



TERMS AND CONDITIONS OF SALE

PNEUVIBE PTY LTD
58 De Havilland Road,
Mordialloc, VIC 3195
(03) 9580 9501

INTERPRETATION:

"Agreement" means this agreement for the provision of Goods and/or Services by Pnevibe Pty Ltd to the Customer.

"Customer" means a person, firm or corporation obtaining the Goods and / or Services.

"Warranty" has the meaning set out in the Warranty Conditions listed below.

"Intellectual Property" means all copyright, patents, trademarks, names, formulae, specifications, confidential information and all modifications, improvements and enhancements (whether registrable or not) owned by Pnevibe in relation to the Goods and/or Services.

"Goods" means the goods specified in Pnevibe's order form, or otherwise ordered from Pnevibe by the Customer.

"GST" means any consumption tax imposed, whether at point of supply or at another specified occurrence, including Goods and Services Tax, and any other applicable taxes.

"Pnevibe" refers to Pnevibe Pty Ltd, ABN: 23 710 359 760, ACN: 661479910 and its contractors, successors and assigns. "Normal Warranty" is defined in the below Warranty Conditions.

"Services" means the services provided by Pnevibe at the request of the Customer in relation to the Goods.

"Specified Distributor Account" means Pnevibe's banking transaction account: BSB 063-149, account number: 1057 4144, for the purpose of receiving payments for any Pnevibe goods and / or services.

"Terms" means these Terms and Conditions of Sale as amended by Pnevibe at timely intervals.

BASIS OF AGREEMENT:

Unless otherwise agreed upon by Pnevibe in written form, the Terms apply exclusively to every Agreement with the Customer and cannot be varied or superseded by any other terms or conditions (including the Customer's terms and conditions of purchase).

Any descriptions, illustrations and performance specifications of the Goods in the quotation, brochures, price lists and other advertising material does not form part of this Agreement.

PRICING:

Any pricing quoted by Pnevibe to the Customer for the Goods and /or Services is valid for 30 days and is subject to the Customer entering into Agreement and accepting these Terms.

Orders placed by the Customer are an offer, as Pnevibe may at their discretion, decline acceptance of any offer from the Customer. An order will be accepted once Pnevibe either communicates acceptance



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to the Customer in writing via electronic means or when Pnevibe has provided the Goods and/or Services.

Please note that prices quoted are exclusive of GST, shipping / transport / delivery costs, insurance and finally, another other duty or impost. It is the Customer's responsibility to pay, in addition to the price, any of these additional costs incurred by Pnevibe as previously detailed in connection with the Goods.

Where there is any change in the costs incurred by Pnevibe in relation to the Goods and/or Services, Pnevibe may, at their discretion, increase their price for the Goods on order to take into account of any such changes.

Note, the Customer must pay for all bank fees and charges associated with the payment of Pnevibe's invoices.

PAYMENT:

Payment for the Goods must be made in full prior to delivery or collection or ordered items.

If credit terms are provided by Pnevibe, payment must be made in full within the terms specified to your account (e.g. within 7 days from invoice, or from 30 days from the end of the month from date of invoice), as per you're the terms listed on your invoice.

Payments are not deemed made until funds have cleared to Pnevibe. A remittance copy is not considered as payment made.

Pnevibe may refuse, cancel or change any credit account terms to the Customer at any time. Consistent delayed payments from the Customer to Pnevibe will result in a revision of the Customer's terms, which Pnevibe at their discretion, may cancel or change at any given time.

If the Customer orders the Goods and/or Services in excess of the credit limit previously approved, or if Pnevibe otherwise advises, Pnevibe may require: that the customer pay a part up front payment for the goods in advance, with the remaining amount applied to their maximum credit limit for that month.

All payments must be made to the Specified Distributor Account

Please note, any variation to these payment terms as detailed above will not be valid unless expressly agreed in writing and signed by Pnevibe.

For any custom or non-standard works a deposit payment or full payment may be asked for up front before the works are started.

PAYMENT DEFAULT:

If the Customer defaults payment by more than 14 days past the due date of any amount payable to Pnevibe or their credit is cancelled by Pnevibe for any reason, then all monies which are on account



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and that would be payable by the Customer to Pnevibe, will become due immediately and be payable without the requirement of any notice to the Customer, and Pnevibe may, without prejudice to any other remedy available to it:- (a) charge the Customer compounding interest on any sum due from the due date until the date of payment in full along with charging the Customer a late payment administration fee of \$155 + GST per invoice.

Pnevibe will also, at their discretion, charge the Customer for all expenses and costs (including any legal costs, debt collection and disbursements on an indemnity basis) incurred by it resulting from the default and in taking whatever action it deems appropriate to recover any sum due.

Pnevibe also maintains their rights to cease or suspend for such a period that Pnevibe sees fit, to supply any further Goods and / or Services to the customer.

Pnevibe may also provide notice in writing to the Customer, to terminate any agreement with the Customer so far as unperformed by Pnevibe for any future orders which have not yet been commenced, without effect on accrued rights of Pnevibe under any agreement

Please note, the above terms may also be applied at Pnevibe's discretion, in the following circumstances:

Where the Customer is an individual who becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally.

Or, Where the Customer is a corporation who enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer. In both these above circumstances, the conditions laid out in this section will be applied, and all monies owing, including any legal fees will be paid to Pnevibe.

PASSING OF PROPERTY:

Until full payment is cleared and funds are received by Pnevibe for all Goods supplied to the Customer, as well as all other amounts owing to Pnevibe by the Customer:

(a) Title and property in all Goods remain the property of Pnevibe and do not pass to the Customer.

(b) The Customer grants and Pnevibe may register on the Personal Property Securities Register, a security interest in all and any sale of Goods under this Agreement, including but not limited to intellectual property and all other present or after-acquired property.

(c) The Customer warrants that all purchases under this Agreement are for commercial purposes only.

(d) The Customer waives its right to receive a copy of any Financing Statement or any Financing Change Statement registered by Pnevibe in respect of the security interest created by these terms and conditions.



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(e) The Customer agrees to execute any documents, provide all relevant information and to co-operate fully with Pnevibe, in order to ensure that Pnevibe has a perfected security interest in the personal property charged.

(f) The Customer agrees to notify Pnevibe of any change in the Customer's structure or management including any sale or disposition of any part of the business of the Customer, any change in directorships, shareholders or management or change in partnership or trusteeship 7 days prior to any such change taking effect.

(g) The Customer agrees that, until all monies owing to Pnevibe are paid in full, it shall not sell or grant any other Security Interest in the Goods and it shall maintain the Goods in the labelling and packaging of Pnevibe, unless otherwise agreed.

(h) The Customer agrees to reimburse Pnevibe for all costs and/or expenses incurred or payable by Pnevibe in relation to registering, maintaining or releasing any financing statement or any other document in respect of any security interest under this Agreement.

(i) Pnevibe may, without notice, enter any premises where it suspects the Goods may be and remove them, notwithstanding that they may have been attached to other goods not the property of Pnevibe and for this purpose the Customer irrevocably licenses Pnevibe to enter such premises and also indemnifies Pnevibe from and against all costs, claims, demands or actions by any party arising from such action.

RISK AND INSURANCE:

The risk in the Goods and all insurance responsibilities for theft, damage or otherwise in relation to the Goods will pass directly and immediately to the Customer upon acceptance of an order from the Customer by Pnevibe

The Customer will assume all risk and liability for loss, damage or injury to persons or to property of the Customer or third parties, arising out of the use or possession of any of the Goods.

If any Goods remain on Pnevibe's premises or with a carrier due to the failure by the Customer to take delivery, the Goods shall remain at the Customer's risk from the date and time of invoice (or, if being transported by a registered carrier company, from the date of arranged collection from Pnevibe). At their discretion, Pnevibe may also charge the Customer for additional expenses incurred for storage and handling of the Goods, including a weekly storage fee of \$15.00 + GST. If marine insurance is covered by Pnevibe, any transport damage claim must be made within 72 hours from acceptance of delivery.

PERFORMANCE OF CONTRACT AND DELIVERY:



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Pneuvibe will, at their discretion, arrange for the delivery of the Goods to the Customer and will designate the route and means of transportation unless otherwise agreed.

If collection and delivery of the Goods from Pneuvibe to the Customer is arranged by the Customer, then the Customer agrees to take full responsibility for the transportation, costs and logistics from the date agreed, or the freight arranged.

Pneuvibe will deliver the Goods to the Customer at the address specified in the order form or as otherwise agreed. If arranging transport on behalf of a Customer, to be billed to their account, then the customer will be responsible for the goods from the original collection date.

Note that any date for delivery of the Goods or provision of the Services stated by Pneuvibe is provided as an estimate only and is not a contractual commitment. Pneuvibe will use its best reasonable endeavours to meet any estimated dates for delivery of the Goods and / or completion of Services. Pneuvibe maintains their rights for delivery and completion dates to vary or change as necessary.

Claims for shortages will not be considered, unless Kaeser is given written notice of the claim within seven (7) days from the date of receipt of the Goods by the Customer along with photographic evidence sent electronically to Pneuvibe detailing the shortage from the time when goods were received and being unpacked.

The Customer irrevocably indemnifies Pneuvibe against any and all loss or damage suffered by Pneuvibe as a result of delivery, except in the case where this has been caused by negligence on Pneuvibe's behalf.

INTELLECTUAL PROPERTY:

The Customer acknowledges that it has no proprietary right or interest in the Intellectual Property. Furthermore, the Customer must not register or record or make any attempts to do so, anywhere in the world the Intellectual Property or any part thereof or any patents, inventions, trademarks or designs derived from or similar to the Intellectual Property or aid or abet anyone else in doing so.

The Customer is not permitted at any time, to create, sell, manufacture or process any products using or taking advantage of the Intellectual Property. Any Intellectual Property provided to the Customer by Pneuvibe that is in correlation with the Goods and / or Services remains Pneuvibe's exclusive property and must be returned to Pneuvibe immediately in request, shall not be copied or communicated to any third party without clear prior written consent of Pneuvibe.

LIABILITY & WARRANTIES

Replacement or repair of Goods or reprovision of the Services at Pneuvibe's discretion is the absolute limit of Pneuvibe's liability arising under or in connection with the description, quality, condition, performance, assembly, manufacture, design, merchantability or fitness for purpose of the Goods or



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Services or alternatively the sale, use of, storage or any other dealings with the Goods or Services by the Customer or any third party.

Pneuvibe is not liable for any indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party.

The Customer irrevocably indemnifies Pneuvibe against any claim by any third party arising out of or any way connected with the Goods or Services.

Pneuvibe will not be liable for any loss or damage suffered by the Customer where Pneuvibe has failed to meet any delivery date or cancels or suspends the supply of the Goods or the Services.

Except as expressly provided in these Terms or Pneuvibe's Warranty Conditions, all warranties, conditions and guarantees implied by law as to merchantability, description, quality, suitability or fitness of the Goods for any purpose or as to design, assembly, installation, materials, workmanship or otherwise are hereby expressly excluded.

Pneuvibe shall not be liable to the Customer in respect of any reasonable variation between any sample and the Goods actually supplied to the Customer.

Any performance or output figures supplied in respect of the Goods are estimates.

Nothing in these Terms is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of Goods or the provision of Services which cannot be excluded, restricted or modified.

Unless expressly provided on Pneuvibe's order form, or otherwise expressly agreed in writing by Pneuvibe, the Normal Warranty is the only warranty given to the Customer, and the terms of that warranty form part of this Agreement.

Warranty shall not cover claims where: (a) the Customer fails to give written notice of the claim to Pneuvibe within seven (7) days of the claim arising, or having done so, fails to return the Goods to Pneuvibe within a further fourteen (14) days together with a detailed written defect statement; (b) the Goods have been subjected to abnormal conditions, whether of temperature, humidity, pressure, stress or similar; (c) the Goods have not been used in accordance with Pneuvibe's instructions, recommendations or specifications or have been misused, abused, neglected, improperly installed, stored or maintained or have been involved in an accident; (d) the Goods have been affected by corrosion, erosion or normal wear and tear; (e) parts and accessories used in connection with the Goods have not been manufactured or approved by Pneuvibe; (f) unauthorised repairs or alterations have been made to the Goods; or (g) the Goods are damaged due to any power surge or other fault in the supply of electricity.

If on an inspection of the Goods, Pneuvibe determines that the Goods are not covered by the Normal Warranty or the Extended Warranty then Pneuvibe's usual charges for service work and testing will apply.



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Goods covered by the Normal Warranty or the Extended Warranty must be returned to Pnevibe (and subsequently re-delivered) at the Customer's risk and cost. 1

For warranty to be valid the Purchaser must complete and return the Pnevibe Warranty Registration Card.

All new capital equipment manufactured by Pnevibe and sold directly by Pnevibe is covered by a 12 month warranty period. Warranty is conditional upon:

(a) equipment installation commissioned and approved by Pnevibe personnel or personnel authorized by Pnevibe

(b) equipment maintained and serviced according to the guidelines found in the equipment's operating instructions manual;

(c) equipment maintained and serviced by Pnevibe personnel or personnel authorized by Pnevibe.

10.14 Genuine spare parts manufactured by Pnevibe and sold by Pnevibe directly, are covered by a 3 month limited warranty. The Normal Warranty conditions apply.

Pnevibe reserves the right to inspect the defective parts prior to warranty.

Pnevibe's liability is limited to defects arising from faulty workmanship and/or materials occurring in conditions for which the product is designed and providing that the product has been used and maintained according to operating and servicing instructions.

The entire scope of Pnevibe's obligations and liabilities after the commissioning of the equipment and regarding the same is set forth in this warranty. Pnevibe shall in no case be subject to any other liabilities with respect to products manufactured by Pnevibe, or any acts or omissions relating to. Under no circumstances shall Pnevibe be liable for any special, indirect, incidental or consequential damages, expenses, losses or delays, howsoever caused.

RETURNS

Pnevibe will not maintain liability for any defects, shortages, damage or non-compliance with the Agreement except in the following circumstances: The Customer notifies Pnevibe with full details within seven (7) days of delivery, specifying the shortage or defect including the provision of electronic photographs to describe the shortage or defect at time of delivery and while goods are being unpacked,



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and Pnevibe is given an opportunity to inspect the Goods and investigate the complaint before any further dealing and outcome reached.

If the Customer fails to give notice in accordance with the above terms, then the Customer is deemed to have accepted the Goods and the Services and as such will be required to pay for them in full. Pnevibe must first grant a written acceptance to the Customer before the return/exchange of any Goods as above.

In any circumstances where Pnevibe accepts any claim for defects, shortages, damage or non-compliance with this Agreement, Pnevibe may at their, option replace the Goods or refund the price of the Goods or the Services.

Any Goods that the Customer wishes to return for 'change of mind' must be in their original condition and packaging and will incur a minimum re-stocking fee of 15% of the purchase price. Costs for transportation and damage will be borne by the Customer. Such returns must be initiated within seven (7) days of delivery and received to Pnevibe within fourteen 14 days.

Pnevibe will not under any circumstances accept any Goods for return that are not in their original condition and packaging or that have been altered in any way, or have not been handled, stored or installed in accordance with Pnevibe instructions and recommendations.

Goods made to order, or any goods with customizations made to Pnevibe's original products will not be accepted for return / exchange .

CANCELLATION:

If, through circumstances beyond Pnevibe's control, Pnevibe is unable to deliver or provide the Goods and / or Services, then Pnevibe may cancel the Customer's order (even if it has already been accepted prior in writing) by notice in writing to the Customer.

No alleged cancellation or suspension of any partial of full order by the Customer is binding to Pnevibe after that order has been accepted by Pnevibe and the Customer agrees to compensate Pnevibe for any loss or damage arising from the cancellation. Pnevibe at their discretion will charge a minimum fee of 5% of retail list price for cancellation of any orders – the purpose of which is to cover administration costs. Additional fees for non-stock items may also be incurred.

PRIVACY:

Pnevibe has adopted the Australian Privacy Principles (APPs) contained in the Privacy Act 1988 (Cth) (the Privacy Act). Pnevibe's Privacy Policy is amended at appropriate times, and Pnevibe takes steps to ensure that all personal information obtained in connection with the Customer will be appropriately collected, stored, used, disclosed, transferred and destroyed in accordance with the National Privacy Principles. Pnevibe requires that all Customers are to comply with the National Privacy Principles in connection with any personal information supplied to them by Pnevibe, which is also in connection with any agreement between the Customer and Pnevibe.



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Pneuvibe's Privacy Policy in full can be found on their website at pneuvibe.com.au

FORCE MAJEURE:

Pneuvibe will not hold liability for any breach of the Agreement if to the extent that fulfilment of a term or condition has been prevented, impeded, or delayed by force majeure (see below). In such an event, the time for fulfilment of such a term will be extended for a period that is reasonable considering all the circumstances.

"Force majeure" refers to any event or circumstances beyond Pneuvibe's immediate control, including without prejudice to the generality of the foregoing, strikes, fires, explosions, lock-outs, trade disputes, injunction, accident to plant or machinery, shortage of any material, riots, act of terrorism, civil commotion, war national or international, interruption of transport, inability to obtain supplies, emergency, destruction or damage due to natural forces, fire, flood, explosion, and compliance with orders or requests of any national or local authority, or any other events not listed here.

MISCELLANEOUS:

The Terms and Conditions listed in this document, are governed by the laws of Victoria and the parties agree to the nonexclusive jurisdiction of the courts and tribunals of Victoria, the Federal Court of Australia, and of courts entitled to hear appeals from those courts and tribunals.

Failure by Pneuvibe to enforce any of its rights under these listed Terms and Conditions on any occasion or in any circumstances, shall not be construed as a waiver of its rights.

If any term or condition is unenforceable it must be read down so as to be enforceable, or if it cannot be read down, the term or condition may be removed from these Terms without affecting the enforceability of the remaining Terms.