Permobil Australia Pty Ltd
Terms and Conditions of Sale and Rental

1. INTERPRETATION AND APPLICATION

1.1 In these Terms and Conditions:

"**ACL**" means the Australian Consumer Law in Schedule 2 to the Competition and Consumer Act 2010 (Cth).

"**Additional Charges**" means all delivery, installation, handling and storage charges, GST, stamp duty, interest, costs of recovery of unpaid money and all other amounts, other than the Purchase Price, payable by the Customer in connection with the sale of Goods.

"**Customer**" means the dealer or other person or entity to whom Goods are sold, or Equipment is hired, by Permobil.

"**End-User**" means the person to whom the Customer supplies Goods, or on-hires Equipment, for that person's own use.

"**Equipment**" means the equipment described in a Rental Agreement, including all accessories.

"**Goods**" means the goods sold to the Customer by Permobil and any related services provided by Permobil.

"**Permobil**" means Permobil Australia Pty Ltd (ABN 21 086 494 117).

"**PPSA**" means the Personal Property Securities Act 2009 (Cth).

"**Product Documentation**" means the warranty, user manuals, instructions, safety information and other documentation supplied by Permobil with, or relating to, the Goods or Equipment.

"**Purchase Price**" means the price stated in Permobil's quotation or, if there is none, Permobil's list price at the date the order is accepted.

"**Rental Agreement**" means the quotation or order confirmation issued by Permobil for the hire of Equipment.

"**Terms and Conditions**" means these terms and conditions as amended from time to time and published by Permobil.

1.2 Part A applies to all supplies by Permobil. Part B also applies to the sale of Goods, and Part C also applies to the hire of Equipment.

1.3 The version of these Terms and Conditions published at the time an order is accepted, or a Rental Agreement is issued, applies to that order or hire.

PART A – GENERAL TERMS

2. PRICES AND PAYMENT

2.1 Quotations are valid for the period stated in them or, if no period is stated, 30 days from their date. All prices are in Australian dollars and, unless stated otherwise, exclude GST.

2.2 Interest is payable on overdue amounts at the rate of 1.5% per month or part of a month from the due date until payment in full.

2.3 The Customer must pay all amounts in full without set-off, deduction or withholding. Permobil may set off any amount owing by the Customer against any amount owing by Permobil to the Customer.

2.4 If any amount is overdue, Permobil may, after notifying the Customer, suspend further deliveries or other performance until payment is received in full.

3. LIABILITY AND INSURANCE

3.1 Nothing in these Terms and Conditions excludes, restricts or modifies any right, remedy or guarantee under the ACL or other legislation that cannot lawfully be excluded, restricted or modified.

3.2 Subject to clause 3.1 and to the extent permitted by law: (i) all warranties and terms not set out in these Terms and Conditions or the Product Documentation are excluded; (ii) Permobil is not liable, whether in contract, tort (including negligence) or otherwise, for any loss arising from the use or possession of the Equipment, any loss of profit, revenue or business, any third-party claim, or any indirect or consequential loss; and (iii) Permobil's total liability is limited, for any order, to the Purchase Price of the Goods concerned and, under any Rental Agreement, to the rental fees paid under it in the 12 months before the claim.

3.3 The Customer must indemnify Permobil against any loss or damage arising from: (i) the Customer's breach of these Terms and Conditions; or (ii) the negligence or wilful misconduct of the Customer or its personnel, including in fitting, servicing or instructing on the Goods or Equipment.

3.4 The Customer must maintain public and product liability insurance at levels customary for its business.

4. SECURITY INTEREST

4.1 The Customer acknowledges that these Terms and Conditions create a security interest in favour of Permobil for the purposes of the PPSA in Goods sold and their proceeds and, to the extent the hire creates one, in the Equipment. The Customer must sign any document and provide any information Permobil reasonably requires to register and perfect that security interest.

4.2 To the fullest extent permitted by the PPSA, the Customer: (i) waives its right to receive a verification statement; and (ii) contracts out of, and waives its rights under, the PPSA provisions on enforcement of security interests.

5. PRIVACY

5.1 Permobil collects and handles personal information in accordance with the Privacy Act 1988 (Cth) and Permobil's privacy policy at https://www.permobil.com/en-au/privacy-notice-australia.

5.2 Where the Customer provides Permobil with personal information about End-Users or other individuals, the Customer must ensure it has made any notifications and obtained any consents required for Permobil to collect and use that information in accordance with its privacy policy.

6. PRODUCT SAFETY AND CUSTOMER OBLIGATIONS

6.1 The Customer is responsible for the final fitting of the Goods and Equipment for the End-User, for instructing the End-User on their safe use and operation, and for providing the End-User with the Product Documentation.

6.2 The Customer must not modify the Goods or Equipment, or remove or alter any trademark, label, serial number or other marking on them or on the Product Documentation. Modifications may affect the regulatory status of the Goods or Equipment and Permobil's responsibility for them.

6.3 The Customer must keep records of the Goods and Equipment it supplies, including the End-User and the model and serial number, for at least 10 years or longer if required by law, and provide them to Permobil on request.

6.4 The Customer must promptly notify Permobil of any complaint, incident or suspected incident involving the safety or performance of the Goods or Equipment. If Permobil or any authority initiates a recall or field safety corrective action, the Customer must cooperate fully and take the action reasonably required by Permobil.

6.5 The Customer must comply with all applicable laws, including anti-bribery and sanctions laws, in connection with the Goods and Equipment.

6.6 The Customer buys and resells the Goods, and on-hires the Equipment, in its own name and at its own risk. Nothing in these Terms and Conditions creates an agency, partnership or joint venture.

7. GENERAL

7.1 If Permobil and the Customer have signed a separate agreement for the supply of Goods or the hire of Equipment, that agreement prevails over these Terms and Conditions to the extent of any inconsistency.

7.2 These Terms and Conditions are governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

7.3 Subject to clause 7.1, these Terms and Conditions, together with any accepted order or Rental Agreement, contain the entire agreement between the parties for the sale of Goods or the hire of Equipment. They may only be varied in writing signed by Permobil.

7.4 Permobil is not liable for any failure or delay in performing its obligations caused by circumstances beyond its reasonable control. In that case, Permobil may suspend performance or extend the time for performance for the duration of those circumstances. If they continue for more than 60 days, Permobil may cancel the affected order or end the hire by written notice without liability, and clause 16.3 applies to any Equipment.

7.5 Any provision that is void, unenforceable or illegal is severed to that extent, and the remaining provisions continue in force.

7.6 No failure or delay by Permobil in exercising any right or remedy operates as a waiver of it.

7.7 The Customer must: (i) keep confidential Permobil's pricing and any terms specifically agreed with it, except as required by law; and (ii) notify Permobil in writing within 7 days of any change to its name, address, legal entity or ownership.

PART B – SALE OF GOODS

8. ORDERS

8.1 An order is binding on Permobil and the Customer when Permobil accepts it in writing or supplies the Goods in accordance with it. Permobil may accept part of an order only. These Terms and Conditions apply to every accepted order and supersede any terms contained in the Customer's order or purchase order.

8.2 An accepted order may not be cancelled by the Customer without Permobil's prior written approval. Approval may be refused in particular for Goods that are configured or manufactured to the Customer's or End-User's specification.

8.3 The Customer is free to set its own resale prices. When reselling the Goods, the Customer must not misrepresent their specifications, performance or purpose, or give any warranty, guarantee or representation in relation to them beyond the Product Documentation, without Permobil's prior written consent.

9. DELIVERY AND RISK

9.1 Delivery times are estimates only. Permobil is not liable for any failure or delay in delivery, and the Customer is not relieved of its obligation to accept and pay for the Goods because of a delay. Permobil may deliver the Goods in instalments.

9.2 The Customer must provide suitable access and appropriate means for unloading the Goods at the nominated delivery address.

9.3 Delivery takes place: (i) if the Goods are collected from Permobil's premises, when they are loaded onto the Customer's carrier or at the scheduled collection time, whichever is earlier; or (ii) if the Goods are delivered to an address nominated by the Customer, when they are unloaded at that address.

9.4 Signature of a delivery note by the Customer, its representative or its carrier is conclusive proof of delivery.

9.5 Risk in the Goods passes to the Customer on delivery.

10. PAYMENT

10.1 The Customer must pay the Purchase Price and the Additional Charges.

10.2 Unless otherwise agreed in writing, the Customer must pay within 45 days from the date of invoice, except that a private individual must pay in full before delivery.

10.3 If the Customer is in default under clause 11.3, Permobil may withhold further deliveries or cancel any order, without prejudice to its other rights.

11. RETENTION OF TITLE AND RECOVERY

11.1 Title to the Goods remains with Permobil until the Customer has paid in full for the Goods and all other amounts owing to Permobil on any account. Until then, the Customer holds the Goods as bailee for Permobil.

11.2 Until title passes, the Customer may resell the Goods in the ordinary course of its business, but must hold the proceeds of sale on trust for Permobil and, if not yet paid, assign its claim against the buyer to Permobil on Permobil's written request.

11.3 The Customer is in default if: (i) any payment is not made by its due date; or (ii) the Customer ceases to carry on business, is unable to pay its debts as they fall due, or has a receiver, administrator, liquidator or similar officer appointed.

11.4 If the Customer is in default, Permobil may, without prejudice to its other rights: (i) require the Customer to return the Goods or make them available for collection; (ii) after giving reasonable notice, enter premises occupied by the Customer to recover the Goods; and (iii) resell any recovered Goods. The Customer must pay Permobil's reasonable costs of recovery, including debt collection and legal costs.

12. WARRANTY AND DEFECTS

12.1 The Goods are supplied with the manufacturer's warranty set out in the Product Documentation (the "**Warranty**").

12.2 Claims for damaged, missing or incorrectly supplied Goods must be notified in writing within 30 days of delivery.

12.3 The Customer must notify Permobil in writing of any defect within a reasonable time of discovering it, and no later than one week after the Warranty period expires, with a description of the defect and supporting documentation. The Customer must notify Permobil immediately if it believes a defect may cause personal injury or damage to property.

12.4 At Permobil's request, the Customer must return the Goods claimed to be defective to the place designated by Permobil within 5 business days. Permobil will reimburse the Customer's reasonable shipping costs if the Goods are found to be defective.

12.5 The Warranty does not cover defects caused by fair wear and tear, misuse, use other than for the intended purpose, modifications, or repairs made with parts not supplied or approved by Permobil.

12.6 Subject to clause 3.1, Permobil will, at its option, repair or replace defective Goods or reduce the Purchase Price by a reasonable amount. These are the Customer's sole remedies for defective Goods.

PART C – RENTAL OF EQUIPMENT

13. RENTAL FEE AND PAYMENT

13.1 The Customer must pay the rental fee stated in the Rental Agreement in advance, in the instalments stated in the Rental Agreement, from delivery until the Equipment is returned to or collected by Permobil. Prices exclude freight.

13.2 If requested by Permobil, the Customer must pay a security deposit as stated in the Rental Agreement. Permobil may apply the security deposit to any amounts owing and refunds the balance after the Equipment is returned.

14. USE AND CARE

14.1 The Customer may on-hire the Equipment to End-Users in the ordinary course of its business. The Customer remains responsible to Permobil for the Equipment and for its use by the End-User, and must ensure that the End-User uses the Equipment in accordance with the Product Documentation.

14.2 The Customer must: (i) keep the Equipment secure and in good repair and condition, fair wear and tear excepted; (ii) not alter or modify the Equipment, and use only parts supplied by Permobil for any service or repair; and (iii) not sell, sub-hire to anyone other than an End-User, or otherwise part with possession of the Equipment, without Permobil's prior written consent.

14.3 The Customer must report any fault promptly to Permobil at rental.au@permobil.com. Permobil will supply at its own cost the parts needed to remedy fair wear and tear during the hire. The Customer is responsible for fitting those parts and for any associated labour and travel.

15. LOSS AND DAMAGE

15.1 The Customer bears the risk of loss, theft, damage or destruction of the Equipment from delivery until it is returned to or collected by Permobil, including while it is with an End-User. Permobil encourages the Customer to insure the Equipment.

15.2 The Customer must notify Permobil promptly in writing of any loss or damage. The rental fee remains payable while the Equipment is lost or under repair.

15.3 The Customer must pay the reasonable cost of repairing any damage beyond fair wear and tear.

15.4 If the Equipment is lost, stolen or cannot be repaired for less than its market value, the Customer must pay Permobil all unpaid rental fees and the market value of the Equipment immediately before the loss, which will not exceed its original purchase price. Ownership of the Equipment passes to the Customer on receipt of that payment.

16. TERM AND RETURN

16.1 The hire starts on delivery and continues for the period stated in the Rental Agreement or, if no period is stated, until either party gives 7 days' written notice.

16.2 Permobil may also end the hire on 7 days' written notice if the Customer is in default under clause 17.2.

16.3 When the hire ends, the Customer must recover the Equipment from any End-User and return it, or make it available for collection, clean and in the same condition as delivered, fair wear and tear excepted. Freight charges apply as stated in the Rental Agreement. If the Equipment is returned in a worse condition, Permobil may repair it and invoice the Customer for the reasonable cost.

17. OWNERSHIP AND RECOVERY

17.1 The Equipment remains the property of Permobil at all times. The Customer must not encumber the Equipment or allow any lien, charge or other interest to arise over it, and must ensure that any End-User is informed that the Equipment is owned by Permobil.

17.2 The Customer is in default if: (i) it fails to pay any amount when due or otherwise breaches these Terms and Conditions, and does not remedy the breach within 7 days of Permobil's written notice; (ii) it becomes insolvent or bankrupt, or has a receiver, administrator, liquidator or similar officer appointed; or (iii) the Equipment is seized under any legal process.

17.3 If the Customer is in default, Permobil may, without prejudice to its other rights: (i) end the hire; (ii) apply the security deposit to any amounts owing; (iii) require the Customer to return the Equipment or make it available for collection; and (iv) after giving reasonable notice, enter premises occupied by the Customer to recover the Equipment. The Customer must pay Permobil's reasonable costs of recovery, including debt collection and legal costs.