



Awa Jets Limited - Terms & Conditions of Trade

1. Definitions

- 1.1. 'Goods' means all Goods and Services supplied by us to you.
- 1.2. 'We/us/our' means Awa Jets Limited, its successors and assigns or any person acting on behalf of and with the authority of Awa Jets Limited.
- 1.3. 'You/your' means the person/s or entities, and if more than one jointly and severally, requesting the supply of goods from Awa Jets Limited and includes the customer's executors, administrators, successors and permitted assigns.

2. Acceptance

- 2.1. You will be immediately bound by these terms and conditions when you place an order or accept delivery of any goods from us.

3. Price and Payment

- 3.1. The Price for the goods shall be determined by us at our sole discretion. We reserve the right to change the price if a variation to the goods which are to be provided is requested by you, or if fluctuations in currency exchange rates increases our costs of supplying the goods which are beyond our control.
- 3.2. Unless otherwise stated, the price is in New Zealand dollars inclusive of GST and any other taxes and duties that may be applicable in addition to the price.
- 3.3. You must pay for all goods in full before delivery or collection. We may require you to pay a non-refundable deposit before we deliver or you can collect the goods.
- 3.4. The price for the goods will be payable by you on the date/s determined by us and notified to you in writing.
- 3.5. If you have not paid in full by the due date, we may charge you interest compounding monthly on the unpaid overdue balance at the rate of 5% per annum above the current overdraft rate charged by our bankers, and we may charge costs (including collection costs and legal costs on a solicitor-client basis) and suspend delivery of further goods or performance of further services until your account is paid in full.
- 3.6. Property and ownership in goods, whether in their original form or incorporated in, commingled with or attached to another product, will not pass to you but will remain with us until we receive payment in full of the purchase price of the goods and all other amounts that you owe us.

4. Delivery and risk

- 4.1. You are responsible for insurance and risk in the goods from the time they leave our premises.
- 4.2. You agree to pay all delivery costs in addition to the price.

5. Returns

- 5.1. You acknowledge and agree that returns shall only be accepted by us if we have consented in writing. Returns shall not be

accepted if you change your mind, your circumstances change or you wish to purchase from another supplier of the Goods.

- 5.2. However, nothing in these Terms of Trade or in the returns policy will limit or affect any rights that a non-business consumer may have under the Consumer Guarantees Act 1993 ("CGA").

6. Limited Warranties

- 6.1. Where the CGA applies to the supply of goods or services under these terms of trade, you may have additional rights under that Act.
- 6.2. Where goods are subject to manufacturers' warranties, we will pass on the benefit of those warranties to you, without being directly liable to you under any warranty. You are responsible for the cost of returning goods to the manufacturer or to us under any warranty, and you may be responsible for additional costs including (but not limited to) freight. Where you require us to do anything related to a warranty claim, you must pay our service and call-out charges. We may refuse to assist with warranties if any sum that you owe us for any reason is overdue.
- 6.3. Subject to the conditions of warranty set out in clause 6.4, we warrant our boats, PVC film, jet pumps and trailers to be free of defects in material and workmanship during the period described below. This limited warranty begins on the date the product is sold to you, or the date on which the product is first put into service, whichever occurs first.
 - a. Boats for a period of one (1) year from date of purchase.
 - b. PU film (bottom armour) for one (1) year.
 - c. Jet pumps for a period of one (1) year.
 - d. Custom alloy trailer frame/chassis warranty three (3) years.
- 6.4. We do not provide any warranty to the boat engine's cooling system, overheating or water circulation. We do not provide any warranty in relation to operational parts including but not limited to sparkplugs, oil and filters.
- 6.5. Any warranty given by clauses 6.2 and 6.3 shall not cover any defect or damage which may be caused by or arise through:
 - a. Any misuse of the engine due to operator error; or
 - b. Failure on your part to properly maintain the goods; or
 - c. Failure on your part to follow any instructions or guidelines provided by us; or
 - d. The continued use of any goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
 - e. Fair wear and tear, any accident or act of God.
- 6.6. Where the goods or services that you acquire from us are not of a kind ordinarily acquired for personal household or domestic use or consumption, or where you acquire, or hold yourself out as acquiring, the goods or services for the purposes of a business, the provisions of the CGA and the conditions, warranties and guarantees set out in the Contract and Commercial Law Act 2017, or implied by common law, will not apply and are excluded from these terms of trade.



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7. Customer Warranties

7.1. If you acquire any goods or services from us for re-supply as, use or incorporation in, any goods or services ordinarily acquired for personal household or domestic use or consumption ("Consumer Products") you warrant that:

- a. If you supply the Consumer Products directly to an end user/consumer you will do so using terms and conditions of supply which exclude liability for any claims under the CGA; and
- b. If your customer acquires any goods or services for re-supply, your customer and each person in the distribution chain will exclude liability in its contract for supply for any claims under the CGA;

but in each case only where the end user/consumer acquires the Consumer Products for business purposes.

7.2. You agree to indemnify us, our suppliers and the manufacturers of any goods against any failure by you, your customers or any person in your distribution chain to properly contract out of liability to business end users/consumers under the CGA.

8. Limitation of Liability

8.1. We will not be liable for any losses of any kind or any delay in supplying goods or services which are caused in whole or in part by circumstances beyond our reasonable control.

8.2. Subject to clause 8.1, our liability shall be limited to the value of any defective goods, software or services supplied, and none of us, our employees, contractors or agents, any manufacturer(s) or developer of the goods, or any of their materials or components or any suppliers of services, will be liable to you for loss or damage of any kind however that it may be caused or arises. This limitation of liability includes, but is not limited to, costs (including costs of returning goods to us or to any manufacturer), loss of data, indirect or consequential loss, loss of contracts, loss of profits, damage caused by or arising from delays in manufacture or delivery, faulty or delayed installation, unreasonable use, negligence (including a failure to do something which should have been done or to prevent something from happening), faulty specifications and design, or faulty materials or components of the goods.

9. Intellectual property rights

9.1. You do not acquire any right, title or interest in any copyright, trade marks, or other intellectual property rights relating to any of the goods or software to you.

9.2. You must not use any intellectual property, including trademarks, which belongs to us or our suppliers or manufacturers.

10. Cancellation

10.1. Without prejudice to any other remedies we may have, if at any time you are in breach of any obligation (including those relating to payment) under these terms and conditions we may suspend or terminate the supply of goods to you. We will not be liable to

you for any loss or damage you suffer because we have exercised our rights under this clause.

10.2. We may cancel any contract to which these terms and conditions apply or cancel the delivery of the goods at any time before the goods are delivered by giving written notice to you. On giving such notice we shall not be liable for any loss or damage whatsoever arising from such cancellation.

10.3. In the event that you cancel delivery of goods, you shall be liable for any and all loss incurred (whether direct or indirect) by us as a result of the cancellation.

11. Personal Information

11.1. We will use any personal information that you supply for credit, administration, service and marketing purposes. You have the right of access to, and to ask for correction of, your personal information.

12. Dispute Resolution

12.1. All disputes and differences between you and us touching and concerning these terms shall be referred to arbitration under a single arbitrator agreed upon by both parties, or failing agreement, by an arbitrator appointed by the New Zealand Law Society, such arbitration to be carried out in accordance with the provisions of the Arbitration Act 1996.

13. General Conditions

13.1. We may change these terms of trade from time to time without notice to you.

13.2. If we fail to enforce any terms or to exercise any right under these terms of trade at any time, we have not waived that right.

13.3. If any provision of these terms of trade is held to be invalid or unenforceable for any reason, the remaining provisions shall remain in full force and effect and the parties shall adjust their respective rights and obligations in accordance with the spirit and intent of the parties as shown by these terms of trade.

13.4. Any agreement between you and us is governed by the laws of New Zealand. Any dispute is subject to the jurisdiction of the New Zealand Courts.

13.5. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lockout, industrial action, fire, flood, storm, pandemic or other event beyond the reasonable control of either party.