time become in the Suppliers opinion unsatisfactory.
- c) The Customers must pay all legal costs, stamp duties, other expenses, costs or disbursements (including but not limited to any dishonored cheque fees, debt collection agency fees and solicitor's fees), incurred by the supplier in respect of this Application, or in respect of the enforcement of any Agreement, or any Guarantees, Securities or other documentation required by the Supplier in connection with this Application.
- d) If the Supplier is not paid for any goods on the Due Date, without prejudice to any other right or remedy, all outstanding money shall bear interest on daily balances until paid at a rate of interest per annum equal to 10% in excess of the interest rate charged by National Australia Bank on overdraft accounts for sums up to \$500,000 Australian dollars and such money together with all interest shall be recoverable forthwith from the Customer.
- e) The supplier shall be entitled to add to any invoice, the cost of any stamp duty and sales, excise, value added, consumption or any other tax or imposts applicable to the sale transactions.

4. Delivery

- a) The Supplier shall deliver to the delivery place nominated by the Customer. The Customer shall pay to the Supplier delivery charges in accordance with the Supplier's current rates.
- b) The Customer authorizes the Supplier to deliver goods to the place nominated by the Customer ("the Place of Delivery") and to leave the goods at the Place of Delivery whether or not any person is present to accept delivery. The Supplier shall not be liable on any basis whatsoever for any loss or damage to the goods occurring after delivery to the Place of Delivery.
- c) The supplier shall not be obliged to obtain a signed receipt or other acknowledgement at the Place of Delivery. However, if a signed receipt or other acknowledgement of delivery is obtained from a person at the Place of Delivery who appears to be authorised by the Customer to sign or otherwise take delivery, then, to the extent permitted by law, such signed receipt or other acknowledgement shall be conclusive evidence of delivery, the quantity of goods delivered, the lack of defects in such products and otherwise compliance with the order.
- d) Any time quoted for delivery is an estimate only and the Supplier shall not be liable for the failure to deliver or for delay in delivery of goods occasioned by any strike, lockout, shortage of stock, shortage of labor, lack of skilled labor, delays in transit, fire, flood, hostility, civil commotion or other cause whatsoever whether or not beyond the control of the Supplier.

5. Claims

- a) To the extent that the Supplier may lawfully exclude its liability for damages for any breach of contract, the Supplier shall not be liable on any claim form damages for any such breach where:
 - (i) The claim is not made in writing and notified to the Supplier within fourteen (14) days of the date of delivery of the goods or within seven (7) days after the Customer learns of the facts giving rise to the claim, whichever first occurs; or
 - (ii) The claim is in respect of goods which, at the date of the claim or at any time prior to settlement of the claim, have been incorporated into any other goods or product.
- b) To the extent that the Supplier may lawfully limit its liability for damages for breach of contract, or for breach of a representation, condition or warranty implied by State or Federal legislation or law of a Territory, including the Trade Practices Act or the relevant Fair Trading legislation (other than implied undertakings relating to title) Supplier's liability for damages for breach of contract shall (subject to any other limitation herein contained) be limited, at the Supplier's discretion, to:
 - (i) The replacement of the goods or the supply of equivalent goods; or
 - (ii) The repair of the goods; or
 - (iii) The payment of the cost of replacing the goods or of acquiring equivalent goods or of repairing the goods;and Supplier shall not be responsible for any special or consequential damage of whatsoever nature suffered by Customer.

6. Return of Stock Items

- Except as provided herein:
- a) Goods ordinarily sold as standard stock items by the Supplier may only be returned for credit to the Customer's account within fourteen (14) days of the date of delivery of the goods; and then ONLY IF prior agreement is given by a duly authorised officer, the goods are undamaged, unused and in good and saleable condition.
 - b) Goods accepted for credit by the Supplier will attract a charge (the amount of which shall be at the discretion of the Supplier but not less than 10% of the price for those goods) to cover restocking and repacking charges. Such charges shall be deducted from the amount of credit allowed. The original invoice number and Supplier job number must accompany all goods returned to the Supplier.
 - c) The provisions of these Terms and Conditions of Sale are in place of and exclude all other representations, warranties, conditions, and obligations (express or implied) excepting only those representations, conditions, warranties, and obligations imposed by statute and which Supplier may not lawfully exclude, negate or vary.

7. Property and Risk

Unless otherwise agreed by the supplier in writing the following shall apply:

- a) Legal and equitable title in the goods shall not pass to the Customer until the purchase price for the goods has been paid in full to the Supplier by the Customer but risk in the goods shall pass to the Customer immediately upon delivery.
- b) Until such time as the title passes in accordance with paragraph (a) above the Customer shall hold the goods as bailee for the Supplier on the terms set out below.
- c) The Customer shall store the goods separately for other goods in the customer's possession in a manner which clearly identifies those goods as the property of the Supplier.
- d) The Customer shall not dispose of or part with possession of the goods without the prior written consent of the Supplier.
- e) Pending transfer of title, the Customer may use the goods as agent of the Supplier and as authorised by the Supplier to manufacture new products. The products resulting from such manufacture will be the property of the Supplier.
- f) The Customer is hereby authorised to sell, or agree to sell, the goods or any manufactured products as agent of the Supplier until such time as title passes to the Customer
PROVIDED THAT:
 - (i) The Customer must keep separate records in relation to the proceeds of the sale of any goods which have not been paid for, bank the proceeds of any such sale into a separate account and immediately remit such funds to the credit of Supplier;
 - (ii) If any goods are unused in a manufacturing process or mixed with other materials, the Customer shall record the value of goods so consumed in relation to each unit of finished product and upon sale of any unit of finished product immediately remit that amount from the proceeds of sale to the Supplier; and
 - (iii) This authorization shall lapse immediately upon any of the following events occurring:
 - (1) The Customer, being a natural person, commits an act of bankruptcy or is declared insolvent;
 - (2) Where the Customer is a corporation, proceedings are commenced to wind up the Customer or the Customer is placed under official management or a receiver is appointed over the Customer's undertaking or property or any part thereof the Customer is placed under any other form of insolvent administration;
 - (3) The Customer enters into some arrangement or assignment for the benefit of its creditors;
 - (4) The Customer disposes of or parts with possession of the goods otherwise than as expressly authorised by this agreement;
 - (5) The Customer, in the opinion of the Supplier, is in breach of any of the terms of this agreement.
- g) If the customer does not pay for any goods on the due date, the Supplier is hereby irrevocably authorised by the Customer to enter the Customer's premises (or any premises under the control of the Customer or as agent of the Customer if the goods are stored at such premises) and use reasonable force to take possession of the goods without liability for the tort or trespass, negligence or payment of any compensation to the Customer whatsoever.

8. Sub-Contracting

The Supplier reserves the right to sub-contract the production, manufacture or supply of the whole or any part of the goods or any of the materials or services supplied.

9. Notices

Notice to be given by the Customer to the Supplier shall be delivered personally to the Accountant of the Supplier. Notice to be given to the Customer by the Supplier may be delivered personally, or sent to the Customer's last known address and, unless the contrary is proved, shall be taken as delivered on the second business day following posting. Invoices and statements are deemed received by the Customer on the second business day after posting by ordinary prepaid post.

10. Misuse of Account

The Customer will ensure no unauthorized persons use the account. If the Customer's business is sold the Customer will immediately close the account to prevent misuse and will remain liable for the account until written notification of change of ownership of the business has been received by the Supplier.

11. Acknowledgement and Authorisation by Customer

1. The Customer acknowledges that the information provided in the application is the basis for the evaluation by the Supplier of the financial standing and credit worthiness of each of the signatories (and the incorporated body) and does hereby:
 - a) Certify that the information provided in this application is true and correct,
 - b) Authorize the Supplier to make such enquiries and receive such information from the bankers and business referees mentioned in this application and otherwise from anyone as the Supplier may reasonably consider necessary,
 - c) Acknowledge that the Supplier has informed me/us, in accordance with the Privacy Act 1988 as amended, that certain items of personal information, including an opinion, about me/us are permitted to be kept on a credit information file and might be disclosed to credit reporting agencies,
 - d) In accordance with the Privacy Act 1988 as amended
 - (i) Agree to the Supplier obtaining from a business which provides information about the commercial credit worthiness of persons, information concerning my/our commercial activities or commercial credit worthiness and using such information for the purpose of assessing this application or assessing whether to accept me/us as guarantors as the case may be,
 - (ii) Authorise the Supplier to exercise my/our rights of access to credit information files and credit reports.
 - e) Agree that these authorizations shall continue to have effect for the duration of the period during which credit or commercial credit is provided or sought by the Customer from the Supplier.
2. In the case of a trustee Company, the Customer acknowledges and agrees that the Trustee shall be liable on the account and that in addition the assets of the Trust shall be available to meet payment of the account.