



COMBINED WELD PTY LTD TERMS AND CONDITIONS OF SUPPLY

1. APPLICATION OF THESE TERMS AND CONDITIONS

For the purpose of this agreement:

"Combined Weld" is a trading name under the business name GYRON HOLDINGS PTY LTD ABN 78 603 607 245;

"Buyer" is the business named on the Quotation and / or credit account or work authorisation;

"Goods" means steel fabrication, pipe spooling;

"Services" means on site work, not limited to installation, commissioning, decommissioning, maintenance, and other associated engineering services;

"Labour hire" means the supply of the skilled work force specified in the Purchase Order;

"Purchase Order" means the document issued by the Buyer to Combined Weld for the order of Goods and includes any specifications, drawings, or other documents; and

"Contract" means Combined Weld's accepted Quotation or work authorisation.

2. QUOTATIONS

A Quotation shall remain in force as a basis for placing orders with Combined Weld for thirty (30) days from the date of the Quotation, unless otherwise stated on the Quotation.

3. CONTRACT

3.1 ACCEPTANCE

3.1.1 Combined Weld will not be obligated to proceed until an official Purchase Order or Contract is issued by the Buyer and all details pertaining to the Contract have been received by Combined Weld.

3.2 PRICE

3.2.1 The price(s) quoted will be based on the current costs of Labour, materials, freight, insurance, and all other costs prevailing at the date of the Contract.

3.2.2 Any rise in such costs and any additional tariffs, duties, taxes, and other Government impositions incurred by Combined Weld, whether an affective hourly rate or otherwise, between the date of the Contract and the date of delivery shall be payable by the Buyer.

3.2.3 Combined Weld's calculations of increase in price due to any of the forgoing shall be conclusive.

3.3 SALES TAX / GST

3.3.1 Neither Sales Tax nor GST is included in the quoted price.

3.3.2 Any such tax that is applicable will be added to the quoted price.

3.4 LIQUIDATED DAMAGES

3.4.1 No liquidated damages will be accepted unless stated in writing in the Contract by the Managing Director.

4. BUYERS' SPECIFICATIONS

4.1 The Buyer shall furnish free of charge to Combined Weld a copy of all specifications, drawings and other information specified to be supplied by the Buyer or which may be reasonably required for the execution of the Contract.

4.2 The Buyer shall be responsible for and shall pay the costs of all alterations to the work or delays in execution of the work arising from discrepancies, errors or omissions or delay in providing such specifications, drawing and other information.

5. INSTRUCTIONS

Insofar as these conditions require that instructions be given in writing or that information be provided by traceable means. The Buyer acknowledges that all the terms and conditions of the Contract are set out herein and that Combined Weld shall not be bound to carry out any oral instructions given or alleged to have been given to any agent or representative of Combined Weld.

6. CONFIDENTIALITY

Combined Weld's Quotation/Tender documentation may contain information and concepts which are proprietary and confidential to Combined Weld. The information contained in a Quotation / Tender must be kept strictly confidential and used only for the purpose of evaluating Combined Weld's proposal. Disclosure of any proprietary and confidential information to any third party or other use of such information without Combined Weld's written permission is strictly prohibited.

7. PAYMENT

7.1 TIME FOR PAYMENT OF FABRICATION SERVICES

7.1.1 Payment terms apply strictly from the date of Combined Weld's invoice and all invoices shall be payable not more than thirty (30) days from the date thereof without deduction.

7.2 PROGRESS PAYMENTS

7.2.1 During the progress of the Contract Combined Weld shall submit from time to time to the Buyer a statement showing the value of work done and / or materials purchased for the Contract and the Buyer shall make a progress payment to Combined Weld not more than thirty (30) days of the date of such statement.

7.2.2 All Goods remain the property of Combined Weld until the full and final payment of the Contract has been received by.

7.3 TIME FOR PAYMENT LABOUR HIRE

7.3.1 Combined Weld will charge rates (and in addition, GST) in respect of each Labour hire worker supplied to the Client.

7.3.2 All engagements are subject to a minimum engagement of 4 hours.

7.3.3 Cancellation of any engagement is required to be within minimum of 2 hours' notice before engagement start time.

7.3.4 Payment must be made within thirty (30) days of the receipt of Combined Weld's invoice.

7.3.5 Combined Weld will issue its invoices weekly, monthly, or as agreed, and the Client must pay the amount due within the time provided for under each invoice.

7.4 CANCELLATION

7.4.1 Combined Weld's acceptance at the Buyers request of the cancellation of any order or part thereof implies the Buyers agreement to the payment of a cancellation charge covering all material purchased for and all work whether productive or non-productive on the product or tools for it, carried out in connection with the order plus an amount for indirect costs and profit.

7.4.2 Combined Weld's account shall be conclusive as to the amount payable.

7.4.3 At no point during the contract term can the Buyer directly offer or directly employ any Labour hire person(s) under the contract term.

7.4.4 In the event of such a breach the Buyer will be ordered to pay Combined Weld the total outstanding value of the contract in relation to the person(s) employed.

7.5 INTEREST

7.5.1 Unpaid invoices will attract interest at the Reserve Bank Cash Target Rate at the time plus an additional 6% per annum.

7.5.2 Interest will be calculated daily and will be compounded monthly.

7.5.3 Interest accrues daily from and including the due date for payment up to, but excluding, the actual date of payment.

7.6 DAMAGES

7.6.1 The Buyer must pay Combined Weld any costs, expenses or losses incurred by Combined Weld as a result of the Buyers failure to pay Combined Weld all sums outstanding as owed by the Buyer to Combined Weld including without limiting the generality of the forgoing any debt collection and legal costs incurred in enforcing payment on a solicitor and own client basis.

8. IMPORT LICENSE

If an Import License is necessary to obtain admission into the country of destination of the Goods quoted, the procurement shall be arranged by, and at the cost of the Buyer who will also make the necessary arrangements for remission of funds to Australia.

9. SUSPENSION OF WORK

In the event of the suspension of work on the Buyer's instructions or lack of instructions, the Contract price may be increased by Combined Weld to cover any extra expense thereby incurred, and Combined Weld's calculation of such increase shall be conclusive.

10. PROLONGATION

10.1 In the event that Combined Weld is prevented from performing its obligations under the Contract within the terms and conditions herein due to any act or omission by any person, body, or thing whatsoever, including strike action or act of God, then Combined Weld has the right to extend the time to perform its obligations for a similar period to that for which it was unable to work.

10.2 If the prolongation is due to the Buyer or its agents failing to supply material, site access or facilities, information, drawings, or anything whatsoever that the Buyer or its agents should have done under its Contractual obligations, then the Buyer must pay prolongation costs as determined by Combined Weld.

11. ACCEPTANCE INSPECTION

11.1 Unless stated in writing in the Contract, testing and inspection by the Buyer shall be at Combined Weld's workshop and shall be final.

11.2 All costs and fees incurred in connection with testing and inspection other than those specifically included in the Contract will be payable by the Buyer.

11.3 No claim for defective Goods shall be made by the Buyer after such testing and inspection by or on behalf of the Buyer.

12. STORAGE OF GOODS

Combined Weld takes no responsibility for the storage and handling of the Buyer's Goods whilst in Combined Weld's possession. Every care will be taken to ensure the safe handling of the Goods as per the recommendations, and Combined Weld will not be responsible for any damage sustained.

13. INSURANCE

13.1 Unless otherwise stipulated herein the Contract, Combined Weld shall not be responsible for loss or damage occasioned by burglary, fire, water accident or any other cause to the Buyer's property when left in Combined Weld's custody.

13.2 It shall not be obligatory on the part of Combined Weld to insure or exercise special case with the Buyer's property.

13.3 If insurance is required, directed by the Buyer, Combined Weld will take out insurance at the cost of the Buyer.

14. DELIVERY

14.1 Delivery of the Goods "Ex Works", to a third party and/or site nominated by the Buyer is deemed to be delivery to the Buyer for the purpose of this agreement.

14.2 Any time or date for delivery is given and intended as an estimate only and Combined Weld shall not be responsible for the consequences of delayed delivery howsoever arising. The Buyer shall accept delivery of the Goods ordered upon completion of manufacture by Combined Weld, but not earlier than the specified delivery time.

14.3 Packing and freight will be charged to and payable by the Buyer unless otherwise stated in the Contract. In the case of sales on F.O.B or similar basis, any risk for which Combined Weld might otherwise be liable shall cease after the Goods have been put on the vehicle, rail, ship, wharf, or other vehicles at place of delivery, whether or not freight may be arranged, or carrier engaged by Combined Weld, for Buyers benefit or convenience.

15. FREIGHT

The Buyer agrees that as Combined Weld has no control over the carrier's conditions, the Buyer accepts and abides by the conditions and stipulations on bills of loading and similar documents.

16. FORCE MAJEURE

16.1 Combined Weld will have no liability to the Buyer in relation to any loss, damage or expense caused by Combined Weld's failure to deliver Goods or delay in delivering Goods as a result of:

- 16.1.1 Fire;
- 16.1.2 Flood,
- 16.1.3 Strike,
- 16.1.4 Accident,
- 16.1.5 Lock-out,
- 16.1.6 Hindrance,
- 16.1.7 Riot,
- 16.1.8 Civil commotion,
- 16.1.9 War,
- 16.1.10 Inability to produce or obtain raw material or component parts or import or other licenses; or
- 16.1.11 Any other occurrence beyond Combined Weld's control.

16.2 Any such delay shall not exempt the Buyer from the obligation to accept or take delivery of and pay for the said Goods.

17. WARRANTY

17.1 The Trade Practices Act 1974, and similar state laws in certain circumstances, imply mandatory conditions and warranties (the "consumer warranties"). In such circumstances the Buyer has the benefit of both the consumer warranties, and the warranties herein contained.

17.2 In the event of any inconsistency the consumer warranties shall prevail.

17.3 All other express or implied conditions or warranties in respect of the Goods are hereby excluded from the Contract.

17.4 Goods are hereby sold and warranted against any defect in workmanship appearing under proper usage within six (6) months of the date of delivery.

17.5 No express warranty is given as to fitness or suitability of the Goods for any specific application or use unless expressly endorsed by Combined Weld.

17.6 The extent permitted by the Trade Practices Act, and like provisions in similar state laws, the liability of Combined Weld shall, in any case, be limited to the repair or replacement at the option of Combined Weld of the defective material at the workshops of Combined Weld.

17.7 The Buyer acknowledges that no person representing or purporting to represent Combined Weld has authority to make any representations or warranties on behalf of Combined Weld other than those set out expressly in the Contract, and to the extent permitted by the Trade Practices Act and similar state laws, and that any further express or implied representations and warranties are expressly void.

17.8 Combined Weld reserves the right to make null and void the warranty should the Goods be modified, altered, damaged, or put to any undue stress other than the way the Goods were designed to perform.

17.9 Work and/or service carried out on the Goods by anyone other than Combined Weld and/or their nominated agents shall make the warranty null and void unless the Buyer obtains written approval from Combined Weld before any remedial work is carried out.

18. CLAIMS

The Buyer must within thirty (30) days of the date of delivery of the Goods notify Combined Weld in writing of any matter, or thing, for reason whereof the Buyer alleges that the Goods are not in accordance with Contract. Otherwise, the Goods shall be deemed to be in all respects in accordance with the Contract, and the Buyer shall be bound to accept and pay for the same accordingly.

19. RETURNS

19.1 Subject at all times to the provisions of the Trade Practices Act, and like provisions in similar state laws, goods returned to and accepted by Combined Weld as defective will be dealt with in accordance with these conditions but shall not give rise to any claim on account of any loss, damage, expense or otherwise whatsoever.

19.2 Returns for credit will not be accepted except by authorised written agreement.

19.3 The Buyer shall be liable solely for all freight costs of any return.

20. CONSEQUENTIAL LOSS

To the extent permitted by the Trade Practices Act and like provisions in similar state laws, Combined Weld shall not be subject to, nor incur, and the Buyer hereby releases Combined Weld from any claim, action, or liability for consequential loss or damage to persons or property including loss of use of the Goods or of profits arising by reason of delays, non-delivery, defective materials or workmanship, negligence or any matter, conduct or anything done or omitted by Combined Weld.

21. DEFAULT IN PAYMENT

21.1 Should the Buyer make default in payment, or fail to carry out the terms of the Contract, or fail to duly make payment, under any Contract with Combined Weld, or become insolvent or bankrupt, or call a meeting of creditors, or go into liquidations, voluntary or otherwise Combined Weld may, notwithstanding any waiver of any such default or failure, and without prejudice to its other rights under the Contract, suspend delivery or cancel the Contract, or require payment in case before or on delivery of the Goods, notwithstanding the terms of payment specified.

21.2 Combined Weld may exercise such rights either as to the whole, or part of, the contracted Goods.

21.3 All Goods supplied by Combined Weld remain the property of Combined Weld until all monies outstanding to Combined Weld in connection with the Contract (other than agreed retention monies if any) have been paid.

22. PRIVACY

22.1 The Buyer hereby authorises Combined Weld to collect, retain, record, use, and disclose consumer and/or commercial information about the Buyer in accordance with the Privacy Act 1988, to persons and/or legal entities who are a solicitor, or any other professional consultant engaged by Combined Weld, a Debt collector, Credit reference organisation and/or any other individual or organisation which maintains credit references and/or default listings.

22.2 The Buyer also authorises Combined Weld to make enquiries with respect to the Buyer's consumer and commercial credit worthiness; to exchange information with other Credit providers in respect to previous consumer and commercial defaults of the Buyer and to notify other Credit Providers of a consumer and/or commercial default by the Buyer.

23. SEVERABILITY

23.1 The Contract is to be regarded as severable in the event of:

- 23.1.1 The Goods being of different kinds;
- 23.1.2 The Contract providing for delivery by installments;
- 23.1.3 The separate items of the Contract being regarded as separate.

23.2 Damages arising from any alleged break of Contract by Combined Weld shall be limited accordingly.

23.3 Any provision in these terms and conditions which is invalid, or unenforceable in any jurisdiction, must be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable. If that provision cannot be read down,

then it is capable of being severed to the extent of the invalidity of these terms and conditions, or affecting the validity, or enforceability of that provision in any other jurisdiction.

24. GOVERNING LAW AND JURISDICTION

These terms and conditions are governed by the laws of the State of Western Australia, and all disputes arising between the Buyer and Combined Weld will be submitted to the Western Australian Registry of any Court as is competent to hear the matter.

ADDITIONAL CONDITIONS APPLICABLE TO CONTRACTS FOR LABOUR HIRE, MAINTENANCE, OR SUPPLY AND INSTALLATION OF GOODS.

25. MAINTENANCE

Maintenance services shall be charged at rates specified in Combined Weld's contract, and where no contract exists, then at Combined Weld's current charges. Travel time from Combined Weld's workshop to the Buyers site, and site to workshop, will be charged on to the Buyer.

26. SITE ACCESS

Combined Weld's Contract, in regard to site access, provides that:

- 26.1 Access to the Buyers site will be provided with suitable provision for transport of all equipment, materials, and plant requirements;
- 26.2 The actual site itself will be made readily available during the installation period;
- 26.3 Reasonable space will be provided in and near the installation to take deliveries of materials and to store Combined Weld's equipment; and
- 26.4 That the Buyer shall make available to Combined Weld (at the costs of the Buyer) all necessary telecommunications, electrical power, compressed air, light, water, waste disposal amenities, toilet and other services and facilities at the site during the progress of the work.

27. SITE SECURITY

The Buyer agrees to provide site security for Combined Weld's tools and equipment should they be left unattended at the Buyers site. The Buyer shall indemnify Combined Weld from costs, expenses, or losses incurred should Combined Weld's tools and equipment go missing or suffer damage when left unattended at the Buyers site.

28. WORKING HOURS

Installation work will be carried out during normal working hours. Such work carried out at other times at the Buyers request will be subject to an extra charge.

29. CONDITIONS OF PREMISES

- 29.1 The Buyer warrants that the structure of the premises or equipment in or upon which the Goods are to be installed is sound, and will sustain the installation and work incidental thereto, and Combined Weld shall not be liable.
- 29.2 The Buyer agrees to indemnify Combined Weld against any and all loss, damage, and/or injury, and by whomsoever sustained, resulting from insufficient or defective foundation walls or other structures not erected by Combined Weld.

30. HEALTH AND SAFETY - LABOUR HIRE WORKERS

30.1 Combined Weld and the Client have concurrent duties to take all reasonably practicable steps to ensure the health and safety of a Labour hire worker whilst performing work for the Client.

30.2 To enable Combined Weld to meet its work health and safety (WHS) obligations, the Client must:

- 30.2.1 Co-operate and consult with Combined Weld in respect of WHS matters;
- 30.2.2 Complete the Combined Weld's Client HSE Questionnaire prior to the commencement of any Labour hire worker supplied by Combined Weld;
- 30.2.3 Provide Combined Weld with copies of its WHS policies, procedures, induction, training records, and any other documentation concerning WHS reasonably requested by Combined Weld;
- 30.2.4 Permit Combined Weld to enter the Client premises for the purpose of conducting WHS training, toolboxes, inspections, investigations, audits, or interviewing relevant staff members; and
- 30.2.5 Notify Combined Weld in the event of any WHS incident involving a Labour hire worker.

30.3 To assist the Client in meetings its WHS obligations, Combined Weld will:

- 30.3.1 Co-operate and consult with the Client in respect of WHS matters,
- 30.3.2 Direct a Labour hire worker to comply with the clients' policies, procedures, and directions regarding WHS when appropriate;
- 30.3.3 Notify the Client in the event that a Labour hire worker advises Combined Weld of any WHS incident or risk; and
- 30.3.4 Treat all information regarding the clients' WHS policies and procedures as commercial in confidence.

30.4 INDUCTION AND TRAINING

30.4.1 The Client must conduct a site/job specific safety induction with the Labour hire worker prior to commencement of their duties, and complete and return the Combined Weld new starter induction verification.

30.4.2 Time spent attending inductions will be charged to the Client at the applicable hourly rate.

30.4.3 Following the initial induction, the Client must provide a Labour hire worker with sufficient training, guidance, and supervision, to enable them to work in a manner that is free from risk to their own health and safety (and the health and safety of those who may be affected by their actions).

30.5 SUPERVISION AND CONTROL

30.5.1 The Client acknowledges that Combined Weld is not supervising or managing the work of a Labour hire worker, and that the worker is under the direction, control, and supervision of the Client for the duration of each assignment.

30.6 PERSONAL PROTECTIVE EQUIPMENT (PPE).

30.6.1 The Client is responsible for providing all personal protective equipment, or clothing required, to enable a Labour hire worker to perform their work for the Client safely, unless otherwise specified.

30.6.2 All PPE provided to a Combined Weld Labour hire worker must meet, as a minimum, the applicable Australian Standard(s), and training must be provided for its use.

30.7 REHABILITATION

30.7.1 In the event of injury to a Labour hire worker, whilst performing work for the Client, the Client agrees to assist Combined Weld in meeting its obligations in respect of rehabilitation of the injured Labour hire worker (including permitting the Labour hire worker to work reduced hours, or on suitable duties, where reasonably practicable).

31. FIRE DAMAGE

31.1 Combined Weld will take all reasonable precautions against fire during site cutting, welding, and other installation procedures.

31.2 Insurance of buildings and contents etc. and the Goods installed during installation shall be the responsibility of the Buyer.

32. QUALIFICATIONS

32.1 Orders are only acceptable upon, and subject to, the foregoing conditions of supply and (where the contract is for maintenance, or the supply and installation of Goods) the conditions hereinafter set forth which constitute the whole agreement between the parties.

32.2 Unless expressly agreed in writing by Combined Weld any qualifications of these conditions in a Buyers form shall not apply.