



**Access Sailing Systems**

## **TERMS & CONDITIONS OF TRADING**

In these Terms and Conditions of Business the following expressions shall have the following meanings:

“the Company” shall mean Access Sailing Systems Pty Ltd

“Customer” shall mean the other party to a contract for goods or services supplied by the Company

“Goods” shall mean the goods or services supplied by the Company to the customer

“Contract” means the contract for the supply if the Goods formed by the Company’s acceptance of the Customer’s order.

“Carrier” Means any person, firm or company engaged by the Buyer or the Company under a contract for the carriage of the Products.

### **1. GENERAL**

**1.1** Any variation of these terms and conditions in any document of the customer is inapplicable unless accepted in writing by the Company.

**1.2** All orders are accepted subject to these Conditions. No terms or conditions put forward by the Customer or contained in any order form shall be binding on the Company.

### **2. PRICES**

**2.1** Any price quoted by the Company or appearing on any literature published by the Company is subject to variation without notice. Prices payable are ex factory and are those charged by the Company at date of despatch. Prices are subject to packing and carriage charges at extra cost.

**2.2** Prices are exclusive of all taxes and duties which shall be solely for the Customer’s account.

**2.3** When the Company gives an estimate or indication of price for work to be carried out by the Company, it will exercise skill and judgement in doing so. Such estimates are subject to accuracy of information provided by the Customer and are usually based only on a superficial examination and will not include the cost of any additional repairs or work found necessary. The company will inform the Customer promptly of any proposed increase in estimated prices and the reasons therefore and will only proceed with the approval of the Customer.

### **3. PAYMENT**

**3.1** Unless otherwise agreed in writing the price of all work, goods and services shall be due immediately upon invoice.

### **4. DELIVERY & CONSEQUENTIAL DAMAGE**

**4.1** While the Company will do its utmost to adhere to any time stated for delivery, it shall not be liable for any loss or damage howsoever caused, by any delay in delivery, completion, or performance of any contract. Any time stated for delivery shall not be a term of any contract or representation.

**4.2** In the event of the Company being unable to supply or deliver goods ordered it undertakes to refund any money paid in respect of such good, but shall not otherwise be under any liability whatsoever. The Company shall not in any event be liable for consequential damage or loss.

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## **5. DESIGN & SPECIFICATION**

**5.1** All drawings, photographs, illustrations, performance data, dimensions, weights and other technical information specifications and particulars of the Goods are published by the Company in the belief that they are as accurate as reasonably possible but are not to be treated as being or as forming part of the Contract. It is the responsibility of the Customer to ensure the accuracy of all such materials and information and the Company accepts no liability in this respect.

## **6. RESERVATION OF TITLE**

**6.1** The Company shall retain title to the Goods until it has received payment in full of all sums due in connection with the supply of the Goods to the Customer or in connection with any other transaction. For these purposes the Company has only received a payment when the amount of that payment is irrevocably credited to its bank account.

## **7. WARRANTY**

**7.1** The Company warrants to the Customer that the Goods will be free from defects in materials and workmanship for a period of twelve months from the date of delivery to the Customer (the "warranty period"). Provided the Customer makes a full inspection of the Goods immediately upon receipt and thereafter gives the Company written notice containing full particulars of any defects it discovers and the circumstances in which such defects occurred, the Company shall, at its sole option, either repair, replace or give credit for price of any such Goods which its examination confirms are defective in material or in workmanship within the warranty period provided that the Customer has adhered to the payment provisions herein and further provided that:

**a).** The Customer returns the defective Goods to the Company or its authorised service depot (as directed by the Company) and pays all transportation charges, duties and taxes associated with the repair, replacement and return of the Goods to the Customer, or:

**b).** If, at the Company's option, the Company arranges for a technician to visit the Customer's location to repair or replace the defective Goods, the Customer pays all transportation charges for the technician and his equipment, including any applicable duties and taxes, accommodation and living expenses and normal charges for the technician's time while travelling and for delays beyond the Company's control (save that the Customer shall not be liable for any charge in respect of the technician's time on site actually engaged in carrying out the repair or replacement of such defective Goods).

**7.2** The repair or replacement of defective Goods during the warranty period in accordance with clause 7.1 shall not extend the period of the warranty of such Goods.

**7.3** The provisions of clause 7.1 do not extend to any Goods which have been subjected to misuse, accident or improper installation, maintenance, application or operation nor do they extend to Goods which have been repaired or altered other than by the agents or employees of the Company unless previously authorised in writing by the Company.

**7.4** The warranty contained in clause 7 is expressly accepted by the Customer in lieu of any and all other terms, warranties conditions or liabilities whether express or implied, in fact or in law, relating to the state, quality description, capacity, design, construction, operation, use or performance of the Goods or to the merchantability, repair, or fitness for a particular purpose of the Goods or otherwise. No agreement varying or extending the same will be binding upon the Company unless in writing signed by a director of the Company.

**7.5** Unless a director of the Company shall otherwise expressly agree in writing, in no circumstances will the Company's liability to the Customer for any breach of the warranty contained in clause 7 exceed the price paid for the products with respect to any claim made.

## **8. LIMITATION OF LIABILITY**

**8.1** Save as expressly provided in clause 7 the Company shall have no liability whatsoever to the Customer for any indirect, special, consequential or incidental loss or damage of any kind suffered or incurred by the Customer howsoever caused or arising, whether from breach or non-performance of any of its obligations under the Contract or from the supply, installation, performance, operations or use of the Goods, except liability for death or personal injury arising from the Company's proven negligence.

## **9.1 NOTICES**

**9.1** Notices to a Customer shall be deemed to have been sufficiently served if sent by post to the Customer's last known address. Notices to the Company should be sent to its principle trading address.

## **10. LAW OF CONTRACT**

**10.1** Any Contract entered into by the Company shall be governed by the laws of Australia.