

## **TERMS OF USE – Premier Performance™**

*These Terms of Use were last updated on December 1, 2023.*

### **INTRODUCTION**

THESE TERMS OF USE CONTAIN IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO YOU. PLEASE READ THE TERMS CAREFULLY.

These Terms of Use are entered into by and between you, as a person accessing the Site, as defined herein, and Astaras, Inc., owner of the Premier Performance™ brand (referred to in these Terms as "Astaras," "we," "us," or "our"). The following terms, together with any other documents expressly incorporated herein by reference (collectively, these "Terms") govern your access to and use of this website, including any content, functionality, and services delivered through the site [www.astaras.com](http://www.astaras.com) (collectively, the "Site"). By using or accessing the Site, you signify your agreement to these Terms as well as our privacy policy, which can be found at (<https://www.premierperformanceweldingproducts.com/>) and is incorporated herein by reference (the "Privacy Policy").

### **CHANGES TO THESE TERMS**

We may modify these Terms from time to time in our sole discretion. We will provide notice by, at a minimum, updating this posting. You are expected to carefully review these Terms from time to time so you are aware of any changes. Any changes to these Terms will be in effect as of the "last updated" date referenced at the top of these Terms. Your continued use of the Site constitutes your binding acceptance to these Terms, including any changes or modifications that we may make. If any part of these Terms or any future changes to these Terms are not acceptable to you, you must not use or access the Site.

### **ELIGIBILITY**

THE SITE IS OFFERED AND AVAILABLE TO USERS WHO ARE 18 YEARS OF AGE OR OLDER. YOU MAY NOT USE, ACCESS, OR REQUEST SERVICES FROM THE SITE IF YOU (A) DO NOT AGREE TO THESE TERMS, (B) ARE NOT AT LEAST 18 YEARS OF AGE, OR (C) ARE PROHIBITED FROM ACCESSING OR USING THE SITE OR ANY OF THE SITE'S CONTENTS OR SERVICES BY APPLICABLE LAW.

BY USING THE SITE YOU REPRESENT AND WARRANT THAT YOU MEET ALL OF THE FOREGOING ELIGIBILITY REQUIREMENTS AND YOU AFFIRM THAT YOU ACCEPT AND ARE BOUND BY THESE TERMS. IF YOU DO NOT MEET ALL OF THESE REQUIREMENTS, YOU MUST NOT ACCESS OR USE THE SITE.

### **PAYMENT PROCESSING**

Astaras may allow you to pay invoices through the Site. You understand and acknowledge that Astaras is not a payment processor and does not collect any payments directly. Astaras uses the services of a third-party payment processor ("Payment Processor"), to process payments. You acknowledge and agree that the use of a Payment Processor is integral to the services provided through this Site. The Payment Processor manages the routing and processing of all required information to process payments including credit card and other financial information. Astaras is not affiliated with the Payment Processor and neither Astaras or the Payment Processor is an agent or employee of the other.

In paying invoices, you may be redirected to an external website operated by a Payment Processor. We cannot and do not (1) guarantee the adequacy of the privacy and security practices employed by or the content and media provided by any Payment Processor or its website or (2) control any Payment Processor's collection or use of your personal information. You agree that any personal information provided by you or automatically collected by you from a Payment Processor will be governed by that Payment Processor's privacy policy and terms of use. You are solely responsible for all charges that occur through a Payment Processor and acknowledge and agree that Astaras shall not be liable to you for any claims arising out of any act or omission on the part of the Payment Processor including, but not limited to, any lost, stolen, or incorrectly processed donations. Astaras expressly disclaims any responsibility and liability for all services provided by a Payment Processor.

## **INTELLECTUAL PROPERTY**

These Terms permit you to use the Site exclusively for your personal, non-commercial use only. The Site and all information and content contained therein are protected by contract law and various intellectual property laws, including domestic and international copyright laws.

All Site materials, including, without limitation, text, pictures, graphics and other files and the selection and arrangement thereof are copyrighted materials of Astaras or by the original creator of the material. The trademarks, service marks, trade names, logos, headers, custom graphics, button icons, and scripts used and displayed on this Site are registered and unregistered trademarks and/or trade dress of Astaras or our affiliates.

You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material on our Site, except that your computer or other device may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials, and you may store files that are automatically cached by your browser for display enhancement purposes. Subject to the restrictions set forth in these Terms, and except for content specifically and expressly made available for redistribution, you may print or download information from the Site only for your personal and other non-commercial use, and not for further reproduction, publication or distribution, provided you keep intact all copyright and other proprietary notices.

These Terms do not grant you any right, title, interest, license (express or implied) to any patent, trademark, service mark, copyright, trade secret or other intellectual property right of Astaras or the respective intellectual property owners. Modification of any content on the Site is explicitly prohibited. You are also prohibited from utilizing the Site in any way that would damage its content or visibility for other visitors. As between Astaras and you, Astaras has and retains exclusive and valid ownership of the Site, the names and marks thereof, and all intellectual property, proprietary rights and documentation therein, and you acknowledge that the foregoing constitute valuable assets and may constitute trade secrets of Astaras. Astaras, and its associated logos, and all page headers, custom graphics, and other icons are service marks, trademarks, registered service marks, or registered trademarks of Astaras. All other names and company logos mentioned on the Site or in the information or content contained therein are trademarks of their respective owners. In addition to complying with all applicable laws, you agree that you will not use any such trademarks, service marks, trade dress, or other logos from this Site without the prior written authorization of Astaras or the respective owners of such information or intellectual property. You agree that you will not remove, alter, or obscure any copyright, legal or proprietary notices in or on any portions of the Site or the information and content contained therein.

Astaras accommodates and does not interfere with standard technical measures used by copyright owners to protect their materials. Pursuant to 17 U.S.C. Section 512 as amended by Title II of the Digital Millennium Copyright Act, Astaras reserves the right to terminate your use of the Site or the information and content contained therein if it determines in its sole and absolute discretion that you are involved in infringing activity, regardless of whether such alleged infringement is a first-time or repeat occurrence and/or whether the material or activity is ultimately determined to be infringing, or any other act it deems detrimental to its operations.

### **PROHIBITED USES**

You agree to use the Site only for lawful purposes and in accordance with these Terms. Specifically, you agree:

- that you will not use the Site in any way that violates federal, state, local or international law or regulation, or generally accepted practices or guidelines in relevant jurisdictions (including any laws or regulations regarding the export of data or software to and from the United States or other relevant countries);
- that you will not use the Site to transmit or send unsolicited commercial communications;
- that you will not access (or attempt to access) the Site by any means other than through the interface that is provided by us;
- that you will not attempt to gain unauthorized access to, interfere with, damage, disrupt, or circumvent any of the security features of any part of the Site (or the servers, networks, and databases which are connected to the Site);
- that you will not access (or attempt to access) the Site through any automated means (including use of scripts or web crawlers);
- that you will not "screen scrape," monitor, "mine," or copy the Site;
- that you will not take any action that imposes an unreasonable or disproportionately large load on the Site's infrastructure;
- that you will not conduct any systematic or automated data collection activities (including without limitation scraping, data mining, data extraction and data harvesting) on or in relation to the Site without our express written consent;
- that you will not introduce any spyware, viruses, Trojan horses, worms, keystroke loggers, rootkits, logic bombs or other material which is malicious or technologically harmful to the Site (or the servers, networks, and databases which are connected to the Site);
- that you will not use the Site to copy, store, host, transmit, send, use, publish or distribute any material which consists of (or is linked to) any spyware, virus, Trojan horse, worm, keystroke logger, rootkit or other malicious computer software;
- that you will not edit or otherwise modify any content on the Site that is not owned by you or another person or entity for whom you act as their agent;

- that you will not engage in any activity that interferes with or disrupts the Site (or the servers, networks, and databases which are connected to the Site);
- that you will not impersonate or attempt to impersonate us, our employees, another user, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing);
- that you will not forge headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted through the Site or develop restricted or password-only access pages, or hidden pages or images;
- that you will not reproduce, redistribute, republish, duplicate, copy, display, sell, rent, sub-license, trade or resell any content or other aspect of the Site for any commercial purpose (except for content specifically and expressly made available for redistribution); and
- that you are solely responsible for (and that we have no responsibility to you or to any third party for) any breach of your obligations under these Terms and for the consequences (including any loss or damage which you may suffer) of any such breach.

### **INFORMATIONAL CONTENT**

The information presented on or through the Site is made available solely for informational purposes. We use reasonable efforts to update the information on the Site. However, the contents of the Site are subject to change without notice. We make no representations or warranties as to the accuracy, reliability, completeness, or usefulness of any information on the Site. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Site, or by anyone who may be informed of any of its contents.

The Site may include content provided by third parties. All statements and/or opinions expressed in these materials, and all content other than the content provided by us, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect our opinion. We are not responsible, or liable to you or any third party, for the content or accuracy of any materials provided by any third parties.

Please contact us at the "Contact Us" provided at the end of these Terms if you have questions about the information presented on the Site.

### **THIRD PARTY SITES AND CONTENT**

This Site may contain links to other Internet sites that our business partners and other third parties own or operate. Your use of each of those sites is subject to the terms and conditions, if any, that each of those sites have posted. We have no control over third party sites and we are not responsible for any changes to or content on them. Our inclusion of any content is not an endorsement of that material or link or the companies that own or operate the material or linked sites. If you decide to access any of the third party sites linked to this Site, you do so entirely at your own risk.

## **LINKING TO THE SITE**

You may link to the Site's homepage, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part without our express written consent.

You agree to cooperate with us in causing any unauthorized framing or linking immediately to cease. We reserve the right to withdraw linking permission without notice.

We may disable all or any links or similar features at any time without notice in our discretion.

## **GEOGRAPHIC RESTRICTIONS**

Astaras is based in the State of Florida in the United States. We provide this Site for use only by persons located in the United States. We make no claims that the Site or any of its content is accessible or appropriate outside of the United States. Access to the Site may not be legal by certain persons or in certain countries. If you access the Site from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.

## **RISK ALLOCATION**

### **No Warranties**

YOUR USE OF THE SITE, ITS CONTENT, AND ANY SERVICES OBTAINED THROUGH THE SITE IS AT YOUR OWN RISK. THE SITE, ITS CONTENT, AND ANY ADVICE OR SERVICES OBTAINED THROUGH THE SITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER ASTARAS NOR ANY PERSON ASSOCIATED WITH ASTARAS MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE SITE. WE DO NOT MAKE ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM USE OF THE SITE.

WE DISCLAIM ANY AND ALL RESPONSIBILITY OR LIABILITY FOR THE ACCURACY, COMPLETENESS, LEGALITY, RELIABILITY, OPERABILITY, OR AVAILABILITY OF INFORMATION OR CONTENT. WE DISCLAIM ANY RESPONSIBILITY FOR ANY HARM RESULTING FROM DOWNLOADING OR ACCESSING ANY INFORMATION OR CONTENT FROM THE SITE. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE SITE IS DONE AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY POTENTIAL DAMAGES THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH CONTENT. YOU EXPRESSLY AGREE THAT YOU WILL ASSUME THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SITE AND THE ACCURACY OR COMPLETENESS OF ITS CONTENT.

WITHOUT LIMITING THE FOREGOING, NEITHER ASTARAS NOR ANYONE ASSOCIATED WITH ASTARAS REPRESENTS OR WARRANTS THAT THE SITE, ITS CONTENT OR ANY ADVICE OR SERVICES OBTAINED THROUGH THE SITE WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE SITE OR THE SERVER(S) THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE SITE OR ANY ADVICE OR SERVICES OBTAINED THROUGH THE SITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY AN ATTACK, VIRUSES, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE SITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE, OR ON ANY SITE LINKED TO IT.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

#### **Limitation of Liability**

IN NO EVENT WILL ASTARAS, ITS PARENTS, SUBSIDIARIES, AFFILIATES, RELATED COMPANIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, SERVICE PROVIDERS, OR LICENSORS\$ BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE SITE, ANY WEBSITES LINKED TO THE SITE, ANY CONTENT ON THE SITE OR SUCH OTHER WEBSITES, OR ANY SERVICES OBTAINED THROUGH THE SITE OR SUCH OTHER WEBSITES, INCLUDING, WITHOUT LIMITATION, ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY/WRONGFUL DEATH, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE OR IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

#### **Limitations Period**

ANY CLAIM RELATED TO THESE TERMS OR THE SITE MAY NOT BE BROUGHT UNLESS MADE WITHIN THE ONE-YEAR PERIOD BEGINNING ON THE DATE WHEN THE CLAIM FIRST COULD BE FILED. IF IT IS NOT FILED WITHIN SUCH TIME, THEN THAT CLAIM IS PERMANENTLY BARRED.

#### **MODIFICATIONS, INTERRUPTION OF SERVICE**

We reserve the right to modify or discontinue this Site with or without notice to you. We shall not be liable to you or any third party should we exercise its right to modify or discontinue the Site. We do not guarantee continuous, uninterrupted, or secure access to our Site. The operation of the Site may be interfered with or adversely affected by numerous factors or circumstances outside of our control or through acts of God.

#### **INFORMATION ABOUT YOU AND YOUR VISITS TO THE SITE**

All information we collect on the Site is subject to our Privacy Policy (<https://www.premierperformanceweldingproducts.com/>). By accessing or using the Site, you acknowledge and agree that you have read and understand the Privacy Policy, and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

## **INDEMNIFICATION**

You agree to defend, indemnify, and hold harmless Astaras and its successors and assigns and all of their respective officers, directors, agents, employees, and affiliates from and against any claims, liabilities, damages, judgments, awards, losses, obligations, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to (a) your use of the Site and any information obtained from the Site; (b) your breach of these Terms, including any use of the Site's content or services other than as expressly authorized herein; (c) your violation of any third party right, including, without limitation, any copyright, property right, or privacy right; or (d) any claim that your usage of the Site or related action caused damage or loss to a third party. This defense and indemnification obligation will survive your use of the Site and any termination of these Terms.

## **GENERAL**

### **Governing Law**

These Terms and all matters arising from them are governed by and construed in accordance with the laws of the State of Florida, exclusive of its choice of law rules, whose courts shall have exclusive jurisdiction over all disputes arising in connection with the Terms.

### **Dispute Resolution**

You agree to resolve any disputes through binding arbitration. All disputes or claims that arise under or relate to these Terms (whether in contract, tort or otherwise, whether past, pre-existing, or future, and including statutory, consumer protection, common law, intentional tort, injunctive, and equitable claims) will be resolved by individual arbitration in accordance with the rules of the American Arbitration Association ("AAA"). Unless you and us agree otherwise, any arbitration hearings will take place in a reasonably determined location.

You further agree to arbitration on an individual basis. In any dispute, NEITHER YOU NOR ASTARAS SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER PARTIES OR ARBITRATE OR OTHERWISE PARTICIPATE IN ANY CLAIM AS A CLASS REPRESENTATIVE, CLASS MEMBER, OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. If any provision of this provision is found unenforceable, the unenforceable provision shall be severed, and the remaining arbitration terms shall be enforced {but in no case shall there be a class arbitration).

The arbitrator shall be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator shall be final and binding on each of the parties, and may be entered as a judgment in any court of competent jurisdiction.

### **No Waivers**

No waiver by us of any term or condition set forth in these Terms shall be deemed a further or continuing waiver of such term or condition, and any failure by us to assert a right or provision under these Terms shall not constitute a waiver of such right or provision.

### **Assignment**

You will not assign any of your rights or delegate any of your obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this prohibition on assignment is null and void. No assignment or delegation relieves you of any of your obligations under

these Terms.

### **Notices**

We may provide any notice to you under these Terms by: (a) sending a message to the email address you provide, or (b) by posting to the Site. Notices sent by email will be effective when we send the email, and notices we provide by posting will be effective upon posting.

To give us notice under these Terms, you must contact us as follows: (y) by sending a message to the "Contact Us" information provided at the end of these Terms; or (z) by personal delivery, overnight courier, or registered or certified mail to us at the "Contact Us" information provided at the end of these Terms. We may update the email address or mailing address for notices to us by posting a notice on the Site. Notices provided by personal delivery will be effective immediately. Notices provided by email or overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.

### **Entire Agreement**

These Terms, together with any documents expressly referred to in them, including our Privacy Policy (<https://www.premierperformanceweldingproducts.com/>), constitute the entire agreement between you and us with respect to the Site, and supersede all previous written or oral agreements.

### **Reformation and Interpretation**

If any part of these Terms is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision, and the remainder of the Terms shall continue in effect.

### **Limitations on Exclusions Not Applicable**

Some states do not allow exclusion of implied warranties or limitation of liability for incidental or consequential damages, so the above limitations or exclusions may not apply to you. In such states, our liability and that of our third-party content providers and their respective agents shall be limited to the greatest extent permitted by law.

### **CONTACT US**

All feedback, comments, requests for technical support and other communications relating to the Site should be directed to:

**In Writing:** Astaras, Inc.  
6901 Bryan Dairy Road  
Suite 160  
Largo, Florida 33777

**By Telephone:** (727) 546-9600

**By Email:** [info@astaras.net](mailto:info@astaras.net)