



**AUSTAINLESS PTY LTD**  
**(T/A AAA Metal Suppliers)**  
ABN 84 619 768 937

**TERMS AND CONDITIONS OF SALE**

**CONDITIONS OF SUPPLY**

1. All Goods are supplied subject to these Terms and Conditions. Austainless Pty Ltd and the customer agree that, to the full extent permitted by law, Austainless Pty Ltd shall have no liability whether in tort, contract or otherwise in respect of such goods save as imposed by these Terms and Conditions or by the terms of any statute. These Terms and Conditions shall take priority over any prior Terms and Conditions.
2. Unless otherwise specified by Austainless Pty Ltd the quantity of goods supplied may vary by up to 10% over or under the amount ordered.

**LOSS OR DAMAGE IN TRANSIT**

3. Any non-delivery or loss in transit must be notified or claimed in writing to the carrier and Austainless Pty Ltd within 10 days of the dispatch date. Any damage or short delivery must be notified or claimed in writing on receipt of goods to the carrier and Austainless Pty Ltd within 3 days of receipt. Austainless Pty Ltd shall not be liable for any non-delivery, loss, damage or short delivery not notified in accordance with this provision. In the event that the production or delivery of the goods is hindered, impaired or prevented by any cause whatever outside its reasonable control, Austainless Pty Ltd may notify the customer that it is unable to fulfill all or part of the contract and may cancel the contract in whole or in part without incurring any liability whatsoever.

**GUARANTEE**

4. Austainless Pty Ltd shall not be liable for any loss or damage direct or indirect or howsoever in relation to the fitness for use, merchantable quality or lack of correspondence with any sample or description or arising from the failure of the customer to satisfy itself that the goods supplied are of the description, quality and character ordered gives no warranty as to the use of the goods under those specifications.

Austainless Pty Ltd warrants all goods supplied against any defect of material for a period of twelve months from the date of delivery. In all cases other than a breach of a condition or warranty implied by Section 69 of the Trade Practices Act 1974, the liability of Austainless Pty Ltd shall be limited to the replacement or supply of equivalent of any goods. Austainless Pty Ltd shall not be liable for any loss or damage (including without limitation consequential loss) resulting from the supply or use of such goods. This warranty shall not extend to any person other than the customer.

**TITLE TO GOODS AND RISK**

5. The goods shall be at the risk of the customer on delivery of the same to it and the customer shall, at its cost, insure the same, in Austainless Pty Ltd name, against such risks as a prudent owner of the goods would insure, and for their full insurable value.

All goods delivered by Austainless Pty Ltd remain the property of Austainless Pty Ltd until all debts owing by the customer to Austainless Pty Ltd have been paid, and notwithstanding that payments may be made for the purpose of settlement of specifically designated claims. Until payment of all debts owing as aforesaid, the customer may sell the goods in the ordinary course of business, as Austainless Pty Ltd fiduciary and agent (but the customer shall not hold itself out as such) and may for the purpose of such sale part with possession of the goods.

These provisions apply notwithstanding any arrangements under which Austainless Pty Ltd provides credit to the customer. To the extent that there is any inconsistency, these provisions prevail.

Until payment in full of all debts owing to Austainless Pty Ltd, Austainless Pty Ltd may, without prejudice to any of its other rights, without prior notice, re-take and resume possession of any goods which remain Austainless Pty Ltd property and, by its servants and bailees, enter upon the customers premises or any other place where the goods may be, for that purpose if:

- a. There is any breach of any contract between Austainless Pty Ltd and the customer, or
- b. The customer commences to be wound up or is placed under official management, or a receiver, or a receiver and manager, or a voluntary administrator is appointed in respect of the customer, its undertaking or property or any part thereof, or an encumbrancer, by itself or by an agent, taken possession of the customer's undertaking or property or any part thereof; or
- c. The customer parts with possession of the goods or any of them otherwise than by sale to a customer in the ordinary course of business.

Unless Austainless Pty Ltd has required the return of the goods or has determined this contract in accordance with these Terms and Conditions, the customer (acting on its own account and not as a bailee of Austainless Pty Ltd) may use, incorporate with other materials or agree to sell any of the goods in its possession in the ordinary course of business notwithstanding that the property in the goods has not passed to it.

Where the customer re-sells any of the goods before property in the goods has passed to it and as a result property in any of the goods passes from Austainless Pty Ltd or where any of the goods are incorporated with other materials so as to lose their separate identity and the end product is subsequently sold, the customer shall keep apart and hold on trust for Austainless Pty Ltd such part of the proceeds of such sale as represents the amount owed by the customer to Austainless Pty Ltd in respect of the goods so sold.

Austainless Pty Ltd may recover the price of the goods by action, and may file an application for the appointment of a liquidator to the customer, if the goods are not paid for within Austainless Pty Ltd usual credit terms, or any separate arrangement for credit made by Austainless Pty Ltd with the customer, notwithstanding that property in the goods has not passed to the customer.

## **PAYMENT**

6. It is of the essence of these Terms and Conditions that payment of the price of the goods shall be made in full by the customer within such time as is otherwise agreed between Austainless Pty Ltd and the customer.

## **JURISDICTION**

7. All contracts between Austainless Pty Ltd and the customer shall be governed and construed in accordance with the laws of Australia. The customer agrees to submit to the non-exclusive jurisdiction of the Australian courts for all purposes of or in connection with such contracts.

# Austainless Pty.Ltd

ACN: 619 768 937

## RETENTION OF TITLE

1. The goods shall be at the risk of the customer on delivery of the same to it and the customer shall, at its cost, insure the same, in the name of Austainless Stainless Pty. Ltd. against such risks as a prudent owner of the goods would insure, and for their full insurable value.
2. All goods delivered by Austainless Stainless Pty. Ltd. remain the property of Austainless Stainless Pty. Ltd. until all debts owing by the customer to Austainless Stainless Pty. Ltd. have been paid, and notwithstanding that payments may be made for the purpose of settlement of specifically designated claims. Until payment of all debts owing as aforesaid, the customer may sell the goods in the ordinary course of business, as Austainless Stainless Pty. Ltd. fiduciary and agent (but the customer shall not hold itself out as such), and may for the purpose of such sale part with possession of the goods.
3. These provisions apply notwithstanding any arrangements under which Austainless Stainless Pty. Ltd. provides credit to the customer. To the extent that there is any inconsistency, these provisions prevail.
4. Until payment in full of all debts owing to Austainless Stainless Pty. Ltd., Austainless Stainless Pty. Ltd. may, without prejudice to any of its other rights, without prior notice, re-take and resume possession of any goods which remain Austainless Stainless Pty. Ltd. property and, by its servants and bailees, enter upon the customers premises or any other place where the goods may be, for that purpose if:
  - a. There is any breach of any contract between Austainless Stainless Pty. Ltd. and the customer, or
  - b. The customer commences to be wound up or is placed under official management, or a receiver, or a receiver and manager, or a voluntary administrator is appointed in respect of the customer, its undertaking or property or any part thereof, or an encumbrancer, by itself or by an agent, taken possession of the customer's undertaking or property or any part thereof; or
  - c. The customer parts with possession of the goods or any of them otherwise than by sale to a customer in the ordinary course of business.
5. Unless Austainless Stainless Pty. Ltd. has required the return of the goods or has determined this contract in accordance with these Terms and Conditions, the customer (acting on its own account and not as a bailee of Austainless Stainless Pty. Ltd.) may use, incorporate with other materials or agree to sell any of the goods in its possession in the ordinary course of business notwithstanding that the property in the goods has not passed to it.
6. Where the customer re-sells any of the goods before property in the goods has passed to it and as a result property in any of the goods passes from Austainless Stainless Pty. Ltd. or where any of the goods are incorporated with other materials so as to lose their separate identity and the end product is subsequently sold, the customer shall keep apart and hold as Austainless Stainless Pty. Ltd. fiduciary such part of the proceeds of such sale as represents the amount owed by the customer to Austainless Stainless Pty. Ltd. in respect of the goods so sold.
7. Austainless Stainless Pty. Ltd. may recover the price of the goods by action, and may file an application for the appointment of a liquidator to the customer, if the goods are not paid for within Austainless Stainless Pty. Ltd. usual credit terms, or any separate arrangement for credit made by Austainless Stainless Pty. Ltd. with the customer, notwithstanding that property in the goods has not passed to the customer.