

**LIQUIP INTERNATIONAL PTY LIMITED**  
**TERMS AND CONDITIONS**  
ABN 63 112 087 448

1. **Interpretation**

In these conditions unless the contrary intention appears:

“**Additional Charges**” includes all delivery, handling and storage charges, duty charges, Goods and Services Tax, stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the Purchase Price, payable by the Customer to Liquip International arising out of the sale of the Goods.

“**Customer**” means the person to or for whom the Goods are to be supplied by Liquip International.

“**Goods**” means the goods sold to the Customer by Liquip International and any related services, if any.

“**Liquip International**” means Liquip International Pty Ltd ABN 63 112 087 448, and any company that is from time to time (whether with or without notice to the Customer) a related body corporate (as defined in the Corporations Act 2001), where the relevant entity contracting with the Customer is determined by the Liquip International entity that issues the relevant invoice to the Customer.

“**Purchase Price**” means the list price for the goods as charged by Liquip International at the date of delivery or such other price as may be agreed by Liquip International and the Customer prior to delivery of the Goods.

“**Terms and Conditions**” means these trading terms and conditions as amended by Liquip International by notice in writing from time to time and the Customer agrees to be bound by such amended terms and conditions upon making any subsequent orders with Liquip International.

“**Software**” means any software, whether owned or licenced by Liquip, that is supplied and licensed by Liquip International for use by the Customer in relation to the Goods.

2. **Order for Goods**

2.1 An order given to Liquip International is binding on Liquip International and the Customer, if:

- (a) A written acceptance is signed for or on behalf of Liquip International; or
- (b) A verbal order on Liquip International is confirmed in writing; or
- (c) The Goods are supplied by Liquip International in accordance with the order.

2.2 An acceptance of the order by Liquip International is then to be an acceptance of these Terms and Conditions by Liquip International and the Customer and these Terms and Conditions will override any conditions contained in the Customer's order. Liquip International reserves the right to accept a part only of any order by notifying the Customer in writing or by delivering the Goods to the Customer. No order is binding on Liquip International until accepted by it.

2.3 An order which has been accepted in whole or in part by Liquip International cannot be cancelled by the Customer without obtaining the prior written approval of Liquip International, which it may refuse in its absolute discretion.

2.4 Liquip have a minimum order value policy of A\$250.00

3. **Limitation of Liability**

3.1 The liability of Liquip International is limited, to the extent permissible by law and at the option of Liquip International:

In relation to goods, to;

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

In relation to services, to:

- (a) The supply of the services again; and
- (b) The payment of the cost of having the services supplied again.

3.2 To the extent permitted by law, all other warranties whether implied or otherwise, not set out in these Terms and Conditions or in specific warranties accompanying the Goods, are excluded and Liquip International is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer 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.

3.3 Any claims to be made against Liquip International for short delivery of Goods must be lodged with Liquip International in writing within 7 days of the delivery date.

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|-----------------------------|----------------------|--------------------------------|
| DOCUMENT No.:LIQ-03-W01     | ISSUE DATE: 24.07.23 | APPROVED BY: Managing Director |
| FUNCTION: Sales & Marketing | VERSION: B           | Page 1 of 5                    |

**LIQUIP INTERNATIONAL PTY LIMITED**  
**TERMS AND CONDITIONS**  
ABN 63 112 087 448

3.4 Unless the terms and warranties are included in these Terms and Conditions or are provided in specific warranties accompanying the Goods, all prior discussions, quotations, warranties to the extent permitted by law, are excluded.

**4. Delivery**

4.1 The times quoted for delivery are estimates only and Liquip International accepts no liability for failure or delay in delivery of Goods. The Customer is not relieved of any obligation to accept or pay for Goods by reason of any delay in delivery. Goods may be delivered by installments at the discretion of Liquip International.

4.2 The Customer must provide suitable access for unloading and appropriate labor or mechanical means to unload the Goods upon delivery to the Customer's nominated premises. The Customer is liable for all costs and charges therein.

4.3 Unless otherwise agreed, delivery shall be deemed to have taken place:

(A) if the Goods are to be collected from the Liquip International's premises, then:

(i) Just prior to the Goods being loaded onto the carrier organized by the Customer; or

(ii) At the time and date when the Goods are scheduled to be collected by the Customer, whichever occurs first; or

(b) if the Goods are to be delivered to Customer's address as nominated by the Customer on the order, then just prior to the Goods being unloaded from the carrier at the nominated address in accordance with the order, which order is delivered to the Customer at the Customer's expense.

4.3 Signature of any delivery note by any agent, employee or representative of the Customer or where delivery is to any independent carrier, by such carrier or its agent, shall be conclusive proof of delivery.

4.4 Risk in accepting the Goods passes on delivery to the Customer.

4.5 All Additional Charges are payable by the Customer in addition to the Purchase Price of the Goods.

4.6 Return of Goods will not be accepted by Liquip International except by prior agreement in writing with Liquip International. Any Goods returned may, at the sole discretion of Liquip International, be subject to a restocking charge of 15% of the Purchase Price of those Goods.

4.7 (A) The use of the Software by the Customer is as a non-exclusive, non-transferable, non-sublicensable, revocable licensee for use solely in conjunction with the Goods.

(B) The Customer must not, and must ensure that its employees and any user of the Software does not attempt to:

(i) duplicate, modify, sub-licence, copy, distribute, market, lease, lend, commercially exploit, sell or give away any portion of the Software; or

(ii) reverse compile, decompile, disassemble, reverse engineer or otherwise endeavour to reduce to human-perceivable form any of the Software or to discover or disclose the source code, methods and concepts embodied in the Software, except as may be allowed by any applicable law which is not capable of exclusion by agreement between the parties.

(c) The Customer shall indemnify and hold Liquip harmless against any damages suffered by Liquip or claims arising against Liquip as a result of a breach of this clause by the Customer from a third-party software licensor

**5. Price and Payment**

5.1 The Customer must pay the Purchase Price and the Additional Charges to Liquip International.

5.2 If the Customer is in default, Liquip International may at its option withhold further deliveries or cancel a contract without prejudice to any of its existing rights.

5.3 Where Liquip International has not agreed to grant credit to the Customer, all payments must be made by the Customer on delivery of the Goods. Where Liquip International has agreed to grant credit to the Customer, all payments are due at end of month following the month in which delivery of the goods occurs. Interest is charged at the rate of 1.5% per month or part of a month from the expiry of that period until the date payment is received by Liquip International.

**6. Retention of Title**

6.1 Ownership, title and property of the Goods remains with Liquip International until payment in full for the Goods and all sums due and owing by the Customer to Liquip International on any account has been made. Until the date of payment:

(a) The Customer has the right to sell the Goods in the ordinary course of business;

(b) Until the Goods have been sold by the Customer in the ordinary course of the Customer's business, the Customer holds the Goods as bailee for Liquip International;

**LIQUIP INTERNATIONAL PTY LIMITED**  
**TERMS AND CONDITIONS**

ABN 63 112 087 448

- (c) The Goods are always at the risk of the Customer.
- 6.2 The Customer is deemed to be in default immediately upon the happening of any of the following events:
  - (A) if any payment to Liquip International is not made promptly before the due date for payment;
  - (b) if the Customer ceases to carry on business or stops or suspends payment or states its intention of so doing or is unable to pay its debts as they fall due or if any chequer or bill of exchange drawn by the Customer payable to Liquip International is dishonored;
- 6.3 In the event of a default by the Customer, then without prejudice to any other rights which Liquip International may have at law or under these Terms and Conditions?
  - (a) Liquip International or its agents may without notice to the Customer enter the Customer's premises or any premises under the control of the Customer for the purposes of recovering the Goods.
  - (b) Liquip International may recover and resell the Goods.
  - (c) if the Goods cannot be distinguished from similar Goods which the Customer has or claims to have paid for in full, Liquip International may in its absolute discretion seize all goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of Liquip International and the Customer may be ascertained. Liquip International must promptly return to the Customer any goods the property of the Customer and Liquip International is in no way liable or responsible for any loss or damage to the Goods or for any loss, damage or destruction to the Customer's business howsoever arising from the seizure of the Goods.
  - (d) In the event that the Customer uses the Goods in some manufacturing or construction process of its own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for Liquip International. Such part will be an amount equal in dollar terms to the amount owing by the Customer to the Liquip International at the time of the receipt of such proceeds. The Customer will pay Liquip International such funds held in trust upon the demand of Liquip International.
  - (e) The Customer must pay to Liquip International all reasonable costs and disbursements incurred by Liquip International in pursuing any recovery action, or any other claim or remedy against the Customer, including debt recovery fees and legal fees incurred by Liquip International on a solicitor client basis and as a liquidated sum.

**7. Personal Properties Securities Act ("PPSA")**

- 7.1 Defined terms in this clause have the same meaning as given to them in the PPSA.
- 7.2 Liquip International and Customer acknowledge that these Terms and Conditions constitute a Security Agreement and give rise to a Purchase Money Security Interest ("PMSI") in favor of Liquip International over the Goods supplied or to be supplied to the Customer as Grantor pursuant to the Terms and Conditions.
- 7.3 The Goods supplied or to be supplied under these Terms and Conditions fall within the PPSA classification of "Other Goods" acquired by the Customer pursuant to these Terms and Conditions.
- 7.4 Liquip International and the Customer acknowledge that Liquip International, as Secured Party, is entitled to register its interest in the Goods supplied or to be supplied to the Customer as Grantor under the Terms and Conditions on the PPSA Register as Collateral.
- 7.5 To the extent permissible at law, the Customer:
  - (a) Waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Customer, as Grantor, to Liquip International.
  - (b) agrees to indemnify Liquip International on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis, associated with the;
    - (i) Registration or amendment or discharge of any Financing Statement registered by or on behalf of Liquip International; and
    - (ii) Enforcement or attempted enforcement of any Security Interest granted to Liquip International by the Customer.
  - (c) Agrees that nothing in sections 130 and 143 of the PPSA will apply to the Terms and Conditions or the Security under the Terms and Conditions;
  - (d) Agrees to waive its right to do any of the following under the PPSA:
    - (i) receive notice of removal of an Accession under section 95;
    - (ii) receive notice of an intention to seize Collateral under section 123;
    - (iii) object to the purchase of the Collateral by the Secured Party under section 129;
    - (iv) receive notice of disposal of Collateral under section 130;
    - (v) receive a Statement of Account if there is no disposal under section 132(4);

**LIQUIP INTERNATIONAL PTY LIMITED**  
**TERMS AND CONDITIONS**

ABN 63 112 087 448

- (vi) receive a Statement of Account under section 132(3) (d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.
- (vii) receive notice of retention of Collateral under section 135;
- (viii) redeem the Collateral under section 142; and
- (ix) reinstate the Security Agreement under section 143.

7.6 All payments received from the Customer must be applied in accordance with section 14(6) (c) of the PPSA.

**8. Force Majeure**

8.1 Liquip International is not liable for delay in performing, or non-performance, of any of its obligations under these Terms and Conditions caused by unforeseeable circumstances beyond Liquip International's reasonable control (including, without limitation, acts of God, civil or military authority, accidents, earthquakes, strikes, the elements,

labor disputes, shortage of suitable part or components or other materials, mechanical breakdown, fire, flood, tempest and war) and in such circumstances, Liquip International will be entitled to a reasonable extension of time for the performance of its obligations.

**9. Insurance**

9.1 Pending full payment for the Goods, the Customer must insure the Goods for their full insurable or replacement value (whichever is higher) with an insurer licensed or authorized to conduct the business of insurance in the place where the Customer carries on business.

9.2 The Customer must provide Liquip International with evidence of such insurance upon reasonable request.

**10. Specifications**

10.1 Specifications, drawings and particulars of weights and dimensions provided by the Customer are subject to the accuracy of the information provided. The Customer acknowledges that Liquip International may deviate from the specifications provided by the Customer if Liquip International believes it is reasonably necessary to do so and any such deviation does not vitiate any contract with Liquip International or form grounds for any claim against Liquip International by the Customer.

10.2 The descriptions, illustrations and performances contained in Liquip International's catalogues, price lists and other advertising material do not form part of the contract of sale of the Goods.

10.3 Where specifications, drawings or other particulars are supplied by the Customer, Liquip International's quotation is made on estimates of quantities required. If there are any adjustments in quantities above or below the quantities estimated by Liquip International and set out in a quotation, then any such increase or decrease are to be adjusted on a unit rate basis according to unit prices set out in any attached document or in the quotation.

10.4 Any performance figures given by Liquip International are estimates only. Liquip International is not liable for loss or damage resulting from failure of the Goods to attain such figures unless specifically guaranteed in writing by Liquip International.

**11. General**

11.1 These Terms and Conditions are to be construed in accordance with the laws from time to time in the State of New South Wales and the Commonwealth of Australia.

11.2 These Terms and Conditions contain all of the terms and conditions of the contract between the parties and may only be varied by agreement in writing between the parties.

11.3 Any conditions found to be void, unenforceable or illegal may, to that extent be severed from the Agreement.

11.4 No waiver of any of these terms and conditions or failure to exercise a right or remedy by Liquip International will be considered to imply or constitute a further waiver by Liquip International of the same or any other term, condition, right or remedy.

11.5 The Customer must keep confidential all information including these Terms and Conditions, the price of the supply of the Goods, and any information which Liquip International may reasonably consider is confidential, unless the Customer is required by law to disclose such information or the information has become public information or with prior written consent of Liquip International.

**12. Indemnity**

12.1 To the full extent permitted by law, Customer will indemnify Liquip International and keep Liquip International indemnified from and against any liability and any loss or damage Liquip International may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms and Conditions by Customer or its representatives.

**13. Taxes, Fees, and Duties**

13.1. Any applicable taxes, fees and duties shall be paid by customer, either directly or by reimbursement to Liquip. Any claim for exemption by customer shall, if applicable, be effective only after receipt of proper exemption forms by Liquip, but in no event after delivery or performance.

**14. Intellectual Property Rights**

14.1. All intellectual property rights in, or relating to, the products and/or services are owned by or licensed to Liquip and nothing herein shall have the effect of transferring the ownership of such intellectual property rights to customer.

**15. Governing Law**

15.1. These Terms shall be governed by and be construed in accordance with the laws of New South Wales, Australia, without giving effect to any choice of law rules.

**16. Anti Bribery Compliance**

16.1. Customer hereby certifies that customer and its directors, officers, employees, agents, sub-contractors and/or consultants: (i) are familiar with, and shall comply in all respects with, all applicable laws in force from time to time regarding bribery, fraudulent acts, corrupt practices and/or money laundering, including the U.S. Foreign Corrupt Practices Act, as amended, and the U.K. Bribery Act 2010, as amended; (ii) have not and shall not authorize or make any payments or gifts or any offers or promises of payments or gifts of any kind, directly or indirectly, in connection with the transactions governed by these Terms to any "foreign official," including (a) any official, agent, or employee of any government or governmental agency; (b) any political party or officer, employee or agent thereof; or (c) any holder of public office or candidate for political office; and (iii) are not officials or employees of any government, an official of a political party, or a candidate for political office, or a director, officer, employee, or affiliate of a government instrumentality. Customer understands that for purposes of this Section, a "foreign official" may include an employee or official of a commercial entity in which a government body has an ownership interest or exerts control over the activities of such entity, as well as officials and employees of public international organizations.

**17. Import and Export Compliance**

17.1. Customer shall strictly comply with any applicable laws in force from time to time regarding import/export regulations, tax and/or customs and duties ("Import/Export Legislation") related to the import of the goods to the point of delivery specified in an order and the export of the goods from the point of origin of such goods, and customer's purchase of goods pursuant to these Terms constitutes its certification that it will remain in compliance with the requirements of such Import/Export legislation. Customer shall ensure that it will not export, sell, divert, transfer or otherwise dispose of the goods in violation of the Import/Export Legislation. Customer agrees to, at its expense, obtain any and all licenses and approvals that may be necessary to import the goods to the point of delivery specified in an order and to export the goods from the point of origin of such goods in accordance with the Import/Export Legislation. Customer shall provide Liquip with such documentation as Liquip may request to confirm customer's compliance with the Import/Export Legislation.

I am authorized to sign on behalf of the Customer and agree that these terms and conditions are understood and accepted.

Signature: \_\_\_\_\_

148 Newton Road Wetherill Park 2164 NSW Australia  
T +61 2 9725 9000

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_

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| DOCUMENT No.:LIQ-03-W01     | ISSUE DATE: 24.07.23 | APPROVED BY: Managing Director |
| FUNCTION: Sales & Marketing | VERSION: B           | Page 5 of 5                    |