

General Terms and Conditions of Supply

Important consumer information: HSP's goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and
- to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

1. Parties

The parties to these terms are:

- (a) Hol Special Parts Pty Ltd ACN 125 071 454 of 40 Overseas Drive, Noble Park in the State of Victoria, and is referred to as 'us', 'our' or 'HSP'; and
- (b) The customer who acquires our goods and/or services, who is referred to as "you" and "your".

2. Application

These terms and conditions apply to all goods and services that we provide, unless we agree otherwise in writing.

3. Customer Contracts

- (a) Where we agree to provide you with goods and/or services, your customer contract with us is made up of (in order of precedence):
 - (i) the order form (in the case of online orders, the order as recorded by us); and
 - (ii) these terms.
- (b) Unless approved by us otherwise, all orders you make with us must be in writing in the form of an email sent to info@hsputelids.com. The order must include, but is not limited to the following:
 - (i) the make and model of your vehicle;
 - (ii) the year of manufacture of your vehicle;
 - (iii) the colour and paint code of your vehicle;
 - (iv) your delivery address.
- (c) A quotation that we provide you is not an offer by us to supply the goods and/or services.
- (d) If you make an order on the basis of a quotation, this will be deemed an offer to purchase our goods or services and we will:
 - (i) notify you in writing of our acceptance of your offer; or
 - (ii) deliver you the goods and/or provide you the services.
- (e) If we agree to provide you with goods and/or services, then we may impose conditions on our agreement, including the requirement for payment of a security deposit. Any such condition forms part of your customer contract with us.
- (f) Any variation of the customer contract must be in writing and approved by us before the variation is deemed effective.

4. Quotations and Pricing

- (a) Where we provide you with a quotation, that quotation is valid for a period of 7 days unless we advise you otherwise.
- (b) Where a customer contract does not specify a price, then unless we agree otherwise in writing, the price of the goods will be deemed to be our recommended retail price contained in our

price list.

- (c) The prices shown in our price list are subject to change without notice.
- (d) Where materials or other goods that we use in the provision of our goods and/or services are not available or deficient in any way, then we are not obliged to accept an order.
- (e) We may vary pricing or quotations at any time before we accept an order and enter into a customer contract with you.

5. Payment

- (a) You must pay our invoices in cleared funds in accordance with the payment terms appearing on our invoice, unless we advise you otherwise in writing.
- (b) Payment terms of any goods and/or services sold to you are an essential term of any customer contract.
- (c) Any payment tendered by you to us will be applied as follows:
 - (i) firstly, a reimbursement for any collection or legal costs incurred in recovering monies owing by you, to us;
 - (ii) secondly, in payment of any interest we have charged you pursuant to clause 15 of these terms;
 - (iii) thirdly, in relation to obligations that are not secured under the *Personal Property Securities Act 2009 (Cth)* ('PPSA'), in the order in which those obligations are incurred;
 - (iv) fourthly, in relation to obligations that are secured under the *Personal Property Securities Act 2009 (Cth)* ('PPSA'), in the order in which those obligations were incurred;
 - (v) fifthly, any other monies or consideration owing to us.

6. Final Sale & Delivery

- (a) Subject to clauses 13 and 16, and to the extent permitted by law:
 - (i) any supply of goods is deemed final upon the delivery of the goods; and
 - (ii) any supply of services is deemed final upon the installation of the goods.
- (b) You acknowledge that we will not refund you if you change your mind after the supply of goods or services is final.
- (c) All delivery and freight charges are payable by you, unless we agree otherwise in writing.
- (d) Any dates specified for delivery of any goods or services to you, are estimated dates only, and we will not be liable for any damage or loss which you may suffer as a result of the delivery being delayed beyond such dates for any reason whatsoever.
- (e) Upon the delivery of the goods you must inspect the goods immediately and report any damage to the delivery driver and us. If you fail to report the damage upon delivery to the delivery driver, you may void the freight insurance which covers such damage.
- (f) Subject to clause 6(e), acceptance of the goods delivered to you, pursuant to this agreement, will be deemed for all purposes to have taken place upon delivery of the goods to you.

7. Returns

- (a) When you buy from us, you should choose carefully, as you will not receive a refund for simply changing your mind. We will only accept a return (at our absolute discretion) if:
 - (i) goods have been wrongly described; or
 - (ii) different from the sample shown to you.
- (b) If you pay a deposit for a purchase and subsequently change your mind, we will charge you a restocking fee of 30%, and will withhold the restocking fee from your deposit.

- (c) You will be liable for all costs associated with having the goods returned to us.
No goods will be accepted for return:
- (i) if you do not provide us with proof of purchase;
 - (ii) if the goods have been tampered with or damaged;
 - (iii) if the goods have been on-sold or assigned or otherwise disposed of by its original owner;
 - (iv) if they are goods custom made by us and not an 'off the shelf' product;
 - (v) after you have accepted the goods in accordance with clause 6(f).
- (d) If you return the goods before acceptance, they must be in the same condition as they were when delivered to you, in which case, acknowledgement and our acceptance of the return will be at our absolute discretion.

8. Availability of goods

- (a) Subject to clauses 13 and 16, and to the extent permitted by law, you acknowledge and agree that from time to time, some goods and services on our website may be out of stock or unavailable and we may not be able to fulfil all or part of your order. If this occurs, HSP will contact you within five (5) business days to arrange a full or partial refund.
- (b) We will use reasonable endeavours to process the refund within ten (10) business days but we do not warrant that we will refund you within this time. Your receipt of your refund will depend on the period of time it takes your financial institution to process the refund. It is your responsibility to ensure we are provided with the correct bank details for the refund and we are not liable in any way if your refund is not received due to you providing incorrect bank details.
- (c) We reserve the right to withdraw or suspend any goods and/or services displayed on our website from sale either temporarily or permanently at any time without notice to you.
- (d) You acknowledge and agree that HSP, to the extent permitted by law, is not liable for any loss and/or damage you or any third party may suffer as a result of:
 - (i) the unavailability of stock of any goods;
 - (ii) the unavailability of any services;
 - (iii) us withdrawing or suspending the availability of particular goods or services;
 - (iv) us not being able to fulfill and/or process your order; or
 - (v) any delay in processing your refund.
- (e) Where your order is affected by an error (for example, in relation to wrong parts sent as part of the order) HSP will proceed to fulfill the remainder of your order in accordance with these terms. If you are not satisfied with the partial fulfillment of your order, you can return your order to us on the condition:
 - (i) you provide us with proof of purchase;
 - (ii) the goods must be in the same condition as they were when delivered to you;
 - (iii) the goods have not been tampered with or damaged; and
 - (iv) it includes all manuals, accessories and packaging.
- (f) You acknowledge and agree that:
 - (i) all pictures and images of goods displayed on our website are for illustration purposes only, and the sizes and dimensions of goods may differ in reality;
 - (ii) you have read any corresponding written description of the goods and/services prior to submitting your order;
 - (iii) the colour of goods as shown on the website may vary

slightly in shade in reality;

- (iv) where we provide sizing or other measurements in the descriptions of a good (where applicable), it is your responsibility to ensure that the actual size of each item is suitable for your purpose prior to submitting your order; and any accessory featured with the goods is for illustration purposes only.

9. Back Orders

Back orders will be supplied to you on the terms and conditions applying at the time the original order is accepted by us.

10. Installation Services

- (a) Where we agree to provide installation services, we do so, subject to the following conditions:
 - (i) that any proposed installation date is only indicative and is subject to variation by us;
 - (ii) that any proposed installation date is subject to any requirement for you to make payment to us and compliance with your obligations under your customer contract with us.
- (b) Any delay in installation is not deemed to be a breach of a customer contract.
- (c) You acknowledge we will not be liable for any:
 - (i) indirect, secondary or consequential loss, which you may suffer as a result of the installation service not being provided on the installation date; and
 - (ii) loss and damage whatsoever, if the installation service is not provided on the installation date, as a result of your own actions and/or conduct.

11. Acknowledgements

You acknowledge that:

- (a) although our goods supplied directly to consumers are classified 'after-market' goods, we are also an original equipment manufacturer (OEM). Our goods may have variations to features, manufacturing processes, and outputs depending on whether the goods are supplied to an OEM or aftermarket channel;
- (b) when we paint goods for you, we do not warrant the accuracy of the colour of the painted goods to the colour you have ordered, due to factors outside of our control (e.g. there will be a colour variation of up to 10% between painting on fiberglass, plastic and/or metal). If you are concerned about any potential colour variation, you may send us your fuel flap or request a paint card prior to HSP painting your goods so any colour variation can be determined. This may incur a fee;
- (c) the goods are weather resistant (e.g. deterioration from exposure to harsh elements) but we do not warrant they are weather or dust proof;
- (d) we are not liable to you for fair wear and tear from your use of the goods (e.g. scratching and marking on the surfaces where the ute lid, canopy or Roll R Cover meets the body of the vehicle);
- (e) we are not liable for any loss and damage resulting from the incorrect installation of our goods or installation of our goods that is not in accordance with any requirements or recommendations of HSP or any vehicle manufacturer; this also includes the installation of other products that may affect goods supplied by us;
- (f) if we make a freight insurance claim for you, the insurer can take up to 3 months to process the claim.

12. Warranty on Goods

- (a) All goods we sell you will have the benefit of our manufacturer warranty. The terms and conditions of our manufacture warranty are outlined in our Warranty Statement, which can be found in the warranty section of our website – www.hsputelids.com/warranty.
- (b) Warranty claims will only be considered for acceptance by us, if the return of the goods, is in accordance with our Warranty Statement. You will be liable for all costs associated with having the goods returned to us.
- (c) We may vary or amend our Warranty Statement without your consent and update it on our website from time to time.
- (d) By placing an order for goods or requesting our services after we have updated the Warranty Statement on our website you are deemed to have accepted the amended Warranty Statement as appearing on our website at such time you place the order or request our services.

13. Title and Risk

- (a) Risk in all goods passes to you upon delivery to you or your representative or any authorised third party to receive the goods.
- (b) Title to goods does not pass to you until you have paid us all money payable under your customer contract in cleared funds.
- (c) From the time of delivery, until title to goods pass to you, you must:
 - (i) store the goods separately from all other goods;
 - (ii) label the goods to identify them;
 - (iii) insure the goods for their full replacement value, noting our interest on any policy of insurance;
 - (iv) keep the goods safe;
 - (v) not part with possession of the goods; and
 - (vi) not encumber the goods.
- (d) You grant us an irrevocable licence to enter upon your premises/property upon which goods we supplied to you are located or stored:
 - (i) to inspect the goods; and
 - (ii) to take possession of the goods at any time prior to title passing to you, if you:
 - A. are in breach of these terms or any other agreement between us;
 - B. have parted possession with the goods; or
 - C. are or have been:
 - declared bankrupt or are wound up (whichever is applicable);
 - issued with a statutory demand or committed an act of bankruptcy (whichever is applicable); or
 - served with a pending creditors petition or winding up application (whichever is applicable); or
 - put into receivership, liquidation or administration or had a receiver, receiver and manager, administrator or liquidator appointed.
- (e) Upon request, you must provide us with a certificate of currency of insurance for the insurance required under clause 13(c)(iii).

14. Goods on Consignment

- (a) The title and ownership of any goods we deliver to you on consignment, will remain with us until we are paid in full.
- (b) Any goods on consignment will be at your own risk from delivery.

- (c) You will be responsible for the maintenance and repair of any goods on consignment with you.
- (d) You must immediately return any goods on consignment to us, upon our demand, without delay.
- (e) In consideration of us supplying you the goods on consignment, you irrevocably consent to us registering any of the securities noted at clause 21(a).

15. Penalty Interest

We may impose penalty interest at a rate 2% higher than the rate fixed from time to time under the *Penalty Interest Rates Act 1983 (Vic)* on any overdue monies under a customer contract or these terms.

16. Liability, Indemnities and Warranties

- (a) Except for any express warranties in a customer contract, to the extent permitted by law we disclaim all express and implied warranties in relation to our goods, services or a customer contract.
- (b) In the case of any breach of a customer contract, or any negligence for which we are responsible, or breach of a condition or warranty that legislation prohibits us from excluding (which condition or warranty shall accordingly be included), our liability to you will be limited, at our option, to:
 - (i) if the breach or negligence relates to goods –
 - A. replacement of any goods involved or the supply of equivalent goods; or
 - B. the repair of such goods; or
 - 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;
 - (ii) if the breach relates to services –
 - A. supplying of the services again; or
 - B. the payment of the cost (for the period of the breach) of having the services supplied again.
- (c) In no circumstances are we liable for any indirect, secondary or consequential loss (including among other things, loss of profits, loss of business, loss of bargain, loss of income or business interruption) that you or anyone else may suffer.
- (d) Our liability to you for loss or damage of any kind arising out of a customer contract, these terms or in connection with the relationship established by it, is reduced to the extent (if any) that you cause or contribute to the loss or damage. This reduction applies whether our liability is in contract, tort (including negligence), under any statute or otherwise.
- (e) For all other liability we may be liable for, our liability will not exceed the total of the last tax invoice we have issued you, and you have paid us, for the period of 12 months prior to such liability arising.
- (f) You indemnify us (on a full indemnity basis including all legal costs and expenses) against any claim, loss or damage we suffer to the extent that it arises from:
 - (i) any act or omission by you;
 - (ii) any breach of any law by you;
 - (iii) any breach of a customer contract;
 - (iv) you or anyone receiving the goods and services or the benefit of them.

17. Substitution and Repairs

We reserve the right to and you consent to us:

- (a) substituting goods with ones that are of the same or similar quality where goods that you order are not available – in which case we will endeavour to advise you of this;

- (b) varying the design of the goods to provide for improvement in installation; or
- (c) at the time of installation of the goods, to use fillers, sealers, and touch-up paint to repair any small marks, cracks and/or scratches of the goods.

18. Cancellation

- (a) You acknowledge and agree that if you cancel a customer contract, we may suffer loss and damage, and we reserve our rights to recover such loss and damage from you. In the event we have suffered loss and damage, you agree to us retaining any deposit you have paid us, as compensation for our loss and damage although it may not satisfy all loss and damage we have suffered.
- (b) We may end a customer contract at any time if:
 - (i) you breach any term of your customer contract or these terms, including non-payment;
 - (ii) we deem you (in our absolute discretion) to be an unacceptable credit risk;
 - (iii) you are declared bankrupt;
 - (iv) you have been served with a bankruptcy notice, creditor's petition or winding up application;
 - (v) you are insolvent, or we have reason to believe that you are insolvent (in our absolute discretion);
 - (vi) you are placed under management, or have a receiver and manager appointed, or you go into voluntary administration or liquidation;
 - (vii) we are unable to perform our obligations under a customer contract, due to a breach by any of our suppliers or an event of force majeure.
- (c) If a customer contract is cancelled by you or ended by us in accordance with clause 18(b), we reserve the right, in addition to any other existing rights we may have, to:
 - (i) charge you the freight costs for the delivery and return of the goods (including the insurance);
 - (ii) charge you a handling and restocking fee of 30% of the price of the goods and/or services.

19. Representations and Entire Agreement

- (a) These terms contain the whole agreement between us, unless agreed otherwise in writing.
- (b) HSP and you acknowledge that no representations or warranties have been made other than those expressly recorded in these terms and that, in respect of these terms or any part of them including the transactions contemplated pursuant to the terms, neither HSP or you has relied or will rely upon any representations or information, whether oral or written, previously provided to or discovered by it.
- (c) The extent permitted by law, you warrant that you have not:
 - (i) relied on any representation made by us which has not been stated expressly in this Agreement, or upon any descriptions, illustrations or specifications contained in any document including catalogues or publicity material produced by us;
 - (ii) construed as a contractual guarantee, condition or warranty any advice, recommendations, information or services provided by us, our employees, servants or agents regarding the goods and/or services sold and the use of the goods.

20. Disparaging Statements

In consideration of us providing you goods and/or services, you agree that you:

- (a) will not make; and
- (b) will not encourage or procure others to make,

any adverse, critical or disparaging statements, allegations or comments (whether expressly or by inference), in any form whatsoever, with respect to us, our business, our officeholders, our employees, our agents or any other party related to us, in any professional or personal capacity, in any way related to:

- (c) our goods and/or services;
- (d) our business or any part of it;
- (e) our staff; or
- (f) these terms.

21. Security

- (a) In consideration of us supplying and providing you the goods and/or services, you agree and consent unconditionally to us:
 - (i) registering a general security interest over all your company assets and property (if applicable);
 - (ii) registering a caveat against any real property you may own; and/or
 - (iii) securing or registering any other security interest against you.

on account of any monies owing to us under a customer contract by you, from time to time.
- (b) If you are a trustee, you represent to us that you have authority under the relevant trust instrument to trade with us and to give us the security noted in clause 21(a), in your capacity as trustee.
- (c) You irrevocably appoint us as your attorney from time to time, to do all things necessary to create and register each of the security interests noted in clause 21(a) and 14(e).

22. Security Interest Under the PPSA

- (a) You agree that:
 - (i) these terms constitute a Security Agreement for the purposes of the PPSA;
 - (ii) each order accepted by us, being an order accepted under these terms, creates a registrable interest under the PPSA in any goods supplied under it, including goods on consignment;
 - (iii) you acknowledge our right to register a financing statement under the PPSA with respect to the Security Interest created by these terms;
 - (iv) if we register a Security Interest under the PPSA we may exercise any or all remedies afforded to us as a secured party under it, without prejudice to any other rights or remedies arising out of a breach by you, of any agreement with us;
 - (v) the goods, including goods on consignment, are collateral for the purposes of the PPSA;
 - (vi) you will not enter into any other Security Agreement that permits any other person to have or to register any Security Interest in respect of the goods or any proceeds from the sale of the goods until we have perfected our Security Interest.
- (b) You acknowledge and agree that you waive any rights you have under the PPSA to receive notice in relation to registration events.
- (c) Both you and we agree that neither of us will disclose information of the kind specified in section 275(1) of the PPSA.
- (d) We may elect at any time, at our absolute discretion, that any section of the PPSA specified in Section 115, will not apply to the extent permitted by section 115.
- (e) For the purpose of this clause 22, Security Agreement and Security Interest have the meanings given in the PPSA.

23. Privacy

If we collect personal information about you, we collect and deal with

it, in accordance with our Privacy Policy. A copy of our Privacy Policy can be found on our website – www.hsputelids.com/privacy.

24. Force Majeure

- (a) We are not responsible for the consequences of force majeure.
- (b) For the purpose of this clause, a force majeure is an event or circumstance beyond our reasonable control, including but not limited to:
 - (i) earthquakes, fires or other physical natural disaster;
 - (ii) pandemics; and
 - (iii) acts of war, acts of terrorism, riots, civil or military disturbances, national or state-wide industrial disputes.

25. GST

- (a) Except where express provision is made to the contrary, the consideration payable by the customer under this agreement represents the value of any taxable supply for which payment is to be made.
- (b) Amounts payable under or in respect of a taxable supply made by us are GST exclusive.
- (c) Subject to us supplying you with a valid tax invoice, if we make a taxable supply for consideration, which represents its value, then you will pay, at the same time and in the same manner as the value is otherwise payable, (or, if for any reason that does not happen, without delay after we request you to) the amount of any GST payable in respect of the taxable supply.
- (d) Subject to us supplying you with a valid tax invoice, if this agreement requires you to pay, reimburse or contribute to an amount paid or payable by us in respect of an acquisition of a taxable supply from a third party, the amount required to be paid, reimbursed or contributed by you will be the value of the acquisition by us less any input tax credit to which we are entitled plus, if our recovery from you is a taxable supply, any GST payable under clause 25(c).
- (e) For the purpose of this clause 25:
 - (i) GST means GST within the meaning of the GST Act; and
 - (ii) A New Tax System (Goods and Services Tax) Act 1999 (as amended).

26. Customer Contact

- (a) On our request, you must nominate at least one customer contact.
- (b) You must keep us informed of current and accurate contact details of your customer contact.
- (c) A customer contact must be contactable at all reasonable times including during the hours of 9am to 5pm each business day.
- (d) We may deal with a customer contact on the basis that they are your representative and have your full authority, including making variations.
- (e) A person remains your customer contact until we are given notice that they are no longer your customer contact.

27. Credit Checks

- (a) You authorise us to do the things set out in this clause 27 and acknowledge that we may do so, whenever we see fit for as long as a customer contract continues or you owe us any money.
- (b) We may use a credit report (within the meaning of the *Privacy Act 1988* (Cth)) relating to you to assess your creditworthiness or for debt recovery purposes.
- (c) We may give to a credit reporting agency any information we have about you to enable us to obtain a credit report.

- (d) We may exchange information about you with other credit providers or a credit reporting agency.

- (e) You acknowledge that we are authorised to do the things set out in this clause 27 under the *Privacy Act 1988* (Cth) and that to assess or review your creditworthiness, we may:

- (i) request a third party to report about your creditworthiness; and
- (ii) disclose financial, credit and other information about you to any person.

- (f) You must cooperate with any enquiries that we make about your creditworthiness and provide any further information, consent or authority we reasonably require.

28. Waiver

No right under a customer contract can be waived except by notice in writing signed by the party waiving it. If a party overlooks a breach by the other party on one or more occasions, it is not taken to have agreed to any future breach.

29. Assignment

- (a) You may not transfer your rights or obligations under a customer contract or share them with anyone without our prior written consent.
- (b) We may transfer our rights or obligations under this agreement to or share them with anyone without notice to you.

30. Intellectual Property Rights

- (a) You may not use any of our intellectual property including our photographs, logos, trademarks, or get up without our written consent.
- (b) Where we allow you to use our intellectual property, we may revoke that consent at any time – where we do, you must immediately cease using our intellectual property.

31. Variations

- (a) We may vary or amend these terms without your consent and update them on our website from time to time.
- (b) By placing an order for goods or requesting our services after we have updated these terms on our website, you are deemed to have accepted the amended terms as appearing on our website at such time you place the order or request our services.

32. Inconsistency

In the event of any inconsistency between this agreement and any provisions of our Credit Application, the provisions of this agreement will prevail.

33. Severance

If any provision in this agreement is unlawful or inconsistent with any law, then to the extent of the unlawful nature or inconsistency, that provision may be severed from without affecting the remainder of the agreement.

34. Jurisdiction

This agreement and any customer contract is governed by the laws of Victoria, Australia and the parties submit to non-exclusive jurisdiction of the courts operating in Victoria.