

1. SCOPE

These terms and conditions apply to all contracts for sale of goods by Maxwell International Australia Pty Limited (**Maxwell**). A binding contract will only come into effect, not upon receipt but by acceptance by Maxwell, of a purchase order from the Purchaser. Maxwell is under no obligation whatsoever to fill any purchase order issued by the Purchaser until accepted by Maxwell. These terms and conditions can only be varied in writing signed by a duly authorised officer of Maxwell and in no other way.

2. PAYMENT AND RETENTION OF TITLE

2.1 If any goods are sold as a cash sale the Purchaser must pay prior to delivery.

2.2 If any goods are sold on account to the Purchaser, the Purchaser must pay Maxwell by no later than the last calendar day of the following month, or within such period as Maxwell gives 24 hours notice in writing to the Purchaser, whichever occurs first. In the case of goods sold on account the following conditions apply:

- (a) The legal and beneficial ownership in goods will not pass to the Purchaser until full payment has been received for all goods supplied by Maxwell to the Purchaser. This sub-clause has effect notwithstanding that the goods may have been used in any other process.
- (b) Risk in the goods will pass at the time of delivery of the goods and the Purchaser must insure the goods against all loss and damage, however caused, and must keep the insurance current until ownership passes to the Purchaser.
- (c) Until Maxwell receives full payment for all goods supplied to the Purchaser the Purchaser holds the goods as a fiduciary agent and/or a bailee of Maxwell. The Purchaser must store the goods separately from all other goods and ensure that the goods are clearly identifiable as Maxwell's goods. If required by Maxwell the Purchaser must provide Maxwell with a written list of all goods supplied by Maxwell but in the possession or constructive possession of the Purchaser within 24 hours of receiving oral or written notification from Maxwell.
- (d) Maxwell may without prejudice to any other rights and without liability to any person in trespass or otherwise, enter the premises of the Purchaser, or any other premises, where the goods are located and recover possession of the goods if:
 - (i) payment has not been made for all goods (even if payment has been made for some of the goods) supplied by Maxwell to the Purchaser at any time; or
 - (ii) the Purchaser has a liquidator, provisional liquidator, receiver, receiver and manager, mortgagee's agent, voluntary administrator or deed administrator appointed to it or enters into any scheme of arrangement with its creditors or any other form of insolvency administration (or in the case of an individual) commits or is alleged to have committed an act of bankruptcy); or
 - (iii) any resolution is passed, or a meeting is called to pass a resolution with the purpose of making an appointment as contemplated in sub-clause (ii), notwithstanding that such meeting may consider other resolutions.
- (e) If before property in and ownership of the goods passes to the Purchaser, the Purchaser sells or otherwise deals with any interest in the goods in any form to a third party (including when the goods have been mixed with other goods by manufacturing or in any other way) the Purchaser does so solely as a trustee for Maxwell. The Purchaser must keep separate and hold on trust for Maxwell all monies received and property purchased with such monies from such sale or dealing as relates to the goods. For the purpose of this subclause, such part of any monies received whether the goods have been sold or used in some manufacturing or other process) that relates to the goods will equal in dollar terms the total amount owing by the Purchaser to Maxwell for the supply of all goods by Maxwell to the Purchaser at the time of receipt of such monies.

2.3 Each and every payment under any contract is time of the essence.

2.4 If the Purchaser fails to pay any invoice when due the Purchaser commits a breach of a condition of this contract and Maxwell is thereby relieved from performing any further obligations. Maxwell is entitled to recover any legal or professional fees incurred should the debt be paid late and referred to a collection agent. This does not affect the rights and remedies otherwise available to Maxwell.

3. ACCEPTANCE

The Purchaser will accept or reject the goods included in each consignment within seven days of receipt. If the Purchaser fails to give Maxwell written notice of his/her/its rejection with specific reasons within seven days the Purchaser is deemed to have accepted such consignment as conforming legally in every respect with the purchase order made by the Purchaser.

4. PRICE

The price to be charged by Maxwell will be the rate applicable at the time the goods are delivered. Maxwell will endeavour to provide advance notice of price changes but will in no way be held responsible in the event Maxwell fails to do so.

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A.B.N. 28 121 735 153
GENERAL TERMS AND CONDITIONS OF SALE

5. FREIGHT AND DELIVERY

Times quoted for delivery of goods are estimates only. The Purchaser will not be relieved of any obligations to accept or pay for goods by reason of any delay in consignment of any purchase order, or part of any such order. If an event beyond Maxwell's reasonable control occurs and as a consequence Maxwell cannot deliver the goods within the time or times quoted or specified, Maxwell will be entitled to consign part only of an order, suspend consignment or extend the time of consignment, for the period during which such cause of delay operates, or may cancel the order, and in the event of such suspension, extension or cancellation, Maxwell will not be liable for any costs or damages whatsoever. A handling fee of a specified amount (currently \$25) will be charged on all orders of less than \$400 net invoice value before GST.

6. WARRANTY: NEW GOODS & REFURBISHED GOODS

- 6.1 A standard warranty of three months, calculated from the date of purchase, will apply on all refurbished products. The manufacturer's warranty will apply on all other products, and the warranty card and proof of purchase must accompany goods for repair. Otherwise normal service charges will apply. Maxwell will return repaired items in accordance with these terms and conditions (note: insurance and freight are the owner's responsibility). Maxwell will not accept freight charges for items sent to it for repair under warranty. The return of goods for replacement will not be permitted without prior written approval / (RA) Return Authorisation Number from Maxwell. Only the faulty product will be replaced, not the carton, packaging, accessories or other items.
- 6.2 All warranties whether express or implied at law or by statute, which would but for this clause apply to the supply of the goods and which are permitted by law to be excluded, are hereby expressly excluded. The purchaser further acknowledges that no promise, representation or undertaking has been given by Maxwell, other than as contained in this warranty. Maxwell will not be liable for any injury, loss or damage sustained by the Purchaser howsoever arising provided always that nothing will affect the rights of the Purchaser who has acquired the goods as a customer within the meaning of the Trade Practices Act 1974, as amended 2007, (Commonwealth) (TPA) or any other law, and provided further that where the goods are not of the kind ordinarily acquired for personal, domestic, or household use or consumption then the Purchaser's liability for a breach of a condition or warranty implied by the TPA (other than by Section 69) will be limited to the repair of the goods, or, at Maxwell's option, the replacement of the goods, or the supply of equivalent goods.

7. RETURNS AND SHORTAGES

- 7.1 Any goods returned to Maxwell must include:
- (a) Maxwell's prior written Return Authorisation Number (**RA**);
 - (b) The goods including accessories, software, manuals, warranty card & packaging in original condition;
 - (c) Delivery docket/s clearly showing the purchase invoice number and date of purchase.
- 7.2 Notwithstanding non-compliance by the Purchaser with subclause (b), Maxwell may in its absolute discretion accept returned goods, and in such circumstances the following charges will apply:
- (a) missing warranty cards for products supplied with such identification attract a fee of \$15;
 - (b) marked or damaged packaging or product boxes with mismatched serial numbers attract a service make-good fee of \$30;
 - (c) missing kit components attract fees as per Maxwell's standard wholesale price list.
- 7.3 Where Maxwell has approved the return of goods a re-stocking fee of 10% of the original invoice value will be applicable if Maxwell determines the return was authorised on grounds of incomplete or erroneous information supplied.
- 7.4 If goods are returned to Maxwell without authorisation the goods will be returned to the Purchaser attracting a re-stocking fee of 10% of the original invoice value, plus freight collect
- 7.5 All shortages must be notified by the Purchaser to Maxwell in writing within 24 hours of delivery otherwise no claim for shortages can be made by Maxwell.

8. SERVICE AND REPAIRS

- 8.1 All repairs carry a 90 day warranty from date of repair, on the parts and labour used in the repair, subject to statutory rights.
- 8.2 If the Purchaser does not authorise repairs within 30 days after receiving a repair cost estimate from Maxwell, Maxwell will return the goods to the Purchaser at the Purchaser's expense.
- 8.3 Estimates given over the counter or telephone do not bind Maxwell as to the actual cost of the repairs.
- 8.4 Goods not collected within 90 days may be disposed of by Maxwell without recourse by the Purchaser.
- 8.5 Maxwell or its carriers are not responsible for freight or insurance of Purchaser's goods whilst in our possession or during transportation. **Purchaser to insure goods to and from Maxwell.**
- 8.6 The Purchaser remains responsible for insuring any goods whilst being repaired by Maxwell.

9. INTELLECTUAL PROPERTY, GOVERNING LAW AND PRIVACY CHARTER

The purchaser acknowledges Maxwell's assignment or ownership of all Copyrights and Trade Marks in the products, and all contents of Maxwell's and the respective manufacturer's websites, except where such other ownership is acknowledged. These terms and conditions are subject to and construed in accordance with NSW laws and the Purchaser submits to the non-exclusive jurisdiction of NSW courts. Maxwell's privacy charter may be found on Maxwell's website, at: www.maxwell.com.au or at our Head Office, situated in Homebush, NSW.