

## TERMS AND CONDITIONS

### 1.0 INTERPRETATION

Where used in this document the following terms shall have the following meanings unless the context shall require otherwise:-

- 1.1 (a) "Hendy Coils" means Hendy Coils Pty. Ltd. (ACN 007308974) its successors and assigns.
- (b) "Buyer" means the purchaser of any Products and in the case of a company shall include its successors and in the case of an individual shall include that individual's administrators and executors.
- (c) "Products" means any goods or services purchased by the Buyer from Hendy Coils from time to time.
- (d) "Price" is the amount payable by the Buyer for the products exclusive of any other sum payable by the Buyer.
- (e) "Specified Period" means the period of thirty (30) days calculated from the date of the relevant statement for the Products or such other period as Hendy Coils may from time to time agree in writing.

1.2 If there shall be more than one (1) Buyer this agreement shall bind each of them jointly and severally.

### 2.0 APPLICATION

2.1 All products purchased by the Buyer from Hendy Coils shall be subject to these Terms and Conditions of Sale and the Hendy Coils Product Warranty unless Hendy Coils shall agree otherwise in writing.

### 3.0 PAYMENT AND TITLE

3.1 The price payable by the Buyer for the Products shall be that as published from time to time by Hendy Coils in its price list or as quoted or advised by Hendy Coils upon receipt of an order for Products from the Buyer Hendy Coils may at any time alter its price lists in respect of future orders.

3.2 The Buyer shall pay the full Price and all other sums immediately on delivery of the products provided However, that if the Buyer has completed an "Application for Credit" to Hendy Coils' satisfaction the Buyer shall have until the end of the Specified Periods to pay.

3.3 Title to the Products shall not pass to the Buyer until the Price and all other sums owing are paid to Hendy Coils and until all cheques or other instruments are honoured or met in full.

3.4 In the event that the Buyer fails to pay the Price or any other sum within a Period of ninety (90) days from the date of the relevant statement:-

- (a) Hendy Coils may at its option require cash on delivery or stop supply of any further Products to the Buyer.
- (b) the Buyer shall pay Hendy Coils interest on the Price and all other sums payable at the rate of one point one per cent (1.1%) per thirty (30) day period or part thereof or at such other rate as Hendy Coils may publish from time to time.

3.5 In the event that Hendy Coils agrees in writing to accept return of standard Products for credit. Hendy Coils will not be responsible for transport costs (except where due to error of supply) and will, at its discretion, charge a re-stocking fee not greater than twenty per cent (20%). Special or non standard products manufactured to the Buyers order will be re-stocked.

### 4.0 ORDERS

4.1 Hendy Coils shall have no obligation to accept any order from the Buyer.

4.2 The Buyer may not cancel or vary any order without the prior written consent of Hendy Coils. In the event of any such cancellation or variation being accepted by Hendy Coils the Buyer shall immediately pay to Hendy Coils all costs incurred consequent upon such cancellation.

4.3 Special or non-standard products manufactured to the Buyers specification will have a production tolerance of plus or minus ten (10) per cent to the quantity ordered. The quantity manufactured will be the quantity invoiced. Any charges for tooling, patterns etc. does not confer ownership. The Buyer shall fully indemnify Hendy Coils against any third party claim of infringement of patents or copyrights or compliance with any Government Statutory Regulation with regard for special products manufactured to the Buyers specifications.

### 5.0 DELIVERY RISK

5.1 All delivery dates referred to by Hendy Coils are given in good faith. Hendy Coils shall make its best endeavours to deliver the Products to the Buyer on or before such delivery date. However, such delivery date shall not be binding upon Hendy Coils.

5.2 Hendy Coils shall not be liable for any delay in delivery or for any consequential loss or cost of any property of the Buyer.

5.3 The Buyer shall notify Hendy Coils in writing of any shortages in quantity of any Products delivered or any defect in any Products within seven (7) days of delivery.

5.4 The risk in the Products shall pass to the Buyer immediately upon the Buyers' agent taking possession of the Products. The Buyer shall in all cases be responsible for the payment of any insurance in respect of the Products and in the event that Hendy Coils shall contract for such insurance, the Buyer shall reimburse the cost of the relevant insurance premium to Hendy Coils.

### 6.0 BUYER'S WARRANTY

6.1 The Buyer warrants and agrees that the Buyer purchases all Products from Hendy Coils in the ordinary course of the Buyers' business for the purpose of reselling or resupplying them or using or transforming them as part of a process of manufacture carried on by the Buyer.

6.2 It is the Buyer responsibility to check the suitability of the product for the application.

### 7.0 EXCLUSION OF LIABILITY

7.1 Hendy Coils shall not be liable for any consequential damage or loss or for any damages greater in amount than the Price paid by the Buyer Hendy Coils shall not be liable for any food or product loss which may occur whether directly or indirectly as a result of any defect, malfunction stoppage of the Goods.

7.2 Subject to the following clause it is agreed that all terms, warranties and conditions implied by statute or any other rule or regulation shall not be applicable.

7.3 Nothing contained in this agreement shall restrict, exclude or modify any condition, warranty, obligation, or liability that is implied or imposed by virtue of any statute, statutory rule or regulation where such conditions, warranties' obligations or liabilities cannot lawfully be excluded, restricted or modified.

### 8.0 PROPER LAW

8.1 This agreement shall be governed by the laws of the State of Victoria.

### 9.0 ADDITIONAL COSTS, TAXES ETC.

9.1 If any duties, taxes, rates or other impost shall be levied in respect of any purchase of Goods, the Buyer shall pay such amount in addition to the Price.

## WARRANTY

The benefits conferred by this warranty are in addition to all other conditions and warranties in respect of this product(s) which the purchaser may have under the Trade Practices Act 1970 of the Commonwealth of Australia and or similar State or Territory laws. Hendy Coils Pty Ltd warrants the product(s) to be free from defects in workmanship and materials for a period of twelve (12) months from date of purchase.

Hendy Coils Pty Ltd during the period of this Warranty, will at its own option and subject to the terms and conditions stated below, repair or replace free of charge the product(s) or any component part thereof, which upon examination by Hendy Coils Pty. Ltd. is found in their opinion to be defective.

This warranty shall not apply:-

- a) If the product(s) is connected to any flows or temperatures other than as prescribed by the manufacturer.
- b) If the product(s) has been subject to misuse, abuse, accident or want of due care.
- c) If the product has been installed in a manner for which it has not been designed.
- d) If the damage is caused by foreign objects in or on the product(s) or by reason of its use for the purpose other than for which it was supplied.
- e) If a repair and or alteration has been made or attempted to be made by the purchaser and or its agents without written consent of Hendy Coils Pty. Ltd.
- f) If the product(s) has been installed contrary to any statutory requirement, regulation or the municipal guidelines or directive.

Hendy Coils Pty Ltd accepts no liability pursuant to this warranty for any costs or consequential damage or economic loss whether direct or indirect, to any person or property, arising from breakdown or failure of this product(s) or any part thereof including installation costs associated with the gaining access to the product(s) or accepted over and above the replacement value of the product(s).

This warranty is given by Hendy Coils Pty. Ltd. Its provisions and conditions may not be varied by any other person or organisation.