

Terms and Conditions of Trading Jaws Buckets & Attachments Pty Ltd

The supply by Jaws Buckets and Attachments (herein referred to as JAWS) of any order shall be subject to the following conditions and in making any such order the customer accepts JAWS offer to trade upon, and subject to the following terms and conditions to the exclusion of any inconsistent terms and conditions of the customer's orders.

1. In these conditions "JAWS" includes Jaws Buckets and Attachments Pty Ltd (incorporated in Queensland) its servants and any subsidiary or duly appointed agent or contractor. "Customer" includes the person or entity named in the quotation or order, and any successor or permitted licensee to assign "Goods". "Goods" includes all relevant documentation and goods sold by JAWS.
2. All quotations given by JAWS are subject to acceptance by the customer within 30 days of the date of the quotation, unless otherwise specified in the quotation. Prices quoted for all products are subject to variation by JAWS after the expiration of any time limit imposed in quotations supplied by JAWS. Further prices may be amended by JAWS if a significant error of fact can be shown in the original quotation.
3. Drawings, dimensions, weights, capacities, specifications and performances given or included by JAWS are approximate only and no warranty is expressed or may be implied by the provision of them and the customer undertakes to check all such drawings, dimensions, weights, capacities, specifications and performances to ensure that they are correct for the customer's purposes.
4. All goods are supplied on the express condition that the goods will be used in accordance with any provided layout drawings, load tables, specifications or published product information brochures.
5. All documentation and price lists supplied by JAWS are confidential and shall remain the property of JAWS and no part of any such documentation shall be divulged to another party or parties without the prior written consent of JAWS.
6. JAWS is entitled to rely on the representations and actions of the customer's employees and/or agents as being binding on the customer.
7. JAWS shall not in any way be liable for any loss or damage suffered as a result of any delay or failure to effect delivery of goods.
8. All goods shall be at risk of the customer from the time they are placed in the vehicle which is to effect delivery from JAWS premises and the customer has the responsibility at its expense and without recourse to JAWS to collect and transport the goods from JAWS premises and to keep the goods insured from the time at which risk passes to the customer.
9. Unless otherwise notified in writing, the customer requests JAWS to act as its agent for the purposes of arranging for the transportation of the goods from JAWS premises or such other location as the customer directs and for the insurance of the goods while in transit, such services being arranged on the customer's behalf and JAWS shall be entitled to charge the customer at JAWS current charges from time to time, including labour for loading or unloading the goods. Delivery further than the kerb alignment shall be at the customer's request but in all cases the customer shall be liable for any loss or damage or injury caused to or sustained by any person or persons by reason of or arising out of or in any way connected with such entry or delivery and JAWS shall at all times be indemnified by the customer in respect of any such liability.
10. Returns will only be accepted in accordance with JAWS "Return Policy". Return transport is at the customer's expense unless otherwise notified in writing by JAWS.
11. Subject to any terms and conditions, warranties and indemnities implied by law which by law cannot be excluded, restricted, limited or modified, JAWS shall not be liable for any loss or damage of any kind whatsoever (including injury or death to persons or loss of damage to property) and whether suffered or incurred by the customer or a third person or persons where such loss or damage arises directly or indirectly from the goods or any information or assistance or other services supplied by JAWS including, without limiting the generality of the foregoing any financial loss or damage. The customer shall indemnify and keep indemnified JAWS from all losses, claims, actions, demands proceedings, damages, costs, charges and expenses in respect of or in relation to the death or injury to or illness of any person or persons or loss of or damage to property caused by or in connection with or arising out of the use of the goods, information, assistance or other services or in the employment of any persons in connection therewith. This includes consequential damages or losses.
12. The quantities and description of goods listed on JAWS documentation shall be conclusive evidence of the quantities and condition of the goods actually delivered and received notwithstanding that the customer or his representative have not signed such notes, unless JAWS is advised in writing by the customer within 24 hours of the date of the delivery or return.
13. All orders and instructions issued to JAWS by the customer or his agents or servants by telephone are to be confirmed in writing to JAWS within 3 days.
14. Credit terms are: (a) Domestic/Australian
 - i. Orders under \$100,000 payment is required Nett 30 days from presentation of invoice
 - ii. Orders over \$100,000 but under \$200,000 progress payments:
20% on placement of order 30% on completion Balance 30 days
 - iii. Orders over \$200,000 to \$500,000 bank guarantee to Jaws for total amount & progress payments:
30% on placement of order 40% on completion Balance 30 days(b) Export/Overseas
 - iv. 40% deposit at time of order
 - v. Balance payable in full prior to release of goods to freight forwarders

The above terms apply unless otherwise agreed in writing. If the customer fails to pay the purchase as aforesaid JAWS shall be entitled (without prejudice to any other right):

- a. To charge interest thereon from the date when due until payment at the rate of 2 per centum (2%) above the maximum overdraft rate of JAWS bankers for the time being in force.
- b. To give the customer written notice that JAWS intends to re-take possession of the goods and to re-sell the goods within a stated period being not less than seven (7) days. If the purchaser fails within that period to pay the purchase price (and interest thereon), JAWS shall be entitled to re-take possession of the goods and for that purpose where the customer

irrevocably licenses JAWS to enter upon any premises where the goods may be situated and the customer indemnifies JAWS against any action, claim or demand arising out of any act lawfully done by JAWS in the exercise of its powers hereunder and to re-sell the goods and shall be released from all obligations under the contract and the customer shall pay to JAWS:-

- I. Charges for and incidental to the storage and handling of the goods until their delivery under the re-sale;
 - II. Interest on the purchase price of the goods from the date when due until payment under the re-sale rate of 2 per centum (2%) above the maximum overdraft rate of the JAWS bankers for the time being in force;
 - III. The amount if any by which purchase price on re-sale is less than the purchase price hereunder;
 - IV. The excess of any expenses incurred by JAWS in making delivery under the re-sale over such expenses as would have been incurred by JAWS hereunder;
 - V. JAWS gross profit on the sale to the customer who acknowledges that the re-sale has deprived JAWS of probable customer for other like goods;
 - VI. Recover all costs associated with the collection of overdue amounts including but not limited to
 1. agency commissions;
 2. all reasonable disbursements
 3. JAWS own internal costs, together with the original debt.
15. Notwithstanding delivery of the goods or any part thereof as stated hereunder, Title to the ownership of goods does not pass from JAWS to the customer until JAWS has received payment for goods and that any payment by cheque, note or other negotiable instrument has been duly cleared through JAWS bank account.

The goods are at the customers risk from the occurrence of first in time of any of the following events:-

- a. The passing of property to the customer;
 - b. The physical delivery of the goods to the customer;
 - c. The physical delivery to a carrier or other bailee whether named by the customer or not.
16. Should JAWS deem it necessary to request a guarantee in relation to the supply of goods; JAWS will withhold the supply until the necessary guarantee has been affected.
17. These Terms & Conditions may only be varied by specific written consent of a Director (or his/her authorised delegate) of Jaws Buckets & Attachments Pty Ltd or its successor(s). Any terms which the customer may present which purport to vary these conditions shall not be effective unless so approved under contract between JAWS and the customer.
18. Any variations to these Terms & Conditions will be deemed to have been received by the customer if they are forwarded to the last known postal address of the customer. A copy of the most current Terms & Conditions will be forwarded to any customer who has requested it in writing from JAWS.
19. These conditions shall be governed and construed by the laws of the State of Queensland, irrespective of where the contact was made and ANY proceedings in respect of any claim matter or thing against JAWS shall only be instituted or carried on in the State of Queensland.
20. The customer may have rights under a statutory warranty, term or condition arising under the Trade Practices Act or under any other relevant State or Federal law which may not be lawfully excluded by agreement of the parties and accordingly such statutory warranty; term or condition shall apply without exclusion or variation by the foregoing.
21. The customer shall notify JAWS within 24 hours of the failure or breakdown of any of the goods, including situations where negligent use of the goods by the customer has led to the failure. JAWS implies and accepts no responsibility for the operation or effectiveness of any system, design or plan in which its products are placed.
22. The customer shall not attempt to repair the goods without prior written approval of JAWS. (Refer JAWS Warranty Terms & Conditions).
23. Any customer supplying JAWS any free issue components, including Ground Engaging Tools for installation on their behalf to any JAWS product under manufacture by JAWS, acknowledges that whilst all care and diligence is undertaken by JAWS and its employees, including acceptable standards of industry workmanship [AS 1554]. JAWS accepts no responsibility whatsoever for any failure or loss of subject components, and no warranty is given or implied in respect to any free issue customer supplied components. Action arising from the loss or failure of any free issue customer supplied components of whatever nature, other than under conditions already stated above and whether approved by JAWS or not for use and installation in any JAWS product, is the sole responsibility of the supplier of the component or the original manufacturer of the component. [Refer JAWS warranty policy]. The customer also acknowledges that, whether notified in writing or not, is deemed to have read and accepted JAWS terms and conditions of trade as stated in both Quotation and Sales Order Acknowledgement Forms issued by JAWS to the customer during the commercial course of the transactions. GET installation, including any welded Adaptor component is subject to adherence by JAWS to its nominated welding installation procedures as stated under its Quality Assurance Policy Certificate No. SGS 387/95, section SP4.9 / 4.10 i.e. welding/testing/inspection procedures.
24. Should a form of packaging other than that normally used by JAWS be specified, additional charges will be incurred.
25. Return Policy
 - a. Any saleable goods being returned for credit will incur a 10% handling fee. Credit will only be given if the goods are in as new condition, and they are returned within one month of original purchase.
 - b. Returns will only be accepted in accordance with JAWS Return Policy. Return transport will be provided on the same terms as set out in Clause 10.
 - c. Non stock items manufactured or indented to customer order supplied ex works JAWS are not returnable.