

TAIT ASIA PACIFIC TERMS AND CONDITIONS OF SALE

The sale of all products or services by Tait Electronics (Far East) Pte Ltd (hereafter called Tait) is governed by the following terms and conditions:

1. APPLICATION OF TERMS AND CONDITIONS:

These terms and conditions shall apply to the sale or quotation of all products and services provided by Tait (hereafter (the Products or Services as applicable) unless otherwise agreed in writing by the General Manager of Tait or delegated authority.

2. ACCEPTANCE OF TERMS AND CONDITIONS:

Requests for delivery of Products or Services either verbally or in writing by the Customer shall be deemed to represent acceptance of these terms and conditions to the exclusion of any other agreement including any terms proposed by the Customer.

3. TERMS OF TRADE (INCLUDING GOODS AND SERVICES TAX):

The terms of trade and price for Products and Services shall be as specified on any Tait invoice or relevant document. Unless otherwise specified the following shall apply:

3.1 All Products will be shipped Ex Works (EXW) from the Tait Distribution Centre by a carrier chosen by Tait unless a specific carrier is nominated by the Customer.

3.2 Prices quoted will be the tax exclusive price due to the discount structure that Tait employs and the fact that the Products and Services will attract the Goods and Services Tax. Any applicable Products and Services Tax will be shown at the bottom of the invoice/quote totalling to the tax inclusive price of the Products and Services supplied.

3.3 The Customer shall pay the whole of the price including all applicable taxes without deduction within 30 days of the date of the Tait invoice where the Customer has received approval from Tait following completion of the Tait standard Credit Account Application. In all other cases the Terms of Trade shall be payment prior to shipment from a Tait store.

3.4 Tait reserves the right to vary existing Terms of Trade as it considers appropriate effective immediately.

4. DEFAULT OF PAYMENT:

Should the Customer default in the payment of any part of the price by the due date, Tait may without prejudice to any other rights it may have:

4.1 Where payment is not received in accordance with clause 3.3 the Customer agrees that Tait shall have the right to invoice and the buyer will pay late payment charges amounting to 2.0 per centum per month on all monies from time to time owing in respect of the invoiced amount including all charges.

4.2 Demand immediate payment of any other amounts outstanding between the Customer and Tait.

4.3 Suspend delivery of any and all Products and Services including Products returned for repair to the Customer until receipt of all monies outstanding.

4.4 Retake possession of Products which have remained the property of Tait by virtue of Clause 5.

4.5 The Customer shall be liable for all costs of collection and legal fees incurred by Tait in recovering amounts payable hereunder.

5. PROPERTY IN GOODS:

Risk in any Products supplied by Tait to a Customer shall pass when such Products are delivered to the Customer or into custody on the Customers behalf but ownership in property (both legal and equitable) in such Products is retained by Tait until full payment is made for such Products and/or for all goods supplied to the Customer.

6. SEPARABLE PARTS OF THE PROJECT:

Where the project can be broken up into separable parts then it is possible for these separable parts to be handed over to the Customer on an individual basis. In this case once the Customer takes possession of any part of the project then that part will be deemed to have commenced the warranty phase of the project. Notwithstanding the requirement for Tait to complete some finishing of works the separable part will be deemed to have reached final completion and payment will be required accordingly. Any additional work required to provide separate parts of the project, beyond that required for the contract, to meet a Customer requirement will be to the Customer's account.

7. SITE ACCESS:

All pricing for project work is based on ready access to the required project sites by Tait unless specifically detailed otherwise in the contract documents. Unavailability of access to the sites will be reasonable grounds for Tait to both extend the contract completion timetable and recover any additional costs and expenses incurred.

If access to the required sites is not obtainable then the Customer is responsible for any additional costs incurred in developing alternate sites including any subsequently necessary changes to project design.

8. INTERFERENCE:

While every effort will be made by Tait to minimise any radio interference experienced on a site any additional costs incurred by Tait in investigating and eliminating interference problems will be to the Customer's account. This additional work could include coordination with the frequency allocation authority, on site work to discover the source of any interference etc. Any additional work carried out by Tait due to interference problems including reprogramming of radio Products, provision of additional filtering, rearrangement of antennae, etc will be to the Customer's account.

9. LICENCES:

Unless agreed by the parties, Tait will not be liable for obtaining frequency licences on behalf of the Customers. Any delay in obtaining such licences will be cause for extension of any milestone or project completion date. In addition, Product delivery lead times will be quoted from allocation of such licences. Any additional costs incurred by Tait caused by the required frequencies not being available will be to the Customer's account.

10. CUSTOMER INITIATED CHANGES:

Once a contract is awarded then any Customer initiated changes are subject to quotation by Tait which may result in changes to both the cost of the project and completion time. Any such changes may not unduly effect the contracted payment terms and schedule.

11. CUSTOMER SPECIFIED EQUIPMENT:

Where the Customer specifies certain Products to be included in a project then the risk in these Products remains with the Customer and Tait offers no warranty in regard to these Customer nominated third party Products. Where the inclusion of these Products impacts either the time to completion or the cost of the project, this will be to the Customer's account and at Customer's risk. Any training required, on Customer specified third party Products, by Tait in order to meet their project obligations will be to the Customer's account.

12. SOFTWARE AND TAIT SOFTWARE WARRANTY:

12.1 As to any software provided by Tait as a licensor or sub-licensor to the Customer (the "Software"), the Customer agrees to be bound to the terms of the license as expressed herein regardless of whether the Software is already installed on a Product, provided by a compact disk or downloaded from the Tait website. Use of the Software constitutes Customer acceptance of these terms.

12.2 Software and the IPR in the Products shall at all times remain the exclusive property of Tait or its suppliers. All IPR arising under this Agreement including without limitation IPR arising from the supply of the Products, except to the extent that they comprise or incorporate IPR supplied by the Customer, shall vest in and be owned by Tait or its suppliers absolutely, and the Customer shall acquire no right, title or interest therein.

12.3 The warranty on all software provided by Tait to the Customer which is developed, maintained and licensed by Tait including but not limited to firmware, embedded and application software ("Tait Software") shall be limited to performing the functionality specified in the specification for that Tait Software during the warranty period coincident with the Product on which that Tait Software functions or resides.

12.4 The sole obligation of Tait during the warranty period for Tait Software is to use reasonable efforts to correct any reproducible material defect (as determined by Tait in its sole discretion and as measured against the specification for such Tait Software) by providing: a) phone or email access to Tait to report the defect; and b) a patch, fix or update to the Tait Software if available or a workaround.

12.5 Specifically, Tait does not warrant that Tait Software will be fit for any particular purpose (including the Customer's specific requirements), or that the operation of the Tait Software will be uninterrupted or error free or that the Tait Software will interoperate with other software or equipment unless stated in the Tait Software specification. Any patch, fix or workaround does not extend the warranty period for that Tait Software.

12.6 Tait Software operation is warranted only with the operating system with which it was designed and only Tait Software is warranted.

12.7 Software supplied by Tait to the Customer by way of a licence from a third party is not warranted by Tait. Tait will use all reasonable efforts to enforce any software warranty provided by a third party copyright owner. Third Party software and software in third party products may also be subject to separate terms and restrictions and if so these shall be notified to the Customer in writing or contained in any "box" or "on-screen" license supplied with such third party Products (copies available on request), and the Customer shall be obliged to comply with the same.

12.8 Subject to clause 12.2 but notwithstanding clause 12.7, in consideration of the Customer paying the relevant fees hereunder Tait shall grant to, or procure the grant to, the Customer of a worldwide, non-exclusive, non-assignable, non-transferable license to use the Software in executable form only) and the Products for the installation, configuration and use, for normal business purposes, of the Software in connection with the Product to which it relates or for the purpose identified in, and subject to any restrictions contained in, the quotation or user documentation (including without limitation restrictions on the

numbers of users, channels or copies), and in accordance with the provisions of this clause 12.

12.9 The Customer shall be entitled to grant a sub-license to any person installing, configuring or using the Products in the terms and subject to the conditions of the license granted to the Customer under this clause 12.

12.10 If the Software licensed or sub-licensed under these terms and conditions contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not in these terms. If there is a conflict between these terms and the terms and conditions of any applicable Open Source Software Licenses, the terms and conditions of the Open Source Software Licenses will take precedence. For information about Open Source Components contained in Products and the related Open Source licenses, see: <http://support.taitradio.com/go/opensource>

12.11 The Customer may make copies of any Software for reasonable back-up purposes and, upon request, shall advise Tait of the location of any software and its back-up copies.

12.12 Subject to clause 12.11, the Customer shall have no right to copy, adapt, reverse engineer, decompile, disassemble, lease, sell, assign, modify or create derivative works of any software in whole or in part except: (i) as specifically permitted by law; or (ii) with the prior written consent of Tait. The restrictions in these license conditions are made for the benefit of Tait and its suppliers and may be enforced by such suppliers to the extent that they relate to any software and IPR supplied by such suppliers.

12.13 The license granted under clause 12.8 (and any sub-license granted under clause 12.9) shall be without limit of period but Tait may immediately terminate such license (and the right to continue any sub-licenses) to use the relevant software and/or Products by notice in writing to the Customer if the Customer or any sub-licensee breaches any terms of the license or sub-license (and such breach is incapable of remedy or is not remedied within a reasonable time of a request to do so), whereupon the Customer shall, at the direction of Tait, immediately return to Tait or destroy the Software and any back-up copies (and procure that sub-licensees do the same) and certify in writing to Tait that this has been done.

12.14 The Customer represents and warrants that it has the necessary rights or licences to provide any Customer materials, information or system access to Tait as may be required under these terms and conditions.

12.15 The license terminates automatically without notice from Tait in the event that the Customer fails to comply with the terms and conditions of these terms and conditions.

13. CONTINGENCY SUM:

Where identified in the project pricing, the contingency sum will be used to provide the following where necessary – additional filtering to eliminate interference, additional work related to site access and any other factors that could not be reasonably foreseen prior to commencement of the works.

14. CONFIDENTIALITY:

The Customer and its employees and agents shall maintain strict confidentiality and secrecy concerning Tait business, products and property. In particular, the Customer shall not divulge any confidential information to any person. All correspondence between Tait and the Customer is deemed to be confidential.

15. WARRANTY FOR TAIT PRODUCTS:

15.1 Tait provides an express limited warranty to the Customer with respect to Tait branded Products (the "Tait Products"). To the maximum extent permitted by law any and all implied warranties with respect to Tait Products or parts sold by Tait including but not limited to implied warranties of merchantability, fitness for a particular purpose or non-infringement, are hereby excluded.

15.3 Tait warrants all parts of every new Tait Product to be free from defects in materials or workmanship, as hereinafter provided, for one year from the date of shipment of the products excluding all accessories, customised Tait Products and Tait branded non-radio

systems products (facilitating and supporting the operation of any system commissioned from Tait) which are covered for one year from the date of shipment and all Tait manufactured batteries which are covered for 6 months from the date of shipment. For the avoidance of doubt Tait manufactured batteries as fitted to portable radios are covered by this Warranty Policy for battery casing defects, battery leakage and short-circuit faults only.

15.4 Tait will, at its option, repair or replace any Tait Product covered by this warranty, which becomes defective, malfunctions or otherwise fails to conform with this warranty under normal use and service during the term of this warranty, at no charge for parts or labour provided such products are returned freight paid to Tait.

15.5 Any Tait Products replaced shall become the property of Tait. No claims by the Customer may be made against Tait unless made in writing and received by Tait.

a) In the case of defects or failures which are reasonably discoverable upon examination of the Tait Products, within ten (10) days of delivery of the Tait Products, or

a) In the case of other defects or failures, within seven (7) days of the date of discovery of such defect or failure,

and in any event within the applicable warranty period.

15.6 Tait shall not be liable for a breach of the warranty to the extent that:

a) the defect arises as a result of misuse, neglect (including without limitation failure to notify Tait of the failure within a reasonable time), alteration, mishandling, attempted repair, maintenance or unauthorized manipulation by any person other than Tait authorized personnel; or

b) the defect arises because the Customer failed to follow Tait instructions or good trade practice as to the storage, installation, use or maintenance of the Tait Products or Tait Software; or

c) the Customer alters or repairs such Tait Products or Tait Software without the written consent of Tait;

d) the serial number on Tait Products has been defaced or removed; or

e) the defect arises from a combination of Tait Products with any software, equipment or device not supplied or approved by Tait in writing.

15.7 Where Tait Product or Tait Software is submitted for warranty services but is found to be ineligible for service, Tait may at its option, provide an estimated quotation for the repair which the Customer may accept. The repair will be completed by Tait upon receipt of payment.

15.8 Any correction, replacement or repair under warranty will not extend the originally established period of warranty.

15.9 Subject to clause 11, for third party products, the Customer shall only be entitled to such warranty or other benefit as Tait has received from the manufacturer or licensor and is able to pass on. Except as provided in this clause, no warranty (whether express, statutory or implied) is given to the Customer by Tait or any licensor of Tait in respect of the whole or any part of third party Products, and such suppliers and licensors disclaim all such warranties including without limitation any warranties of merchantability, non-infringement or fitness for a particular purpose. Defective or faulty third party products should be returned to Tait in the same manner as Tait Products and Tait shall use its reasonable efforts to enforce any third party products warranty.

15.10 Any work carried out by Tait at the Customer's request which is not required to satisfy Tait warranty obligations under this clause shall be charged as additional services. Tait shall be entitled to dispose of any Products that have been sent to Tait for repairs or upgrades which remain uncollected and in respect of which the

Customer has incurred charges that remain overdue for more than 60 days.

15.11 The Tait Products and Tait Software are not designed, tested, manufactured or intended for operation or use in relation to any (i) control of aircraft, air traffic, aircraft navigation or aircraft communications; (ii) intrinsically safe environments (unless intrinsically safe Products are specifically ordered and supplied and used in accordance with the supplied instructions); (iii) design, construction, operation or maintenance of any nuclear facility; or (iv) life-support applications. If the Customer (or the Customer's users) uses the Tait Products or Tait Software for any such use, then such use is at the Customer's (or the Customer's user's) own risk without any recourse against or with respect to Tait and the Customer shall indemnify and hold Tait and its third party licensors harmless from any claims for loss, cost, damage, expense or liability arising out of or in connection with any such use and performance.

15.12 Tait will use all reasonable endeavours to support Tait Products and make available spare parts, components and subassemblies for a period of 7 years from the last date of shipment for that product ex-factory.

16. COMMISSIONING:

Where the Customer desires to be present at commissioning Tait will make reasonable efforts to meet any Customer required schedule. However the Customer will not impose unreasonable schedule requirements on Tait. Any rescheduling required due to the Customer's inability to attend may result in additional cost to the Customer's account.

17. HANDOVER:

Once a system supplied by Tait is in operation by the Customer, or Tait advises of system completion, the system shall be deemed to be handed over to the Customer. Handover shall be the date at which the warranty/maintenance period commences for any parts of the system for which the warranty period has not already started and the date at which final completion invoices can be issued.

18. PRODUCTS RETURNED:

Return of Products will not be accepted without prior consent.

i) All Products returned shall be in their original packaging and should not be soiled, obsolete or damaged.

ii) A fee will be charged for Products returned that require refurbishment, fabrication or repackaging.

19. WAIVER:

No forbearance or other indulgence granted to the Customer shall in any way discharge the Customer from any of the Customer's obligations under this contract or otherwise affect any such obligation.

20. CGA:

The Customer acknowledges that all products and services supplied by Tait to the Customer are acquired by the Customer for the purpose of resupply in trade and the provisions of the Consumer Guarantees Act 1993 (as amended and varied from time to time) are expressly contracted out of to the extent permitted by law.

21. SOLE AGREEMENT:

These terms and conditions of sale shall constitute the sole agreement between the parties to the total exclusion of all others except as agreed to by the parties in writing. All implied terms, conditions or warranties herein or in the business relationship between Tait and the Customer shall be expressly voided and excluded, other than those implied by statute.

22. COMPLIANCE WITH TERMS AND CONDITIONS:

The Customer shall ensure compliance with these terms and conditions by all of its principals, servants, agents and representatives.

23. RESPONSIBILITIES:

Tait shall not be responsible for any promises, conditions, warranties or representations made by its representatives, employees or agents unless provided by Tait in writing.

24. GOVERNING LAW AND RESOLUTION OF DISPUTES:

These terms and conditions shall be construed in accordance with the laws of New Zealand and both parties submit to the exclusive jurisdiction of the Courts of New Zealand to decide any dispute under these terms and conditions.

25. ASSIGNMENT:

Neither party may assign their rights or obligations applicable to these terms and conditions or the contract between the parties without the written consent of the other party. Such consent shall not be unreasonably withheld or delayed.

26. WEATHER:

While every effort will be made to arrange required site visits to correspond with reasonable weather it must be understood that weather is outside the control of Tait. As a consequence weather factors that prohibit required access to, or work on, site will be reasonable cause for extension in the time to complete the project.

27. FORCE MAJEURE:

Tait shall not be liable for delay in delivery, nor for any failure to perform this agreement, or for loss or damage to the Products directly or indirectly caused by any Act of God, fire, theft, riot, war, embargo, strikes, earthquake, shortages of labour, delays in import, confiscation or other action of any government or any other occurrence (whether or not of a similar nature to those specified) beyond the control of Tait. Tait agrees to make and the Customer agrees to accept delivery whenever such causes of delay have been remedied making delivery possible. Under no circumstances shall either party be liable for consequential damages.

28. SPECIFICATIONS:

Tait reserves the right to modify specifications of Products provided that the modification does not materially affect performance. Tait will use its best efforts to ensure that products are accurately described in company publications. However, no direct or consequential responsibility can be assumed by Tait as a result of any inaccuracy or error.

29. LIMITATION OF LIABILITY

29.1 The Customer warrants that it has not relied on any representation made by Tait or upon any catalogs or publicity material produced by Tait which has not been stated expressly in these terms and conditions and no statement made or agreed to and no liability undertaken orally shall be binding upon Tait unless confirmed by Tait in writing.

29.2 UNLESS OTHERWISE PROVIDED BY APPLICABLE LAW, TAIT'S LIABILITY, IF ANY, FOR ANY ALLEGEDLY DEFECTIVE PRODUCT, PART OR SOFTWARE SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF THE PRODUCT, PART OR SOFTWARE, AT TAIT'S OPTION, AND THE LIABILITY OF TAIT, IF ANY, FOR DAMAGES RELATING TO DEFECTIVE PRODUCT, PART OR SOFTWARE SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE ITEM IN QUESTION.

29.3 Neither Party's liability for any of the following is excluded or limited by these terms:- (i) fraud or other criminal act; (ii) fraudulent misrepresentation; (iv) breach of any confidentiality obligations; and (iii) for anything else in relation to which, under the law governing these terms, liability cannot be excluded or limited.

29.4 Subject to clause 29.3, neither Tait, nor any supplier or licensor of Tait, nor the Customer shall be liable under or in relation to this Agreement (whether the liability arises for breach of contract, negligence, under an indemnity, obligation to refund, under any other theory of law or for any other reason) for any: (i) loss of profits; (ii) loss of turnover; (iii) loss of or damage to goodwill or reputation; (iv) loss of, or loss of the use of, any software or data; (v) losses or liabilities in relation to any other contract; or (vii) indirect, special or consequential loss or damage. For the purposes of this clause the term "loss" includes a partial loss or reduction in value as well as a complete or total loss.

29.5 Subject to clauses 29.3 and 29.4, the total liability of Tait in connection with these terms and conditions or any order subject to these terms and conditions (whether the liability arises from breach of contract, warranty, negligence, under an indemnity, obligation to refund, under any other theory of law or for any other reason) shall be limited to the direct damages recoverable under law but not to exceed the total amount paid or payable by the Customer for the Products, Software or Services with respect to which the liability arises.

29.6 The Customer agrees that it shall take reasonable precautions (relative to the importance to the Customer of the Products concerned), including without limitation backing up software and data at reasonable intervals, implementing back-up systems or redundancy and maintaining suitable numbers of spare units at suitable locations (at a minimum to Tait recommended spares levels). Subject to clause 29.3, Tait shall have no liability for any losses suffered by the Customer to the extent that the loss concerned would have been prevented by the taking of such reasonable precautions.

29.7 Notwithstanding anything in these terms Tait will not be liable for any claim for damages or losses malfunctions or failures caused by the following :

- a) The Customer's failure to comply with reasonable directions of Tait with respect to operation of the Products;
- b) Computer programs not supplied by Tait;
- c) Modification, revision, variation, translation or alteration of the Products not authorised by Tait;
- d) Incorrect use of the Products;
- e) Incorrect or unreliable information supplied to Tait by the Customer or persons under the control of the Customer;
- f) Improper installation of the Products by the Customer;
- g) Malicious or reckless abuse of Products by users.