
HANDS ON WORKSHOP – SALES TERMS AND CONDITIONS

This Agreement is between Nicole Andrea McCarthy trading as Hands on Workshop HOW ABN 50 351 706 364, its successors and assignees, (referred to as “**we**”, “**us**” or “**our**”), and you the person, organisation or entity that purchases products or related services from us (referred to as “**you**” or “**your**”), and collectively the Parties. The Terms apply to all sales made by us to you. The Terms are available at www.handsonworkshop.com.au (**Site**).

These Terms form the agreement under which we will supply products and related services to you. Please read the Terms carefully. Please contact us if you have any questions, before you purchase products or related services from us.

You accept our Terms by making a purchase from us. Your purchase from us indicates that you have had sufficient opportunity to access the Terms and contact us, that you have read, accepted and will comply with the Terms, and that you are eighteen (18) years or older, or have the consent of a legal guardian who is eighteen (18) years or older. You must not order products or services from us if you are under eighteen (18) years of age or do not have the consent of a legal guardian who is eighteen (18) years or older. If you do not agree to the Terms, do not purchase from us.

Our Terms of Use set out terms and conditions for using our Site. Our Privacy Policy sets out how we collect, use and protect your personal information. These are available on our Site.

1. Products and Orders:

- (a) You may order from us as set out on the Site. We may at our discretion accept or reject an order depending on factors including availability of products and our ability to validate payment for the products.
- (b) It is your responsibility to check the order details, including product and pricing, before you complete your order on our Site.
- (c) We will provide you with order details, which may include an order number, the shipping and billing addresses and a description of what was ordered, when you order and pay on our Site and your payment has been validated.
- (d) A binding agreement comes into existence between you and us, once we have given you an order number. No changes to the Terms will be effective unless we both agree to the changes in writing.
- (e) You can cancel your order at any time prior to acceptance of the delivery. If the product has already been shipped then you must pay for the costs incurred including return shipping and re-stocking. We will inform you of these costs.

2. Price and Payments:

- (a) You agree to pay the purchase price specified on the Site at the time that you place your order for the purchase of a product, plus any applicable delivery and insurance charges based on the delivery options selected by you. All amounts are stated in Australian dollars. All purchase prices include Australian GST (where applicable). Delivery and any insurance charges will be separately shown.
- (b) You must pay for the product by credit card, direct transfer, PayPal or any other method as set out on our Site. Your payment will be processed upon receipt of your order. You must not pay, or attempt to pay, for an order through any fraudulent or unlawful means. If your payment is not able to be successfully processed then your order may be cancelled.

3. Availability and Cancellation:

- (a) All purchases made with us are subject to availability. We do our best to keep in stock most products that are advertised by us, and to keep our Site up to date with availability of products.
- (b) If there is a considerable delay in dispatching your order, or if for any reason, we cannot supply a product you have ordered, we will contact you using the contact details provided

by you when you placed the order. You can choose a refund, store credit, or to put your order on backorder as agreed with you. If you choose a refund or store credit, any delivery costs you have paid for the product will be refunded to you. If you choose to put your order on backorder, we will contact you to arrange for delivery once the product is available.

- (c) If certain products are out of stock or discontinued, we may from time to time substitute a product with another product of similar appearance, value and size. In the event we are required to substitute a product, we will contact you and obtain your permission to substitute the item.

4. **Delivery:**

- (a) **Location:** We deliver worldwide using AustraliaPost and other delivery service providers (**Delivery Service Providers**). We do not deliver to any locations which are not serviced by our Delivery Service Providers. Please refer to delivery information on our Site, to check that you are in our delivery area. If you are not in our delivery area please contact us to discuss delivery options.
- (b) **Cost:** Delivery fees will apply, as set out on the Site.
- (c) **Timing:** We will normally dispatch the product within 5 business days of the receipt of your order, unless otherwise noted on the Site. Any delivery periods displayed on the Site are estimates only, based on the information provided by the delivery company. We will deliver the product to the place of delivery you specify when making your order.
- (d) **Change:** If you need to change a delivery date or the delivery address, please contact us as soon as possible to see if this is possible. If you are not available to take delivery on the agreed delivery date, you may be charged a delivery fee for each additional attempt for delivery.
- (e) **Method:** We may deliver the products via a range of delivery methods. Depending on the delivery method that you choose, a signature may be required. If neither you nor your authorised representative is at the delivery address to take delivery, you will be notified, generally by the delivery company leaving a card with contact details so that you can arrange another delivery time and date.
- (f) **Title:** Title in the products will not pass to you until the later of delivery or your payment has been processed or otherwise received by us. If your payment is declined for any reason we reserve the right to reclaim the products from your possession, custody or control even if they have been delivered to you or moved from the delivery address. We reserve the right to keep or sell the products. Risk of loss, damage or deterioration to any products will pass to you on delivery.

5. **Discount Codes and Promotions:**

We may from time to time offer promotional discount codes, which may be applicable to products on the Site, and must be entered at the time of submitting your order. The conditions of use relating to any discount code will be specified at the time that it is issued.

6. **Intellectual Property**

- (a) Intellectual Property includes but is not limited to:
- i. all present and future rights to intellectual property including inventions and improvements, trade marks (whether registered or common law trade marks), patents, designs, copyright, any corresponding property rights under the laws of any jurisdiction;
 - ii. all rights in respect of an invention, discovery, trade secret, secret process, know-how, concept, idea, information, process, data, formula or work product; and
 - iii. all work product developed in whole or in part by us.
- (b) We own all Intellectual Property rights in our Site, business, products and branding, as between us and you. The products contain material which is owned by or licensed to us and is protected by Australian and international laws (**Materials**). We own the copyright which subsists in all creative and literary works incorporated into our Materials.

7. Dispute

- (a) Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about our products, please contact us. If there is a dispute between the Parties in relation to these Terms, the Parties agree to the following dispute resolution procedure:
 - i. The complainant must tell the respondent in writing, the nature of the dispute, what outcome the complainant wants and what action the complainant thinks will settle the dispute. The Parties agree to meet in good faith to seek to resolve the dispute by agreement between them (**Initial Meeting**).
 - ii. If the Parties cannot agree how to resolve the dispute at the Initial Meeting, any Party may refer the matter to a mediator. If the parties cannot agree on who the mediator should be, the complainant will ask the Law Society of New South Wales to appoint a mediator. The mediator will decide the time and place for mediation. The Parties must attend the mediation in good faith, to seek to resolve the dispute.
- (b) Any attempts made by the Parties to resolve a dispute pursuant to this clause are without prejudice to other rights or entitlements of the Parties under these Terms, by law or in equity.

8. Consumer Law, Return, Refund and Exchange Policy

- (a) **ACL:** Certain legislation including the Australian Consumer Law (**ACL**) in the Consumer and Competition Act 2010 (Cth), and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of products or services to you by us via the Site which cannot be excluded, restricted or modified. Our liability is governed solely by the ACL and these Terms.
- (b) **Products:** If you are a consumer as defined in the ACL, the following notice applies to you: "Our goods come with warranties and guarantees that cannot be excluded under the Australian Consumer Law (**Consumer Guarantees**). You are entitled to a replacement or a refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are 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
- (c) **Warranties:** To the extent permitted by law, we exclude all express and implied warranties, and all material and work is provided to you without warranties of any kind, either express or implied. We expressly disclaim all warranties including but not limited to implied warranties of merchantability and fitness for a particular purpose.
- (d) **Manufacturer:** The product may come with a manufacturer's warranty. The manufacturer's warranty is in addition to but may overlap with any rights and remedies you may have under applicable law, including any Consumer Guarantees. If you are not considered a "consumer" within the meaning of the ACL, the manufacturer's warranty may be your sole remedy. You should check the manufacturer's warranty, as many manufacturers' warranties do not apply in a business or commercial setting. Please contact the manufacturer if you would like to make a claim under the manufacturer's warranty.
- (e) **Repair, replacement or a refund:** If you wish to seek repair, replacement or a refund for a product, please contact us and we will explain the requirements to you. This may include you providing evidence of the faulty product to us.
- (f) **Exchange or refund:** If you are entitled to an exchange or refund, we will only give you the exchange or refund once evidence of faulty product is received by us, or we have received the product at our warehouse and inspected it and assessed whether it is eligible for a refund under the Terms. Any exchange will be for a product of the same value. Any refund we make will be by the same payment method used to purchase the product.
- (g) **Installed:** Subject to this clause, we will not accept for exchange or return any product that has been used, connected, installed, attempted to be connected or installed, or if your product is custom-made or is a special buy product.

- (h) **Packaging:** You must adequately package any product you are seeking to exchange or return to ensure that it is not damaged during return delivery to our warehouse.
- (i) **Duty of care:** You have a duty of care for the product while it is in your possession. If you damage products, then subsequently return the products, you may be liable to pay to repair the product to its original condition. In these circumstances, where a repair is not economically viable, no refund will be made.
- (j) **Faulty products:** If a product is returned to our warehouse and is found to be faulty, we will, at our discretion, reimburse you for reasonable costs incurred for the return of the product to our warehouse.

9. **Limitation of Liability and Disclaimers:**

- (a) While the information and material contained on the Site is believed to be accurate and current, it is provided by us in good faith on an "as is" basis, and we and our directors, officers, employees and agents accept no responsibility for and make no representations or warranties to you or to any other person as to the reliability, accuracy or completeness of the information contained on the Site.
- (b) To the extent permitted by law, we exclude all express or implied representations, conditions, guarantees and terms relating to the products and services, the Site and this agreement, except those set out in this agreement, including but not limited to:
 - i. implied or express guarantees, representations or conditions of any kind, which are not stated in these Terms; the Site or the products being unavailable; and
 - ii. any loss, damage, costs including legal costs, or expense whether direct, indirect, incidental, special, consequential and/or incidental, including loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation, use or any indirect, remote, abnormal or unforeseeable loss, or any loss or damage relating to business interruption, loss of programs or other data on your information systems or costs of replacement products, or otherwise, suffered by you or claims made against you, arising out of or in connection with the Site, inability to access or use the Site, the products, the services, the late supply of products, or the Terms, even if we were expressly advised of the likelihood of such loss or damage.
- (c) **Limitation:** Our total liability arising out of or in connection with the products, the services or the Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the total price paid by you for the purchase of products under the Terms.
- (d) **Disclaimer:** You are responsible for following the instructions relating to the use of our products. We accept no responsibility for any loss or damage which may occur to you or your property that arises, either directly or indirectly, from your use of our products and/or failure to follow instructions as provided on our products.
- (e) **Age Recommendation:** We recommend our products and services to children 8 years and older. It is the responsibility of the parental adult supervisor to ascertain the suitability of our products and services for their children. Some products contain small parts and are not suitable for children under 3 years and may pose a choking hazard. We recommend the provision of adult supervision when children are using our products and services. In the event of any loss, injury, damage or death to a person incurred in connection with the use of our products and services, we accept no liability where it results from non-compliance with any stated recommendations in this clause including age recommendations, observation of choking hazard warning, parental or adult supervision, and the use of reasonable parental adult discretion in determining the overall suitability for children of any of our products or services.
- (f) This clause will survive termination of these Terms.

10. **Amendment:** These Terms may be amended from time to time, without prior notice. Your purchase from us following any such amendments will be deemed to be confirmation that you accept those

amendments. We recommend that you check the current Terms, before purchase. Our agents, employees and third parties do not have authority to change the Terms.

11. **Indemnity:** You indemnify us from and against all claims, suits, demands, actions, liabilities, costs and expenses (including legal costs and expenses on a full indemnity basis) resulting from your breach of the Terms. You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of our products including but not limited to disputes, complaints, investigations or litigation that arises out of or relates to incorrect information you have given us. The obligations under this clause will survive termination of these Terms.
12. **General:**
 - (a) **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth) and any other applicable legislation or privacy guidelines
 - (b) **Accuracy:** While we endeavour to keep the information up to date and correct, we make no representations, warranties or guarantee, express or implied, about the completeness, accuracy, reliability, suitability or availability of any information, images, products, services, or related graphics contained on the Site for any particular purpose. You hereby acknowledge that such information and materials may contain mistakes, inaccuracies or errors and we expressly exclude any liability for such to the fullest extent permissible by law
 - (c) **Termination:** We reserve the right to refuse supply of the products ordered by you, terminate your account, terminate our contract with you, and remove or edit content on our Site at our sole discretion, without incurring any liability to you.
 - (d) **GST:** If and when applicable, GST payable on our Services will be set out on our Invoices. By accepting these Terms you agree to pay us an amount equivalent to the GST imposed on these charges.
 - (e) **Relationship of parties:** The Terms are not intended to create a relationship between the parties of partnership, joint venture, or employer-employee.
 - (f) **Force Majeure:** We will not be liable for any delay or failure to perform our obligations under the Terms if such delay is due to any circumstance beyond our reasonable control. If we are delayed from performing our obligations due to such a circumstance for a period of at least 2 months, we may terminate our agreement with you by giving you 5 business days' notice in writing.
 - (g) **Notice:** Any notice in connection with the Terms will be deemed to have been duly given when made in writing and delivered or sent by email, facsimile or post to the party to whom such notice is intended to be given or to such other address, email address or facsimile number as may from time to time be notified in writing to the other party.
 - (h) **Waiver:** Any failure by a party to insist upon strict performance by the other of any provision in the Terms will not be taken to be a waiver of any existing or future rights in relation to the provision. No waiver by us of any of the Terms shall be effective unless we expressly state it is a waiver and we communicate to you in writing.
 - (i) **Assignment:** You must not assign any rights and obligations under the Terms whether in whole or in part without our prior written consent.
 - (j) **Severability:** If any of the Terms are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.
 - (k) **Jurisdiction and Applicable Law:** Your use of this Site and any dispute arising out of your use of it is subject to the laws of New South Wales and the Commonwealth of Australia. These Terms are governed by the laws of New South Wales and the Commonwealth of Australia and subject to the exclusive jurisdiction of the courts operating in New South Wales. The Site

may be accessed throughout Australia and overseas. We make no representation that the Site complies with the laws (including intellectual property laws) of any country outside Australia. If you access the Site from outside Australia, you do so at your own risk and are responsible for complying with the laws in the place where you access the Site.

- (l) **Entire Agreement:** These Terms and any document expressly referred to in them represent the entire agreement between you and us and supersede any prior agreement, understanding or arrangement between you and us, whether oral or in writing.

For any questions or notice, please contact us at:

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