

COSMED Asia-Pacific Pty Ltd

TERMS AND CONDITIONS OF TRADE

COSMED ASIA-PACIFIC PTY LTD ABN 57 164 890 555 ("COSMED Asia-Pacific ") offers to sell goods on the following terms and conditions ("Conditions")

1. INTERPRETATION

1.1. In these Conditions:

- 1.1.1. "Purchaser" means the purchaser of the Goods.
- 1.1.2. "Goods" means any goods and services supplied by COSMED Asia-Pacific.
- 1.1.3. "Warranty Period" means the warranty period for the goods being in accordance with the manufacturer's warranty period.
- 1.1.4. Nothing in these Conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding or modifying any condition, warranty, guarantee, right or remedy implied by law (Including the Competition and Consumer Act 2010) and which by law cannot be excluded, restricted or modified.

2. GENERAL

- 2.1. The Goods and all other products and services sold and/or provided by COSMED Asia-Pacific are sold on these Conditions
- 2.2. These Conditions (which may only be waived or amended in writing and signed by COSMED Asia-Pacific) shall to the extent of any inconsistency prevail over all and any conditions of the Purchaser's order.
- 2.3. Data Protection. You agree and understand that it is necessary for COSMED Asia-Pacific to collect process and use your data in order to process sales, perform service and confirm compliance with applicable laws. COSMED Asia-Pacific will protect your information in accordance with the Privacy Act 1988
- 2.4. The repair of goods may result in loss of the data. Any sensible data must be saved prior to shipping goods in for repair/service check. COSMED accepts no liability for the loss of data resulting from a service check, software/hardware upgrade, installation of new modules on existing systems or any other intervention.
- 2.5. Complete Agreement; Force Majeure. This Agreement governs service transactions accepted by COSMED Asia-Pacific. No other oral or written terms or conditions apply. COSMED Asia-Pacific does not authorize any variance or modification of this Agreement. COSMED Asia-Pacific is not responsible for any failures or delays in performing service or delivering your product or a replacement product that are due to events outside COSMED Asia-Pacific's reasonable control.

3. QUOTATIONS

- 3.1. Unless previously withdrawn, a quotation from COSMED Asia-Pacific is open for acceptance within the period stated on the quotation or, where no period is stated, within thirty (30) days after the date shown on the quotation. A quotation does not constitute an offer to sell and/or provide Goods but is an invitation to treat only. COSMED Asia-Pacific reserves the right to refuse any order based on its quotation within seven (7) days after the receipt of a Purchaser's order. A contract shall be formed between COSMED Asia-Pacific and a Purchaser on the acceptance by COSMED Asia-Pacific of a Purchaser's order and not otherwise.

4. PRICES

- 4.1. All prices quoted are exclusive of all taxes, insurance and transport which shall be the sole responsibility of the Purchaser, unless otherwise agreed in writing.

4.2. prices for Goods will be charged at:

4.2.1. the price stated by COSMED Asia-Pacific on a non-expired quotation; or

4.2.2. where there is no quotation, the pricing ruling at the date of dispatch.

5. ACCEPTANCE

5.1. You have requested the Goods and Services and accept this Agreement by:

5.1.1. signing and returning this Agreement;

5.1.2. sending a Purchase Order or an email accepting this Agreement (expressly or impliedly); or

5.1.3. instructing us to proceed with the Goods and Services or

5.1.4. making any payment of the Price (including any deposit).

5.2. Please read this Agreement carefully and contact us if you have any questions.

6. DELIVERY

7. The Goods shall be deemed to be delivered to the Purchaser at the time the Goods arrive at the Purchaser's premises. COSMED Asia-Pacific may arrange for transport of the Goods to a destination nominated by the Purchaser and the cost of such transport shall be added to the price of those Goods.

8. Goods are at the Purchaser's risk from the time of delivery. The Purchaser shall be responsible for arranging any insurance over the Goods after delivery.

9. COSMED Asia-Pacific shall not be liable for any loss occasioned by delay in delivery of and/or the procuring of Goods, whether consequential or otherwise.

10. Any disputes as to the Proof of Delivery shall be made within seven (7) days of delivery.

11. PAYMENT

11.1. COSMED Asia-Pacific's terms of payment are thirty (30) days from the date of the relevant invoice, unless otherwise stated on such invoice. COSMED Asia-Pacific reserves the right to require payment with the order or satisfactory evidence of the ability of the Purchaser to pay for the Goods ordered by the Purchaser.

11.2. Credit cards are accepted but surcharges apply.

12. TRANSFER OF PROPERTY

12.1. Property in Goods

12.1.1. Property in the Goods remains with COSMED Asia-Pacific until all monies owing to COSMED Asia-Pacific on any account have been paid or title in the property is vested in some other person by operation of law.

13. WARRANTIES

13.1. COSMED Asia-Pacific warrants all Goods sold by it will be free of defective workmanship and materials.

13.2. COSMED Asia-Pacific Goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Purchaser is entitled to a replacement or refund for a major failure. The Purchaser is also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.

- 13.3. COSMED Asia-Pacific will, at its option either repair or replace any defective Goods or parts thereof with a new or remanufactured equivalent during the Warranty Period at no charge to the Purchaser for parts or labour during the Warranty Period.
- 13.4. The warranty described herein shall be the sole and exclusive warranties granted by COSMED Asia-Pacific and shall be the sole and exclusive remedy available to the Purchaser in addition to the rights and remedies of the Purchaser under a law in relation to the Goods to which this warranty relates.
- 13.5. All implied warranties including the warranties of merchantability and fitness are limited to the Warranty Period.
- 13.6. No other person or entity is authorised to make any warranties other than those described herein, or to extend the duration of any warranties beyond the Warranty Period on behalf of COSMED Asia-Pacific.
- 13.7. Correction of defects, in a manner and for the Warranty Period described herein, shall constitute complete fulfilment of all liabilities and responsibilities of COSMED Asia-Pacific to the Purchaser with respect to the Goods and shall constitute full satisfaction of all claims, whether based on contract, negligence and strict liability otherwise. In no event shall COSMED Asia-Pacific be liable, or in any way responsible, for any damages or defects in the Goods which were caused by repairs or attempted repairs performed by anyone other than COSMED Asia-Pacific or an authorised service provider.
- 13.8. This warranty does not apply to any appearance of the supplied Goods nor to any supplied Goods the exterior to which has been damaged or defaced, which has been subjected to misuse, abnormal service or handling, or which has been modified or altered in design or construction. In addition, the warranty coverage does not apply to defects caused by the supplied Goods being subjected to the following; unauthorised modifications or connections, unauthorised opening or repair, repair by use of unauthorised parts, accident, force majeure, or other acts beyond the reasonable control of COSMED Asia-Pacific.
- 13.9. This warranty does not cover death or injury to persons resulting from any cause other than proven negligence of COSMED Asia-Pacific, its employees or representatives.
- 13.10. In order to enforce the rights under this warranty, the Purchaser must provide proof of purchase to COSMED Asia-Pacific. The proof of purchase must state the date of the purchase, provide a description of the Goods and the price paid for the Goods.
- 13.11. A claim made by a Purchaser should be made in writing to COSMED Asia-Pacific along with the proof of purchase. The costs of transportation of the Goods will be borne by the Purchaser. If the claim is valid COSMED Asia-Pacific will reimburse the Purchaser for the costs.

14. EXCLUSION OF LIABILITY

- 14.1. COSMED Asia-Pacific' liability for breach of a condition or warranty implied by operation of the Competition and Consumer Act 2010 is hereby limited to:
- 14.1.1. in the case of Goods, any one the following:
 - 14.1.1.2. the replacement of Goods or the supply of equivalent goods;
 - 14.1.1.3. the repair of Goods;
 - 14.1.1.4. the payment of the cost of replacing Goods or of acquiring equivalent goods;
 - 14.1.1.5. the payment of the cost of having the goods repaired;
 - 14.1.1.6. in the case of services
 - 14.1.1.7. the supplying of the services again; or
 - 14.1.1.8. the payment of the cost of having the services supplied again.
 - 14.1.9. Except as otherwise herein provided, COSMED Asia-Pacific shall not be liable or in any way responsible for incidental or consequential, economic or property damage, except where COSMED Asia-Pacific is in breach of the guarantees provided to the Purchaser in accordance with Schedule Two of the Competition and Consumer Act 2010 (Cth), or applicable legislation from time to time PROVIDED ALWAYS that nothing in this clause or elsewhere in these Conditions shall adversely affect the rights of the Purchaser under relevant legislation.

15. LEGISLATION

15.1. These Conditions are governed by the Personal Property Securities Act 2009 (Cth) and Competition and Consumer Act 2010 (Cth) ("Acts"), as amended from time to time. Any capitalised words, used in these Conditions, but not defined herein shall take on the meaning of such defined words in the Acts and if not defined in the Acts, then its ordinary meaning.

16. SEVERANCE

16.1. If any of these Conditions are held by a Court of competent jurisdiction to be invalid or otherwise unenforceable, that provision may be, at the sole discretion of COSMED Asia-Pacific, severed from the Conditions and the remainder of these Conditions will continue to be effective and valid notwithstanding such severance.

17. GOVERNING LAW

17.1.1. These Conditions are governed by and shall be construed in accordance with the laws of New South Wales.