

COASTAL WELDING SUPPLY, INC.

GENERAL TERMS AND CONDITIONS OF SALE

1. PRICES AND PAYMENTS AND DEFAULT

- 1.1 Coastal Welding Supply, Inc. ("Seller") will invoice Buyer and Buyer will pay Seller the prices, charges and surcharges for goods, product, cylinders, equipment, or services supplied (referred to herein for convenience as "Product"). In addition, Buyer will pay or reimburse Seller for any sales, property, use, excise or other tax now or hereafter imposed by reason of any sale, delivery or furnishing of any Product.
- 1.2 Buyer agrees that Seller may issue invoices in any form, in writing or by electronic means and that all invoices shall for all purposes be deemed to incorporate for all purposes these General Terms and Conditions INCLUDING BUT NOT LIMITED TO ALL DISCLAIMERS, WAIVERS, INDEMNITIES, AND OBLIGATIONS IN SECTIONS 4 AND 5, of which Buyer acknowledges notice and actual knowledge without the need to restate any of such provisions in the invoice. At Seller's request, Seller and Buyer will utilize Electronic Data Interchange for invoicing and paying of invoices.
- 1.3 Terms of payment will be net thirty (30) days following date of invoice.
- 1.4 If Buyer fails to make timely payment in accordance with these terms, or its financial responsibility becomes otherwise impaired, or it defaults in the performance of any of its obligations under these General Terms and Conditions, Buyer ceases doing business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy, is adjudicated as bankrupt or insolvent, files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation or files an answer admitting the material allegations of a petition filed against it any such proceeding, consents to or acquiesces in the appointment of a trustee, receiver or liquidator, Buyer's shareholder(s), member(s), or partner(s), as appropriate, shall take any action looking to the dissolution or liquidation of Buyer within sixty (60) days after the commencement of any proceeding against Buyer seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceedings shall not have been dismissed, or if within sixty (60) days after the appointment without Buyer's consent or acquiescence of any trustees, receiver or liquidator of Buyer or all of or any substantial part of Buyer's assets or properties, such appointment shall not be vacated or, any warranty, representation or agreement of Buyer herein is breached, Seller reserves the right, among other legal and equitable remedies it may have, to do any one or more of the following: (a) refuse to supply Product except for receipt of cash with order and payment in full of all outstanding charges, (b) assess and collect from Buyer a monthly late charge on any delinquent balance equal to the lesser of eighteen percent (18%) per annum, or the maximum charge permitted by law, (c) go upon the Buyer's premises and take possession of any or all of Seller's Product, and (d) refuse to make further sales or deliveries.
- 1.5 If purchases (or rentals) are to be made over a period of time, Seller will have the right to revise the prices as to future transactions. Cost of return of the Seller's Product to Seller, if applicable, will be borne by Buyer.
- 1.6 Restocking and handling charges will be made on regularly inventoried merchandise returned. Special order items are not subject to return for credit.
- 1.7 In the event of payment default, the Seller shall be entitled to attorney's fees, costs of suit, and/or any costs of collection including, but not limited to, collection agency fees and finance charges.
- 1.8 This Article 1 will not apply to adjustments for any tax or any monthly late charge which arise pursuant to these General Terms and Conditions or other additional charges specifically provided for in these General Terms and Conditions.

2. DELIVERY

- 2.1 Title to Product (but not leased or rented cylinders and equipment) and risk of loss or damage to Product shall pass to Buyer upon delivery. It is Buyer's duty to immediately check the condition of Product for fitness and proper labeling. Product, as delivered, is presumed to be in good condition and properly labeled.
- 2.2 Seller reserves the right to impose, from time to time, charges upon the sale and delivery of Product, to cover various costs for those items not included in the Price, such as delivery, regulatory compliance, insurance surcharges, fuel surcharges, etc.
- 2.3 If Seller is requested by Buyer and is able to make deliveries agreed upon by Buyer and Seller during a strike or other concerted acts of workers affecting Buyer, then such deliveries will be made at Buyer's sole risk and notwithstanding anything in these General Terms and Conditions to the contrary, Buyer hereby indemnifies and holds harmless Seller from and against all costs, damages, liabilities or claims arising out of any such deliveries. In addition, Seller reserves the right to request, in its sole discretion, that Buyer provide qualified personnel to deliver Product to any premises affected by such strike or concerted acts, and Buyer will provide such personnel.

3. RENTAL (if applicable)

- 3.1 Buyer (referred to as Buyer for convenience even though only renting) shall pay rental on all rented Cylinders or Equipment at Seller's (referred to as Seller for convenience even though only renting) then current rates until they are returned. Until such return, Buyer shall insure that the Cylinders or Equipment are properly taken care of with particular attention paid to fittings and protective caps or Cylinders, and shall compensate Seller for all loss or damage to the Cylinders or Equipment, except for reasonable wear and tear.
- 3.2 All rented Cylinders and Equipment shall remain the property of Seller, and Buyer shall insure that Cylinders are not repaired or refilled, except by Seller, and that such Cylinders and Equipment are not made subject to any lien or other claim by a third party.
- 3.3 All rented Cylinders and Equipment shall be returned to Seller no later than thirty (30) days after demand by Seller. In case a Cylinder or Equipment is lost or is not returned to Seller for any reason, Buyer shall pay Seller the Seller's loss-of-use charge at the rate then being charged by Seller. If a lost Cylinder or Equipment is later found, Buyer shall return it to Seller, and Buyer will receive an appropriate credit, less rental charges until the date of return and the cost to Seller of any repairs.
- 3.4 None of the above cylinders and/or equipment shall be sublet or loaned by the Customer, nor shall it be removed from the location of the job for which it was intended to be used as above set forth, nor shall it be removed from the county in which it was delivered to the Customer, except by prior written consent of the Seller. If the law requires the user to be licensed, the Customer shall not use nor permit use without such license. In the event of damage, breakage, or mechanical failure of said cylinders and/or equipment for any cause, Customer, at his own expense, shall forthwith return the cylinders and/or equipment to Seller. Customer is not authorized, without prior written consent of Seller, to expend any money or incur any expenses for Seller's or Customer's account, for repairs to said cylinders and/or equipment, or for the refilling of said cylinders. Customer shall not make nor permit to be made any changes in said cylinders and/or equipment.
- 3.5 The operation and use of the rented Cylinders and Equipment shall be at the risk of Buyer, and not of Seller. All risk of loss or damage to the Cylinders and Equipment shall be borne by Buyer. Except as expressly provided in these terms, the total or partial destruction or theft of any Cylinder or Equipment, or total or partial loss of use or possession thereof to Buyer, shall not release or relieve Buyer from the duty to pay the rentals thereon.
- 3.6 Risk of loss of rented Cylinders and Equipment shall pass to Buyer upon delivery and shall remain with Buyer until such time as the Cylinders and Equipment are returned to Seller.

4. NO WARRANTIES

- 4.1 Product delivered and rented hereunder may or may not carry warranties or representations of the manufacturers, and, if they do, Buyer shall be solely responsible for complying with all requirements relating thereto and shall look solely thereto.
- 4.2 THERE ARE NO EXPRESS WARRANTIES BY SELLER. NO WARRANTIES BY SELLER (OTHER THAN WARRANTY OF TITLE AS PROVIDED IN THE UNIFORM COMMERCIAL CODE) SHALL BE IMPLIED OR OTHERWISE CREATED UNDER THE UNIFORM COMMERCIAL CODE OR OTHERWISE INCLUDING WITHOUT LIMITATION WARRANTY OF MERCHANTABILITY AND WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR THE MEETING OF ANY PARTICULAR SPECIFICATIONS. SELLER SHALL NOT BE LIABLE, WHETHER IN CONTRACT, TORT OR ON ANY OTHER BASIS, FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES EVEN THOUGH SUCH CLAIM RESULTS FROM THE NEGLIGENCE, FAULT, OR STRICT LIABILITY OF SELLER OR SELLER'S BREACH OF CONTRACT OR FROM ANY OTHER CAUSE. IF DESPITE THIS DISCLAIMER OF WARRANTIES SELLER IS NEVERTHELESS HELD TO BE LIABLE FOR ANY DEFECT, IN NO EVENT SHALL SELLER'S LIABILITY FOR ANY CLAIM OF ANY KIND, WHETHER IN CONTRACT, TORT, OR ON ANY OTHER BASIS, EXCEED THE REPLACEMENT VALUE OF THE PRODUCT, EVEN THOUGH SUCH CLAIM RESULTS FROM THE NEGLIGENCE, FAULT OR STRICT LIABILITY OF SELLER OR SELLER'S BREACH OF CONTRACT OR FROM ANY OTHER CAUSE.

5. INDEMNITIES

- 5.1 EACH OF SELLER AND BUYER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE OTHER PARTY FROM ANY ACTIONS, LAWSUITS, DEMANDS, CLAIMS, LOSSES, EXPENSES, COSTS, INCLUDING WITHOUT LIMITATION LEGAL FEES, AND DAMAGES, ARISING FROM THE INJURY, ILLNESS OR DEATH OF THE INDEMNIFYING PARTY'S EMPLOYEES IN ANY WAY RELATED TO PRODUCT SUPPLIED BY SELLER TO BUYER, WHETHER OR NOT SUCH INJURY, ILLNESS, OR DEATH IS CLAIMED TO HAVE BEEN CAUSED BY, RESULTED FROM, OR WAS IN ANY WAY CONNECTED WITH THE NEGLIGENCE OF THE PARTY TO BE INDEMNIFIED.
- 5.2 BUYER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS SELLER, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, FINES, PENALTIES, REMEDIAL COSTS, AND EXPENSES, OF EVERY CHARACTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEY'S FEES, (A) FROM BODILY INJURY, SICKNESS AND FOR DISEASE (INCLUDING DEATH) OR PROPERTY DAMAGE OF ANY OF BUYER OR BUYER'S CONTRACTORS, EMPLOYEES, AGENTS, CUSTOMERS, OR INVITEES, OR OF ANY OTHER PERSONS OR ENTITIES, INCLUDING BUT NOT LIMITED TO EMPLOYEES OF SELLER (AND, IF APPLICABLE, THE OWNER OF ANY RENTED CYLINDERS OR EQUIPMENT IF NOT SELLER) ARISING OR RELATED DIRECTLY OR INDIRECTLY FROM OR TO THE BUYER'S POSSESSION, USE, OPERATION, TRANSPORTATION OR MAINTENANCE OF ANY PRODUCT PURCHASED OR RENTED FROM SELLER, (B) FROM ANY ACTUAL OR ASSERTED VIOLATION BY BUYER OF OR FAILURE BY BUYER TO COMPLY WITH ANY APPLICABLE LAWS, RULES, REGULATIONS, OR ORDINANCES, (C) FROM ANY BREACH OR DEFAULT OF ANY OF BUYER'S WARRANTIES, REPRESENTATIONS, OR AGREEMENTS HEREIN. THIS INDEMNITY SHALL APPLY REGARDLESS OF ANY FAULT, NEGLIGENCE OR STRICT LIABILITY OF SELLER. IF ANY ACTION OR PROCEEDING IS BROUGHT AGAINST SELLER BY REASON OF ANY SUCH CLAIMS, DAMAGES, LOSSES OR LIABILITIES, BUYER SHALL DEFEND, SETTLE OR COMPROMISE THE SAME AT BUYER'S EXPENSE BY COUNSEL REASONABLY SATISFACTORY TO SELLER. THESE INDEMNITIES SHALL SURVIVE FOR A PERIOD OF FOUR (4) YEARS AFTER SALE OR RENTAL OF THE PRODUCT.

6. CONTINGENCIES

- 6.1 Neither party hereto will be liable to the other for default or delay in the performance of any of its obligations hereunder (except any obligation to make payments when due) due to acts of God, accident, fire, flood, storm, riot, war, sabotage, explosion, strike, concerted acts of workers, national defense requirements, governmental law, ordinance, rule or regulation, whether valid or invalid, extraordinary equipment failure, inability to obtain electricity or other type of energy, raw material or feed stock from normal sources of supply, labor, equipment or transportation, or any similar or different contingency beyond its reasonable control which would make performance commercially impracticable whether or not the contingency is of the same class as those enumeration is non-exclusive; provided, however, that neither business downturn nor economic conditions will qualify as a contingency within the meaning of this Article 6.
- 6.2 In the event any such contingency affects only a part of the Seller's capability to deliver Product, Seller will allocate production and/or deliveries among the requirements of all its buyers and Seller's own requirements in a fair and reasonable manner.
- 6.3 Buyer will pay or reimburse Seller for additional costs incurred for special purchase, freight or handling relating to the delivery of any Product by Seller during a contingency.

7. HEALTH, SAFETY AND LIABILITY

- 7.1 Buyer acknowledges that there may be hazards associated with Product, including without limitation the use thereof, and Buyer agrees and represents that its personnel concerned with Product are aware of such hazards.
- 7.2 Buyer assumes all responsibility for the suitability and the results of using Product alone or in combination with other articles or substances and in any manufacturing, medical or other process or procedures. Buyer will notify Seller of any hazards and safety procedures at Buyer's Facilities.
- 7.3 Buyer will be responsible for complying with all relevant laws and all reporting obligations under all applicable laws, including without limitation the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Sections 11001-11049 [EPCRA, also commonly known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III)], as amended, that result from the presence at Buyer's Facilities of Product supplied under this Agreement.
- 7.4 Buyer will warn and protect its employees, independent contractors and other exposed to the hazards posed by Buyer's use of Product. If Seller provides documents, which Seller has no obligation to do, to Buyer containing Seller's safety and health information pertaining to Product, including Seller's Material Safety Data Sheet(s) and Buyer will incorporate such information into Buyer's safety program.

8. CONFIDENTIALITY

- 8.1 All pricing, costs, manuals, and other materials furnished by either party to the other in connection therewith, and the information therein are proprietary to the disclosing party. Such materials contain trade secrets and other confidential information of the disclosing party.
- 8.2 The receiving party may not reproduce or distribute such materials except (a) to governmental agencies which require its products, and (b) to the receiving party's employees for the purpose of performing the receiving party's obligation to the other.
- 8.3 In the case of any of the aforementioned disclosures, the receiving party will inform its employees or governmental agencies that such information is the confidential information of the disclosing party and is to be treated accordingly. In the case of any of the aforementioned disclosures to the receiving party's employees, the receiving party shall remain responsible for any unauthorized use or disclosure of the confidential information.
- 8.4 All such information (except information as may be established to be in the public domain) will be received in confidence by the receiving party, and the receiving party will exercise the same degree of care to hold such information in confidence as it uses with respect to its own trade secrets and/or confidential and proprietary information.
- 8.5 Unless otherwise agreed to by the parties, the receiving party will keep all such information confidential for a period which will expire four (4) years after the sale of the Product.

9. NOTICES

All notices, unless otherwise provided herein, will be in writing and deemed given on the date the notice is hand delivered, mailed or electronically transmitted to the receiving party at such party's address. Either party may change its address upon notice to the other party as set forth herein.

10. DISPUTE RESOLUTION

- 10.1 In the event that Seller or Buyer has reasonable grounds to believe that the other party hereto has failed to fulfill any obligation hereunder, or that its expectation of receiving due performance hereunder may be impaired, such party will promptly notify the other party in writing of the substance of its belief.
- 10.2 The party receiving such notice must respond in writing within thirty (30) days of receipt of such notice and either provide evidence of cure of the condition specified, or provide an explanation of why it believes that its performance is in accordance with these terms, and also specify three (3) dates, all of which must be within thirty (30) days from the date of its response, for a meeting to resolve the dispute. The claiming party will then select one (1) of the three (3) dates, and a dispute resolution meeting will be held. If the parties cannot, in good faith discussions, resolve their dispute, they will be free to pursue all remedies allowed under the law without prejudice. This dispute resolution procedure shall not prevent or delay Seller from exercising immediately its rights under Article 1.4.

11. GENERAL

- 11.1 These terms supersede any prior agreement or agreements between Buyer and Seller covering the supply of Product to Buyer, but will not be construed as a renunciation or discharge of any claim in damages for an antecedent breach;
- 11.2 Different terms or conditions in any of Buyer's existing or future purchase orders or other documents issued by Buyer will be deemed null and void. In the event of conflict between these General Terms and Conditions and any related purchase orders of Buyer, the terms and conditions of these General Terms and Conditions will govern.
- 11.3 No modification or waiver of these General Terms and Conditions will bind Seller unless expressly set forth in writing and signed and accepted by an authorized representative of Seller, and any agreed to will not be deemed a continuing waiver, but will apply solely to the instance to which the waiver is directed. SELLER RESERVES THE RIGHT TO ADD TO, MODIFY, OR DELETE ANY OF THESE GENERAL TERMS AND CONDITIONS AT ANY TIME TO BE APPLICABLE TO TRANSACTIONS THEREAFTER.
- 11.4 Any headings contained in these terms are used only as a matter of convenience and reference, and are in no way intended to define, limit, expand or describe the scope of these terms.
- 11.5 These General Terms and Conditions will be governed by the laws of the State of Texas.
- 11.6 Buyer represents to Seller that Buyer has not ceased to pay its debts in the ordinary course of business, that Buyer can pay its debts as they become due and that Buyer is solvent within the meaning of the federal bankruptcy act.
- 11.7 In the event of any provision of these General Terms and Conditions being invalid or unenforceable, such invalidity or unenforceability shall not invalidate any of the other provisions hereof and same shall continue to be in full force and effect.
- 11.8 Buyer represents and warrants to Seller that as of the date of purchase or rental of Product, Buyer is not obligated under the terms of any other contract to purchase or rent Product for Buyer's use. In the event this representation and warranty proves to be false, Buyer hereby indemnifies and holds harmless Seller from and against all costs, attorney's fees, damages or liabilities which Seller may incur in connection with any claim or claims asserted by any third party as a result thereof.

General Terms and Conditions effective as of November 1, 2017.