

## Terms & Conditions of Trade

1. Definitions
  - 1.1. ACL means the Australian Consumer Law Schedule of the *Competition and Consumer Act 2010* (Cth) and its associated Regulations as amended
  - 1.2. Supplier means Maytronics Australia Pty Ltd
  - 1.3. Customer means person, firm or corporation, jointly or severally if there is more than one, acquiring Goods from the Supplier.
  - 1.4. Goods/Products means Goods supplied by the Supplier to the Customer
2. PPSA means the *Personal Property Securities Act 2009* (Cth) and its associated Regulations as amended; Overview
  - 2.1. Unless otherwise agreed by the supplier in writing, the terms apply exclusively to every contract of sale from the Supplier to the Customer and cannot be varied or supplanted by any other terms and conditions, including the customer's terms and conditions of purchase.
  - 2.2. It is the customer's responsibility to provide the Supplier with its specific requirements in relation to Goods.
3. Internet & Branding
  - 3.1. The Customer must not offer the Goods for sale over the internet or directly through its website
  - 3.2. All Maytronics and Maytronics product branding, pictures, images must be approved, in writing, prior to publishing.
  - 3.3. The Customer agrees to comply with the Supplier's internet policy and the Supplier branding policy, which may vary from time to time.
  - 3.4. Clause 3 must be included in all Customers terms and conditions of sale.
4. Pricing
  - 4.1. Prices quoted for the supply of Goods exclude GST unless expressly stated, in writing, otherwise. In addition to paying the quoted prices, all customers must pay any additional taxes, duties or charges, including but not limited to GST.
  - 4.2. The Supplier may alter prices at any stage. Such variation in pricing only applies to Goods that have not already been supplied to the Customer.
  - 4.3. Where a separate agreement has been entered into between the Supplier and the Customer with fixed pricing periods, pricing will be in accordance with such agreements, with the exception of major changes in the cost incurred by the Supplier.
5. Delivery
  - 5.1. The supplier will pay the cost of delivery to the Customer's nominated address (excluding insurance) for all individual deliveries over \$1000 in value in metro Brisbane, Sydney, Melbourne and Perth. All other deliveries in these areas shall attract a \$25 freight and handling charge.
  - 5.2. All deliveries outside this area shall be charged a freight and handling charge.
  - 5.3. The Customer may arrange their own transport company and under such arrangement all costs for delivery shall be borne by the Customer, irrespective of where they are located.
6. Payments
  - 6.1. Unless otherwise agreed in writing:
    - 6.1.1. All payments for Goods must be made within 7 days from shipment of Goods from the Supplier's premises. Time for payment shall be of the essence
    - 6.1.2. The Supplier reserves the right to require full payment prior to delivery or upon delivery.
    - 6.1.3. Payment by cheque or electronic transfer is not deemed to have been received until all proceeds have cleared in the Supplier's bank account.
    - 6.1.4. All credit card payments will incur an additional 1.5% administration charge.
    - 6.1.5. All payment terms may be varied at any stage by notice from the Supplier.
  - 6.2. If the Customer defaults in payment by the due date, including but not limited to the insolvency of the Customer, then all outstanding amounts, including those due in the future, become immediately payable and the Supplier may then, without prejudice to any other remedies available:
- 6.2.1. charge interest at a rate of two and a half percent (2.5%) per calendar month on the total amount owing until all monies are paid in full (and at the Supplier's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 6.2.2. Charge the Customer for all costs and expenses incurred (including but not limited to all legal costs and expenses taken to enforce compliance and/or recover Goods).
- 6.2.3. Cease supply of any further Goods or Services to the Customer
- 6.2.4. Terminate any other agreement with the Customer that may be in effect at the time.

- 7. Passing of Property
- 7.1. Until clear payments have been received in full by the Supplier from the Customer:
  - 7.1.1. Title and property of all Goods remains vested with the Supplier and does not pass to the Customer
  - 7.1.2. The Customer holds the Goods as bailee and agent for the Supplier
  - 7.1.3. The Customer must hold the proceeds of any sale of the Goods on trust for the Supplier
  - 7.1.4. The Supplier may, without notice, enter any premises where it suspects the Goods being held by the Customer as bailee may be and remove them, notwithstanding that they may have been attached to other Goods not the property of the Supplier, and for this purpose the Customer irrevocably licenses the Supplier to enter such premises and indemnifies the Supplier from and against all costs, claims, demands or actions by any party arising from such action.
- 7.2. The risk of the Goods and all insurance responsibility for theft, damage or otherwise in respect of the Goods will pass to the Customer as soon as the Goods leave the Supplier's premises.
- 7.3. All Goods are provided to Customers on the basis that Customers have obtained all appropriate licenses, permits or other regulatory authorisations under all relevant jurisdictions in relation to the Goods.
- 8. PPSA
- 8.1. The terms used in Clause 8 that are defined in the PPSA have the same meaning as in the PPSA.
- 8.2. Upon assenting to these Terms, the Customer acknowledges and agrees that these Terms:
  - 8.2.1. constitute a security agreement for the purposes of the PPSA; and
  - 8.2.2. create a security interest in:
    - 8.2.2.1. all Goods supplied by the Supplier to the Customer;
    - 8.2.2.2. all Goods that will be supplied in the future by the Supplier to the Customer.
- 8.3. The Customer undertakes to:
  - 8.3.1. promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Supplier may reasonably require to:
  - 8.3.1.1. register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
  - 8.3.1.2. register any other document required to be registered by the PPSA; or
  - 8.3.1.3. correct a defect in a statement referred to in clause 8.3.1.1 or 8.3.1.2;
  - 8.3.1.4. indemnify, and upon demand reimburse, the Supplier for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
  - 8.3.1.5. not register a financing change statement in respect of a security interest without the prior written consent of the Supplier;
  - 8.3.1.6. not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of the Supplier; and

- 8.3.1.7. immediately advise the Supplier of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 8.4. The Supplier and the Customer agree that sections 96, 125, 129, 142 and 143 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 8.5. The Customer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d), 132(4), 135 and 157 of the PPSA.
- 8.6. The Customer shall unconditionally ratify any actions taken by the Supplier under clauses 8.3 to 8.5.
- 9. **Warranty**
  - 9.1. The Supplier warrants that the Products supplied to the Customer are free from defects in workmanship for a period of 12 months (unless otherwise indicated for specific products) from the date the products have been despatched from the Supplier's premises.
  - 9.2. Warranty only covers genuine manufacturer Products and specifically excludes (but not limited to) wear and tear, and faults in connection with incorrect installation, unauthorised modifications or repair, using the Products, for a purpose other than what they were intended, Customer misuse and where the Customer is in breach of these Terms and Conditions.
  - 9.3. Warranty is provided by the Supplier once faulty Products are returned to the Supplier base (or Maytronics Authorised Warranty agent) in either Perth, Adelaide, Melbourne, Sydney, Brisbane. The Customer bears all responsibility and cost to ensure Goods are returned to the Maytronics Warranty Facility and where relevant back to the end user.
  - 9.4. The Supplier reserves the right to charge, either in advance, or afterwards for any inspection on Products that are found to not be requiring warranty repair.
- 10. **Liability**
  - 10.1. Except as the terms specifically state, or as contained in any express warranty provided in relation to the Products, the Agreement does not include by implication any other term, condition or warranty in respect of the quality, merchantability, acceptability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the Products or any contractual remedy for their failure.
  - 10.2. If the Customer is a consumer nothing in these terms restricts, limits or modifies the Customer's rights or remedies against the Supplier for failure of a statutory guarantee under the ACL.
  - 10.3. If the Customer on-supplies the Products to a consumer and:
    - 10.3.1. the Products are not of a kind ordinarily acquired for personal, domestic or household use or consumption, then the amount specified in section 276 A(1) of the ACL is the absolute limit of the Supplier's liability to the Customer;
    - 10.3.2. the Products are of a kind ordinarily acquired for personal, domestic or household use or consumption, payment of any amount required under section 274 of the ACL is the absolute limit of the Supplier's liability to the Customer;
      - howsoever arising under or in connection with the sale, installation, use of, storage or any other dealings with the Products by the Customer or any third party.
  - 10.4. If Clause 0 and 10.3.2 do not apply, then other than as stated in the Terms or any written warranty statement the Supplier is not liable to the Customer in any way arising under or in connection with the sale, installation, use of, storage or any other dealings with the Goods or Services by the Customer or any third party.
  - 10.5. The Supplier is not liable for any indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party, except to the extent of any liability imposed by the ACL.
  - 10.6. The Customer acknowledges that:
    - 10.6.1. it has not relied on any service involving skill and judgement, or on any advice, recommendation, information or assistance provided by the Supplier in relation to the goods or services or their use or application.
- 10.6.2. it has not made known, either expressly or by implication, to the Supplier any purpose for which it requires the goods or services and it has the sole responsibility of satisfying itself that the goods or services are suitable for the use of the Customer.
- 11. **Returns or Exchanges**
  - 11.1. The Customer may return or exchange unused Goods in its original packaging within 10 days of receiving them for a full reimbursement less all freight charges and less a 10% handling / administration charge.
  - 11.2. The Supplier reserves the right to refuse to accept such returns under any circumstance, examples may include – superseded Products, Products altered or damaged, Products specifically provided for the Customer.
  - 11.3. Products returned after 10 days may be returned to the Supplier, at the Supplier's complete discretion. Such returns will attract a minimum 25% restocking and handling fee (plus all transport costs). Additional charges may apply depending on how long the Customer has been in physical possession of the Products.
- 12. **Other**
  - 12.1. **Force Majeure** – The Supplier shall have no liability whatsoever under or in any way related to the sale and purchase of the Products or the failure of any obligation to the extent that such fulfilment is prevented by circumstances beyond its reasonable control including but not limited to industrial disputes, strikes, lock-outs, accident, break-down, import or export restriction, acts of God, acts of terrorism, acts of war.
  - 12.2. The laws of Queensland, Australia shall prevail and be the relevant jurisdiction.