

Website Terms and Conditions

1 Ownership and formation of agreement

1.1 Establishment of agreement

- (1) Thank you for shopping with Aerobolt Australia Pty Limited (ABN 91 127 162 047) (hereinafter referred to as **Us, We** and **Our**).
- (2) This website is owned and operated by Us.
- (3) These are the terms and conditions which govern your use of the website and the purchase of the product(s) by you that We supply from time to time (**Products**).
- (4) You should always check these terms and conditions every time you visit Our website as We may make changes to it from time to time without letting you know.
- (5) Please read these terms and conditions carefully, because by using Our website or placing an order for the Product(s) on Our website:
 - (a) you are confirming that you have not only read these terms and conditions but that you agree to be bound by them; and
 - (b) you agree that a legally binding agreement is formed between you and Us.

1.2 Privacy Policy

- (1) In order to purchase the Products, you will be required to provide Us with some of your personal details (including, for example, your name, residential address, delivery address, phone number, email address and other personal details).
- (2) Therefore, please review Our [Privacy Policy](#) which describes how We collect and use the information provided by you.

2 Online account

2.1 Creation of online account

- (1) You may set up an online account on the website in your own name (**Account**). Alternatively, you may place orders for Products through Our website as a guest.
- (2) You must only have one (1) Account and not set up an online account for or on behalf of any other person.
- (3) You warrant that:
 - (a) you are the true owner of the Account;
 - (b) your details contained in the Account reflect your true identity and is not in any way false, misleading or deceptive; and
 - (c) the information contained within your Account is true, accurate and up-to-date.

2.2 Suspension or termination of your Account

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- (1) Your right to access and use Our website and the Account is subject to you complying with these terms and conditions.
- (2) If you do not comply with these terms and conditions or are otherwise deemed by Us to be unfit to use Our website, then We may immediately without notice:
 - (a) suspend your right to use Our Website and the Account; or
 - (b) terminate your right to use Our website and the Account.
- (3) If you no longer wish to retain your Account, you may request in writing for it to be removed. We will consider your request and may delete your Account.

2.3 Details

- (1) It is your responsibility to enter all of your information correctly when creating your Account on the Site and your user name and password is kept confidential at all times.
- (2) We will not be liable to you in any way for any loss or damage caused to you as a result of your account information being incorrect.

2.4 Unauthorised use

- (1) You must notify Us immediately of any unauthorised use or suspected unauthorised use of your Account.
- (2) We will not be liable to you in any way for any loss or damage caused to you as a result of unauthorised use of your Account which occurs before you notify Us of that unauthorised use.

3 Orders

3.1 Orders

You may place orders for Our Products through our website / the Account. Placing an order through our system constitutes an offer by you to purchase the ordered Products and is not able to be varied or cancelled by you.

3.2 Acceptance

- (1) When you successfully submit an order for Our Products, you will receive an email confirmation of your order which includes an order reference number. This is **not** a confirmation that your order has been accepted by Us.
- (2) Any order placed by you is always subject to acceptance by Us. We may therefore cancel or vary that order at any time and will notify you of that cancellation or variation (in which case your agreement to the variation will be sought).
- (3) Your order may need to be cancelled or varied as a result of a number of things including but not limited to where the ordered Product is out of stock or unavailable, due to errors or omissions or for other reasons.
- (4) We will not be liable to you in any way if We elect not to accept an order or require an order to be varied.

3.3 Details of Orders

- (1) It is your sole responsibility to ensure that all details you have entered with respect an order for the Products is correct, including the delivery address.

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- (2) We will not be responsible, under any circumstances, for any loss or claim arising as a result of your error in completing the details of an order in a correct and accurate manner.

3.4 Cancellation after acceptance by Us

- (1) We reserve the right to cancel, prior to delivery of the Products and for any reason, an order that has previously been accepted by Us.
- (2) In the event that We cancel an order after you have paid for the Products, We will refund the monies paid by you for the Products within a reasonable period of time in accordance with your original payment method (unless otherwise agreed).
- (3) We will not be liable to you for the cost of any loss or damage caused to you as a result of cancellation of your order of the Products.

4 Price and payment

4.1 Price

- (1) Prices shown on the website are in Australian Dollars (**AUD**) and, unless otherwise expressly stated, are exclusive of GST (**Price**).
- (2) If applicable, shipping and delivery fees (**Shipping**) will be charged at checkout in addition to the Price.
- (3) The Price of the Products is as stipulated at all times on the Site (and is subject to change without notice), except in the case of error.
- (4) If you have ordered the Products and the Price (or any other relevant details), or the amount of the Shipping, is subject to an error, We will:
 - (a) notify you and allow you to confirm your order of the Products at the revised Price or Shipping amount; or
 - (b) if We cannot contact you within a reasonable period of time or you do not confirm your order of the Products at the revised price, We may cancel your order and refund the monies paid by you with respect to that particular order.
- (5) Please note that the Price and Shipping on Our website are subject to change at any time by Us.

4.2 Payment and completion of order

- (1) You may pay for the Products by way of credit card (Visa, Mastercard), Paypal, direct deposit or any other payment method utilised or allowed by Us from time to time.
- (2) You agree to provide Us with any information and to undertake any necessary action that is reasonably necessary to authorise Us or a third party payment provider to process payment for Products purchased.
- (3) We will process your payment prior to delivering the Products to you and may confirm with you when payment has been cleared or processed. If your payment cannot be cleared or processed it will be deemed to be subject to error and clause 4.1(4) will apply.

5 Shipping

5.1 Delivery

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We will, through our nominated carriers and couriers, endeavour to deliver your Products by any estimated dates and timeframes (if any) that are notified. However, We do not guarantee the delivery of Products by any estimated dates and timeframes, if at all, as the delivery process is out of Our control.

5.2 We do not accept liability for delivery

We *DO NOT* accept any responsibility or liability for:

- (1) any damage caused to the Products during transit;
- (2) the Products being lost during the transit process;
- (3) the Products being stolen after being delivered to your nominated delivery address (or any local depot or post office should you not be present at the address to receive the Products when they are delivered); or
- (4) any delay in the delivery of the Products.

5.3 Your responsibilities

- (1) It is your responsibility to effect the necessary insurances (including freight insurance).
- (2) You should ensure that someone is at the address when the Products are delivered so that you can physically check the Products and take steps to ensure that it does not get stolen or misplaced. It is your responsibility to pick up the Products should they be redirected to a local depot or post office.
- (3) We may send you the tracking details once the Product has been shipped, so you should therefore firstly chase things up on your end with the relevant shipping company if there is a delay or wish to find out where in transit your item is before you contact Us.

5.4 Risk and title

Risk in the ordered Product passes to you upon it being collected by Our nominated carrier/courier. Title in the Product passes to you only upon you paying for the Price and the Shipping in full. Please note that We do not despatch Products unless you have paid Us in full.

6 Returns, exchanges and refunds

6.1 Australian Consumer Law

The Products come with guarantees and rights that cannot be excluded under the Australian Consumer Law. These include, but are not limited to, the following:

- (1) Entitlement to a replacement or refund for a major failure or any other reasonably foreseeable loss or damage.
- (2) Entitlement to have the relevant Product repaired or replaced if they fail to be of acceptable quality and the failure does not amount to a major failure.

6.2 If you have changed your mind

Please note that We do **not** issue a refund or replacement if you change your mind about Our Products.

6.3 Shipping issues

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We will **not** under any circumstances issue any full or partial refund for Products which have been damaged or lost in transit. Please see the section headed “Shipping” in these terms and conditions for further information.

6.4 Failure to comply with storage or use recommendations

We will **not**, under any circumstances, issue a refund or replace the Product if you have:

- (1) failed to use it in accordance with Our and the manufacturer's instructions;
- (2) failed to store it in accordance with Our and the manufacturer's instructions;
- (3) deliberately caused damage to the Product; or
- (4) misused the Product.

6.5 Refunds and exchanges where major defect or failure

- (1) You are entitled to refunds and exchanges in accordance with your consumer guarantees and rights under the Australian Consumer Law and any other applicable legislation.
- (2) Without limiting your statutory guarantees and rights that cannot be excluded by law, if:
 - (a) the Product is defective or suffers a major failure, We will provide you with a refund or replacement of the Product (at your election); or
 - (b) the Product are not of merchantable quality and does not amount or a major failure, then We, at Our discretion, will provide you with refund or replacement of the Productprovided that you:
 - (c) contact Us within seven (7) days of despatch of the Products; and
 - (d) return the Products within seven (7) days of contacting Us at your cost.
- (3) Any refunds will be made in accordance with your original payment method (unless otherwise agreed).
- (4) Subject to the Australian Consumer Law, to be eligible for return, Products must be:
 - (a) unused and in original, unopened, undamaged and re-saleable condition; and
 - (b) accompanied by original proof of purchase.
- (5) Upon receipt of the returned Products, We will inspect the subject Product and, if satisfied with the condition of the Product and the fact that it had a major defect or suffered a failure, We will comply with paragraph (2) above.

7 Intellectual Property ownership

7.1 Ownership of Intellectual Property

- (1) We will at all times retain ownership of all intellectual property rights (including but not limited to registered trade marks) used in respect of Our website (with the exception of third party advertisements (if any)) and in connection with Our Products (together referred to as **Our IP**).

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- (2) The contents of the Site (including all photographs, images, videos, text, illustrations, software, audio, video and other items) is also Our IP and subject to copyright under the *Copyright Act 1968* (Cth) and any other relevant law.

7.2 Restricted conduct

It is an essential term of these terms and conditions that you must **not**:

- (1) launch or attempt to launch a site or arrangement that is the same or similar to Our website which uses Our IP without our express written consent;
- (2) use Our IP in any way in any medium or sales platform (including but not limited to Ebay, Amazon and other similar sites) without Our express written consent;
- (3) except for the purpose of viewing, printing and accessing Our website for your own personal use - copy, use, modify, reproduce, broadcast, print, publish or create any derivative works from any part of the website without Our written consent; or
- (4) do anything that:
 - (a) is inconsistent with Our interest in Our IP;
 - (b) infringes upon Our rights to use and exploit Our IP; or
 - (c) which leads to the value of Our IP being diminished or otherwise adversely affected.

8 Limitation of liability

8.1 Subject to the law

Nothing in these terms and conditions will be construed to exclude, restrict or modify any non-excludable condition, warranty, guarantee, right or liability applicable to these terms and conditions by law, including under the Australian Consumer Law under the *Competition and Consumer Act 2010* (Cth), where to do so would be illegal or render any provision of these terms void or unenforceable.

8.2 Risk and indemnification

- (1) With respect to the Products and the use of Our website, you agree that you are liable for and indemnify Us in respect of any:
 - (a) damage, loss, cost or expense (whether direct or indirect);
 - (b) any breach or alleged breach of any of your representations, warranties or obligations contained in these terms and conditions; and
 - (c) other claim brought against Us by a third party,that We may suffer or incur as a result or in connection with your acts or omissions.
- (2) To the full extent permitted by law, you agree to release and discharge Us and Our employees, contractors and agents from all liability (of any kind) arising out or relating to your use of the Products and use of Our website.

8.3 Limited liability

To the full extent permitted by law, Our liability to you for a breach of any non-excludable warranty, condition or guarantee is limited to the Price paid by you in the one (1) month preceding the relevant claim.

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8.4 No liability for consequential losses

To the full extent permitted by law, We will not be liable in any event for any indirect or consequential losses (including but not limited to any loss or damage arising from a breach of contract or agreement, tort, or any other basis in law or equity including, but without limitation to, loss of profits, loss of revenue, loss of production, loss or denial of opportunity, loss of goodwill, indirect or remote or unforeseeable loss, loss of reputation, future reputation or publicity, or any similar loss which was not contemplated by the parties) whether or not We had knowledge that such losses might be incurred.

9 Complaints

We take all complaints seriously and will use Our best endeavours to ensure all complaints are addressed promptly. If you have any complaints or issues please contact Us as soon as possible.

10 Miscellaneous

10.1 Force Majeure

We will not be liable for any delay or non-compliance with any of Our obligations to you for any events arising out of circumstances beyond Our control. During such events, Our obligations are suspended for the period that the event remains in effect.

10.2 Age Restriction

- (1) You represent and warrant to Us that you are at least eighteen (18) years old and that you possess the legal right and ability to enter into these terms and conditions and to use the Site and purchase the Products in accordance with these terms and conditions.
- (2) If you are under eighteen (18) years old, you warrant that you have obtained the consent of your parent or guardian.

10.3 General provisions

- (1) These terms and conditions constitute the entire agreement between you and Us with respect to the website and your purchase of Our Products and supersede all prior agreements between you and Us.
- (2) Failure on Our part to enforce any provision of these terms and conditions is not to be construed as a waiver of any provision or right.
- (3) These terms and conditions are governed by the laws of New South Wales, Australia and you submit to the exclusive jurisdiction of its courts.
- (4) If any provision of these terms and conditions is deemed unlawful, void or for any reason unenforceable, then that provision is considered severed and will not affect the validity and enforceability of any remaining provisions.
- (5) The termination of these terms and conditions will not affect the rights of each party against the other in respect of anything done or omitted under these terms and conditions prior to that termination.
- (6) We may assign or novate Our rights under these terms and conditions at any time without your consent. You cannot assign or novate your rights and obligations under these terms and conditions without Our consent (which will not be unreasonably withheld).