

Terms and Conditions of Acceptance of Order and Sale of New Equipment

Standard Terms & Conditions of Australian Aesthetic Devices Pty Ltd ABN 97167565344

1. Australian Aesthetic Devices Pty. Ltd. (“Australian Aesthetic Devices”) is the distributor of:
 - (a) high quality new Radio Frequency, laser, pulsed light and LED systems;
 - (b) other high technology equipment and consumables for the Aesthetic (TEM) Trans Electro Magnetic Industry; and
 - (c) parts, disposable accessories and support gear, (the “Products”)for use in medical, cosmetic and beauty therapy; which products are sourced by Australian Aesthetic Devices from the Manufacturers (referred to as the “Suppliers”).
2. The Purchaser whose details are set out in the invoice, agrees and consents that in purchasing the Products it acknowledges that it purchases the Products from Australian Aesthetic Devices however the Purchaser may rely, to the extent as permitted by law, on its rights as against the Suppliers. Nothing in this agreement should be read as a warranty or representation by Australian Aesthetic Devices in relation to the Products, their suitability or fitness for purpose or any other matter whatsoever.
3. Australian Aesthetic Devices is neither a manufacturer nor electronic nor mechanical expert and does not accept responsibility for the workmanship of the Supplier, nor suitability for use of the Products in any circumstance whatsoever.
4. Australian Aesthetic Devices will at the Purchaser’s request and at Australian Aesthetic Devices’s cost, in the case of new Products engage international shippers and couriers, and customs agents, when arranging for the delivery of the Products to you. Australian Aesthetic Devices is not responsible to the Purchaser for any delay associated with the delivery of the Products.
5. The Purchaser acknowledges that before selecting and ordering the Products for purchase, it has properly considered and studied:
 - (a) the Product Supplier’s and or manufacturer’s web site,
 - (b) any publicly available information available on a search of the Supplier and or the Product on line, as well as;
 - (c) any other material requested from or provided by Australian Aesthetic Devices,and the Purchaser has made a fully informed choice and decision as to the fitness and suitability of the equipment for its own purposes of use.
6. Unless, contracted as urgent, and with additional payments for urgent service, Australian Aesthetic Devices will use its best efforts to arrange for the Products to be delivered to the purchaser within the normal working cycle of the manufacturing firm or supplier.
7. The Purchaser acknowledges to Australian Aesthetic Devices that if the Products are incorrectly unpacked, and or assembled at the designated site for use, and/or not used carefully, and or not maintained and serviced in accordance with the Supplier’s specifications and manuals, they may be dangerous to people, animals and or property. Accordingly it is a strict condition of this sale, that the purchaser will only access, use and operate the equipment as follows:
 - a) Australian Aesthetic Devices or an agent approved by Australian Aesthetic Devices will unpack, assemble, test and commission the equipment prior to use.
 - b) Australian Aesthetic Devices will offer technical training for a reasonable number of properly qualified users and operators nominated by the purchaser. Thereafter further training or training of new users and operators will be at the Purchaser’s expense.
 - c) For this purpose a “**properly trained user(s) and operator (s)**” is a person certified in writing by Australian Aesthetic Devices or the Supplier as a properly trained user or operator; who has the necessary academic, professional and trade qualifications as required to properly understand the manufacturer’s requirements needed to safely use and operate the equipment, which user and or operator maintains his or her skills as a user and operator in an up to date manner by regularly reading and updated themselves with the Manufacturer’s and Supplier’s bulletins as well as relevant health services and Australian Standards web sites and bulletin boards. It is the purchaser’s and not Australian Aesthetic Devices responsibility to ensure each user and operator nominated by the purchaser is properly qualified.
 - d) All products must at all times be used and operated by properly trained users and operators and it is the Purchaser’s obligation to ensure that the qualifications and training of its properly trained and qualified users and operators is maintained. The purchaser agrees that it is a term of its purchase that all users and operators are properly qualified and trained in the use of the Products, and will also maintain proper continuous update of education and training program for such users and operators.

- e) The users and operators of equipment will only use and operate the equipment in strict compliance with manufacturer's or health service requirements, whichever is the more onerous. In addition, the users and operators, will exercise a standard of care in treatment of patients with full knowledge that any failure to comply may result in damage and or harm and if the user and operator as a fully qualified and properly trained person has any suspicions that harm or damage may occur, treatment will immediately cease and expert medical opinion sought.
 - f) The Purchaser will undertake and maintain a strict and thorough maintenance and service program in regards to the Products.
 - g) The Purchaser shall ensure that the machine is used in accordance with its manufacturer's instructions and detailed instructions for use.
 - h) The Purchaser agrees to indemnify Australian Aesthetic Devices and hold it harmless from any damage or loss caused by the Products being used in any way other than in accordance with those standard operating instructions or otherwise in breach of any of the purchaser's commitments and undertakings in these terms and conditions or specified with the purchaser elsewhere.
 - i) The Purchaser assumes full responsibility for ensuring the site available for installation is suitable for installation of the goods sold and in particular has proper electricity installment and wiring and shall not make any claim in the event the site is unsuitable for such installation. The purchaser undertakes to provide an electricity surge protection device to prevent damage to products supplied.
 - j) The Purchaser undertakes to ensure at all times that the products and/or equipment supplied are not in any way misrepresented to patients or members of staff and that no claims are made which cannot be reasonably fulfilled.
 - k) The Purchaser warrants that all operators of the equipment and venues in which the equipment will be operated are either licensed and trained as required by law and comply with all relevant State Legislation as to the use of the premises, and/or full and properly trained to use the equipment.
8. Australian Aesthetic Devices as the Supplier's distributor supplies to the purchaser only the Products listed on the invoice and not other equipment, parts accessories or services. The purchaser acknowledges that any other equipment, part, accessories or service will be at an additional cost to the purchaser, and unless otherwise negotiated in advance, at Australian Aesthetic Devices standard list price.
9. Subject to clause 10 and to the extent permitted by the Australian Consumer Law and relevant State legislation, the sole obligation of Australian Aesthetic Devices under this agreement is to use its best endeavours to provide the Products or to repair the products or repair or replace (at Australian Aesthetic Devices absolute discretion) any part of a product which is found to be defective during the warranty period of 12 months from the date of delivery of the Products and in no event shall Australian Aesthetic Devices be liable to any staff, employee, agent, contractor, patient and customer, or to any other person whosoever for any other claims or damages including, but not limited to, claims for faulty design, negligent or misleading advice, loss or injury or economic or consequential loss or injury arising from loss or use or misuse of the products, and any indirect, special or consequential damages or injury to any person, corporation or other entity.
10. If any products supplied pursuant to this agreement are supplied to the customer as a consumer' of goods or services within the meaning of that term in the *Australian Consumer Law* as amended or relevant state legislation the consumer will have the benefit of certain non-excludable rights and remedies in respect of the products or services and nothing in these terms and conditions excludes or restricts or modifies any condition, warranty, right or remedy which pursuant to the Australian Consumer Law or similar legislation is so conferred. However, if the product is a product not ordinarily acquired for personal, domestic or household use or consumption, pursuant to s 64A of the Australian Consumer Law and similar provisions of relevant state legislation then Australian Aesthetic Devices limits its liability to payment of an amount equal to the lowest of:
- (1) the cost of replacing the goods or supplying equivalent goods;
 - (2) the cost of repair of the goods;
 - (3) the cost of having the goods repaired or replaced.
11. Subject to clause 10, Australian Aesthetic Devices is not be liable for default or failure in performance of its obligations pursuant to this agreement resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, the elements, strikes, labour disputes, shortage of suitable parts, components, materials including ink, chemicals and paper, labour or transportation or any other cause beyond its reasonable control.
12. Subject to clause 10 Australian Aesthetic Devices is not responsible for any loss caused by an error or defect in the Products supplied by any person.

13. The purchase price for the Products together with any applicable GST and any other taxes, shipping, insurance, customs and government charges is payable to Australian Aesthetic Devices in full prior to delivery of the Products. The Purchaser has no right of set-off or cross demand for any matter whatsoever and howsoever calculated against Australian Aesthetic Devices. Until payment is received in full, the purchaser acknowledges and agrees that no title or right to ownership in the Products passes to the purchaser.
14. The Purchaser acknowledges that Australian Aesthetic Devices retains title to the Products until the Products have been paid for in full. This right permits Australian Aesthetic Devices to register its interest under the *Personal Property Securities Act 2009 (Cth)* and the Purchaser acknowledges and consent to such registration.
15. In the event that payment in full is not received by Australian Aesthetic Devices in full by the date on which the Products is delivered to the Purchaser or such other due date, the Purchaser hereby provides Australian Aesthetic Devices with irrevocable authority to repossess the Products and an absolute right of entry to the place where the Products are held, and at Australian Aesthetic Devices absolute discretion, acknowledges Australian Aesthetic Devices may resell the Products and, keep the proceeds and claim any loss including the costs of recovery storage preservation sales and interest from the purchaser. In the event the customer is late in payment, as a separate entitlement Australian Aesthetic Devices is entitled to interest on the balance outstanding at 2% above the current rate prescribed under the Penalty Interest Rate in Victoria
16. The agreement for the supply of the goods is governed by the Law of the Commonwealth of Australia and construed in accordance with the laws in force in the State of Victoria and each party submits to the non-exclusive jurisdiction of the courts of that State.