



TERMS AND CONDITIONS

1. The Customer agrees to pay, without any deduction or set off in law or in equity whatsoever, the Price within 30 days of the date of the invoice rendered by the Company (Hoist WA Pty Ltd) or within such other period of time as may be notified to the Customer from time to time by the Company.
2. The Customer agrees to abide by the Company's further terms and conditions of supply and/or hire as may be notified by the Company to the Customer from time to time by notice forwarded to the Customer's address or its email address notified on the front page hereof.
3. The Company shall be entitled to charge interest on all outstanding monies due by the Customer at the rate of 14.0% per annum.
4. Property in any goods that are being sold by the Company to the Customer will not pass to the Customer until such time as the goods are paid for in full. The Customer agrees that goods hired out or supplied by the Company to, or at the request of, the Customer shall be at the Customer's risk (including insurance responsibility) immediately on delivery to the Customer or into the Customer's custody (whichever is the sooner). Ownership or property in the goods hired out to the Customer does not pass to the Customer. The Customer further agrees:
 - (i) to store and maintain the goods in such a manner as to show clearly that they are the property of the Company and the Customer shall be at liberty to sell the goods, in the ordinary course of business, but only as a fiduciary agent for the Company and shall account to the Company for all proceeds from any sale;
 - (ii) under this agreement the Company may enter upon the Customer's premises or elsewhere without notice and with force if reasonably necessary to repossess the goods without being liable for trespass. The Customer shall indemnify the Company for any loss or damage suffered by the Company and against all claims brought against the Company arising from the Company repossessing the goods;
 - (iii) that in the event the Customer uses the goods in some manufacturing or construction process of its own or some third party and so as to meet payment due to the Company under this agreement, the Customer shall hold such part of the proceeds of such manufacturing or construction process as relates to the goods in trust for the Company. Such part shall be deemed to equal in dollar terms the amount owed by the Customer to the Company at the time of the receipt of such proceeds.

ADDITIONAL TERMS AND CONDITIONS

In this document "goods" shall mean all goods which are hired out or supplied by the Company to, or at the request of, the Customer.

In this document the expression "Company" defines and means Hoist WA ABN 81 615 818 025 and each related entity (as defined in the Corporations Act 2001) of Hoist WA ABN 81 615 818 025 from time to time and any of the Company's assigns. In this document, the word "Customer" shall mean and include the Customer (as defined in any trading application between the Company and the recipient of these terms and conditions) or the purchaser or hirer of the goods from the Company (if not one and the same as the said Customer) and any employees of the Customer.

- A. The Customer acknowledges that he has inspected the goods, is satisfied the goods are fit for the purpose they are to be used for, are in clean condition and are in good and substantial working order, repair and condition. The Customer is aware of the proper use for which the goods are designed.
- B. Notwithstanding anything contained herein the Customer acknowledges that no warranty or condition, express or implied, is given by the Company as to the condition of the goods or as to the suitability or fitness of the goods. Subject to the extent permitted by legislation any obligation of the Company under these terms and conditions shall be to use its endeavours to supply goods and/or services or to repair or replace (at the Company's discretion) any goods which are found to be defective during any applicable warranty period (if any) and in no event shall the Company be liable for any other claims, losses or damages including but not limited to claims for faulty design, negligent or misleading advice, damages arising from the loss or use of the goods or howsoever arising and any indirect, special or consequential damage or injury to any person, corporation or other entity.

- c. The Customer agrees to use the goods in a skillful and proper manner and for the purpose for which the goods were designed and are reasonably and safely capable of fulfilling. The Customer will observe and comply at his own expense with all notices, directions, and legal requirements (including those of all authorities, statutes and regulations) in any way relating to the goods. The Customer shall ensure the goods are not used to lift any load which is beyond its rating lifting capacity.
- d. Any quotations of delivery times by the Company are made in good faith but as estimates and not commitments. The Company shall not be bound by any such estimate. Clerical errors or omissions by the Company, whether in computation or otherwise in any quotation, acknowledgment, or invoice, shall be subject to correction.
- e. The Customer shall not move or relocate the goods from one site to another without the prior written consent of the Company and the Customer shall at all times ensure the Company is aware of the location of the goods. The Customer agrees that if the Customer fails to comply with this clause the goods will be deemed to be lost or stolen and costs shall be payable by the Customer pursuant to clause H below.
- f. In the event of breakdown or failure of the goods, the Customer will not have any repairs effected to the goods by any person other than an employee of the Company or such person as the Company may nominate.
- g. The Customer acknowledges the goods can from time-to-time breakdown or fail during ordinary use. In the event of a breakdown or failure which in the opinion of the Company is caused by fair wear and tear, the Company will at its own expense restore the goods to working order as quickly as reasonably possible. The Customer agrees not to make any claim against the Company for any delay, loss or damage occasioned by the late or non-delivery, breakdown, failure or an accident in relation to the goods as the Company is not responsible for any such delay, loss or damage. The customer also agrees to:
- (a) keep and maintain the goods in a clean and undamaged condition and in good and substantial working order and repair,
 - (b) supply at his own expense, all fuel necessary for operation of the goods,
 - (c) give the Company access to the goods for inspection.
- h. If any of the goods are lost or stolen during the period of hire or in transit, whichever is the sooner, the Customer agrees to pay to the Company the Company's cost if it were to replace such goods and agrees the hire charges shall continue to accrue until the Company has received payment by the Customer of such replacement cost. This right shall not prejudice, or be prejudiced by, any other right under this agreement.
- i. Hoist delivery and installation quotes assume that there is free and clear access to the site directly from the street where a 4wd vehicle can drive up to within 2 meters of the intended installation point. If the site where the hoist needs to be installed is blocked by building materials, rubbish, or any other item which will interfere with the positioning of the hoist, an additional fee will be charged for the time and equipment necessary to install the hoist.
- j. If the job site is not fully ready for the installation of the hoist on the installation date and time the customer specifies, the customer will be responsible for either the payment of \$160.00+GST per hour for waiting time while the site is prepared or \$160.00+GST to reschedule delivery to a later date in the Perth/Metro area or \$225.00+GST for areas between 50km to 115km from Malaga, WA. Areas in excess of 115km will need to be quoted for re-delivery charges on a job by job basis.
- k. If the builder requires that a hoist be placed in a specific location on site, a photo or drawing must be provided prior to delivery of the hoist showing the exact location. If no photo or drawing is provided, Hoist WA reserves the right to install the hoist in a location of their choosing on site.
- l. The agreed weekly hire rate is guaranteed for four months and is subject to a quarterly (4 monthly) price review while still on hire for a period longer than 4 months. At those times, the hire rate may be altered without notice by no more than 10% on any one occasion.