

## HABITUAL EQUIPMENT TERMS OF SALE

### 1. APPLICATION OF TERMS

- (1) If You do not accept these Terms, You must refrain from using the Website and from placing an order for any Goods through the Website.
- (2) Subject to law:
  - (a) each offer or request made by You to Habitual Equipment for the sale or supply of any Goods shall be deemed to be made subject to these Terms; and
  - (b) each sale or supply of Goods by Habitual Equipment to You shall be deemed to be made in accordance with these Terms, despite any contrary provision in any offer or request made by You to Habitual Equipment, or otherwise.
- (3) Please read these Terms carefully before using the Website or placing an order for Goods through the Website.
- (4) If You use the Website or undertake any activities through the Website, including the placing an order for, or purchasing, any Goods through the Website, You will be deemed to have read, understood and accepted these Terms.

### 2. DEFINITIONS AND INTERPRETATION

- (1) Unless the context otherwise requires:
  - (a) references to a party to these Terms includes the executors, administrators, successors and permitted assigns of that party;
  - (b) references to any statute, ordinance or other law includes all regulations and other instruments thereunder and all consolidations, amendments, re-enactments or replacements thereof;
  - (c) words importing the singular include the plural and vice versa;
  - (d) words importing a gender include other genders and references to a person must be construed as references to an individual, firm, body corporate, association (whether incorporated or not), government and governmental, semi-governmental and local authority or agency;
  - (e) where any word or phrase is given a defined meaning in these Terms, any other part of speech or other grammatical form in respect of such word or phrase has a corresponding meaning;
  - (f) headings included in these Terms are for convenience only and must be disregarded in the construction of these Terms;
  - (g) a reference to a clause, schedule or annexure is a reference to a clause of, or schedule or annexure to these Terms;
  - (h) a reference to an agreement or document (including to this agreement) is to the agreement or document as amended, supplemented, novated or replaced;
  - (i) a reference to a person includes a firm, body corporate, association, trust, partnership, government or governmental body or other legal entity.

- (j) where a word or phrase is defined in these Terms, other grammatical forms of that word or phrase have a corresponding meaning;
  - (k) neither these Terms nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting or because a party relies on these Terms or any part of it to protect itself;
  - (l) a reference to time is to Sydney time;
  - (m) a reference to a body, whether statutory or not, which ceases to exist or whose powers or functions are transferred to another body is a reference to the body that replaces it or that substantially succeeds that body;
  - (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
  - (o) any right, entitlement, benefit, agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
  - (p) a reference to dollars or \$ is to an amount in Australian currency unless denominated otherwise;
  - (q) a reference after the words "include" or "for example" or similar expressions does not limit what else is included; and
  - (r) if the day on which an action must be done under this agreement is not a Business Day, it must be done on or by the next Business Day.
- (2) In these Terms:

**"Account"** means a personal account created by You on the Website;

**"Business Day"** means a day other than a Saturday, Sunday or public holiday in New South Wales;

**Business Hours** means the hours from 9.00am to 5.00pm on a Business Day;

**"CC Act"** means the *Competition and Consumer Act 2010* (Cth), including the Australian Consumer Law contained in Schedule 2 thereof;

**"CC Act Implied Term"** means, in respect of any sale or supply of Goods by Habitual Equipment to You, any term, condition, consumer guarantee or warranty, for the benefit of You, implied by or arising under the CC Act in relation to that sale or supply of those Goods, or otherwise implied by any similar written or unwritten law of any State or Territory of Australia;

**"Claims"** includes actions, suits, causes of action, arbitration, debts, dues, costs, claims, demands, interest, verdicts and judgments at law or in equity or arising under the provisions of statute;

**"Delivery Charge"** means the advertised delivery charge applicable to the delivery of a particular Good or Goods, as displayed in your shopping cart at the time of placing an order for Goods through the Website;

**"Deposit"** means in respect of Goods agreed to be sold or supplied by Habitual Equipment to You, the deposit payable by You to Habitual Equipment for those Goods inclusive of GST, as shown on the Website as amended by Habitual Equipment from time to time, or in your shopping cart at the time of Your placing of an order for Goods through the Website;

**"Estimated Delivery Date"** means the estimated delivery date in respect of Goods subject to an order made by You, as displayed on the Website or in your shopping cart at the time of Your placing of an order for Goods through the Website or as notified to You by Habitual Equipment after the time of Your placing of an order for Goods through the Website;

**"Force Majeure Event"** means events or occurrences beyond the control of Habitual Equipment including:

- (a) war, terrorism, resolution, insurrection, riot or invasion;
- (b) interference by civil or military authorities;
- (c) earthquake, aircraft damage, fire, cyclones, lighting, winds or other acts of God;
- (d) compliance with Government laws, rules or regulations, delays in transit;
- (e) airport closure, airline strikes or airline industrial problems, tourist restrictions, pandemic, or any act of any government or government agency that materially affects the cost or grounding of types of aircraft used to transport goods;

**"Goods"** means the products provided by Habitual Equipment, the subject of an order placed by You with Habitual Equipment through the Website;

**"GST"** means the tax imposed or sought to be imposed by the GST Acts;

**"GST Acts"** means *A New Tax System (Goods and Services Tax) Act 1999* and related imposition Acts of the Commonwealth;

**"Habitual Equipment"** means Habitual Equipment Pty Limited A.C.N. 640 491 710;

**"Indirect or Consequential Loss"** includes lost revenues, lost profits, lost business, lost goodwill or anticipated savings, incidental, indirect, consequential, special, economic or punitive damages whether arising from or in connection with any breach of contract, negligence or any other cause of action in connection with or relating to these Terms or any sale or supply of Goods by Habitual Equipment to You;

**"Nominated Address"** has the meaning given in clause 10(1);

**"Price"** means, in respect of Goods agreed to be sold or supplied by Habitual Equipment to You, the price payable by You to Habitual Equipment for those Goods inclusive of GST, as shown on the Website as amended by Habitual Equipment from time to time or in your shopping cart at the time of Your placing of an order for Goods through the Website;

**"Privacy Act"** means the *Privacy Act 1988 (Cth)*, including as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)*;

**"Privacy Policy"** means any privacy policy of Habitual Equipment from time to time, available on the Website and forming part of these Terms;

**"Terms"** means these terms and conditions, being terms and conditions for the sale of Goods;

**"Website"** means the website accessible through the domain name [www.habitualequipment.com.au](http://www.habitualequipment.com.au);

**"You"** means the individual or entity using the Website or purchasing Goods through the Website.

### 3. ORDERS FOR GOODS

- (1) To place an order for Goods, You must set up an Account in accordance with:

- (a) these Terms; and
  - (b) any relevant instructions on the Website.
- (2) An order for Goods submitted by You is an offer by You to purchase the Goods for the Price plus a Delivery Charge. Habitual Equipment may accept or reject your offer in its absolute discretion.
  - (3) An order for Goods is deemed to be accepted by Habitual Equipment once the payment of the amounts referred to in clause 4(1) for that order have been received in cleared funds by Habitual Equipment within the time period specified in clause 4(1).
  - (4) Subject to clause 7, each order for Goods that You place will, if accepted by Habitual Equipment, be a separate and binding agreement between You and Habitual Equipment with respect to the supply of the relevant Goods, in accordance with these Terms.
  - (5) You cannot place an order for someone else.
  - (6) You warrant to Habitual Equipment that all information provided by You when placing an order for Goods is complete, true and accurate.
  - (7) Except to the extent otherwise required by law (including, without limitation, the CC Act), Habitual Equipment will not be liable to You, or any other person, for any loss, damage, cost or expense suffered directly or indirectly as a result of the information contained in your order for Goods being incomplete or inaccurate, whether in contract, negligence or any other tort, equity, restitution, strict liability, under statute or otherwise.
  - (8) Images of Goods on the Website are illustrative only and may vary from the Goods described or offered for sale.

#### **4. PRICES AND PAYMENT**

- (1) With each order of the Goods made by You to Habitual Equipment, You must pay either of the following amounts immediately after placing the order for the Goods (**Order**):
  - (a) the Price in respect of the Order current on the date of the Order plus the Delivery Charge; or
  - (b) the Deposit in respect of the Order current on the date of the Order plus the Delivery Charge.
- (2) Upon receipt of your payment by Habitual Equipment, Habitual Equipment will promptly issue you with a tax invoice containing the following information:
  - (a) the details of your Order; and
  - (b) the receipt by Habitual Equipment of your payment of the amount referred to in clause 4(1).
- (3) Where You pay the Deposit in respect of an Order, You must pay the balance of the Price for that Order to Habitual Equipment immediately upon Habitual Equipment notifying You that the Goods the subject of the Order have arrived at a warehouse used by Habitual Equipment in Australia
- (4) The amounts referred to in clauses 4(1) and 4(3) must be paid to Habitual Equipment using any payment method indicated on the Website or such other payment method acceptable to required by Habitual Equipment.
- (5) Where You place separate orders for Goods, the Goods may be delivered separately and a separate Delivery Charge will apply to each order.

- (6) All Prices, charges (including the Delivery Charge), fees or other amounts payable by You to Habitual Equipment in accordance any Order or invoice shall be calculated by including an amount for GST.
- (7) All Prices on the Website are in Australian dollars.

## **5. YOUR ACCOUNT**

- (1) To set up an Account:
  - (a) You must be at least eighteen (18) years of age; and
  - (b) You must have a valid credit card account or other account acceptable to Habitual Equipment in the absolute discretion of Habitual Equipment;
  - (c) You must be a resident of Australia; and
  - (d) You must be located in Australia at the time of setting up the Account.
- (2) You are not permitted to set up an Account on behalf of another person.
- (3) You can only place an order for goods from Habitual Equipment from within Australia.
- (4) You warrant to Habitual Equipment that all information provided by You in the set up of, and in relation to, your Account is complete, true and accurate.
- (5) If You become aware of any actual or potential unauthorised use of access of your password or your Account, You must notify Habitual Equipment immediately.
- (6) Except to the extent otherwise required by law (including, without limitation, the CC Act), Habitual Equipment will not be liable to You, or any other person, for any loss, damage, cost or expense suffered as a direct or indirect result of:
  - (a) your Account information being incomplete or inaccurate; or
  - (b) any unauthorised use of your password or Account which takes place before You notify Habitual Equipment of such use,whether in contract, negligence or any other tort, equity, restitution, strict liability, under statute or otherwise.
- (7) If Habitual Equipment suffers any loss, damage, cost or expense as a result of any unauthorised use of your password or Account which takes place before You notify Habitual Equipment of such use then You must pay Habitual Equipment the amount of that loss, damage, cost or expense upon demand by Habitual Equipment.

## **6. DELIVERY**

- (1) You agree and acknowledge that:
  - (a) the Estimated Delivery Date has been calculated on an approximate basis;
  - (b) Habitual Equipment does not guarantee the delivery of the Goods by Habitual Equipment by the Estimated Delivery Date;
  - (c) except to the extent expressly set out in these Terms or otherwise required by law (including, without limitation, the CC Act), neither Habitual Equipment nor any of its agents will be liable to You, or any other person, for any loss, damage, cost or expense suffered as a direct or indirect result of any delay in delivery of the Goods to You by the Estimated Delivery Date, whether in contract, negligence or any other tort, equity, restitution, strict liability, under statute or otherwise.

- (2) Habitual Equipment will endeavour to inform You of any changes to the Estimated Delivery Date.
- (3) No time of the essence transaction will be considered by Habitual Equipment unless agreed in writing by Habitual Equipment.
- (4) Goods will only be delivered to addresses within Australia. Habitual Equipment will not deliver to PO Boxes in Australia where possible based on the size of the Goods.
- (5) Following despatch of your Goods, Habitual Equipment will email You with confirmation of despatch.
- (6) On delivery You may be required to sign a proof of delivery document. If You are not available to take delivery, your Goods will be taken to a local depot or post office and a calling card containing the relevant contact details will be left at the delivery address. You will need to make your own arrangements to collect any Goods left at the local depot or post office.
- (7) If You require Goods that You have ordered to be re-directed to an address which is not the original address noted in your order for Goods, Habitual Equipment may charge You a reasonable additional delivery fee for re-directing the delivery of the Goods.
- (8) Without limiting clauses 6(1) to 6(7) above, Habitual Equipment will not be in default of these Terms by reason of any delay should such delay be caused by a Force Majeure Event.

## **7. CANCELLATION OF ORDERS**

- (1) Habitual Equipment reserves the right to cancel, at any time before delivery and for any reason whatsoever, an order for Goods that it has previously accepted. Habitual Equipment may do this for example, but without limitation, where:
  - (a) Habitual Equipment's suppliers are unable to supply Goods that they have previously promised to supply in accordance with the requirements of Habitual Equipment;
  - (b) a Force Majeure Event means that Habitual Equipment is unable to supply the Goods;
  - (c) Goods ordered were subject to an error on the Website, for example, in relation to a description, price or image, which was not discovered prior to the order for Goods being accepted;
  - (d) You ask Habitual Equipment to cancel your Order in accordance with clause 7(3).
- (2) Subject to clause 7(3), You have no right to cancel, or vary, any order for Goods after Habitual Equipment has accepted that order.
- (3) You may only cancel an order for Goods:
  - (a) prior to Habitual Equipment notifying you that your order for Goods has been confirmed and providing you with an Estimated Delivery Date; or
  - (b) where Habitual Equipment has not been able to deliver your order for Goods after one (1) month from the Estimated Delivery Date has passed, other than a result of any delay for which You are wholly or partly responsible such as a failure to provide the correct delivery address.

- (4) In the event that either You or Habitual Equipment cancel an order for Goods after payment has been processed, Habitual Equipment will refund any money paid by You to Habitual Equipment in respect of that order for Goods in accordance with clause 11 of these Terms.
- (5) Except to the extent otherwise required by law (including, without limitation, the CC Act) or as expressly set out in these Terms, Habitual Equipment will not be liable to You, or any other person, for any loss, damage, cost or expense suffered as a direct or indirect result of the cancellation of your order for Goods for any reason, and whether the order for Goods is cancelled by You or by Habitual Equipment, whether in contract, negligence or any other tort, equity, restitution, strict liability, under statute or otherwise.

## 8. REGULATORY REQUIREMENTS

- (1) It is Your responsibility to ensure that:
  - (a) You comply with all applicable Laws in using the Goods; and
  - (b) the Goods are suitable for Your intended use and the environment and the position in which the Goods are to be used and comply with all applicable laws.
- (2) Habitual Equipment shall not be liable in any way as to whether the Goods, satisfy requirements under any applicable laws and Habitual Equipment makes no representation as to the fitness for purpose of the Goods.
- (3) You unconditionally and irrevocably indemnify and agree to keep indemnified Habitual Equipment against all costs, losses, damage, expenses, Claims and obligations which Habitual Equipment has or may suffer or incur by reason of, or in connection with, any breach of any applicable laws by You.

## 9. AVAILABILITY OF GOODS

- (1) Habitual Equipment reserves the right to withdraw or suspend from sale any Goods displayed on the Website, either temporarily or permanently, at any time without notice to You.
- (2) Except to the extent otherwise required by law (including, without limitation, the CC Act), Habitual Equipment will not be liable to You, or any other person, for any loss, damage, cost or expense suffered as a direct or indirect result of withdrawal or suspension of the Goods at any time, whether in contract, negligence or any other tort, equity, restitution, strict liability, under statute or otherwise.

## 10. RISK AND TITLE

- (1) Risk in all Goods sold or supplied by Habitual Equipment to You passes to You upon the first attempt by Habitual Equipment, or a representative of Habitual Equipment, to deliver the Goods to You at the address provided by You in your order for Goods (**Nominated Address**).
- (2) Property and title in Goods does not pass to You until you have paid the Price in full for the Goods to Habitual Equipment as cleared funds.

## 11. REFUNDS

- (1) You must choose your Goods carefully as refunds are not normally provided where you have simply changed your mind, made a wrong selection or found cheaper Goods elsewhere.
- (2) Where Habitual Equipment is required to issue a refund of a payment (**Refund**) to You in accordance with these Terms:

- (a) the Refund will be made to the credit card account or other account used by You to pay for the Goods;
  - (b) Habitual Equipment will endeavour to initiate the Refund as soon as practicable.
- (3) The timing of the receipt of the Refund by You will depend upon the time taken by your financial institution to process the Refund.
  - (4) Except to the extent otherwise required by law (including, without limitation, the CC Act), Habitual Equipment will not be liable to You, or any other person, for any loss, damage, cost or expense suffered as a direct or indirect result of any delay in You receiving any refund due to You, whether in contract, negligence or any other tort, equity, restitution, strict liability, under statute or otherwise.

## 12. INCORRECT, FAULTY OR DAMAGED GOODS

- (1) You should check your Goods as soon as they are delivered to You in order to ensure that:
  - (a) the Goods are what You ordered; and
  - (b) the Goods are not damaged or faulty.
- (2) If You believe your Goods are damaged or faulty (**Damaged Goods**), or if You believe the Goods delivered are not the Goods that You ordered (**Incorrect Goods**), You must contact Habitual Equipment at the Website as soon as possible.
- (3) If You do not notify Habitual Equipment in writing of any Incorrect Goods within five (5) Business Days of delivery of the Goods to the Nominated Address, You are deemed to have accepted the Goods and to have accepted that the Goods accord with what you ordered. Nothing in this clause affects or is intended to limit Your rights under the CC Act.
- (4) Where the Goods arrive as Damaged Goods, or you have received Incorrect Goods, You must arrange for the Damaged Goods or Incorrect Goods to be returned to Habitual Equipment within a reasonable period of time (**Returned Goods**).
- (5) The Goods come with guarantees that cannot be excluded under the CC Act. You are entitled to:
  - (a) a replacement for or refund for a major failure and compensation for any other reasonably foreseeable loss or damage; or
  - (b) 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,(the **Consumer Guarantees**).
- (6) Freight costs to return the Returned Goods to Habitual Equipment will be at the cost of Habitual Equipment where Habitual Equipment considers the Returned Goods to have been supplied in contravention of a Consumer Guarantee.
- (7) If, on examination of the Returned Goods by Habitual Equipment, the Returned Goods are found not to be in breach of a Consumer Guarantee, then Habitual Equipment may charge you a fee for examining the Returned Goods, and any cost to return the Returned Goods to You.

## 13. LIMITATION OF LIABILITY AND DISCLAIMER

- (1) Habitual Equipment acknowledges that the CC Act and similar State and Territory legislation confer certain rights and remedies on You in relation to the

sale or supply by Habitual Equipment to You of Goods, pursuant to these Terms, or otherwise, which cannot be excluded, restricted or modified by agreement (**Non-Excludable Rights**). Habitual Equipment does not exclude any Non-Excludable Rights but does exclude all other terms, conditions, guarantees and warranties implied by the written or unwritten law in relation to any sale or supply by Habitual Equipment to You of Goods.

- (2) Subject to law, Habitual Equipment makes no representation and gives no warranty in relation to any sale or supply of Goods by Habitual Equipment to You.
- (3) You acknowledge that You have not relied upon any representation or warranty made by or on behalf of Habitual Equipment in relation to any sale or supply of Goods pursuant to these Terms, and will not rely upon any representation or warranty made by or on behalf of Habitual Equipment in relation to any future sale or supply of Goods by Habitual Equipment to You, which is not expressly agreed in writing by Habitual Equipment prior to the sale or supply of those Goods, subject in all respects to the written law.
- (4) To the extent permitted by law, in respect of each sale or supply of Goods by Habitual Equipment to You:
  - (a) each CC Act Implied Term is expressly excluded; and
  - (b) the liability of Habitual Equipment is limited to the lowest of the cost of replacing the Goods, supply of equivalent product, or having the Goods repaired.
- (5) Subject to law, Habitual Equipment does not accept responsibility for any loss or damage, howsoever caused (including through negligence or matters outside its control), which You may directly or indirectly suffer in connection with your use of the Goods.

#### **14. WARRANTIES**

By providing information through the Website, including but not limited to credit card information through the Website to order Goods, You represent and warrant that:

- (a) You are at least 18 years of age;
- (b) You are legally authorised to provide such information to us;
- (c) You are legally authorised to perform payments from the credit card account or other account used by You; and
- (d) there are sufficient funds or credit available to complete a payment using the credit card account or other account used by You.

#### **15. INDEMNITY**

- (1) You must indemnify and keep indemnified Habitual Equipment and the servants and agents of Habitual Equipment against all Claims made upon or against Habitual Equipment arising out of or in any way connected with any breach of these Terms by You or any person claiming through or under You.
- (2) Subject to law, Habitual Equipment has no liability to You, or any person claiming through or under You for Indirect or Consequential Loss.

#### **16. PRIVACY**

You consent to the collection and use of Personal Information (as defined in the Privacy Act) by Habitual Equipment in order to enable Habitual Equipment to carry on its business and supply the Goods to You.

## **17. WEBSITE CONTENT**

- (1) Habitual Equipment may, at any time, add or remove content from the Website without notice.
- (2) Any articles, information or content published on the Website must be read subject to these Terms and Conditions.
- (3) Although Habitual Equipment uses its best endeavours to confirm the accuracy of any information published on the Website, to the maximum extent permitted by law, You agree that Habitual Equipment cannot be held responsible for inaccuracies or errors caused by incorrect information supplied to Habitual Equipment. You agree to make Your own enquiries to verify information provided.
- (4) To the maximum extent permitted by law, Habitual Equipment will not be liable for any errors in third party content, or for any actions You take in reliance on such content. Neither You nor any other person may hold Habitual Equipment liable for any delays, inaccuracies, errors or omissions in respect of such content, the transmission or delivery of such content or any loss or damage arising from any of them.

## **18. DATA AND TRANSMISSIONS**

- (1) Given the nature of the internet, we cannot guarantee that any data transmission is totally secure, free from viruses, fault or other conditions which could damage or interfere with Your computer systems. Habitual Equipment does not warrant that Your access to the Website will be uninterrupted, error free or that any defects will be corrected. Whilst Habitual Equipment takes precautions to protect information, Habitual Equipment does not warrant and cannot ensure the security of any content or information You transmit via the Website. You therefore transmit to the Website at Your own risk. However, once Habitual Equipment receives Your transmission, Habitual Equipment will take reasonable steps to preserve its security in accordance with all applicable laws.
- (2) You must take Your own precautions to ensure that the process which You use to access the Website or any website does not expose You to the risk of viruses, malicious computer code or other forms of interference which may damage Your own computer system. For the avoidance of doubt, Habitual Equipment will not accept any responsibility for any interference or damage to Your own computer system which arises in connection with Your use of the Website.

## **19. COOKIES**

Cookies may be used on the Website to gather data in relation to the Website. By using the Website You consent to the use of cookies (although You may be able to disable cookies on Your web browser).

## **20. LINKS TO OTHER WEBSITES**

- (1) The Website may contain links to other websites, content or resources, which are owned or operated by third parties, such as third party suppliers for payment methods. These linked websites are not under the control of Habitual Equipment and Habitual Equipment is not responsible for the operation, availability or content of any linked website or any link contained in a linked website. Habitual Equipment provides these links to You for

convenience only and the inclusion of any link does not imply an endorsement by Habitual Equipment in relation to the linked website. You access linked websites at Your own risk. Subject to any non-excludable rights, Habitual Equipment disclaims all warranties, express and implied, as to the accuracy, value, legality or otherwise of any materials or information contained on linked websites. You should carefully review the terms of use and privacy policies of all websites belonging to other parties that You visit, including third party suppliers for payment methods.

- (2) Habitual Equipment reserves the right to prevent third parties from linking to the Website.

## **21. GENERAL**

- (1) These Terms may be amended at any time by Habitual Equipment without notice and Your ability to place an order for Goods may be terminated at any time without notice. Every time You use the Website to purchase Goods, the Terms in force at that time will apply between You and Habitual Equipment.
- (2) Your continued use of the Website or the placement of any order for Goods following such amendment of these Terms will represent an agreement by You to be bound by the Terms as amended. Where Your access to the Website is terminated, all disclaimers and limitations of liability set out in these Terms will survive. Reference to "Website" includes the whole or any part of the web pages located on this webpage (including but not limited to any elements of design, underlying code, text, sounds, graphics, animated elements or any other content).
- (3) Where Your access to the Website, is terminated, all disclaimers and limitations of liability set out in these Terms will survive.
- (4) These Terms are governed by and construed in accordance with the laws of New South Wales, Australia and You irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of New South Wales, Australia. If any provision of these Terms is found to be invalid or unenforceable by a court of law, such invalidity or unenforceability will not affect the remainder of these Terms, which will continue in full force and effect. If You access the Website in a jurisdiction other than New South Wales, Australia, You are responsible for compliance with the laws of that jurisdiction, to the extent that they apply.
- (5) Any notice delivered by Habitual Equipment to You under these Terms will be delivered by email to the email address associated with Your Account. Any notice delivered by You to Habitual Equipment under these Terms must be delivered by contacting Habitual Equipment at [info@habitualequipment.com.au](mailto:info@habitualequipment.com.au).
- (6) A notice given in accordance with this clause takes effect when taken to be received (or at a later time specified in the notice), and is taken to be received:
  - (a) if hand delivered, on delivery;
  - (b) if sent by prepaid post, on the third Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia);
  - (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire notice unless,

within eight (8) Business Hours after the transmission, the recipient informs the sender that it has not received the entire notice;

- (d) if sent by email, at the time the email is sent (provided the sender has not received a notification within eight Business Hours after the email is sent that the email was not received by the recipient),

but if the delivery, receipt or transmission is not on a Business Day, or is after Business Hours on a Business Day, the notice is taken to be received at 9.00am on the next Business Day.

- (7) A party may exercise any right, power or remedy at its discretion and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that or of any other right, power or remedy. Failure or delay by a party in exercising a right, power or remedy does not prevent its exercise. A right may only be waived in writing, executed by the party giving the waiver.
- (8) Part or all of a clause of these Terms that is illegal or unenforceable will be severed from these Terms and will not affect the continued operation of the remaining provisions of these Terms.
- (9) These Terms comprise the entire agreement between You and Habitual Equipment and no earlier agreement, understanding or representation, whether oral or in writing, in relation to any matter dealt with in these Terms will have any effect from the date of these Terms.
- (10) Any legislation which varies an obligation or right, power or remedy of a party that is bound by these Terms is excluded to the full extent permitted by law.
- (11) Habitual Equipment makes no representations that the content of the Website complies with the laws of any country outside Australia.