

Application For SPW Group Trading Account



Welcome to SPW Group. Thank you for opening an account with us.

To ensure we have all the information to provide you with your requirements, please fill in the details below and your account will be opened within 3 working days. We hope you enjoy trading with us for years to come.

PURPOSE OF APPLICATION (Please odd) New Customers – Business: Complete all sections. Private: Complete all sections except 2. Esting Customers notifying dadige Account No. Please complete relevant sections and section 4. Please complete relevant sections 4. Please Complete relevant sections 4. Please Complete relevant sections 4. Please Complete relevant section 4. Please Complete rel				
Existing Customers notifying change	PURPOSE OF APPLICATION (F	Please tick)		
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The Applicant named below hereby applies to establish a SPW Group Trading Account with SPW Group Fty Ltd (ABN 46 078 830 878). Estimated Monthly Spend S I. YOUR DETAILS An original proof of identification must be provided and a copy attached to this application. (Photo L.D. e.g. driver's licence or passport). First Name Surname Date of Birth J. J. Driver's Licence State Driver's Licence No. Driver's Licence No. Driver's Licence No. Driver's Licence No. 2. BUSINESS DETAILS (if applicable) Business Type: Ltd Company Sole Trader Government Partnership Club/Trust Other (pleese specify): Registered Business Name Trading Name (if applicable) ABN ACN 3. CONTACT DETAILS Street Address (if different) Sureal? Suburb: State Postcode Mobile Fax (Business Type: Landline (Business Type: State Postcode ABN ACN ACN ACN ACN ACN ACN CONTACT DETAILS Street Address (if different) Suburb: State Postcode ABN ACN ACN ACN ACN ACN ACN ACN	☐ Existing Customers notifying change	Account No.	Please complete relevant sections and section 4.	
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Signature Position/Title	for a purpose that is not a National Consumer Cred	a Code purpose and makes this declaration		

Guarantee and Indemnity



I/WE:

(hereafter referred to as the "Guarantor/s")

In consideration of the Supplier agreeing to extend credit to the Applicant the Guarantor/s (and where more than one jointly and severally) agree with the Supplier as follows:

- 1. To guarantee to the Supplier the payment of all monies owing or which may become owing to the Supplier for all goods sold and/or delivered and/or services rendered as the Supplier may have supplied or as the Supplier may hereafter supply from time to time at the Applicant's request notwithstanding that the Guarantor/s shall not have notice of any neglect or omission on the Applicants part to pay for such goods sold and/or delivered and/or services rendered.
- 2. The guarantee shall extend to all monies expended by the Supplier or for which the Supplier becomes liable in the exercise of its powers under or pursuant to any credit agreement whatsoever for goods sold and/or delivered and/or services rendered to the Applicant and/ or this guarantee including interest and without limiting the generality of the foregoing, any costs (including legal) incurred by the Supplier whatsoever.
- This guarantee shall be a continuing guarantee (and non-revocable) to the Supplier for the whole of the Applicants indebtedness or liability to the Supplier.
- 4. The Supplier shall be at liberty without discharging the Guarantor/s from liability to grant time or other indulgences to the Applicant and to accept payments from the Applicant in cash or by means of negotiable instruments, and to treat the Guarantor/s and the

Applicant in all respects as though the Guarantor/s is jointly and severally liable with the Applicant as principal Applicant to the Supplier instead of being mere surety for the Applicant and in order to give full effect to the provisions of this guarantee, the Guarantor/s hereby waives all rights inconsistent with such provisions and which the Guarantor/s might otherwise as surety be entitled to claim and enforce.

- 5. The Supplier may at any time without notice refuse or vary the terms of further credit or supply of goods sold and/or delivered and/or services rendered to the Applicant without discharging or impairing the liability of the Guarantor/s under this guarantee.
- 5. The guarantee shall be enforceable against the Guarantor/s and in the case of more than one guarantor, against each Guarantor/s jointly and severally notwithstanding that any negotiable instrument or other securities referred to herein or to which this guarantee shall relate or be applicable shall at the time of proceedings being taken against the guarantor, or any of them, under this guarantee be outstanding or in circulation.
- The Guarantor/s hereby charge, as a separate and additional obligation, with payment of any monies owing under this agreement all he has currently and or in the future in:
 - (a) land or other property;
 - (b) Any/all Trusts of whatsoever nature

- (c) Any/all Wills, estates of whatsoever nature
- (d) Any/all Superannuation funds of whatsoever nature
- (e) Any/all life and/or Death policies of insurance and/or life Annuities of whatsoever nature

and hereby appoints the Supplier or its nominated representative (as duly authorised attorney) to sign all documents (including mortgages/transfers) on its behalf to record that charge over the Applicant's property, and if necessary to sell same to repay the debt owing under this agreement.

- The Guarantor/s agree that the Supplier may seek information from a credit (reporting agency) and a report containing personal information about the Guarantor/s.
- 9. The Guarantor/s (or in the case of more than one guarantor, by each of them) acknowledges having read the above terms, and agrees to be bound by them, and further acknowledges that the Guarantor/s has had the opportunity to seek independent legal advice on the meaning and effect of this guarantee.
- 10. In this Agreement, unless a contrary intention appears, a reference to:
 - (a) The singular includes the plural and vice versa;
 - (b) Any gender includes all other genders;
 - (c) A person includes a corporation and an association whether incorporated or not and vice versa;

*Please print fu	ıll name			
Signature of Guarantor		Signature of Witness		
Name*		Name*		
Residential Address	Number & Street:	Residential Address	Number & Street:	
	Suburb:		Suburb:	
	State Postcode		State Postcode	
Date of Birth		Date Signed	/ /	
*Please print full name				
Signature of Guarantor		Signature of Witness		
Name*		Name*		
Residential	Number & Street:	Residential	Number & Street:	
Address		Address		
	Suburb:	Address	Suburb:	
	Suburb: State Postcode	Address	Suburb: State Postcode	

General Terms and Conditions of Supply



GENERAL TERMS AND CONDITIONS OF SUPPLY

I. Definitions, application and interpretation

(a) Definitions:

- (i) "Agreement" means these General Terms and Conditions of Supply and, where a Supply Agreement is entered into by You, the other parts of that document including any coversheet or covering letter, together with all attachments and any other documents referred to in the Agreement;
- (ii) "SPWG", "We", "Us" and "Our" means South Pacific Welding Group Pty Ltd ABN 46 078 830 878 including its officers, directors, employees and representatives from time to time;
- (iii) "PPSA" means the Personal Property Securities Act 2009;
- (iv) "Supply Agreement" means an agreement with You to supply You for a specified period of time;
- (v) "You" "Your" and "Customer" means the person or entity identified in this Agreement or in the applicable SPWG trading account; and
- (vi) "Your Equipment" means all property, plant and equipment owned or leased by You or Your affiliates, parent companies, subsidiaries, co-owners, co-lessees and joint venturers (but excludes property or equipment leased from Us) and includes surface facilities and other property on Your site.
- (b) This Agreement applies to all supplies of goods and/or services by Us to You and supersedes all previous negotiations and representations, whether oral or written, any earlier agreement for the same goods and/or services, and earlier sets of terms and conditions issued.
- (c) No variation or waiver of this Agreement and no terms and conditions put forward by You or printed on Your purchase order or other document You give to Us for the supply of goods and/or services will have any effect unless expressly agreed in writing by both parties. Failure to exercise any right or remedy under this Agreement in a timely manner will not constitute acceptance of the matter which gave rise to the right or remedy, nor a waiver of such right or remedy.
- (d) If any provision of this Agreement is invalid, illegal or unenforceable, it will be read down to the extent necessary and reasonable to ensure that it is not invalid, illegal or unenforceable. If it or part of it can not be so read down, it or the relevant part of it will be void and severable and the remaining provisions will not in any way be affected or impaired.
- (e) All warranties, releases, exclusions of liability and indemnities will remain valid and binding following termination.
- (f) In interpreting this Agreement no rules of construction shall apply to Our disadvantage on the basis that We put forward the Agreement, or any part of it. Headings are for convenience only and do not affect interpretation. To the extent of any inconsistency between the General Terms and Conditions of Supply and the Special Conditions, the Special Conditions shall prevail.
- (g) If the Customer comprises two or more persons or entities, each of You is jointly and severally liable for all obligations and liabilities under this Agreement.
- (h) A reference to legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it.

2. Goods and services

- (a) Goods sold by Us to You will comply with any technical specifications provided by Us or the manufacturer. We do not warrant or guarantee that the goods are suitable for Your intended use or process. You are solely responsible for determining the suitability, compatibility, and use of the goods. Notwithstanding any clause to the contrary in this Agreement, We do not provide any warranties, express or implied, of satisfactory quality or fitness for purpose in relation to the goods or services.
- (b) Where goods supplied by Us, or materials or equipment used in providing services, have not been manufactured by Us, to the extent We are able to do so We will pass through to You the benefit of any manufacturer's warranty where it is available, except in the event of user damage and disposable and perishable items. All other liability is excluded in accordance with this Agreement.

3. Your obligations

You wil

- (a) provide free of charge adequate and safe access to Your premises, information and facilities (including labour for loading and unloading of goods, and utilities supply), and to Our equipment on Your premises, for Us to carry out Our duties and rights under this Agreement, including installation, replacement, delivery to, and the inspection, audit, removal and servicing of equipment. You will be responsible for any additional costs incurred by Us in carrying out Our duties and rights under this Agreement, including installation, replacement, delivery to, and the inspection, audit, removal and servicing of equipment, where those costs relate to: inadequate or unsafe access to Your premises, information and facilities, or to Our equipment on Your premises;
- (b) ensure that all sites, works and materials for which You are responsible, and all Your Equipment which is relevant to this Agreement, comply with current industry standards and all legal and statutory requirements, including those relating to a safe workplace, and with any specifications provided by Us;
- (c) obtain and maintain all necessary licences, permits, authorisations, approvals and consents, and comply with all legal obligations, in connection with Your possession and use of any goods supplied or Our equipment provided to You, or work done on Your site, including installation or other services provided by Us;
- (d) insure Our equipment to its full replacement cost against loss, damage and destruction and maintain other insurance as required by law and sufficient to insure Your obligations under this Agreement. If requested by Us, You will provide proof of any such insurance within 7 days;
- (e) not obliterate, remove or deface identification marks, tracking devices, labels, barcodes or notices on Our equipment;
- (f) return all Our equipment in a clean and serviceable condition, or pay the cost of restoring it to a clean and serviceable condition, and pay the new replacement cost if any equipment of Ours is lost or damaged beyond repair,
- (g) not mortgage, pledge, sell, or lend, or create a security interest under the PPSA over, Our equipment, and You will not part with possession of it, except to Us or to an agent or representative authorised by Us;
- (h) not at any time disclose any of the know-how, technology, information, documents or other intellectual property supplied by Us to You or contained in Our equipment, goods or services or otherwise made available to You, nor infringe Our rights in such materials, and You will use such for Your internal purposes only;
- (i) notify Us in writing if You intend to sell Your business, with such notice being provided not less than twenty-one (21) days before any such sale takes place: and
- (j) notify Us in writing as soon as reasonably practicable after You become aware of any defect in goods or services supplied by Us, any alleged breach of contract on Our part, any negligence or other tort on Our part, or any breach of statutory duty by Us. You acknowledge and agree that prompt notification may enable Us to mitigate the loss or damage suffered by You as a result of the alleged act or omission or to assist You in doing so. Prompt notification may also enable Us to identify defective goods and services and prevent other customers from suffering loss or injury.

4. Delivery and collection

- (a) You acknowledge that collection of goods from, and delivery of goods to, Our site or agent will be at Your own risk and that You are responsible for handling and transporting the load safely, training the driver on the hazards of the goods and compliance with all relevant legislation.
- (b) In the absence of proof to the contrary, Our weights, records and measurements will be conclusive evidence of the quantities of goods delivered to You. Our delivery/ collection note will be conclusive evidence as to the goods delivered.
- (c) If full delivery cannot be made due to Your act or omission We may charge for abortive journeys or part deliveries.

5. Title and risk

(a) All goods sold remain Our property until You have paid for them and have paid all other outstanding amounts due and payable to Us. The risk in goods sold or supplied passes to You upon delivery to You or Your agent or collection by You or Your agent.

- (b) Our equipment remains at all times Our absolute property, even if affixed to real property owned or used by You, and is supplied for Your sole use. You have no rights over any property of ours or Our contractors brought onto Your site.
- (c) If Our equipment is installed at Your site and You are not the owner of that site, You will provide Us with the unconditional written agreement of the site owner confirming that the equipment will at all times remain Our property, irrespective of how it may be affixed, and that it may be repossessed by Us in accordance with this Agreement. You indemnify Us against any cost, loss or damage if You fail to provide Us with such site owner's agreement.

6. Charges, invoicing and payment

- (a) Unless stated otherwise in this Agreement:
- (i) Product charges will be varied in proportion to changes in Our standard prices for the applicable product from time to time (changes include, but are not limited to, variations in market, economic and any other relevant circumstances); and
- (ii) All charges will be reviewed from time to time (and at least annually) taking into account all of the circumstances related to supply to You.
- (b) You agree that We may deliver invoices and notices to You by electronic means, such as email. If You do not use this method, We may charge You an administration fee for the extra cost of processing. You must notify Us immediately of any error on an invoice. You must pay all charges within 30 days of invoice date, including any disputed amount. After payment, if an adjustment in Your favour is due, We will issue a credit note.
- (c) Our preferred method of payment is by electronic funds transfer (EFT). If You do not use this method, We may charge You an administration fee for the extra cost of processing. If We incur any merchant or dishonour fees as a result of Your method of payment, You agree that We may recover those fees from You. At Our discretion We may recover those fees from You directly or by adding the amount to a subsequent bill.
- (d) Except where goods delivered are not in accordance with Your order or Our selling specification, or are defective, the return of goods for credit is at Our absolute discretion. If We grant credits they may be subject to charges for handling or testing.
- (e) If any amounts are overdue
 - We may suspend supply of goods and/or services to You and payment will become immediately due for all goods and services supplied under any agreement with You:
 - (ii) You must pay charges and interest in accordance with the applicable Court interest rate at the time;
 - (iii) if We take debt recovery action against You, You must pay Us Our then applicable administrative fee, as advised by Us at the time, and pay Us for the costs incurred in recovering overdue amounts owing by You; and
 - (iv) as a condition of any subsequent supply, We may vary Your payment terms, including requiring You to provide security of payment in a form acceptable to Us (such as a bank undertaking, director or shareholder guarantee or pre-payment).
- (f) Prices in this Agreement exclude GST unless stated otherwise. You will pay GST and any other government charges, duties or taxes in connection with supply of goods or services under this Agreement.
- (g) Notwithstanding any other term of this Agreement, if at any time Our costs of supplying goods and/or services under this Agreement change due to government action (including imposition of a new tax or charge), a change in law, a change in tax or the introduction of any emissions trading scheme or any other scheme relating to greenhouse gases or other environmental emissions, unforeseen events or circumstances beyond Our control (for example, a significant and unexpected increase in the cost of fuel, power, feedstock or distribution), inaccurate or inadequate provision of information by You, or delay caused by You, We reserve the right to adjust prices to take account of such change in Our costs, including by applying a surcharge.
- (h) Payment of a service charge invoice will be conclusive (subject to 6(i) and 7(k)) as to Your holding of Our equipment as shown on that invoice.
- (i) If any transaction or notification by You indicates a holding of Our equipment greater than recorded, We may amend Our records and charge You service charges accordingly.

General Terms and Conditions of Supply continued

7. Liability and exclusions

- (a) Nothing in any agreement between Us and You excludes, restricts or modifies any terms, conditions or warranties or Our liability for them which are imposed or implied by any statute, including but not limited to the Competition and Consumer Act 2010 (Cwth), and which by statute cannot be excluded, restricted or modified. Limitations and exclusions are made only to the extent that We may legally do so.
- (b) Our liability for any kind of loss or damage suffered by You in connection with this Agreement, whether in contract, negligence or other tort, misrepresentation, breach of any statutory or equitable duty, or otherwise, and whether Our act or omission is wilful or otherwise, is excluded and/or limited (as the case may be) as set out in clause 7. Our liability for any loss of or damage to revenue, profits, savings, use, contracts, production, goodwill, business opportunity or business and any consequential or indirect loss or damage, is excluded.
- (c) We accept unlimited liability for personal injury or death to the extent that it directly results from Our negligence, but subject to the contributory liability of any other person.
- (d) We accept liability for physical damage to property to the extent that it was directly caused by Our breach of contract or Our negligence in connection with the performance of this Agreement, subject to a limit of \$1 million per event or series of connected or similar events. Any other losses flowing from physical damage to property shall be limited as set out in clause 7(e).
- (e) Our sole liability for loss or damage incurred in respect of goods and/or services supplied (or agreed to be supplied) shall be limited to:
 - in the case of goods, at Our option, the replacement of the goods or the supply of equivalent goods; the repair of the goods; the payment of the cost of replacing the goods or of acquiring equivalent goods; or the payment of the cost of having the goods repaired; and
 - (ii) in the case of services, at Our option, supplying the services again; or paying the cost of having the services supplied again.
- (f) Any action by You against Us in relation to this Agreement must be commenced within one year after the cause of action has accrued. You agree that We have no liability to You in relation to an action commenced after this period.
- (g) You indemnify Us and hold Us harmless against all loss, damage, proceedings, claims, costs and expenses howsoever caused arising directly or indirectly:
 - (i) out of Your possession, use or ownership (as applicable) of goods;
 - (ii) from any unauthorised use of Our intellectual property; and
 - (iii) from Our presence on Your site, including Our equipment, materials and personnel, except to the extent caused by Our negligence.
- (h) If performance of any contract obligation by its normal means is prevented or delayed due to any cause beyond Your or Our reasonable control, that contract obligation (other than a payment obligation) will be suspended during the period affected by such cause.
- (i) Failure by Us to deliver goods or perform services by any time specified will not entitle You to terminate any agreement or make any claim against Us.
- (j) We will not be liable for any defect arising from fair wear and tear to the materials or equipment installed or used in relation to or in connection with the goods and/or services
- (k) We will not be liable for any shortage, loss, damaged goods or discrepancy unless You notify Us in writing within 5 business days of receipt of goods by You or, if You prove to Us that it was not reasonably possible to notify Us within that timeframe, You notify Us within 5 working days after You first became aware, or could reasonably be expected to have become aware, of the claim.

8. Our equipment

- (a) Our equipment will comply with any technical specifications provided by Us. We do not warrant that the equipment is suitable for Your intended use or process. If We warrant any particular performance levels, any claim for failure to meet those levels in any period is limited to a proportional reduction in the service charge for that period.
- (b) We will maintain Our equipment in accordance with Our procedures and current safety requirements. If this requires interruption of supply this will, whenever possible, be by arrangement with You.
- (c) Service charges are payable from delivery, or from the date of completion where We provide installation, whichever is earlier.
- (d) We may maintain Our equipment by a program of regular maintenance undertaken during normal business hours. If regular maintenance is carried out outside of normal business hours at Your request then You will incur an additional charge at Our then current rates.
- (e) For any repairs or maintenance required beyond that in 8(d) We will charge You an additional charge at Our then current rates, except to the extent that We caused the need for such repairs or maintenance.
- (f) We may maintain Our equipment by a program of regular maintenance undertaken during normal business hours. If regular maintenance is carried out outside of normal business hours at Your request then You will incur an additional charge at Our then current rates.
- (g) You will comply with any manual (or other instructions) provided, and will not otherwise adjust, repair or interfere with Our equipment. If You do not comply with this clause then We will have no liability to You for the consequences and We may charge You for additional service parts and/or maintenance and repair charges as appropriate.

9. Breach and termination

- (a) If You commit any act of bankruptcy or have a receiver, liquidator or administrator (or similar) appointed, or commit any breach of any provision of this Agreement then We may by written notice with immediate effect either:
 - (i) terminate the whole or any part of this Agreement;
 - (ii) suspend performance of all or any of Our obligations, and at any time during such suspension terminate the whole or any part of this Agreement. Service charges will continue to accrue and be payable by You during any period of suspension.
- (b) Termination will be without prejudice to any accrued rights of either party.
- (c) On suspension or termination under any circumstances, We may recover possession of any goods, equipment, or materials belonging to Us, and You irrevocably authorise Us to enter Your premises for this purpose. You must pay Our charges for the costs of removal of Our equipment. Any delay by Us in removing Our equipment will not waive Our rights nor give You any rights over Our property.
- (d) On termination by Us under clause 9(a) or by You without giving the required notice, You must pay by way of liquidated damages a sum equal to rental charges for a period of 6 months or, if equipment, a sum equal to 20% of the average monthly sales for the last 6 months multiplied by the remaining months on the contract.

IO.PPSA

- (a) We may allocate amounts received from You in any manner we determine, but in default will apply same first to payment of any unsecured amount owing to Us, next as to any reasonable enforcement expenses and then as to any secured balance owing to Us.
- (b) You agree to reimburse Us for all costs and/or expenses incurred or payable by Us in relation to registering, maintaining or releasing any financing statement or financing change statement under this Agreement.

- (c) You will not (except with Our written consent) allow to be, or be liable to become, perfected or attached in favour of any person, a security interest or transitional security interest in any of the monies from time to time payable to Us (if any) or otherwise, or in Our property (including equipment) and whether to a provider of new value or otherwise.
- (d) You waive the right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the security interests under this Agreement. You agree that You and We contract out of and nothing in the provisions of Sections 95, 96, 117, 118, 121 (4), 130, 132(3)(d), 132(4), 142 and 143 of the PPSA shall apply to this Agreement
- (e) You and We acknowledge that You are the grantor and We are the holder of a Purchase Money Security Interest ("PMSI") by virtue of this Agreement and/ or the PPSA. You agree to do anything that We reasonably require to ensure that We have at all times a continuously perfected security interest over all of Our property, including Our equipment.

II. Genera

- (a) If You purchase goods and/or services from Us through Our website or other e-commerce process, then (without limiting the foregoing) You agree to also be bound by the applicable terms and conditions set out or referred to in that site or relating to that process.
- (b) Nothing in this Agreement will be interpreted or implied as constituting either Us or You as having the relationship of employee and employer or You as Our agent or Us as Your principal.
- (c) We may assign or transfer this Agreement and/or any security under the PPSA to a related body corporate at any time by notice to You.A party must not otherwise assign or transfer the benefit or obligations of this Agreement without the prior written consent of the other party, not to be unreasonably withheld.
- (d) We will be entitled to the full and unrestricted right, including the right to apply for patent or other protection in Our own name, to exploit any invention, technical information or know-how arising from or developed in the course of carrying out this Agreement.
- (e) SPWG and the SPWG logo are trademarks and/or service marks of SPWG. You have no right under this Agreement to use any trademark, service mark, logo, and/or trade name of SPWG or its affiliates, suppliers, advertisers, or agents or sponsors.
- (f) This Agreement is governed by the laws of New South Wales, Australia.

12. Confidentiality

- (a) You acknowledge that all pricing information and any other commercially sensitive or confidential information relating to this Agreement is strictly confidential (Confidential Information).
- (b) Except as stated in this Agreement or where required by PPSA, the parties to this Agreement are under an obligation to not and must not permit any of their officers, employees, agents, contractors or related bodies corporate to disclose any Confidential Information to any person, other than their professional advisers or as required by law, without the prior written consent of the party to whom the Confidential Information relates.
- (c) This clause 12:
 - (i) operates for the benefit of all parties; and
 - (ii) continues despite the termination of this Agreement.
- (d) Our treatment of personal information will be in accordance with Our Privacy Policy (a copy of which can be obtained from Our website, www.spwgroup.com.au, or by calling 1300 135 216).
- (e) You agree that We may obtain from, and provide to, third parties information about Your creditworthiness and payment record. You agree that We may use, for purposes related to this Agreement, any personal information We hold on You.



