

Aerobolt Australia Pty Limited – Terms and Conditions of Sale and/or Hire

1 Definitions

“Us, We and Our” means Aerobolt Australia Pty Limited (ABN 91 127 162 047).

“You and Your” means the customer named in the invoice and any person acting on behalf of that customer and purchasing or hiring the Products from Us.

“Products” means all products, tools and other equipment listed in the invoice and supplied to You and if a product is being rented, means those products described in the Rental Schedule attached to this document.

2 Terms and conditions

Thank you for choosing Us as your preferred supplier of the Products. The terms and conditions that are set out in this document are the conditions under which We have provided the Products to You. This document therefore constitutes a legally binding contract between us.

3 Payment terms

- (1) Payment for the Products is strictly 31 days from the end of the month the Products are supplied to You.
- (2) We may charge you interest at the rate of 10% p.a. on the outstanding amount (calculated on a daily basis) if You do not pay any amount under this document by the due date.
- (3) Unless otherwise stated, the amounts payable by You are exclusive of all taxes and levies, and any disbursements incurred in delivering the Products to your premises.

4 Title and risk

- (1) Risk in the Products will pass to You when We deliver them to You.
- (2) Title in the Products passes to You only when You have paid in full for those Products (including any other amount payable by You to Us under this document). Until all amounts are paid by You, We will continue to be the legal owner of the Products.
- (3) You give us irrevocable authority to enter any premises on which the Products are kept in order to allow Us to remove and repossess any Product after default by You of any of the terms of this document.
- (4) You charge in Our favour all of Your assets and undertakings (whether real or personal property) with the amount payable by You to Us under this document.

5 Product warranty

- (1) You are entitled to have the Products repaired or replaced if the Products fail to perform in accordance with the manufacturer's specifications for a period of 12 months from the date the Products are purchased by You (**Standard Warranty**).

- (2) Products presented for repair under the Standard Warranty may be replaced by refurbished products of the same type rather than being repaired. We also reserve the right to rely on the manufacturer's warranty with respect to a Product.
- (3) To the full extent permitted by law, the Standard Warranty will not apply:
 - (a) if the Product has not been installed, operated, maintained or used in accordance with the manufacturer's instructions or specifications;
 - (b) to damage, malfunction or failure resulting from alterations, accident, misuse, abuse, fire, liquid spillage, power surges, any act of God or unauthorised repairs by any persons; and/or
 - (c) to damage arising during transportation, installation or while moving the Product.

6 Our liability

- (1) To the extent permitted by law and notwithstanding any other term of this document, Our liability under this document (including the supply of the Products to you) is limited, at Our discretion, to:
 - (a) replacement of the Product;
 - (b) supply of an equivalent product;
 - (c) repair of the Product; or
 - (d) refund to You of any payment made by you with respect to the Product.
- (2) We will not be liable for any indirect, consequential or punitive damages (including loss of profit or disruption to business) arising in the course of supplying or repairing the Products.
- (3) Subject to the terms of this document, You cannot make any claim (of any nature whatsoever) against Us with respect to Your use of the Products.

7 Termination

- (1) The following events constitute a **Default**:
 - (a) You fail to pay any amount to Us by the due date for payment;
 - (b) any Products in Your possession are materially damaged while any monies due to Us remains unpaid;
 - (c) You become bankrupt or are put into liquidation or any other insolvency event affects you; or
 - (d) You breach any other term of this document.
- (2) If a Default occurs, then We may:
 - (a) suspend providing further Products to You;
 - (b) require payments in cash before or on delivery of further Products;
 - (c) repossess the Products if you have not made payment in full for those Products; and/or
 - (d) sue You for breach of contract and exercise any other right We may possess at law.

8 Hire of Products

- (1) This clause 8 and the **Rental Schedule** attached to this document only apply where You are hiring Products from Us.
- (2) Provided that You comply with the terms of this document, You may use the Product for the term stated in the **Rental Schedule**.
- (3) You must pay us the Rental Fees by the time and in the manner set out in the **Rental Schedule**.
- (4) The Products are and will at all times be owned by Us. Entering into this document or using the Products does not give You any right to ownership of the Products or any part of them.
- (5) You must keep the Products in Your possession at all times at Your premises specified in the **Rental Schedule**. Portable type Products may be taken outside of the premises nominated by You for use in the normal course of Your business.
- (6) When using the Products, You must not do any of the things that are listed below:
 - (a) sell, hire, assign, mortgage, charge, pledge, loan or otherwise deal with the Products in any way;
 - (b) use or permit the Products to be used unlawfully or for any unlawful purpose;
 - (c) tamper with or make any change (by alteration, addition or otherwise) to the Products without obtaining Our consent; and
 - (d) attempt to repair the Products. (Contact Us firstly for any assistance).
- (7) At Your own expense, You must:
 - (a) operate and use the Products in accordance with the manufacturer's instructions and recommendations and Our directions;
 - (b) keep the Products properly protected from damage or loss and tell Us immediately if any Product is damaged, lost or otherwise fails to function properly;
 - (c) give Our representatives timely and reasonable access to your premises to inspect the Products, check compliance by You with Your obligations of use under this document and service any Product which You have asked Us to service; and
 - (d) keep the Products in good condition and working order.
- (8) On the expiry of the Rental Term stated in the **Rental Schedule** or earlier termination, You must (at Your expense) promptly return all Products in good condition (fair wear and tear excluded) to Us at such address as We may designate. If you fail to return the Products to Us by the time specified, then you must pay Us an additional fee at a daily rate on the existing Rental Fee.
- (9) If You fail to return the Products or wish Us to collect the Product, We may ask You to pay Us our collection costs and expenses. We may repossess the Products wherever it may be if You do not return it.
- (10) Upon returning the Products, You must pay any costs and expenses incurred by Us to restore the Products to good condition (fair wear and tear excepted), such costs and expenses to include repair and the replacement of missing or damaged parts.
- (11) In the event the Products are damaged, lost or stolen, You will be liable for the full costs incurred by Us in repairing or replacing that Product (as the case may be).

9 Miscellaneous

- (1) You warrant to Us that You have made Your own enquiries in relation to the Products, how it can be used by You and the legislative requirements of operating and using the Products.
- (2) No warranties are given by Us in relation to the Products or any services other than those implied by law. In particular We do not warrant that the Products may be used for any particular purpose, including any particular purpose for which You intend to use the Products.
- (3) This document is the entire agreement of the parties on the subject matter. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this document.
- (4) We may assign our rights and obligations under this document by notice in writing to you. You must not assign your rights and obligations under this document without our prior written consent.
- (5) The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right.
- (6) The law in force in the State of New South Wales governs this document. The parties submit to the exclusive jurisdiction of the courts of New South Wales.