

TERMS OF SALE
The JSB Investments Pty Ltd
T/A Brierley Hose and Handling, TasLifting and Brierley Marine

1. **Applicable Terms:** The terms and conditions set out hereunder shall apply to all sales contracted by Seller whether or not expressly referred to in other documents of sale, purchase, invoices or deliver notes issued by Seller or Buyer. Buyer's terms of purchase shall be applicable only to the extent that they have been expressly accepted by Seller in writing. The unconditional delivery of goods, performances of services or acceptance of payments shall not constitute acceptance by Seller of any terms deviating from Seller's terms of sale.
2. **Binding contract:** Seller's offers shall be subject to Seller's written order confirmation which shall constitute the binding contract of sale between Seller and Buyer. In transactions where written order confirmations are neither customary nor requested by Buyer. Seller's invoice shall be considered the binding contract between Seller and Buyer.
3. **Price Revision:** Unless expressly termed as firm, prices quoted or contracted by Seller may be revised by Seller to cover unforeseen increases in Seller's cost. If Seller desires to revise prices accordingly but is restricted to any extent against so doing by reason of any governmental law, regulation, order or action, or if the cost basis of prices quoted or contracted as firm prices is altered by reason of any governmental law, regulation, order or action, Seller shall have the right to rescind this contract by written notice to Buyer, if Seller and Buyer cannot agree forthwith on an equitable solution concerning the additional cost thus incurred. In the event Seller incurs additional expense because of changes in specifications or drawings previously approved by Buyer, or in the event Seller is required to modify the ordered Products, perform any additional Services, perform any additional work or supply any additional Products, the additional expense shall be added to the purchase price. Seller shall have the right, in its sole discretion, to accept or reject any changes in specifications requested by Buyer. In no event shall any changes in specifications be made or accepted thirty (30) days prior to the shipment date or thereafter.
4. **Property of documents:** Documents such as illustrations, drawings, cost estimates and printed literature as well as data sheets stating weight, dimensions, performance and energy requirement, etc. Submitted by Seller to Buyer shall not be deemed binding specifications unless expressly so defined in a binding offer or order confirmation submitted by the Seller. No license or other rights under any patents, copyrights or trademarks owned or controlled by Seller or under which Seller is licensed are granted to Buyer or implied by the sale of Products or the provision of Services. Buyer shall not identify as genuine products of Seller Products purchased hereunder which Buyer has treated, modified or altered in any way, nor shall Buyer use Seller's trademarks to identify such products; provided, however, that Buyer may identify such products as utilizing, containing or having been manufactured from genuine products of Seller as treated, modified or altered by Buyer or Buyer's representative, upon written prior approval of Seller. All plans, photographs, designs, drawings, blueprints, manuals, specifications and other documents relating to the business of Seller ("information") shall be and remain the exclusive property of Seller and shall be treated by Buyer as confidential information and not disclosed, given, loaned, exhibited, sold or transferred to any third party without Seller's prior written approval; provided, however, that these restrictions shall not apply to Information that Buyer can demonstrate: (a) at the time of disclosure, is generally known to the public other than as a result of a breach of this Agreement by Buyer; or (b) is already in Buyer's possession at the time of disclosure by from a third party having a right to impart such information.
5. **Deliver Periods/Deliver Dates:** Confirmed delivery periods and delivery dates shall apply only from the date all details of the order have been clarified including clarification of all technical details and other documents required by Seller to execute the order and are predicated on Buyer's compliance with the payment terms as stipulated under Terms of Payment in the contract. Partial delivery shall be permissible. Should despatch of the goods be prevented by reason beyond the control of Seller, the delivery periods and delivery dates shall be deemed adhered to if by the dates agreed upon, Buyer is notified that goods are ready for dispatch. In case of request by Buyer to delay delivery of the goods, Seller, in addition to any further claims shall be entitled to compensation for the cost of intermediate handling and storage of the goods. In case such delay of delivery of goods exceeds one calendar month, Seller is entitled to charge Buyer loss in interest at a rate of 1% per month of the non-paid portion of the Contract Price. Excluded are cases of force majeure.
6. **Liability and Risk:** Upon acceptance by Buyer's carrier or upon delivery to Buyer's premises, whichever comes first, Buyer assumes all risks and responsibility and liability for loss and damage resulting from the transportation, handling, storage or use of the goods supplied under this contract. Seller's liability in respect to goods supplied or services rendered under this contract shall in any case be limited to the purchase price of the goods or services in respect of which damages are claimed. SELLER SHALL IN NO EVENT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES RESULTING FROM DELAYED DELIVERY OR PERFORMANCE, SHORT SHIPMENT, HANDLING STORAGE, USE, AND IMPERFECTION OR OTHERWISE OF GOODS SUPPLIED AS WELL AS FROM DELAYED OR IMPERFECT SERVICES RENDERED HEREUNDER.
7. **Force Majeure:** Delivery of goods or performance of services sold hereunder may be delayed or suspended by Seller in the event of an act of God, war, riot, fire, explosion, accident, flood, sabotage, inability to obtain fuel, power, raw material, labour, containers or transportation facilities, breakage or failure of machinery or apparatus, governmental law, regulation, order or action, national defence requirements or any other event beyond the reasonable control of Seller or in the event of labour trouble, strike, lockout or injunction, any of which events prevent the manufacture or dispatch of a shipment of the goods or of a material upon which the manufacture of the goods is dependent. If because of any such event, Seller is unable to supply part or total of the goods or render part or total of the services contracted hereunder, Seller shall be exempted to such extent from his obligations hereunder with respect to the particular delivery or performance involved upon giving prompt notice of such event to Buyer, but this contract shall otherwise remain in force.
8. **Terms of Payment:** Payment for Products or Services purchased by Buyer shall be made in accordance with any of the following terms, provided they have been previously arranged with and expressly approved by Seller in writing: (1) cash in advance; (2) confirmed, irrevocable letter of credit established in such amount and form and at such time and at such bank as shall be approved by Seller in respect of each order; (3) credit account purchases for which payment will be due and payable on 30 days from date of invoice terms, plus service and other charges applicable to past due amounts in accordance with Seller's written notices; or (4) other payment arrangements expressly approved by Seller in writing prior to or at the time the order is placed. If any Buyer credit account purchase is not paid in accordance with Seller's credit payment terms, in addition to any other remedies allowed in equity or by law, Seller may refuse to make further shipments without advance payment by Buyer. Nothing contained herein shall be construed as requiring Seller to sell any Products or Services to Buyer on credit terms at any time, or prohibiting Seller from making any and all credit decisions which it, in its sole discretion, deems appropriate for Seller. Seller may charge interest on all amounts not paid when due and Buyer agrees to pay such interest calculated on a daily basis, from the date that payment was due until the Seller receives payment in full, at the rate of 1.5% per month or the maximum rate permitted by applicable law. In the event of default by Buyer, all unpaid sums and instalments owed to Seller, shall, at the Seller's sole option, become immediately due and payable without notice of any kind to Buyer. In addition to its right of acceleration, Seller may pursue any and all remedies allowed by law or in equity, including but not limited to any and all remedies available to it under the PPS Act. In addition to the foregoing, and not in limitation thereof, Seller shall have the right to set off any credits or amounts owed to Buyer against any amounts owed by Buyer to Seller.
9. **Taxes and Duties:** Unless otherwise specified, prices quoted do not include taxes or duties of any kind or nature. Buyer agrees that it will be responsible for filing all tax returns and paying applicable tax, duty, export preparation charge and export documentation charge resulting from the purchase of any Products or Services. In addition, in the event any other similar tax is determined to apply to Buyer's purchase of any Products or Services from Seller, Buyer agrees to indemnify and hold Seller harmless from and against any and all such other similar taxes, duties and fees. All prices quoted are AUSTRALIAN DOLLARS unless otherwise specified. The amount of any present or future taxes applicable

- to the sale, transfer, lease or use of any Products shall be paid by Buyer; or in lieu thereof, Buyer shall provide Seller with a tax exemption certificate satisfactory to the applicable taxing authority proving that no such tax is due and payable upon such sale, transfer, lease or use.
10. **Reservation of Title:** Goods supplied by Seller shall remain Seller's property until the respective purchase price has been paid in full by Buyer. In case the goods have been processed by Buyer before the full purchase price has been paid, Seller's reservation of title shall extend over the entire new object. In case of processing, combining or mixing Seller's goods with goods owned by Buyer or third parties Seller shall acquire a part title of the newly created object or objects at a percentage corresponding to the ratio of the value of Seller's goods to that of the goods of Buyer or third parties. Buyer shall store the goods and such newly created objects in a manner to indicate that Buyer holds these goods and objects as a bailee for Seller. Buyer may nevertheless sell these goods and objects to a third party in the normal course of business, but shall account to Seller for the portion of proceeds lawfully belonging to Seller as an agent of Seller.
11. **PPSA:** (a) Buyer grants Seller a security interest in the Products purchased and the proceeds of these Products and agrees that this agreement will be a security agreement under the PPS Act. (b) The security interest so created or granted shall continue until payment in full of the purchase price of those Products and payment and performance by Buyer of all of its other obligations hereunder. Seller is entitled to all remedies of a secured party after default under the PPS Act or other applicable law, in addition to all other rights provided by contract and by operation of law. Buyer agrees to pay to Seller, in addition to the interest on overdue sums due, reasonable attorney fees, court costs and the expenses of Seller incurred in enforcing Seller's rights. The Products purchased shall remain personal property and shall not become or be deemed a fixture or a part of any real estate on which it may be located. Buyer agrees to do anything (including execute any security agreement or other instrument or document or provide any information or grant any security interest) considered necessary or convenient by Seller to perfect or evidence a security interest in the Products purchased and the proceeds of those Products, to maintain an effective security interest or set out in further detail the terms and conditions it requires in a security agreement, including, but not limited to, executing financing statements, financing change statements, chattel mortgages, deeds of trust, deeds to secure debt, mortgages or other security instruments. (c) Buyer consents to Seller effecting and maintaining a registration on the register (in any manner it considers appropriate, including as a purchase money security interest) in relation to any security interest contemplated by this agreement and waives the right to receive notice of a verification statement in relation to any registration on the register. (d) Buyer undertakes to not register a financing a change statement in respect of a security interest contemplated by this agreement without the prior written consent of Seller. (e) If Chapter 4 of the PPS Act would otherwise apply to the enforcement of a security interest arising in connection with this agreement, for the purposes of section 115(1) of the PPS Act, the following provision of the PPS Act will not apply and Buyer will have no rights under them: section 95; section 121(4); section 129(2) and 129(3); section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143. (f) Unless otherwise agreed and to the extent permitted by the PPSA, Seller and Buyer agree not to disclose information of the kind referred to in section 275(1) of the PPS Act to an interested person, or any other person requested by an interested person. Buyer agrees to waive any right it may have, or but for this clause may have had, under section 275(c) (7) of the PPS Act to authorise the disclosure of the above information. (g) For the purposes of section 20(2) of the PPS Act, the collateral are Products including those Products which are described in the invoices, Sales Order Acknowledgements, forms or other documents provided by Seller from time to time in connection with each delivery or supply of Products to Buyer. (h) Seller may apply amounts received in connection with this agreement to satisfy obligations secured by a security interest in any way it determines in its absolute discretion. (i) In this agreement, 'PPSA' means the Personal Property Securities Act 2009 (Cth) (as amended) ('PPS Act') and any other legislation and regulations in respect of it; and the following words have the respective meanings given to them in the PPS Act: collateral; financing change statement, financing statement, interested person, purchase money security interest, register, registration, registration commencement time, security agreement, security interest and verification statement.
12. **Warranty:** Seller makes no warranty, whether of merchantability, fitness or otherwise expressed or implied concerning the goods supplied or services rendered other than that they shall be of the specification stated in this contract. Seller's warranty does not cover normal wear and tear and is valid only for such period as is expressly stipulated in the contract but which shall in any case not exceed 12 months (or 6 months in case of a more than one shift operation) after the date of start-up and use of the goods supplied. Seller warranty is further predicated on Buyer's compliance with generally accepted or expressly specified conditions for proper handling and use of the goods. Any recommendations made by Seller concerning the use of the goods are believed to be reliable but Seller makes no warranty of the results to be obtained. Buyer agrees to inspect the goods supplied or the services rendered hereunder immediately after delivery or performance and to give notice in writing of any claim within (30) days of delivery of performance. Failure to give notice in writing as aforesaid within the specified time constitutes an unqualified acceptance of the goods or services and a waiver of all claims with respect thereto. In case of a substantiated valid complaint concerning the goods supplied or services rendered hereunder, i.e., in case the goods have become unserviceable within the period specified above due to a cause demonstrably dating back to the time prior to the transfer of risk, e.g. in consequence of faulty design, inadequate material or poor workmanship, Seller shall repair, exchange or take back against reimbursement the rejected goods or the unserviceable part thereof or repeat or reimburse Buyer for the rejected service at Seller's sole option. Seller's obligations under this warranty shall be CONDITIONAL on Buyer's full compliance with Buyer's obligations under this contract, especially on full compliance with the terms of payment. This warranty shall not cover any defect resulting from a specification stipulated or required by the Buyer. The costs associated with any travelling time, travel costs, access equipment, accommodation and expenses are the responsibility of the Buyer. The suitability of Buyer's runways, gantries, buildings, foundations, roof trusses and any other structures is the sole responsibility of the Buyer. This warranty shall not cover any item on which serial numbers have been altered, defaced or removed. Maintenance and wear parts are not covered by this warranty and are the sole maintenance responsibility of Buyer. This warranty is limited to the first retail purchaser and is not assignable or otherwise transferable without written agreement of the manufacturer. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. OTHER THAN WARRANTIES THAT ARE IMPLIED BY THE OPERATION OF THE COMPETITION AND CONSUMER ACT 2010 (CTH) OR ANY OTHER APPLICABLE LEGISLATION IN ONE OF THE STATES OR TERRITORIES OF THE COMMONWEALTH OF AUSTRALIA WHICH CANNOT BE EXCLUDED. THIS WARRANTY IS EXPRESSLY IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED (INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) AND ALL OTHER OBLIGATIONS OR LIABILITY ON SELLER'S PART. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE LIMITED WARRANTY CONTAINED HEREIN. Seller neither assumes nor authorises any other person to assume for Seller any other liability in connection with the sale of Seller's Products. This warranty shall not apply to any of Seller's Products or any part thereof, or any equipment which was the subject of any Service, which has been subject to misuse, alteration, abuse, negligence, accident, acts of God or sabotage. No action by either party shall operate to extend or revive this limited warranty without the prior written consent of the Seller. In no event shall Seller, or any subsidiary or division thereof be liable for incidental, consequential or other damages or losses resulting from a breach of warranty including, without limitation labour costs, loss of use or other equipment, third party repairs, personal injury, emotional or mental distress, improper performance or work, penalties of any kind loss of service of personnel, or failure of PRODUCTS to comply with any federal, state or local laws. IN THE EVENT OF ANY BREACH OF THE WARRANTY BY SELLER, THE PARTIES AGREE THAT SELLER'S LIABILITY SHALL BE LIMITED EXCLUSIVELY TO THE REMEDIES OF REPAIR OR REPLACEMENT (AT SELLER'S SOLE DISCRETION) OF ANY DEFECTIVE PRODUCT OR THE REPERFORMANCE OF ANY DEFECTIVE SERVICES COVERED BY THE WARRANTY. Notwithstanding anything contained herein to the contrary, in no event shall Seller, or any related body corporate or division thereof be liable for incidental, consequential or other damages or losses resulting from a breach of warranty including, to the extent permitted by law, without limitation, duties, taxes, environmental fees, labour costs, loss of use of other equipment, third party repairs, personal injury, emotional or mental distress, improper performance or work, penalties of any kind, loss of service of personnel, or

failure of equipment to comply with any federal, state or local laws. NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, IN NO EVENT SHALL SELLER'S LIABILITY EXCEED one hundred PERCENT (100%) OF THE TOTAL ORDER VALUE.

13. **Indemnification of Buyer:** Buyer hereby agrees to indemnify, release, defend and hold harmless Seller, its directors, officers, employees, agents, representatives, successors, and assigns against any and all suits, actions or proceedings at law or in equity (including the costs, expenses and reasonable attorney's fees incurred in connection with the defence of any such matter) and from any and all claims, demands, losses judgments, damages, costs, expenses or liabilities, to any person whatsoever (including Buyer's and Seller's employees or any third party), or damage to any property (including Buyer's property) arising out of or in any way connected with the performance or the furnishing of Products or Services under this agreement, regardless of whether any act, omission, negligence (including any act, omission or negligence, relating to the manufacture, design, repair, erection, service or installation of or warnings made of lack thereof with respect to any Products or 'Services furnished hereunder) of Seller, its directors, officer, employees, agents, representatives, successors or assigns caused or contributed thereto. If Buyer fails to fulfil any of its obligations under this paragraph or this agreement, Buyer agrees to pay Seller all costs, expenses and attorney's fees incurred by Seller to establish or enforce Seller's rights under this paragraph or this agreement. The provisions of this paragraph are in addition to any other rights or obligations set forth in this agreement.
14. **Installation:** Unless otherwise expressly agreed in writing, Buyer shall be solely responsible for the installation and commissioning of the Products purchased. Although Seller may in some cases provide a serviceman, data and drawings to aid Buyer with installation or start-up, Seller assumes no responsibility for proper installation or support of any Product when installed and disclaims any express or implied warranties with respect to such installation and support. Notwithstanding whether data and drawings are provided or a serviceman aids in the installation, Buyer shall indemnify and hold Seller harmless at Seller's request, defend Seller from all claims, demands or legal proceedings (including the costs, expenses and reasonable attorney's fees incurred in connection with the defence of any such matter) which may be made or brought against Seller in connection with damage or personal injury arising out of said installation or start-up.
15. **On-Site Services:** In the event that Seller is providing Services at Buyer's worksite (or at a location designated by Buyer), Buyer shall provide Seller free and clear access and an adequate power supply in order to perform the Services. Buyer shall maintain safe working conditions at the worksite, including, without limitation, implementing appropriate procedures regarding hazardous materials and energization and de-energization of power systems. Buyer shall immediately remedy any unsafe working condition at the worksite. Seller shall be entitled to suspend or terminate the Services in the event it determines that the worksite is unsafe. Seller shall have no responsibility or liability for any pre-existing condition of the worksite including, without limitation, violations of safety rules, building codes, zoning ordinances or other laws or regulations (#Regulations). In the event that any unsafe working condition or failure of the worksite to comply with a Regulation results in an increase in the Seller's cost of, or the time required for, performance of the Services, Seller may make an equitable adjustment in price and schedule. Buyer authorises Seller to perform the disassembly and inspection of any equipment necessary to provide the Services, including provision of all necessary Parts and labour and agrees that the Seller is not responsible for any damage or loss due to causes beyond Seller's control. Unless expressly agreed in writing. Services do not include architectural/engineering services or structural changes to Buyer's premises.
16. **Cancellation:** Buyer may not cancel the order described herein except with the express prior written consent of the Seller. In the event of a cancellation by the Buyer, the Buyer agrees to compensate the Seller for all work done, expenses incurred and commitments made as of the time of cancellation, except that nothing herein shall limit any other remedies available to the Seller hereunder or at law, the minimum cancellation charge to the Buyer shall be twenty percent (20%) or the down payment, whichever is higher, of the contract sum.
17. **Governing Law:** The validity, interpretation and performance of this contract shall be governed and construed in accordance with the laws of the State of Tasmania, Australia. Seller shall not be bound by any agent's, employees or any other representation, promise or inducement not set forth herein. The invalidity or unenforceability of any provisions of this agreement shall not affect any other provision and this agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. The parties agree that the proper and exclusive forum and venue in all legal actions brought to enforce or construe any of the provisions of this sales order agreement shall be in the State of Tasmania Australia.
18. **Validity of Contract:** In case individual terms of this contract should be modified, replaced or become partly or wholly invalid by mutual consent of Seller and Buyer, all other terms shall remain in force and the contract shall be deemed amended accordingly. In case individual terms of this contract should be modified, replaced or become partly or wholly invalid due to any governmental law, regulation, order or action, Seller and Buyer shall forthwith try to find an equitable valid replacement for the term thus changed or invalidated. If no mutual consent concerning such replacement can be reached, Seller shall have the option to either accept the changed term or the invalidation thereof and thereby keep the thus amended contract by written notice to Buyer.