

Permobil Australia Pty Ltd
ABN 21 086 494 117
Trading Terms and Conditions
("For Sale of Goods")

1. **Interpretation**
- In these conditions unless the contrary intention appears:
- "Additional Charges"** includes all installation charges, delivery, handling and storage charges, goods and services tax, stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the Purchase Price, payable by the Customer to Permobil Australia arising out of the sale of the Goods.
- "Customer"** means the person or entity to or for whom the Goods are to be supplied by Permobil Australia.
- "Goods"** means the goods sold to the Customer by Permobil Australia and any related services provided by Permobil Australia.
- "Intellectual Property"** means Permobil Australia's business names, trade names, trade marks, product names, copyright, patents, designs, industrial processes, trade secrets, know how and other intellectual property rights and any development in such intellectual property rights.
- "Permobil Australia"** means Permobil Australia Pty Ltd, ABN 21 086 494 117.
- "Purchase Price"** means the list price for the goods as charged by Permobil Australia at the date of delivery or such other price as may be agreed by Permobil Australia and the Customer prior to delivery of the Goods.
- "Terms and Conditions"** means these terms and conditions as amended from time to time by Permobil Australia and notified to the Customer.
2. **Order for Goods**
- 2.1 An order given to Permobil Australia is binding on Permobil Australia and the Customer, if:
- (a) a written acceptance is signed for or on behalf of Permobil Australia; or
- (b) the Goods are supplied by Permobil Australia in accordance with the order.
- The Customer must place all orders to Permobil Australia in writing specifying order number, date of order, goods required, requested delivery date, quotation reference number, place of delivery and full name and title of person placing the order.
- 2.2 An acceptance of the order by Permobil Australia is then to be an acceptance of these Terms and Conditions by Permobil Australia and the Customer and these Terms and Conditions will override any conditions contained in the Customer's order. Permobil Australia reserves the right to accept a part only of any order by notifying the Customer in writing or by delivering the Goods to the Customer. No order is binding on Permobil Australia until accepted by it.
- 2.3 An order which has been accepted in whole or in part by Permobil Australia cannot be cancelled by the Customer without obtaining the prior written approval of Permobil Australia, which it may refuse in its absolute discretion.
- 2.4 Where the Customer on-sells the Goods the Customer must not:
- (a) misrepresent to anyone the specifications, performance or purpose of the Goods;
- (b) make or give any warranties, guarantees or representations in relation to the Goods whatsoever without Permobil Australia's prior written consent.
3. **Limitation of Liability**
- 3.1 The liability of Permobil Australia is limited, to the extent permissible by law and at the option of Permobil Australia:
- in relation to goods, to:
- (a) replacing the Goods or the supply of equivalent Goods;
- (b) the repair of the Goods;
- (c) the payment of the cost of replacing the Goods or of acquiring equivalent Goods; or
- (d) the payment of the cost of having the Goods repaired; and
- in relation to services, to:
- (a) the supply of the services again; and
- (b) the payment of the cost of having the services supplied again.
- 3.2 To the extent permitted by law, all other warranties whether implied or otherwise, not set out in these Terms and Conditions or in specific warranties accompanying the Goods, are excluded and Permobil Australia is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer for:
- (a) any increased costs or expenses;
- (b) any loss of profit, revenue, business, contracts or anticipated savings;
- (c) any loss or expense resulting from a claim by a third party; or
- (d) any special, indirect or consequential loss or damage of any nature whatsoever.
- 3.3 To the extent permitted by law, any claims to be made against Permobil Australia for damaged or incorrectly supplied Goods must be lodged with Permobil Australia in writing within 14 days of the delivery date.
- 3.4 Unless the terms and warranties are included in these Terms and Conditions or are provided in specific warranties accompanying the Goods, all prior discussions, quotations, warranties to the extent permitted by law, are excluded.
4. **Delivery**
- 4.1 The times quoted for delivery are estimates only and Permobil Australia accepts no liability for failure or delay in delivery of Goods. The Customer is not relieved of any obligation to accept or pay for Goods by reason of any delay in delivery. Goods may be delivered by instalments at the discretion of Permobil Australia.
- 4.2 The Customer must provide suitable access for unloading and appropriate labour or mechanical means to unload the Goods upon delivery to the Customer's nominated premises. The Customer is liable for all costs and charges therein.
- 4.3 Unless otherwise agreed, delivery shall be deemed to have taken place:
- (a) if the Goods are to be collected from the Permobil Australia's premises, then:
- (i) just prior to the Goods being loaded onto the carrier organised by the Customer; or
- (ii) at the time and date when the Goods are scheduled to be collected by the Customer, whichever occurs first; or
- (b) if the Goods are to be delivered to Customer's address as nominated by the Customer on the order, then just prior to the Goods being unloaded from the carrier at the nominated address in accordance with the order, which order is delivered to the Customer at the Customer's expense.
- 4.4 Signature of any delivery note by any agent, employee or representative of the Customer or where delivery is to any independent carrier, by such carrier or its agent, shall be conclusive proof of delivery.
- 4.5 Risk in accepting the Goods passes on delivery to the Customer.
- 4.6 All Additional Charges are payable by the Customer in addition to the Purchase Price of the Goods.
5. **Price and Payment**
- 5.1 The Customer must pay the Purchase Price and the Additional Charges to Permobil Australia.
- 5.2 If the Customer is in default, Permobil Australia may at its option withhold further deliveries or cancel a contract without prejudice to any of its existing rights.
- 5.3 All payments are due within 45 days from the date of invoice.
- 5.4 The Customer must pay interest on overdue amounts calculated at the rate of 1.5% per month or part of a month from the due date until the date full payment is received by Permobil Australia.
6. **Retention of Title**
- 6.1 Ownership, title and property of the Goods remains with Permobil Australia until payment in full for the Goods and all sums due and owing by the Customer to Permobil Australia on any account has been made. Until the date of payment:
- (a) the Customer has the right to sell the Goods in the ordinary course of business and:
- (i) where the Customer is paid by the third party, the Customer must hold the whole of the proceeds of the sale on trust for Permobil Australia; or
- (ii) where the Customer has not paid by the third party, the Customer, at Permobil Australia's option, agrees to assign its claims against the third party to Permobil Australia upon Permobil Australia giving written notice in writing to that effect;
- (b) until the Goods have been sold by the Customer in the ordinary course of the Customer's business, the Customer holds the Goods as bailee for Permobil Australia;
- (c) the Goods are always at the risk of the Customer.
- 6.2 The Customer is deemed to be in default immediately upon the happening of any of the following events:
- (a) if any payment to Permobil Australia is not made promptly by the due date for payment;
- (b) if the Customer ceases to carry on business or stops or suspends payment or states its intention of so doing or is unable to pay its debts as they fall due or if any cheque or bill of exchange drawn by the Customer payable to Permobil Australia is dishonoured.
- 6.3 In the event of a default by the Customer, then without prejudice to any other rights which Permobil Australia may have at law or under these Terms and Conditions:
- (a) Permobil Australia or its agents may without notice to the Customer enter the Customer's premises or any premises under the control of the Customer for the purposes of recovering the Goods.
- (b) Permobil Australia may recover and resell the Goods;
- (c) if the Goods cannot be distinguished from similar Goods which the Customer has or claims to have paid for in full, Permobil Australia may in its absolute discretion seize all goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of Permobil Australia and the Customer may be ascertained. Permobil Australia must promptly return to the Customer any goods the property of the Customer and Permobil Australia is in no way liable or responsible for any loss or damage to the Goods or for any loss, damage or destruction to the Customer's business howsoever arising from the seizure of the Goods;
- (d) In the event that the Customer uses the Goods in some manufacturing or construction process of its own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for Permobil Australia. Such part will be an amount equal in dollar terms to the amount owing by the Customer to the Permobil Australia at the time of the receipt of such proceeds. The Customer will pay Permobil Australia such funds held in trust upon demand by Permobil Australia;
- (e) The Customer must pay to Permobil Australia all reasonable costs and disbursements incurred by Permobil Australia in pursuing any recovery action, or any other claim or remedy against the Customer, including debt recovery fees and legal fees incurred by Permobil Australia on a solicitor client basis and as a liquidated sum.
7. **General**
- 7.1 These Terms and Conditions are to be construed in accordance with the laws from time to time in the State of New South Wales and the parties submit to the jurisdiction of the courts exercising jurisdiction there.
- 7.2 These Terms and Conditions contain all of the terms and conditions of the contract between the parties and may only be varied by agreement in writing between the parties.
- 7.3 Any conditions found to be void, unenforceable or illegal may, to that extent be severed from the Agreement.
- 7.4 No waiver of any of these Terms and Conditions or failure to exercise a right or remedy by Permobil Australia will be considered to imply or constitute a further waiver by Permobil Australia of the same or any other term, condition, right or remedy.
- 7.5 The Customer must keep confidential all information including these Terms and Conditions, the price of the supply of the Goods, and any information which Permobil Australia may reasonably consider is confidential, unless the Customer is required by law to disclose such information or the information has become public information or with prior written consent of Permobil Australia.
- 7.6 The Customer must notify Permobil Australia if it changes its trading address, legal entity, or structure of management within 7 days of the change becoming effective.
8. **Indemnity**
- 8.1 To the full extent permitted by law, Customer will indemnify Permobil Australia and keep Permobil Australia indemnified from and against any liability and any loss or damage Permobil Australia may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms and Conditions by Customer or its representatives.