

GENERAL TERMS AND CONDITIONS OF SALE

1 GENERAL

- a) Any tender or quotation is made on the condition that the following provisions shall apply to all orders given to and accepted by A1 Metallising Services Pty Ltd, unless they are expressly excluded or varied in the Quotation or in subsequent correspondence.
- b) Any quotation or tender by A1 Metallising Services Pty Ltd shall remain open for placement of an order by the Purchaser within 30 days.
- c) Any order given in respect of a quotation or tender is not legally binding on A1 Metallising Services Pty Ltd unless and until accepted by A1 Metallising Services Pty Ltd. Telephone or verbal orders must be confirmed in writing.
- d) Subject to Clauses 1c and 2, the contract resulting from acceptance of an order by A1 Metallising Services Pty Ltd may not be varied, amended or in any other manner altered other than by written agreement signed by both parties.

2 CANCELLATION OF ORDERS

Orders accepted by A1 Metallising Services Pty Ltd may not be cancelled in whole or in part by the Purchaser without A1 Metallising Services Pty Ltd's written consent. A fee amounting to 20% of the contract value will be charged on cancellation. In addition, A1 Metallising Services Pty Ltd reserves the right to charge for its work-in-progress and disbursements relating to the Order as a condition of acceptance of cancellation.

A1 METALLISING SERVICES PTY LTD

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 sales@aonemetal.com.au  www.aonemetal.com.au

ABN 31 891 913 828

3 QUOTATION AND PRICE VARIATION

- a) All prices quoted (“the Quotation Price”) are based on A1 Metallising Services Pty Ltd’s estimated cost of production, manufacture, or supply at the time of Quotation and are exclusive of GST. A1 Metallising Services Pty Ltd reserves the right to vary the Quotation Price without notice to the Purchaser at any time prior to delivery if there is any increase in the cost of production, manufacture, or supply between the date of Quotation and the date of delivery.
- b) Prices quoted are subject to Purchaser’s order being for the whole of the goods or services specified. Prices quoted are unpacked ex works A1 Metallising Services Pty Ltd. Any extra costs incurred as a result of instructions or lack of instructions from the Purchaser, or interruptions caused by delays in work for which A1 Metallising Services Pty Ltd is not responsible will increase the contract price by the value of such extra costs.

4 DELIVERY TIME

The delivery time specified in the Quotation shall date from the acceptance by A1 Metallising Services Pty Ltd of a written unconditional and irrevocable order and receipt by it of full engineering and technical details. A1 Metallising Services Pty Ltd shall not be liable for any loss or damage arising as a result of failure to deliver in the time specified if such failure arises from events beyond A1 Metallising Services Pty Ltd’s control nor whilst the purchaser is in breach of these conditions of sale. Any period of delay resulting from such events will automatically be added to the time specified for delivery.

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5 TERMS OF PAYMENT

- a) Payment Period –Full Payment shall be made in Australian dollars, without any deductions whatsoever within 30 days from the month end of the invoice being raised. If any payment is not received within the Payment Period, interest on such claims for payment will accrue from the day after the expiration of the Payment Period at a rate equal to two percent (2%) per annum (calculated weekly) in excess of the base lending rate charged by Westpac Banking Corporation as its reference rate in Australia.
- b) For goods destined for export and/or orders placed by a Purchaser resident outside Australia, payments are to be effected via confirmed irrevocable letter of credit payable against presentation of invoices. L/C confirmation and other establishment costs are to the purchaser's account.
- c) A1 Metallising Services Pty Ltd reserves the right to vary the terms of payment and to require payment in cash in full or the provision of such security as A1 Metallising Services Pty Ltd considers appropriate prior to deliver, should creditworthiness of the Purchaser at any time become in A1 Metallising Services Pty Ltd's opinion unsatisfactory.

6 INDEMNITY

The Purchaser indemnifies and hold A1 Metallising Services Pty Ltd harmless from and against all liabilities, losses, damages, costs, or expenses incurred or suffered by A1 Metallising Services Pty Ltd, and from and against all actions, proceedings, claims or demands made against A1 Metallising Services Pty Ltd, arising –

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- a) As a result of the Purchaser's failure to –
 - i) Ensure that any safety markings on the goods are adequately displayed; or
 - ii) Bring to the attention of users of the goods safety manuals and updates therefore applicable in relation to the goods, or
 - iii) Otherwise comply with any laws, rules, standards or regulations applicable in relation to the goods or the use of the goods.
- b) As a result of any other negligence or other breach of duty by the Purchaser; or
- c) As a result of compliance or adherence by A1 Metallising Services Pty Ltd with any instructions of the Purchaser in relation to the goods or services and from and against all actions, proceedings, claims or demands made against A1 Metallising Services Pty Ltd as a result of such compliance or adherence.

7 DRAWING AND DIMENSIONS

- a) All drawings, plans, specifications and any other written or printed matter accompanying a Quotation or otherwise in the Purchaser's possession or custody before or after acceptance of an order do not form part of the Contract and may not form part of the Contract and may not be relied upon by the Purchaser. Copies of drawings, plans, specifications and any other written or printed matter submitted to the Purchaser shall remain the property of A1 Metallising Services Pty Ltd and the information contained therein shall be treated as strictly confidential and shall not be used to the advantage of the Purchaser or to the detriment of A1 Metallising Services Pty Ltd.
- b) All A1 Metallising Services Pty Ltd's quotations, specifications, sketches and drawings remain the property of A1 Metallising Services Pty Ltd and must neither be used nor disclosed to third persons without our written authority and are to be returned upon request.

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8 PATENT RIGHTS


The Purchaser warrants that any Design, Instruction or Equipment furnished to A1 Metallising Services Pty Ltd by or on behalf of the Purchaser shall not be such as will cause A1 Metallising Services Pty Ltd to infringe any patent, registered design, trademark, copyright or involve the unauthorized disclosure of confidential information in the execution of the Purchaser's order and the Purchaser agrees to indemnify A1 Metallising Services Pty Ltd against any infringement or threatened infringement or allegation of unauthorized use of patents, trademarks, designs, copyright or confidential information arising out of the manufacture or use of the goods and it is specifically agreed that the sale and purchase of the goods does not confer on the Purchaser any licence or rights under any patents, designs, trade-marks, copyright or confidential information which is the property of A1 Metallising Services Pty Ltd. A1 Metallising Services Pty Ltd shall be under no obligation to disclose the methods or techniques used in production.

9 WARRANTY AND LIMITATION OF LIABILITY

- a) It is hereby acknowledged by A1 Metallising Services Pty Ltd that, under applicable State, Territory and Commonwealth law, certain conditions and warranties may be implied in the contract between A1 Metallising Services Pty Ltd and the Purchaser and rights and remedies conferred upon the Purchaser as the consumer in relation to goods or services which cannot be excluded, restricted or modified by agreement ("Non - excludable Rights"). The rights conferred upon the Purchaser by this Warranty are in addition to and do not detract from any Non-excludable Rights which the Purchaser may have. Subject to any Non-excludable Rights which the Purchaser may have, A1 Metallising Services Pty Ltd disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the Purchaser, by statute, the common law, equity, trade, custom, or usage or otherwise howsoever and all such conditions, warranties, rights and remedies are hereby expressly excluded. Where so permitted the liability of A1 Metallising Services Pty Ltd for a breach of a Non - excludable Right is limited, at A1 Metallising Services Pty Ltd's

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option, in the case of goods, to the replacement or repair of the goods or the supply of equivalent goods or the cost of replacing or repairing the goods or of acquiring equivalent services again or the payment of the cost of having the services supplied again.

- b) The goods (excepting material supplied by the Purchaser) are warranted to be free of defects resulting from faulty materials and workmanship for a period of twelve (12) months from the time of delivery and A1 Metallising Services Pty Ltd will replace any defective parts subject to Clause 10 and the following:
- i) A1 Metallising Services Pty Ltd shall be advised in writing of any defect within one (1) week of the defect being known;
 - ii) The defective part being returned on demand to A1 Metallising Services Pty Ltd;
 - iii) The Purchaser has fulfilled his financial obligations;
 - iv) The Purchaser has not attempted to repair, adjust, improve or otherwise interfere with the goods or its related operating procedures or has submitted the goods to unreasonable stress or treatment. Any such action shall cause this warranty to become null and void;
 - v) Without limiting the foregoing, in A1 Metallising Services Pty Ltd's opinion the goods have at all times been properly used;
 - vi) The cost of dismantling and reinstating the unit, and the transportation of defective and/or replacement parts to and from our central workshop, are not A1 Metallising Services Pty Ltd's liability unless specifically accepted in writing by A1 Metallising Services Pty Ltd; and

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- vii) Proprietary goods not of A1 Metallising Services Pty Ltd's manufacture are excluded from this warranty and are limited to the warranty offered by the specific supplier.

- c) Except as expressly provided in Clause 10, neither A1 Metallising Services Pty Ltd, its' employees, nor its agents shall be liable (whether before or after discharge of the Contract or otherwise) for any loss or damage to the Purchaser as user arising from or caused or contributed to by negligence of A1 Metallising Services Pty Ltd, its' servants or agents, nor shall A1 Metallising Services Pty Ltd be liable for special, incidental, indirect or consequential loss or damage suffered by the Purchaser as user as a result of a breach by A1 Metallising Services Pty Ltd of its obligations under this Warranty or otherwise including but not limited to economic loss, loss of profits or revenue or costs arising from the loss of use of the equipment or cost of a substitute product.

10 ENTIRE AGREEMENT

The matters contained in the Quotation and these General Conditions of Sale constitute the entire agreement between the parties and no representations, warranties, guarantees or other terms or conditions, whether express or implied and whether oral or in writing in relation to the subject matter of the Contract shall be of any force or effect unless contained in the Quotation and these General Conditions of Sale and the purchaser hereby irrevocably waives any right it may have to bring an action under Sections 51 A, 52 or 53 of the Competition and Consumer Act 2010 or of the Fair Trading Act of 1987 (NSW) or under the corresponding provision of the Fair Trading Act of any other State in respect of any statement, representation, conduct or omission by or on behalf of A1 Metallising Services Pty Ltd.

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11 INCONSISTENT CLAUSE

These General Conditions of Sale shall prevail over any terms or conditions to the contrary contained in the Purchaser's order. Any terms and conditions of the Purchaser's order deviating from or inconsistent with these General Conditions of Sale are expressly excluded and any statement of the Purchaser's terms and conditions shall prevail is also excluded.

12 DISPUTES AND ARBITRATION


If any dispute shall arise in connection with the Contract which cannot be settled amicably between the Purchaser and A1 Metallising Services Pty Ltd, either party may give written notice to the other of the existence of such dispute and the same shall then be referred to a person or persons to be mutually agreed upon by the parties, or failing agreement, some person appointed for that purpose by the President for the time being of the Institution of Engineers, Australia. Any person appointed pursuant to the Clause shall act as an expert and not as an arbitrator. Both parties agree to accept the standard conditions of the said Institution of Engineers and also agree to accept the decision of the expert as final and binding.

13 WAIVER

Failure by A1 Metallising Service Pty Ltd to insist upon strict performance of any term, warranty or condition of the contract shall not be deemed to be a waiver thereof or of any rights A1 Metallising Service Pty Ltd may have and no express waiver shall be deemed a waiver of any subsequent breach of any term, warranty or condition.

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14 NOTICES


- a) Any notice required or authorized to be given or served upon a party pursuant to the Contract shall be in writing and shall be delivered personally or sent by facsimile transmission (confirmed by subsequent delivery), or post to the relevant party at its address as appearing in the Quotation or in the Purchaser's order;
- b) A notice given or served in accordance with sub-clause (a) shall be deemed to have been received –
 - i) In the case of a notice delivered personally, at the time of delivery;
 - ii) In the case of a notice sent by facsimile transmission, at the time of receipt or subsequent delivery, whichever is the earlier;
 - iii) In the case of a notice sent by post to an address within Australia, on the third working day following the day of posting.

15 SEVERANCE

It is agreed by A1 Metallising Services Pty Ltd and the Purchaser that if any provision of these terms and conditions is determined to be void, voidable by any party, unenforceable or illegal, it shall be read down so as to be valid and enforceable or, if it cannot be so read down, the provision (or where possible, the offending words) shall be severed from the Contract without thereby affecting the validity, legality or, enforceability of the remaining provisions (or parts of those provisions) of the Contract which shall continue in full force and effect.

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16 GOVERNING LAW

This contract shall be governed by and construed in accordance with the laws of the State of New South Wales and the Purchaser hereby submits to the non-exclusive jurisdiction of the Courts of that State and of all Courts which may hear appeals there from.

17 AUSTRALIAN STANDARD



The General Conditions of Contract (AS2124-1992) ("Australian Standard") will apply to matters not covered in these General Conditions of Sale or the Quotation. In the event of any inconsistency between these General Conditions of Sale and the Australian Standard, these General Conditions of Sale shall prevail.

18 FORCE MAJEURE

Subject to any non-excludable condition, A1 Metallising Services Pty Ltd will not be liable for any Claims or injuries suffered by the Purchaser due to any cause arising from acts, events, non-happenings, omissions, accidents or acts of God beyond their reasonable control, including but limited to industrial action, blackouts, shortage of labour, civil commotion, war, fire, explosion, storm, flood, earthquake, machinery breakdown, compliance with any order by any government authority, or inability to obtain raw materials, equipment, fuel, power, components or transportation.

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