

## A B Equipment Pty Ltd Trading Terms and Conditions

1. These terms and conditions govern all contracts for the sale, supply of goods, and services by A B Equipment Pty. Ltd. (ABE) and prevail (to the extent of any inconsistency) over any conditions applicable to a specific order, unless expressly agreed to by ABE in writing.
2. In this agreement “goods and services” shall mean all goods and services supplied by ABE as described on any quotation, invoice, or any other documentation created by ABE.
3. By purchasing goods and services from ABE, the client will be deemed to have accepted these terms and conditions.
4. All previous negotiations, representations, arrangements, and statements (if any), between the client and ABE, whether express or implied, are excluded and cancelled.

### QUOTES

5. Every quotation is an estimate only, established with accurate information supplied by the client, and is subject to ABE withdrawing, correcting, or altering the quote at any time prior to our acceptance of the client’s order, to meet any cost difference between the date of the quotation and the date of completion of the order, or if material variations occur. Should changes be required to be made on the day, a Variation Form must be completed, prior to work commencing. Any extra work conducted outside of quoted ‘Scope of Work’ will incur extra charges.
6. Quoted prices are valid for fifteen (15) days and subject to the client’s order being the whole quantity stated in the quotation.
7. All quotes must be signed, along with ABE’s Terms & Conditions, and returned to ABE prior to any work commencing.
8. Traffic Control is not provided in the quote unless stipulated.

## PRICE

9. All prices are as published by ABE from time to time and are plus GST unless otherwise indicated. ABE reserves the right to apply prices ruling at the time of delivery. The buyer will bear and pay the gross GST invoiced without allowance for any GST credits the buyer or ABE may be entitled to. All applicable goods and services tax will be in accordance with the Goods and Services Act 1999.
10. Unless otherwise stated, prices for delivered goods are freight on board from ABE's premises located at 14 Vallance Street, St Marys NSW 2760. Special transport charges or variations in tariffs, rates of exchange, special taxes, transport charges, insurance premiums, harbour dues or similar costs, and all other costs which affect the goods must be paid for by the client.

## PAYMENT TERMS

11. **Customer Without a Credit Account:** The purchase price for goods must be paid to ABE upon issue of tax invoice, or if the goods are to be delivered before dispatch from our premises. For services, ABE's tax invoices must be paid within seven (7) days unless specifically authorised by Management that payment can be extended.
12. **Customer With a Credit Account:** The purchase price must be paid within thirty (30) days from the date of the invoice or statement issued by ABE for the goods and services. Where the purchase price of the goods ordered by the client, plus the purchase price of any goods and services previously ordered by the client for which payment is outstanding exceeds the client's approved credit limit, payment must be made immediately to ensure the client remain within the approved credit limit. Credit may be cancelled/suspended without notice if accounts are not paid by the due date. Alternatively, debit/credit card payments can be made. Note: There will be a 1.4% surcharge applicable for credit transactions. Please contact the National Office to utilise this feature on **02 8856 8562**.
13. ABE reserves the right to charge the client interest compounding daily on any invoice rendered by ABE which is due and remains unpaid at the rate of 2% per annum above our bank's unsecured overdraft rate as would be charged to ABE.
14. Payment must be made against each part or portion of any order as delivered and ABE reserves the right to invoice for part delivery of any order.
15. All tax invoices are final.
16. Claims are to be made within seven (7) days of the date of the invoice in writing.
17. Retentions are subject to agreement with A B Equipment Pty. Ltd.

18. Bank Transfers:

- a. Please send remittance advice to [accounts@abequipment.com.au](mailto:accounts@abequipment.com.au).
- b. EFT details:
  - Banking Institution: Bank of Queensland
  - Account Name: A B Equipment Pty Ltd
  - BSB: 122-717
  - Account Number: 20196186

19. This claim is made under the Building & Construction Industry Security of Payment Act NSW 1999.

## EXTRA CHARGE DELAY

20. If the client delay or interrupt progress of ABE's performance, or cause changes to be made, the client agrees to reimburse ABE for expenses, including storage fees, incidental to such delay.

## RECOVERY OF LEGAL AND OTHER CHARGES

21. The client agrees to pay ABE's collection costs, reasonable legal fees, court costs, and interest.

## DELIVERY

22. Any times given for delivery of goods are an approximate and for guidance only. Although ABE make every effort to keep to delivery times, ABE specifically exclude all liability for loss or damage occasioned by delays in delivery.

23. ABE is not responsible for any loss or damage to the goods in transit caused by any event of any kind outside of ABE's control.

## MATERIAL

24. Only specified quoted and quantities of material shall be used unless otherwise stated.

25. Extra material used outside quoted quantities will be charged at quoted rate.

## RETENTION OF TITLE AND RISK

26. Title and ownership of goods delivered will only transfer to the client when the client have paid in full all amounts owing by the client to ABE.

27. Until such time as property in the goods passes to the client, the client shall hold the goods as bailee for ABE and shall, when requested by ABE, hold any proceeds from the sale or disposal of property to which the goods are attached up to the amount owed to ABE in a separate account for which separate records are kept.

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28. If the goods are attached or fixed by the client to any property of the client's, by way of any manufacturing or assembly process, title of the goods shall remain with ABE until the client have made payment for all goods and where goods are attached or fixed to property so as to be part of or constituent of any new goods title to those goods shall be deemed to be assigned to ABE as security for the full satisfaction by the client for the full amount owing by the client to ABE.
29. In the event of non-payment or if payment of your account is overdue, ABE shall be entitled without prejudice to any right ABE have at law or in equity to enter the place where the goods are stored for the purpose of recovering and taking possession of the goods supplied including removal of the goods from any property to which they have been attached or fixed.
30. Risk in the goods passes to the client immediately upon the first to occur of:
- delivery to the client,
  - the goods being in the client's custody, or
  - the goods being within ABE's direction or control including while in transit to the client if the client have arranged the transportation.

## **PERSONAL PROPERTY AND SECURITIES ACT ("PPSA")**

31. In consideration of ABE supplying the goods to the client, at the client's request, the client by signing these terms and conditions of sale and supply:

31.1 Grant to ABE a purchase money security interest ("PMSI") as defined by the PPSA in the goods.

31.2 Agree that any of the goods or proceeds of the sale of property of the client's to which the goods are attached or fixed coming into existence after the date of these terms and conditions of trade will come into existence subject to the PMSI granted herein and the terms of these terms and conditions of sale and supply without the need for any further action or agreement by any party.

31.3 Acknowledge that the client has received valuable consideration from ABE and agree that it is sufficient.

31.4 Agree that the PMSI as attached to all goods supplied now and in the future to the client and that the attachment of the PMSI has in no way been deferred or postponed.

31.5 ABE reserves the right to register a financing statement in respect of any goods supplied by ABE to the client pursuant to these terms and conditions of sale and supply and in respect of which credit has been extended by ABE to the client. The costs of registering a financing statement or a financing change statement shall be paid by the client and may, where applicable, be debited against the client's account, with ABE.

31.6 The client waives the client's right to receive a copy of the verification statement confirming registration of a financing statement, or a financing change statement relating to the security interest under these terms and conditions of sale and supply.

31.7 The client shall promptly, on request by ABE, execute all documents and do anything else reasonably required by ABE to ensure that the PMSI created by these terms and conditions of sale and supply constitutes a perfected security interest over all goods supplied.

31.8 The client shall not agree to allow any person to register a financing statement over any of the goods supplied by ABE without the prior written consent by ABE and will immediately notify ABE if the client become aware of any person taking steps to register a financing statement in relation to such goods.

31.9 The client shall not allow the goods to become accessions or commingled with other goods unless ABE have first perfected any security interest that ABE have in relation to the goods.

31.10 If ABE perfect any security interest that ABE have in relation to the goods, the client shall not do anything that results in ABE having less than the security or priority granted by the PPSA that ABE have assumed at the time of that perfection.

31.11 The client irrevocably grants to ABE the right to enter upon the client's property or premises, without notice, and without being in any way liable to the client or to any third party, if ABE have cause to exercise any of ABE's rights under the PPSA, and the client shall indemnify ABE from any claims made by any third party as a result of such exercise.

31.12 ABE and the client agree that nothing in sections 95, 96, 121(4), 130, 132(3)(d), 132(4), 142, and 143 of the PPSA will apply to these terms and conditions of sale and supply, or the security interest under these terms and conditions of sale and supply. The client unconditionally ratifies any actions taken by ABE under this clause.

## TECHNICAL ADVICE

32. Goods must be used in accordance with any manufacturer's instructions and any product information or guides published by ABE.
33. The client accepts any technical advice or assistance ABE provide the client at your own risk, and release and discharge ABE from any and all claims related to that advice or assistance.
34. ABE assume no liability (whether for negligence or otherwise) for any technical advice or assistance given in respect of the goods or their use.

## CANCELLATION

35. If the client cancels an order which has been accepted by ABE, the client must pay a reasonable charge for any work already completed and materials used.
  
36. Despite the cancellation of an order for any reason, the client must pay in full for any goods and services which are: part of that order which were especially procured for the client; custom ordered, imported, manufactured, or made to order by ABE; or of a particular nature not normally stocked by ABE.

## RETURNS AND CLAIMS

37. Upon delivery of the goods, the client must inspect the goods. Any claim for faulty or defective goods must be received within seven (7) days from the date of delivery of the goods.
  
38. If the client fails to notify ABE that the goods are not in accordance with these terms and conditions, then to the extent permitted by law, the goods will be deemed to have been accepted by the client and the client must pay for the goods in accordance with these terms and conditions. Notification of faulty goods must be in writing in an acceptable form. The preferred method of notification is via email to [workorders@abequipment.com.au](mailto:workorders@abequipment.com.au).
  
39. Under no circumstances will ABE be liable for indirect or inconsequential loss which the client may sustain or incur as a result of the client's purchase or use of the goods.

## WARRANTY

40. ABE provide you with a twelve (12) month warranty in relation to all goods purchased and three (3) month warranty on workmanship including all repairs service and installation of goods on the terms stated herein below.

Manufacturer's warranty for goods supplied to a customer will be passed onto the customer. The warranty period passed onto the customer is for the same duration as stipulated by the manufacturer.

41. Where ABE agree that the client is entitled to claim under this warranty, ABE's liability is limited to (at ABE's discretion), replacing the goods, repairing, or arrangement for a third party to repair the goods, or refunding the price the client paid for the goods.

Any warranty shall become void in a situation where:

- a. The goods have not been properly maintained.
  - b. The client has outstanding invoices for monies payable to ABE.
  - c. Installation of the goods has not been carried out by persons recognised by ABE as being trained and accredited to install the goods.
  - d. The goods continue to be used after any fault or defect would reasonably have become known to The client.
  - e. The defect or fault occurred from unreasonable wear and tear, any accident or act of God;
  - f. The defect or fault occurred as a result of circumstances beyond the control of both parties.
  - g. Maintenance or alteration is made to the goods without ABE's knowledge and written consent.
  - h. Due to any act of vandalism or terrorism.
42. ABE accept no responsibility for loss or damage to the client, financial or otherwise, arising from a delay in the time taken for ABE to replace or repair any goods covered by this warranty.

## LEGAL INTERPRETATION

43. ABE will not be responsible or liable to the client for, nor will these terms and conditions be terminated as a result of any failure to perform our obligations under this agreement to the extent and for the period that such failure results from circumstances beyond ABE's reasonable control.
44. ABE may alter these terms and conditions at any time. A copy of the current terms and conditions is available on our website ([www.abequipment.com.au](http://www.abequipment.com.au)) or upon request.
45. If any provision of these terms and conditions is invalid, these terms and conditions shall be read as if that provision has been severed.
46. These terms are governed by the laws in force in the States and Territories of Australia.

## **FORCE MAJEURE**

47. Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable) to the extent the failures or delay are proximately caused by causes beyond that party's reasonable control and occurring without its fault or negligence, including, without limitation, failure of suppliers, subcontractors, carriers, or any party to substantially meet its performance obligations under this Agreement. As a condition to the claim of no liability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

## **INTELLECTUAL PROPERTY RIGHTS**

48. Sale of the products shall not confer upon the client any rights or interest in any trademarks, patents, copyrights, industrial designs, or other intellectual property rights of ABE. The client shall not dispute or conspire to dispute or question the title of ABE to such rights relating to the product. The client undertakes not to utilise copy, reproduce, or disclose or permit others to utilise copy, reproduce or disclose any such intellectual property without the prior written consent of ABE.

## **HOURS OF OPERATION**

49. Standard hours of operation are Monday to Friday (excluding public holidays) within the hours of 07:30am to 04:00pm.

50. Any overtime charges outside of a standard day will be charged to the client.

51. Night works and/or weekend work will be charged at the appropriate overtime or call out rates.

52. Disruption caused from other parties for night work remains the responsibility of the client unless stipulated.





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## WORK SITES

- 53. Work sites shall be fully prepared prior to commencement of works.
- 54. Any site preparation work will be charged at the quoted rate of our hourly rate which applies.
- 55. All work sites will be in compliance with WHS standards.
- 56. Up to thirty (30) minutes induction time will be allocated per job at no charge. Induction times exceeding this will incur a 10% charge at the quoted rate per thirty (30) minute increments.
- 57. Waiting time may be charged if delays of work occur. This will be charged in thirty (30) minute intervals at the applicable quoted rate.
- 58. A late payment fee of 2% per month calculated daily may be charged for overdue accounts.
- 59. Protection of completed work will be the responsibility of the Client.

Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_  
(Authorised Person of Company)

Signed By: \_\_\_\_\_  
(First and Last Name Written in Full)

### **A B Equipment Pty. Ltd.**

Witnessed By: \_\_\_\_\_ Date Signed: \_\_\_\_\_  
(Authorised Person of Company)

Signed By: \_\_\_\_\_  
(First and Last Name Written in Full)