

1. Definitions

- 1.1 “Tasweld” means Tasmanian Welding Supplies Pty Ltd T/A Tasweld, its successors and assigns or any person acting on behalf of and with the authority of Tasmanian Welding Supplies Pty Ltd T/A Tasweld.
- 1.2 “Customer” means the Customer or any person acting on behalf of and with the authority of the Customer, as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.
- 1.3 “Goods” means all Goods (including cylinders, fittings, caps and any accessories) supplied on hire by Tasweld to the Customer (and where the context so permits shall include any incidental supply of services). The Goods shall be as described on the invoices, quotation, authority to hire, or any other work authorisation forms as provided by Tasweld to the Customer.
- 1.4 “Hire Period” means the period of hire for the Goods as described on the Hire Form, Cylinder Rental Agreement, invoices, quotation, or any other form(s) as provided by Tasweld to the Customer.

2. Acceptance

- 2.1 This Hire Appendix is meant to be read in conjunction with the applicable Terms & Conditions of Trade. If there are any inconsistencies between the relevant documentation, then the Terms & Conditions of Trade shall prevail.

3. Hire Period

- 3.1 Charges shall commence from the time the Goods depart from Tasweld’s premises and will continue until the return of the Goods to Tasweld’s premises, and/or until the expiry of the Hire Period, whichever last occurs.
- 3.2 The date upon which the Customer advises of termination shall in all cases be treated as a full day’s hire.
- 3.3 No allowance whatsoever can be made for time during which the Goods are not in use for any reason, unless Tasweld confirms special prior arrangements in writing. In the event of any defect of, or damage to, the Goods (and provided the Customer notifies Tasweld immediately), Charges will not be payable during the time the Goods are not usable, unless the condition is due to negligence or misuse on the part of or attributable to the Customer.
- 3.4 Off-hire receipts will only be issued when the Goods have been either collected by Tasweld, or returned to Tasweld’s premises.

4. Transportation of the Goods

- 4.1 In some circumstances transporting gas cylinders containing liquid oxygen, flammable or toxic gases in an enclosed vehicle or compartment of a vehicle is prohibited by law. Tasweld takes no responsibility should the Customer not comply with this law.
- 4.2 Where the Customer intends to transport the Goods in an enclosed vehicle or compartment of a vehicle, the Customer acknowledges that:
 - (a) the transportation of industrial, speciality or medical gases is dangerous and should be avoided;
 - (b) cylinders should never be transported in closed spaces such as the boot of a car.
- 4.3 The Customer further acknowledges:
 - (a) transportation of the Goods within a vehicle could cause an explosion, fire or asphyxiation;
 - (b) that the Goods should be transported in an upright position with windows open for ventilation;
 - (c) should the Goods be transported on their side that it must be fastened so the Goods are unable to move and the windows open for ventilation.

Tasweld recommends the Goods to be transported by open truck or to allow Tasweld or its agents to arrange delivery of the Goods where applicable.
- 4.4 If the Customer still intends to transport the Goods by car or van then the supply of gases is subject to the undersigned agreeing to the following. The Customer acknowledges that:
 - (a) any risk of bodily injury to themselves or any other person or any loss or damage to a vehicle or any other property, directly or indirectly, caused by or resulting from the transportation of the Goods, is the responsibility of the Customer; and
 - (b) the Customer agrees to indemnify Tasweld, its agents, employees and officers from any liability for bodily injury to any person or loss of damage to any property including but not limited to any consequential loss or damage, directly or indirectly caused by or resulting from the transportation of the Goods by the Customer.

5. Risk

- 5.1 Tasweld retains property in the Goods nonetheless all risk for the Goods passes to the Customer on delivery.
- 5.2 The Customer accepts full responsibility for the safekeeping of the Goods until it is returned to Tasweld at its premises or is placed on a vehicle owned by Tasweld or one of Tasweld’s contractors and a receipt obtained. The Customer agrees to indemnify Tasweld for all loss or damage by fire, theft, or damage to the Goods howsoever caused and without limiting the generality of the foregoing whether or not such loss, theft, or damage is attributable to any negligence, failure, or omission of the Customer.
- 5.3 The Customer will insure, or self-insure, Tasweld’s interest in the Goods against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Goods. Furthermore the Customer will not use the Goods, nor permit the Goods to be used, in such a manner as would permit an insurer to decline any claim.
- 5.4 The Customer accepts full responsibility for the Goods and for the use, storage thereof and for injuries to or death(s) of person(s) and damage to property howsoever arising from or incidental to such use, operation or storage, whether such injury or death(s) of person(s) be of agents or employees of the Customer or of others and the Customer shall keep Tasweld indemnified against all liability in respect of all actions, proceedings, claims, personal liability, damages, costs and expenses, including legal costs, otherwise arising out of the use or storage of the Goods during the hire period and whether or not arising from any negligence, failure or omission of the Customer or any other persons.

6. Safety

- 6.1 The Customer and all person(s) in use of the Goods are reminded that oxygen, acetylene and other gases are potentially hazardous substances and care should be taken over their storage and use.

- 6.2 The Customer shall not have themselves or have any other party attempt to repair or tamper with any Goods or parts thereof or re-hire, loan or otherwise dispose of any of the cylinders or have the cylinders re-charged with any product, gas, liquid or materials whatsoever by any persons, firm or corporation other than Tasweld or its agents.
- 6.3 The Customer acknowledges that it is dangerous to use oil or grease on oxygen cylinders or it's associated Goods.
- 6.4 The Customer further acknowledges that queries related to clauses 6.1 to 6.3 or any other safety related queries will be directed to Tasweld or its agents.

7. Customer's Responsibilities

- 7.1 The Customer shall:
- (a) maintain the Goods as is required by Tasweld;
 - (b) notify Tasweld immediately by telephone of the full circumstances of any mechanical breakdown or accident. The Customer is not absolved from the requirements to safeguard the Goods by giving such notification;
 - (c) satisfy itself at commencement that the Goods is suitable for its purposes;
 - (d) operate the Goods safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instruction whether supplied by Tasweld or posted on the Goods;
 - (e) comply with all work health and safety laws relating to the Goods and its operation;
 - (f) on termination of the hire, deliver the Goods complete with all parts and accessories, clean and in good order as delivered, fair wear and tear accepted, to Tasweld (or Tasweld's designated employee);
 - (g) keep the Goods in their own possession and control and shall not assign the benefit of the hire contract nor be entitled to take a lien, or grant any encumbrance over the Goods;
 - (h) not alter or make any additions to the Goods or in any other manner interfere with the Goods;
 - (i) use the Goods solely for the Customer's own works and shall not permit the Goods of any part thereof to be used by any other party for any other work.
- 7.2 Immediately on request by Tasweld the Customer will pay:
- (a) the new list price of any Goods, accessories or consumables that are for whatever reason destroyed, written off or not returned to Tasweld;
 - (b) all costs incurred in cleaning the Goods;
 - (c) all costs of repairing any damage caused by the ordinary use of the Goods up to an amount equal to ten percent (10%) of the new list price of the Goods;
 - (d) the cost of repairing any damage to the Goods caused by wilful or negligent actions of the Customer or the Customer's employees;
 - (e) the cost of repairing any damage to the Goods caused by vandalism, or (in Tasweld's reasonable opinion) in any way whatsoever other than by the ordinary use of the Goods by the Customer;
 - (f) any costs incurred by Tasweld in picking up and returning the Goods to Tasweld's premises if the Customer does not return the Goods to Tasweld's premises or any pre-agreed pickup location when it was originally agreed that the Customer would do so.
 - (g) any lost hire fees the Supplier would have otherwise been entitled to for the Goods, under this, or any other hire agreement;
 - (h) any insurance excess payable in relation to a claim made by either the Customer or Tasweld in relation to any damage caused by, or to, the hire Goods whilst the same is hired by the Customer and irrespective of whether charged by the Customer's insurers or Tasweld's.

8. Title

- 8.1 The Goods are and will at all times remain the absolute property of Tasweld, and the Customer must return the Goods to Tasweld upon request to do so.
- 8.2 If the Customer fails to return the Goods to Tasweld as is required under this agreement or when requested to do so, then Tasweld or Tasweld's agent may (as the invitee of the Customer) enter upon and into any land and premises owned, occupied or used by the Customer, or any premises where the Goods is situated and take possession of the Goods, without being responsible for any damage thereby caused. Any costs incurred by Tasweld as a result of Tasweld so repossessing the Goods shall be charged to the Customer.
- 8.3 The Customer is not authorised to pledge Tasweld's credit for repairs to the Goods or to create a lien over the Goods in respect of any repairs.

9. Personal Property Securities Act 1999 ("PPSA")

- 9.1 To the extent that this Agreement **does not** exceed a ninety (90) day Hire Period, the Customer acknowledges that nothing in this Agreement creates or provides for a security interest.
- 9.2 To the extent that this Agreement **does** exceed a ninety (90) day Hire Period, this agreement is the security agreement for the purposes of PPSA generally, and in particular Section 36.