

TAIT AUSTRALIA TERMS AND CONDITIONS OF SALE

The sale of all goods or services by Tait Electronics (Aust) Pty Ltd 003642626 (hereafter called "Tait") is governed by the following terms and conditions:

1. APPLICATION OF TERMS AND CONDITIONS:

These terms and conditions shall apply to the sale or quotation of all goods and services provided by Tait unless otherwise agreed in writing by the General Manager of Tait or delegated authority.

2. ACCEPTANCE OF TERMS AND CONDITIONS:

These terms and conditions apply generally and exclusively to the supply of goods and services by Tait and shall be deemed to be included in documentation such as orders and invoices. Requests for delivery of goods or services either verbally or in writing by the purchaser shall be deemed to represent acceptance of these terms and conditions and accordingly the contract between Tait and the purchaser shall be deemed to be complete and binding.

3. TERMS OF TRADE (INCLUDING GOODS AND SERVICES TAX):

The terms of trade and price for goods and services shall be as specified on any Tait invoice or relevant document. Unless otherwise specified the following shall apply:

- 3.1. All Goods will be shipped FOB from the Tait Distribution Centre by the carrier of Tait's choice unless a specific carrier is nominated by the customer.
- 3.2. Prices quoted will be the tax exclusive price due to the discount structure that Tait employs and the fact that all Tait products and services will attract the Goods and Services Tax. Any applicable Goods and Services Tax will be shown at the bottom of the invoice/quote totalling to the tax inclusive price of the goods and services supplied.
- 3.3. Where the customer has received approval from Tait following completion of Tait's standard Credit Account Application, customer shall pay the price including all applicable taxes without deduction within 30 days of date of invoice. Unless otherwise specified by Tait, the terms of payment shall be 30% on order and 70% prior to shipment from Tait's store.
- 3.4. Tait reserves the right to vary existing Terms of Trade as it considers appropriate effective immediately.
- 3.5. The minimum invoice value applicable to all purchases shall be twenty dollars (\$20.00).

4. DEFAULT OF PAYMENT:

Should the purchaser default in the payment of any part of the price by the due date, Tait may without prejudice to any other rights it may have:

- 4.1. Where payment is not received in accordance with clause 3.3 the purchaser agrees that Tait shall have the right to invoice and the buyer will pay late payment charges amounting to 2.0 per centum per month on all monies from time to time owing in respect of the goods including all charges.
- 4.2. Demand immediate payment of any other amounts outstanding between the purchaser and Tait.
- 4.3. Suspend delivery of any and all goods and services including goods returned for repair to the purchaser until receipt of all monies outstanding.
- 4.4. Retake possession of goods which have remained the property of Tait by virtue of Clause 5.

- 4.5. The customer shall be liable for all costs of collection and legal fees incurred by Tait in recovering amounts payable hereunder.

5. PROPERTY IN GOODS:

- 5.1. Risk in any goods supplied by Tait to a customer shall pass when such goods are delivered to the customer or into custody on the customer's behalf but ownership in property (both legal and equitable) in such goods is retained by Tait until full payment is made for such goods and/or for all goods supplied to the customer.
- 5.2. The customer acknowledges these terms and conditions create a security interest in favour of Tait in goods supplied by Tait to the customer which have not been paid for in full, as security for payment of all monies payable from time to time to Tait by the customer and for the performance of all the customer's other obligations from time to time to Tait. The customer agrees with Tait that it will treat the security interest in the goods as a continuing and subsisting security with priority over a registered general security and any unsecured creditors.
- 5.3. The customer agrees to do anything including signing and delivering any documents Tait reasonably requires to ensure Tait has a perfected security interest and (if applicable) a purchase money security interest in goods supplied by registering a financing statement on the PPS Register.
- 5.4. The parties agree that sections 125, 130 and 132(3) (d) and 132(4) of the PPSA and any other provision of the PPSA notified by Tait to the customer after the date of this agreement are excluded to the extent permitted by law. The customer waives its right under section 157 of the PPSA to receive any notice.
- 5.5. The customer shall supply Tait, within 2 business days of written request by Tait, with copies of all security interests registered over the customer's personal property, and the customer authorizes Tait to request information from any secured party relating to any security interest which is held in any personal property which is or has been in the control of the customer.
- 5.6. In this clause:
 - a) **financing statement** has the meaning given to it in the PPSA;
 - b) **PPS Register** means the register established under section 147 of the PPSA;
 - c) **PPSA** means the Personal Property Securities Act 2009 (Cth) and any regulations made at any time under that Act;
 - d) **security interest** has the meaning given to it in the PPSA.

6. SEPARABLE PARTS OF THE PROJECT:

Where the project can be broken up into separable parts then it is possible for these separable parts to be handed over to the customer on an individual basis. In this case once the customer takes possession of any part of the project then that part will be deemed to have commenced the warranty phase of the project. Notwithstanding the requirement for Tait to complete some finishing of works the separable part will be deemed to have reached final completion and payment will be required accordingly. Any additional work required to provide separate parts of the project, beyond that required for the contract, to meet a customer requirement will be to the customer's account.

7. SITE ACCESS:

- 7.1. All pricing for project work is based on ready access to the required project sites by Tait unless specifically detailed otherwise

in the contract documents. Unavailability of access to the sites will be reasonable grounds for Tait to both extend the contract completion timetable and recover any additional costs and expenses incurred.

- 7.2. If access to the required sites is not obtainable then the customer is responsible for any additional costs incurred in developing alternate sites including any subsequently necessary changes to project design.

8. INTERFERENCE:

While every effort will be made by Tait to minimise any radio interference experienced on a site any additional costs incurred by Tait in investigating and eliminating interference problems will be to the customer's account. This additional work could include coordination with the frequency allocation authority, on site work to discover the source of any interference etc. Any additional work carried out by Tait due to interference problems including reprogramming of radio equipment, provision of additional filtering, rearrangement of antennae etc will be to the customer's account.

9. LICENCES:

Where required by the contract Frequency Licences will be applied for by Tait. In this event any delays in obtaining the licences will be cause for the extension of the project completion date. In addition equipment delivery times will be quoted from allocation of the licences. Any additional costs incurred by Tait caused by the required frequencies not being available will be to the customer's account.

10. CUSTOMER INITIATED CHANGES:

Once a contract is awarded then any customer initiated changes are subject to quotation by Tait which may result in changes to both the cost of the project and completion time. Any such changes may not unduly effect the contracted payment terms and schedule.

11. CUSTOMER SPECIFIED EQUIPMENT:

Where the customer specifies certain items of equipment to be included in a project then the risk in this equipment remains with the customer and Tait offers no warranty in regard to this customer nominated third party equipment. Where the inclusion of this equipment impacts either the time to completions of the cost of the project, this will be to the customer's account and at customer's risk. Any training required, on customer specified third party equipment, by Tait in order to meet their project obligations will be to the customer's account.

12. SOFTWARE:

- 12.1. As to any software provided by Tait as a distributor or licensor to the customer, the customer agrees to be bound to the terms of the license as expressed herein regardless of whether the software is already installed on a Tait product, provided by a compact disk or downloaded from the Tait website. Use of the software constitutes your acceptance of these terms.
- 12.2. Software and the IPR in the goods shall at all times remain the exclusive property of Tait or its suppliers. All IPR arising under this Agreement including without limitation IPR arising from the supply of the goods, except to the extent that they comprise or incorporate IPR supplied by the customer, shall vest in and be owned by Tait or its suppliers absolutely, and the customer shall acquire no right, title or interest therein.
- 12.3. Third Party software and software in third party equipment may be subject to separate terms and restrictions and if so these shall be notified to the customer in writing or contained in any "box" or "on-screen" license supplied with such third party equipment (copies available on request), and the customer shall be obliged to comply with the same.
- 12.4. Subject to clause 12.2, in consideration for the customer paying the relevant fees hereunder Tait shall grant to, or procure the grant to, the customer of a worldwide, non-exclusive, non-assignable, non-transferable license to use the software (in executable form only) and the goods for the installation, configuration and use, for normal business purposes, of the software in connection with the Equipment to which it relates or for the purpose identified in, and subject to any restrictions contained in, the Order or user documentation (including without limitation restrictions on the numbers of users, channels or copies), and in accordance with the provisions of this clause 12.

- 12.5. The customer shall be entitled to grant a sub-license to any person installing, configuring or using the goods in the terms and subject to the conditions of the license granted to the customer under this clause 12.
- 12.6. If the software licensed or sub-licensed under the agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not in these terms. If there is a conflict between these terms and the terms and conditions of the any applicable Open Source Software Licenses, the terms and conditions of the Open Source Software Licenses will take precedence. For information about Open Source Components contained in goods and the related Open Source licenses, see: <http://support.taitradio.com/go/opensource>
- 12.7. The customer may make copies of any software for reasonable back-up purposes and, upon request, shall advise Tait of the location of any software and its back-up copies.
- 12.8. Subject to clause 12.7, the customer shall have no right to copy, adapt, reverse engineer, decompile, disassemble, lease, sell, assign, modify or create derivative works of any software in whole or in part except:
- as specifically permitted by law; or
 - with Tait's prior written consent. The restrictions in these license conditions are made for the benefit of Tait and its suppliers and may be enforced by such suppliers to the extent that they relate to any software and IPR supplied by such suppliers.
- 12.9. The license granted under clause 12.4 (and any sub-license granted under clause 12.5) shall be without limit of period but Tait may immediately terminate such license (and the right to continue any sub-licenses) to use the relevant software and/or goods by notice in writing to the customer if the customer or any sub-licensee breaches any terms of the license or sub-license (and such breach is incapable of remedy or is not remedied within a reasonable time of a request to do so), whereupon the customer shall, at Tait's direction, immediately return to Tait or destroy the software and any back-up copies (and procure that sub-licensees do the same) and certify in writing to Tait that this has been done.
- 12.10. The customer represents and warrants that it has the necessary rights or licences to provide any customer materials, information or system access to Tait as may be required under these terms and conditions.
- 12.11. The license terminates automatically without notice from Tait in the event that the customer fails to comply with the terms and conditions of these terms and conditions.
- 12.12. Software provided by Tait to the purchaser shall be provided subject to compliance with any licence agreement to be executed by the purchaser for non-exclusive use of the software.

13. CONTINGENCY SUM:

Where identified in the project pricing, the contingency sum will be used to provide the following where necessary – additional filtering to eliminate interference, additional work related to site access and any other factors that could not be reasonably foreseen prior to commencement of the works.

14. CONFIDENTIALITY:

The customer and its employees and agents shall maintain strict confidentiality and secrecy concerning Tait's business, products and property. In particular, the purchaser shall not divulge any confidential information to any person. All correspondence between Tait and the purchaser is deemed to be confidential.

15. WARRANTY:

- 15.1. Upon receipt, Equipment exhibiting defects in materials or workmanship may be returned by the customer to Tait for credit or replacement in accordance with the Tait returns policy for defective products then in effect. No claim for shortage, out-of-box failure, or damage in respect to Equipment delivered will be considered unless notice is received in writing by Tait within 7 days from the earlier of the date of receipt of the Equipment by the customer, or by a third party on the customer's behalf.

- 15.2. Tait provides an express limited warranty to the customer with respect to the Equipment. To the maximum extent permitted by law any and all implied warranties with respect to Equipment or parts sold by Tait including but not limited to implied warranties of merchantability, fitness for a particular purpose or non-infringement, are hereby excluded.
- 15.3. Tait warrants all parts of every new Tait brand Equipment to be free from defects in materials or workmanship, as hereinafter provided, for two years from the date of delivery excluding all accessories and batteries which are covered for one year.
- 15.4. Tait will, at its option, repair or replace any Equipment covered by this warranty, which becomes defective, malfunctions or otherwise fails to conform with this warranty under normal use and services during the term of this warranty, at no charge for parts or labour.
- 15.5. The customer acknowledges that any software supplied cannot be tested in every possible permutation and accordingly Tait does not warrant that software supplied will be free of all defects or that its use will be uninterrupted or error free or that software will interoperate with other software unless stated otherwise in the agreed product specification.
- 15.6. Any Equipment replaced shall become the property of Tait. In the event that it is not commercially feasible to dispatch repaired or replacement or substitute Equipment within a reasonable time (being not less than 30 business days from the defect being logged with the Service Desk and if applicable, receipt by Tait of the relevant Equipment), and Tait is unable to provide the customer with an alternative reasonably acceptable solution, Tait shall at the customer's request accept the return of the Equipment not useable in consequence of the warranted defect and refund to the customer that part of the price attributable to the same.
- 15.7. Tait shall not be liable for a breach of the warranty to the extent that:
- the defect arises and/or is exacerbated as a result of misuse, neglect (including without limitation failure to notify Tait of the failure within a reasonable time), alteration, mishandling, attempted repair, maintenance or unauthorized manipulation by any person other than Tait authorized personnel; or
 - the defect arises because the customer failed to follow Tait's instructions as to the storage, installation, use or maintenance of the Product or (if there are none) good trade practice; or
 - the customer alters or repairs such Equipment without the written consent of Tait; or
 - the serial number on Equipment has been defaced or removed.
- 15.8. Where Equipment is submitted for warranty services but are found to be ineligible for service, Tait may at its option, provide an estimated quotation for the repair which the customer may accept. The repair will be completed by Tait upon receipt of payment.
- 15.9. Repaired and replacement Equipment provided pursuant to the provisions of this clause shall have the benefit of a warranty in the terms of this clause for the remainder of the Warranty Period for the original Product or 3 months from provision of the repair or replacement, whichever is longer.
- 15.10. Subject to clause 11, for third party equipment, the customer shall only be entitled to such warranty or other benefit as Tait has received from the manufacturer or licensor and is able to pass on. Except as provided in this clause, no warranty (whether express, statutory or implied) is given to the customer by Tait or any licensor of Tait in respect of the whole or any part of a Third Party Equipment, and such suppliers and licensors disclaim all such warranties including without limitation any warranties of merchantability, non-infringement or fitness for a particular purpose.
- 15.11. Any work carried out by Tait at the customer's request which is not required to satisfy Tait's warranty obligations under this clause shall be charged as additional services. Tait shall be entitled to dispose of any Equipment that has been sent to Tait for repairs or upgrades which remain uncollected and in respect of which the customer has incurred charges that remain overdue for more than 60 days.
- 15.12. The Equipment is not designed, tested, manufactured or intended for operation or use in relation to any:
- on-line control of aircraft, air traffic, aircraft navigation or aircraft communications;
 - potentially explosive environments (unless intrinsically safe equipment is specifically ordered and supplied and used in accordance with the supplied instructions);
 - design, construction, operation or maintenance of any nuclear facility; or
 - any inherently dangerous, life-endangering or life-support applications. If the customer (or the customer's users) uses the Equipment for any such use, then such use is at the customer's (or the customer's user's) own risk without any recourse against or with respect to Tait and the customer shall indemnify and hold Tait and its third party licensors harmless from any claims for loss, cost, damage, expense or liability arising out of or in connection with any such use and performance.
- 16. COMMISSIONING:**
- Where the customer desires to be present at commissioning Tait will make reasonable efforts to meet any customer required schedule. However the customer will not impose unreasonable schedule requirements on Tait. Any rescheduling required due to the customer's inability to attend may result in additional cost to the customer's account.
- 17. HANDOVER:**
- Once goods supplied by Tait are in operation by the customer, or Tait advises of project completion (whichever is the earlier), the goods shall be deemed to be handed over to and accepted by the customer. Handover shall be the date at which the warranty period commences for any goods for which the warranty period has not already started and the date at which final completion invoices (if applicable) can be issued.
- 18. GOODS RETURNED FOR CREDIT:**
- Return of goods will not be accepted without prior consent.
 - All goods returned shall be in their original packaging and should not be soiled, obsolete or damaged.
 - A fee will be charged for goods returned that require refurbishment, fabrication or repackaging.
 - All credits are subject to Tait's standard administrative charge for returns.
- 19. WAIVER:**
- No forbearance or other indulgence granted to the purchaser shall in any way discharge the purchaser from any of the purchaser's obligations under this contract or otherwise affect any such obligation.
- 20. TRADE PRACTICES:**
- These Terms and Conditions of Sale shall not exclude, restrict or modify any right, remedy or warranty condition available to the purchaser pursuant to Trade Practices Act 1974 or similar State or Territory law notwithstanding express conditions to the contrary which may be contained herein.
- 21. SOLE AGREEMENT:**
- These terms and conditions of sale shall constitute the sole agreement between the parties to the total exclusion of all others except as agreed to by the parties in writing. All implied terms, conditions or warranties herein or in the business relationship between Tait and the purchaser shall be expressly voided and excluded, other than those implied by statute.
- 22. COMPLIANCE WITH TERMS AND CONDITIONS:**
- The purchaser shall ensure compliance with these terms and conditions by all of its principals, servants, agents and representatives.
- 23. RESPONSIBILITIES:**
- Tait shall not be responsible for any promises, conditions, warranties or representations made by its representatives, employees or agents unless provided by Tait in writing.

24. GOVERNING LAW AND RESOLUTION OF DISPUTES:

These terms and conditions and all matters governing the business relationship between Tait and the Purchaser shall be governed by the laws of the State of Queensland. The purchaser agrees with Tait to resolve any dispute relating to the supply of goods in the Central Division of the Brisbane Central Magistrates Court.

25. ASSIGNMENT:

Neither party may assign their rights or obligations applicable to these terms and conditions or the contract between the parties without the written consent of the other party. Such consent shall not be unreasonably withheld or delayed.

26. CLAIMS:

The purchaser is required to give Tait notice of shipment shortages or damage no later than 7 days after the date of receipt of the goods by the purchaser. Packing slip number(s) must be quoted with all complaints or returns. No goods are to be returned without prior written authorization and shipping instructions from Tait.

27. WEATHER:

While every effort will be made to arrange required site visits to correspond with reasonable weather it must be understood that weather is outside the control of Tait. As a consequence weather factors that prohibit required access to, or work on, site will be reasonable cause for extension in the time to complete the project.

28. FORCE MAJEURE:

Tait shall not be liable for delay in delivery, nor for any failure to perform this agreement, or for loss or damage to the goods directly or indirectly caused by any Act of God, fire, theft, riot, war, embargo, strikes, shortages of labour, delays in import, confiscation or other action of any government or any other occurrence (whether or not of a similar nature to those specified) beyond the control of Tait. Tait agrees to make and the purchaser agrees to accept delivery whenever such causes of delay have been remedied making delivery possible. Under no circumstances shall either party be liable for consequential damages.

29. SPECIFICATIONS:

Tait reserves the right to modify specifications of goods provided that the modification does not materially affect performance. Tait will use its best efforts to ensure that products are accurately described in company publications. However, no direct or consequential responsibility can be assumed by Tait as a result of any inaccuracy or error.

30. LIMITATION OF LIABILITY

30.1. The customer warrants that it has not relied on any representation made by Tait or upon any catalogs or publicity material produced by Tait which has not been stated expressly in these terms and conditions and no statement made or agreed to and no liability undertaken orally shall be binding upon Tait unless confirmed by Tait in writing.

30.2. UNLESS OTHERWISE PROVIDED BY APPLICABLE LAW, TAIT'S LIABILITY, IF ANY, FOR ANY ALLEGEDLY DEFECTIVE PRODUCT, PART OR SOFTWARE SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF THE PRODUCT, PART OR SOFTWARE, AT TAIT'S OPTION, AND THE LIABILITY OF TAIT, IF ANY, FOR DAMAGES RELATING TO DEFECTIVE PRODUCT, PART OR SOFTWARE SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE ITEM IN QUESTION.

30.3. Neither Party's liability for any of the following is excluded or limited by these terms:

- a) death or personal injury caused by that Party's negligence or the negligence of its employees agents or sub-contractors;
- b) fraud or other criminal act;
- c) fraudulent misrepresentation;
- d) breach of any confidentiality obligations; and
- e) for anything else in relation to which, under the law governing these terms, liability cannot be excluded or limited.

30.4. Subject to clause 30.3, neither Tait, nor any supplier or licensor of Tait, nor the customer shall be liable under or in relation to this Agreement (whether the liability arises for breach of contract,

negligence, under an indemnity, obligation to refund, under any other theory of law or for any other reason) for any:

- a) loss of profits;
- b) loss of turnover;
- c) loss of or damage to goodwill or reputation;
- d) loss of, or loss of the use of, any software or data;
- e) losses or liabilities in relation to any other contract; or
- f) indirect, special or consequential loss or damage. For the purposes of this clause the term "loss" includes a partial loss or reduction in value as well as a complete or total loss.

30.5. Subject to clauses 30.3 and 30.4, Tait's total liability in connection with these terms and conditions or any order subject to these terms and conditions (whether the liability arises from breach of contract, warranty, negligence, under an indemnity, obligation to refund, under any other theory of law or for any other reason) shall be limited to the direct damages recoverable under law but not to exceed the total amount paid or payable by the customer for the Equipment or services with respect to which the liability arises.

30.6. The customer agrees that it shall take reasonable precautions (relative to the importance to the customer of the Equipment concerned), including without limitation backing up software and data at reasonable intervals, implementing back-up systems or redundancy and maintaining suitable numbers of spare units at suitable locations (at a minimum to the Tait's recommended spares levels). Subject to clause 30.3, Tait shall have no liability for any losses suffered by the customer to the extent that the loss concerned would have been prevented by the taking of such reasonable precautions.

30.7. Notwithstanding anything in these terms Tait will not be liable for any claim for damages or losses malfunctions or failures caused by the following:

- a) The customer's failure to comply with reasonable directions of Tait with respect to operation of the Equipment;
- b) Computer programs not supplied by Tait;
- c) Modification, revision, variation, translation or alteration of the Equipment not authorised by Tait;
- d) Incorrect use of the Equipment;
- e) Incorrect or unreliable information supplied to Tait by the customer or persons under the control of the customer;
- f) Improper installation of the Equipment by the customer;
- g) Malicious or reckless abuse of Equipment by users.

31. INTRINSICALLY SAFE PRODUCT SALES:

31.1. If the contract is for the purchase of Intrinsically Safe (IS) Products (both IS radios and IS accessories) the following terms shall apply:

- a) Tait Intrinsically Safe portable radios are certified to the standards and ratings specified in the relevant IS Certificate as held by the Certification Body;
- b) The customer confirms that the IS rating of the ordered IS Product is appropriate for the conditions of use required by the customer. The customer further confirms that the functional requirements for the IS Products have been agreed with Tait and are as set out in the specification, statement of work or other agreed requirements document. Where no specification, statement of work or agreed requirements are specified then the customer acknowledges that the standard Tait product specification applies;
- c) It is a condition of use of a Tait IS radio that the radio is only used with compatible IS accessories. Compatible IS accessories must:
 - (i) comply with Tait interface entity parameters; and
 - (ii) be certified to the applicable IS rating. An Intrinsically Safe Product must be serviced in accordance with Tait repair policy and at Tait authorised facilities in order to maintain its IS rating;
- d) Tait shall not be held liable for any loss or damage resulting from the incorrect use or servicing of Intrinsically Safe Products;

- e) If the customer is acquiring the IS Product under this contract for resale and is not the end user, the customer shall maintain accurate records of all Tait IS product sales made including product serial numbers and end user details. In the event that Tait identifies a safety critical defect the customer shall make such information available to Tait immediately upon request.

32. LOCATION BASED SERVICES:

To provide location-based services on Tait products, Tait may collect and use precise location data, including real-time geographic location of your Tait device. This location data is collected anonymously in a form that does not personally identify you and is used by Tait to provide and improve location-based products and services.