



GIBSON
DRIVESHAFT SERVICES

Where quality is everything.

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QUOTATION TERMS & CONDITIONS

1. General

1.1 The Gibson Driveshaft Services Pty Ltd quotation comprises the quotation form ('**Quotation Form**') overleaf and the following terms and conditions, collectively herein referred to as '**Quotation**'. Acceptance of the Quotation includes the acceptance of the following terms and conditions. Except in so far as any express written undertaking is given by the Company, these conditions are in place of and exclude all other warranties and conditions whether express or implied by statute or otherwise. '**Customer**' means the party to whom the Quotation Form is addressed overleaf. '**Company**' means Gibson Driveshaft Services Pty Ltd ACN 101 176 372, its related bodies corporate and its employees, agents, directors and independent contractors. '**Services**' means the services and/or products specified in the Quotation Form overleaf to be performed or provided by the Company. '**Loss**' means damage, loss, cost, expense or liability (whether actual or contingent).

2. Quotation & Acceptance

2.1 This Quotation is subject to withdrawal, correction or alteration at any time before the Customer's acceptance of the Quotation.

2.2 The Quotation constitutes the Company's offer of the Services for purchase by the Customer and the receipt of the Quotation by the Customer will not create any contract between the Customer and the Company, until the Quotation is accepted.

2.3 Acceptance of the Quotation may be via communication of acceptance in any form (whether written or verbal) to the Company, its agents, employees or representatives by the Customer, its agents, employees or representatives. Acceptance of the Quotation by the Customer may also be via conduct including, but not limited to, providing instructions to the Company, providing materials or information to the Company, receiving Goods etc. Acceptance of the Quotation by the Customer does not require the signature of principals or the affixing of a seal of the Customer.

2.4 Where an individual whom accepts this Quotation ('**Acceptor**') as per the preceding clause does not have the actual or ostensible authority to bind the Customer, the Customer and the Acceptor will be jointly and severally liable for the Customer's obligations and warranties under this Quotation.

2.5 If the Quotation is in error in that it:

- (a) contains an incorrect quantity in relation to any item included therein; or
- (b) contains an item which should not have been included therein; or
- (c) omits an item which should have been included therein;

then the Price stated in the Quotation shall be adjusted by such amount as is required to correct the error.

3. Limits of Contract

3.1 The Quotation includes only Services as specified overleaf.

4. Exclusion of Liability

4.1 Except where clause 9.2 applies, to the extent permitted by the law the liability of the Company whether in contract or in tort, in respect of all claims for loss, damage or injury arising from a breach of any of the Company's obligations arising under the contract, from any negligence of any act, matter or thing done or permitted to be done by the Company, its servants, agents and contractors shall not in the aggregate exceed the Price stated in the Quotation.

4.2 Where so permitted, under no circumstances will the Company be liable for any loss of profits or any consequential, indirect or special loss damage or injury of any kind whatsoever suffered by the Customer or its servants, agents and contractors and the Customer acknowledges this express limit of liability and agrees to limit any claim accordingly.

4.3 Except as provided herein, all express and implied warranties and guarantees as to the Services are hereby expressly excluded and the Company shall not be liable for loss or damage (including consequential loss or damage) of any kind arising out of the supply, layout, assembly, installation or operation of the Services.

5. Termination

5.1 Where an order has been cancelled by the Customer prior to the commencement of the Services the Customer shall pay the Company's costs and expenses (direct or indirect) incurred as a result of such cancellation, including, but not limited to the Price in the Quotation.

5.2 Without prejudice to the Company's rights herein including rights to recover all outstanding amounts under the contract the Company may terminate this contract by notice in writing to the Customer:

Driveshafts - Mining, Car, Truck
Dynamic Driveshaft Balancing
Metal Spray Technology

Driveshaft Spare Parts Supplier
OEM Driveshaft Supply Specialist
Industrial CV Shafts

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- (a) if any payment is outstanding for more than seven days after the due date (whether legally or formally demanded or not);
- (b) if the Customer fails to perform any of its obligations herein; or
- (c) upon the Customer:
 - i. becoming bankrupt;
 - ii. entering into voluntary or compulsory liquidation;
 - iii. entering into administration;
 - iv. having a receiver or provisional liquidator appointed; or
 - v. if execution is levied in respect of any of its assets.

6. Completion

6.1 Any time given for delivery or completion are estimates only and shall be regarded as a time when the Company expects to be able to deliver or complete having regard to the circumstances current at the date of Quotation. Time is estimated to commence from the date of receipt by the Company of the Customer's acceptance of the Quote.

7. Payment

7.1 The Company reserves the right to seek a non-refundable deposit from the Customer, the terms of which to be stated in the Quotation overleaf. Where a Deposit is sought it shall be payable within three (3) working days (or less where advised by the Company) of acceptance of the Quotation by the Customer. The Company reserves the right not to commence any work until the deposit is paid in full.

7.2 Payment terms are stated in the Quotation and will either be: (a) 5pm on the last day of the month following the month of issue of the tax invoice (stated in Quotation as 'On Invoice'); (b) Due by a certain date (stated in Quotation as 'Due Date'); (c) Upfront on acceptance of Quotation (stated in Quotation as 'Upfront'); or (d) Cash on delivery (stated in Quotation as 'COD'). The Company's preferred method of payment is via electronic funds transfer into the Company's nominated bank account, but can also be made via cash, cheque or credit card (please note that credit card payments will incur a 1.5% surcharge).

7.3 In the event that the Customer fails to make any payment when due then without prejudice to the application of any other provision hereof or to any other remedy provided hereunder or otherwise, interest shall accrue on the amount of the overdue payment at the rate of fifteen per centum (15%) per annum calculated from the date payment was due and the Company shall have the right to withhold further deliveries and to cancel all outstanding orders and retain any payments already made.

7.4 No cheque will be treated as payment if dishonoured despite the issue of a receipt. The Customer will be responsible for any charge or fee issued to the Company for any cheques not met on presentation.

8. Goods and Services tax.

8.1 All monies payable by the Customer under the contract are exclusive of goods and services tax or like impost (GST).

8.2 Liability for GST (payable in respect of any taxable supply) is additional. It is payable by the Customer to the Company at the same time as other monies are payable.

9. Property & Risk

9.1 In connection with the Services while they remain the property of the Company, the Customer agrees with the Company that:

- (a) the Customer has no right or claim to any interest in the Services to secure any liquidated or unliquidated debt or obligation the Company owes to the Customer;
- (b) the Customer cannot claim any lien over the Services;
- (c) the Customer will not create any absolute or defeasible interest in the Services in relation to any third party except as may be authorised by the Company;
- (d) where the Customer is in actual or constructive possession of the Services:
 - 9. the Customer will not deliver them or any document of title to the Services to any person except as directed by the Company; and

ii. it is in possession of the Services as a bailee of those Services and owes the Company the duties and liabilities of a bailee.

The Company and the Customer agree that:

- (a) the property of the Company in the Services remains with the Company until the Company has been paid in full for the Services under all individual contracts for the supply of the Services between the Company and the Customer;
- (b) the Customer is a bailee of the Services until such time as property in them passes to the Customer and that this bailment continues in relation to each of the Services until the price of the Services has been paid in full; and
- (c) pending payment in full for the Services, the Customer:
 - 9. must not supply any of the Services to any person;
 - ii. must not allow any person to have or acquire any security interest in the Services;
 - iii. must not remove, deface or obliterate any identifying plate, mark or number on any of the Services.

9.3 If the Customer fails to pay for the Services within the period of credit (if any) extended by the Company to the Customer, the Company may recover possession of the Services at any site owned, possessed or controlled by the Customer and the Customer agrees that the Company has an irrevocable licence to do so.

10. Caveatable Interest

10.1 If there are any monies outstanding to the Company from the Customer at any time, then, it is acknowledged by the Customer, that those outstanding monies constitute a charge by the Company over any real estate owned by the Customer thereby enabling the Company to register a Caveat against the title to any such real estate. For avoidance of any doubt, this clause is intended to create a caveatable interest in favour of the Company.

11. Personal Property Securities Act 2009 (Cth) ('PPSA')

11.1 The Customer hereby acknowledges that these Terms and Conditions constitute a security agreement which creates a security interest in favour of the Company in all Services supplied by the Company to the Customer to secure payment from time to time, including future advances. The Customer agrees to grant to the Company a 'Purchase Money Security Interest'.

11.2 The Customer acknowledges and agrees that by assenting to these Terms and Conditions the Customer grants a security interest) to the Company.

11.3 The Customer undertakes to:

- (a) Sign any further documents and/or provide any further information (which information the Customer warrants to be complete, accurate and up-to-date in all respects) which the Company may reasonably require to enable registration of a financing statement of financing change statement on the Personal Property Securities Register ('PPSR');
- (b) Not register a financing change statement as defined in section 10 of the PPSA or make a demand to alter the financing statement pursuant to section 178 of the PPSA in respect of the Services without the prior consent of the Company;
- (c) Pay all costs incurred by the Company in registering and maintaining a financing statement (including registering a financing change statement) on the PPSR and/or enforcing or attempting to enforce the security interest created by these Terms and Conditions including executing subordination agreements;
- (d) Be responsible for the full costs incurred by the Company (including actual legal fees and disbursements on a solicitor and client basis) in obtaining an order pursuant to section 182 of the PPSA; and

11.4 The Customer waives any right it may have under section 115 of the PPSA upon enforcement.

11.5 Pursuant to section 157 of the PPSA, unless otherwise agreed to in writing by the Company, the Customer waives any right to receive the verification statement in respect of any financing statement or financing change statement relating to the security interest.

11.6 The Customer agrees that immediately on request by the Company the Customer will procure from any persons considered by the Company to be relevant to its security position such agreement and waivers as the Company may at any time require.

12. Extra Cost

12.1 In the event of the suspension of the work by the Customer's instructions or lack of instructions, the Contract Price shall be increased to cover any extra expense incurred by the Company.

13. Force Majeure

13.1 If by reason of any fact, circumstance, matter or thing beyond the reasonable control of the Company or the Customer either is unable to perform in whole or in part any obligation under this agreement that party is relieved of that obligation under this agreement to the extent and for the period that it is so unable to perform and is not be liable to the other party to this agreement in respect of such inability.

14. Legal construction

14.1 This contract shall be governed and interpreted with reference to the laws for the time being in force in the State of New South Wales.

15. Warranty

15.1 The Customer shall, within seven (7) days of the supply of any Goods and/or Services (time being of the essence), notify the Company of any alleged defect, error, omission, shortage in quantity, damage or failure to comply with the description or quotation. The Customer shall afford the Company an opportunity to inspect the alleged defect, error, omission, shortage in quantity, damage or failure to comply within a reasonable time of receiving notification. If the Customer fails to give notice in accordance with this clause, the Goods or Services shall be presumed to be free from any defect, error, omission, shortage in quantity, damage or failure to comply.

15.2 Goods will not be accepted for return other than in accordance with the provisions of this clause.

15.3 The Company warrants to the original purchaser that driveshafts, universal joints and driveshaft components purchased from the Company will be free of defects in materials and workmanship, subject to the following conditions and limitations:

15.3.1 The period of this warranty will be for:

15.3.1.1 All on road vehicles - 1 year or 20,000 kilometres from the date of original purchase whichever occurs first;

15.3.1.2 All off road vehicles and other equipment including mining and agricultural equipment – 3 months or 250 hours of use from the date of original purchase, whichever occurs first.

15.3.2 This warranty is subject to the following limitations and exceptions:

15.3.2.1 Damage caused by improper installation, misuse, collision, accident, failure to follow in all respects our instructions and/or recommendations, or subject to comprehensive insurance claim;

15.3.2.2 This warranty does not cover any loss whereby it arises by activity beyond the industry accepted and normal use of the vehicle and/or equipment;

15.3.2.3 Any goods, products or equipment must have been installed by a qualified motor repairer in accordance with the vehicle manufacturer's instructions;

15.3.2.4 Removing, dismantling, modifying or otherwise tampering with the product without prior written authorisation from the Company will render the warranty void;

15.3.2.5 This warranty does not cover any vehicle modified in any way from the factory specifications;

15.3.2.6 This warranty does not cover any vehicles subjected to misuse, neglect or contamination;

15.3.2.7 This warranty does not cover any vehicle used in motorsport or speed trials; and

15.3.2.8 This warranty is not transferable on the sale of the vehicle.