



Pbxtronix Pty Ltd  
11 Aldinga St  
Brendale Qld 4500  
Australia.  
ABN 83657158015

## **Pbxtronix Pty Ltd**

### **Standard Terms & Conditions of Sale**

#### **1. DEFINITIONS**

"Company" means Pbxtronix Pty Ltd ABN 83 657 158 015 of 11 Aldinga St, Brendale, Qld 4500, or its permitted assigns.

"Conditions" means these terms and conditions.

"Contract" means any contract between the company and the customer for the sale and purchase of supplies.

"Customer" means the person(s) or company whose order for the supplies is accepted by the company.

"Goods" means any goods supplied or to be supplied by the company to the customer, and includes their packaging and any replacement goods supplied under these conditions.

"GST" means goods and services tax under the *A New Tax System (Goods and Services Tax) Act 1999*.

"Services" means any services supplied or to be supplied by the company to the customer, and includes any technical advice, repair or maintenance services provided by the company or its technical representatives in connection with goods.

"Supplies" means any goods or services.

"In writing" includes electronic communications.

"Website" means [www.pbxtronix.com](http://www.pbxtronix.com) and associated pages.

Reference in these conditions to any legislation or regulation includes any re-enactment, amendment or substitution of such legislation or regulation.

#### **2. CONDITIONS**

All orders are accepted by the company subject to, and in accordance with, these conditions.

These conditions override and exclude any terms or conditions in or referred to in any negotiations or course of dealing between the company and the customer or set out in the customer's standard terms and conditions to the fullest extent permitted by law. If there is any conflict between:

The other provisions of the website or of these conditions.

The provisions of the order for the supplies and these conditions.

These conditions will prevail unless the company agrees otherwise in writing. Together with any terms accepted in writing by the company in connection with an order, these conditions constitute the entire agreement between the company and the customer in relation to the supplies ordered. No variation to these conditions is permitted unless expressly authorised in writing by a director of the company.



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### **3. PRICES AND GST**

Prices stated on the website and in printed advertisements are in Australian dollars and exclusive of duties or taxes and any applicable transport and handling charges, which will be added at the time of dispatch. The company has used all reasonable endeavours to ensure that prices for the supplies are accurate at the time of publication, but these prices are not binding and the company reserves the right to change its prices without notice at any time. Prices charged will be those prevailing when an order is accepted.

### **4. PAYMENT**

Where payment is issued and subsequently cancelled, without prejudice to any other right or remedy, the company shall be entitled to cancel the order or suspend any further deliveries or performance.

The company reserves the right to charge for copy invoices or credit notes where the original has been lost or misplaced by the customer. If legal action is taken to recover monies due to the company, then the company reserves the right to charge the customer an amount to cover all and any costs (including legal costs) incurred by the company.

### **5. ORDERS**

The company reserves the right to decline to trade with any company or person, or to accept orders for supplies in part.

Once accepted, no order may be cancelled or reduced without the prior written agreement of a director of the company. Without limiting the generality of this, orders for goods which are not listed on the website or are non-stock items may not be cancelled.

Orders for goods are usually accepted by the company by dispatching the goods provided, however, that dispatch will not be accepted where the price for the supplies has been incorrectly quoted or referenced by the customer in its order.

Orders for certain goods, in particular goods which are not in catalogue or are non-stock items, may be subject to a minimum order quantity or value which the company will use its reasonable endeavours to notify to the customer prior to accepting its order.

### **6. DELIVERY**

The company will use all reasonable endeavours to dispatch goods ordered before 1pm time Monday to Friday (excluding public holidays) on the same or next working day, provided that those goods are in stock.

The company charges a standard delivery and handling charge including GST for each customer order. When multiple items are ordered, where practical, goods will be packed in larger cartons as part of the standard charge. Should special instructions for packaging be required, additional handling and packaging charges may apply.

The company will use reasonable endeavours to meet delivery and/or performance estimates but, except as set out in Condition 7 below, in no circumstances shall it be liable to compensate the customer for non-delivery, non-performance or late delivery or performance, even where it arises as a result of the negligence of



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the company or its carriers. Time for delivery and/or performance shall not be of the essence. Delivery will be made to the address specified by the customer. The company may use any method of delivery available to it.

When specifying a delivery address, the customer is authorising the goods to be left at the address which may be unattended premises. The company does not accept any responsibility for loss or damage which results from choosing this delivery method.

The company reserves the right to deliver or perform by instalments. Failure to meet a scheduled delivery or performance date shall not prevent or restrict the company from making further deliveries or rendering subsequent performance under the relevant contract by instalment.

## **7. REFUND POLICY**

Pbxtronix products are supplied with an unconditional 30 day money back guarantee.

We will accept return and provide a full refund (excluding delivery charges if applicable) for any goods purchased from us, for any reason, for a period of up to 30 days.

All goods must be returned in as new condition, complete with original packaging, user guide and all supplied cables, adaptors and power pack. A deduction may apply for any missing items. A 15% restocking fee also applies. Freight costs are not refundable.

## **8. RETURNS POLICY**

Prior to returning any goods to the company for any reason, the customer must contact the company to obtain a Return Material Authorisation number ('RMA'). All goods are returned at the customer's risk and expense and shall be in original condition by the customer and in their original packaging, suitable for resale. The customer is responsible for returning goods to the company and for providing proof of delivery of such return.

The company operates a 14 day return policy. To be accepted for return on this basis, goods must be returned in their original condition, with a copy of the invoice or proof of purchase to the company within 14 days of delivery.

Any goods returned after 14 days as 'unwanted' or 'incorrectly ordered' may be accepted at the discretion of the company but will be subject to a restocking fee of 15% of the invoice value of the goods. Certain goods (including but not limited to batteries, computer products and software) along with any goods classified as not in the catalogue or non-stock may not be returned under Condition 8. Additionally, goods classified as static sensitive devices will only be accepted for return where the customer can prove to the company that the goods have been handled properly.

The company expressly reserves the right (without limiting its discretion under this Condition 8) to refuse the cancellation of any order for, or return for credit of, goods supplied by the company which are not on the website, are notified by the company to be no longer available, are sourced from a distributor or agent of Pbxtronix, or consist of software or contain any hazardous substances.

## **9. DESCRIPTION**

All specifications, drawings, illustrations, images, descriptions and particulars of weights, dimensions, capacity or other details including, without limitation, any statements regarding compliance with legislation or



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regulation (together “descriptions”) wherever they appear (including without limitation in the website, in advertisements, invoices or packaging) are intended to give a general idea of the supplies, but will not form part of the contract. If the description of any goods differs from the manufacturer’s description, the latter shall be deemed to be correct. The company shall take all reasonable steps to ensure the accuracy of descriptions but relies on such information, if any, as may have been provided to it by its suppliers and to the fullest extent possible by law excludes all liability in contract or tort or under statute or otherwise for any error in or omission from such descriptions whether caused by the company’s negligence or otherwise. The company may make changes to product physical, functional and other attributes as part of a continuous programme of improvement and products may differ from time to time.

#### **10. RISK AND OWNERSHIP**

The risk of damage to or loss of goods will pass to the customer when the goods are unloaded from the company’s carriers at the customer’s premises. Ownership of the goods shall not pass to the customer until the company has received in full (in cash or cleared funds) all sums due from the customer to the company for those goods.

The company’s rights as an unpaid seller will not be affected by the company retaining title to goods under this Condition 10.

#### **11. PERFORMANCE AND FITNESS FOR PURPOSE**

*Subject to Condition 13:*

(i) Unless any performance figures, tolerances or characteristics have been specifically and expressly warranted by a director of the company in writing, the company accepts no liability for any failure of the supplies to comply with such criteria, whether attributable to the company’s negligence or otherwise.

(ii) The responsibility for ensuring that supplies are sufficient and suitable for a particular purpose is the customer’s, unless specifically stated in writing by a director of the company. Any advice or recommendation given by an employee of the company which is not confirmed in writing by a director of the company is acted on entirely at the customer’s risk and the company shall not be liable for any such advice or recommendation which is not so confirmed. Except as set out in Condition 13, the liability of the company to the customer, should any warranty, statement, advice or recommendation confirmed in accordance with this Condition 11 prove to be incorrect, inaccurate or misleading, will be limited to the refund of the price paid for the supplies or, at the company’s option, the supply of replacement supplies which are sufficient and suitable.

#### **12. WARRANTY / GUARANTEE**

Condition 12 applies only if you are a ‘consumer’ for the purpose of the Australian Consumer Law.

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and 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. The benefits under this warranty are in addition to other rights and remedies you may have under law in relation to our goods.



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The company will, free of charge, repair or, at the company's option, replace goods which are proved to the reasonable satisfaction of the company to be damaged or defective due to faulty materials, workmanship or design for a period of 12 months after dispatch of the goods. The customer must notify the company in writing of the defect within 10 days of the date of inspection in accordance with Condition 7. Software programs are supplied on the strict understanding that the company does not warrant their function to be free from defects or error. This obligation will not apply:

If the defect arises because the customer has altered or repaired such goods without the written consent of the company.

If the defect arises because the customer did not follow the supplied instructions for storage, usage, installation, use or maintenance of the goods.

If the customer has failed to notify the company of any defect in accordance with Condition 7 where the defect should have been reasonably apparent on reasonable inspection.

If the customer fails to notify the company of the defect within 12 months (or such other period as the company shall specify at the time of acceptance of the order for the supplies) of the date of dispatch of the goods.

Any replacement supplies made or goods repaired under this Condition 12 will be guaranteed on these terms for any unexpired portion of the period of guarantee given on the original supplies. Any goods which have been replaced will belong to the company.

Please contact your company customer service representative (details below) with any queries regarding this warranty or if you wish to make a warranty claim:

Phone: (07) 5596 5128

Email: [support@pbxtronix.com](mailto:support@pbxtronix.com)

The customer will be responsible for the return of any goods that are the subject of a warranty claim in accordance with these conditions.



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### 13. EXCLUSION OF LIABILITY

Condition 13 sets out:

The full extent of the company's obligations and liability to the customer with respect to the supplies under any contract.

All other terms, conditions, warranties and representations that might otherwise be implied by statute or otherwise, are hereby expressly excluded, save for those that cannot be excluded, restricted or modified by law.

To the fullest extent permitted by law and subject only to any express exceptions contained in these conditions, the company will be under no liability to the customer whatsoever (whether in contract, tort, (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct or indirect or consequential loss (all of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of use, loss or cost of recovery of data, computer downtime, depletion of goodwill, business interruption, loss of opportunity, loss of contracts and like loss) howsoever caused or arising out of or in connection with:

Any of the supplies, or the performance or supply or failure or delay in performance or supply of the supplies by the company or on part of the company's employees, agents or sub-contractors.

Any breach by the company of any of the express or implied terms of the contract.

Any use made or resale or on-supply of any of the supplies or any product incorporating any of the goods or developed using the supplies.

Any acts or omissions of the company at the customer's premises.

Any statement made or not made or advice given or not given by or on behalf of the company, including as to compliance with legislation or regulation.

Or otherwise under the contract.

The company does not exclude, restrict or modify any liability that cannot be excluded, restricted or modified by law including liability under the *Competition and Consumer Act 2010*. However, where such statutory provisions apply, or where the customer is entitled to claim under an express provision of these conditions, then to the extent permitted by law the company's total liability shall be limited at its option to:

In the case of a supply of goods, either the replacement of the goods; or supply of equivalent goods; or the payment of the cost of replacing the goods; or the payment of the cost of acquiring equivalent goods; or the repair of the goods; or the payment of the cost of having the goods repaired.

In the case of a supply of services, either the supply of the services again, or the payment of the cost of having the services supplied again.

Each of the company's employees, agents and sub-contractors may rely on and enforce the exclusions and restrictions of liability in these conditions in that person's own name and for that person's own benefit.



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#### **14. INTELLECTUAL PROPERTY RIGHTS**

Supplies provided by the company may be subject to the intellectual and industrial property rights (including patents, knowhow, trademarks, copyright, design rights, circuit layout rights, and/or other rights) of the company or of third parties. No right or licence is granted to the customer, except the right to use the supplies in the customer's ordinary conduct of use or business. The company shall have no liability whatsoever in the event of any claim of infringement of any such rights howsoever arising. In particular, without limiting the above, the title in any software program forming all or any part of the goods is reserved to the company and/or its suppliers. The customer is responsible for informing itself of the terms of its licence or use and paying any royalty payable.

The company owns full copyright in respect of this website and its reproduction in whole or part is prohibited without the company's prior written consent.

#### **15. PRIVACY POLICY**

"Personal Information" means any information or opinion in any form, whether true or not, about the customer and any representative who places an order on behalf of the customer or who is named in that order, who is a living individual and whose identity is apparent or can be reasonably ascertained from the information or opinion.

The company may collect and disclose personal information received from the customer or from third parties for all purposes contemplated in these conditions or arising in the context of the relationship between the company and the customer including:

Deciding whether to enter into any contract or arrangement with that customer. This may include assessment of the customer's application for a commercial credit account, conducting commercial and consumer credit reference searches against a customer and any representative who places an order on behalf of the customer or who is named in that order and the disclosure of information to a credit reporting agency as to how that customer conducts its account.

Order fulfilment, administration, customer services, profiling the customer's purchasing preferences and to help to review, develop and improve the company's business and the goods and services it offers.

Direct marketing of the company's products and services whether by post, fax, telephone, email, SMS, MMS or otherwise.

Crime prevention, detection of unlawful activities.

When required by law.

The collection and disclosure of the personal information may involve the disclosure of that personal information to the company's service providers and agents.

The company may hold personal information on a database to be used by the company for order fulfilment, administration, marketing, credit checking, security, customer services, profiling the customer's purchasing



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preferences and to help the company to understand and develop its business, including new and innovative products and services.

By placing an order, the customer and any representative who places an order on behalf of the customer or who is named in that order is taken to consent to the collection and disclosure of personal information set out in this condition. Where the personal information relates to an individual other than the customer, the customer agrees that he or she has the authority of that individual to consent on their behalf. If, at any time, the customer or its representatives does not wish his or her personal information to be used for any or all of the purposes set out in this condition, he or she should contact the company or notify any of our sales representatives when placing an order by phone. This may curtail the service which the company can offer and the company may need to vary the terms of the contract accordingly.

#### **17. EXPORT**

These conditions do not apply to the supply of supplies by the company to customers outside Australia. separate conditions of supply apply to export transactions and are available on request.

#### **19. PROHIBITED APPLICATIONS**

The goods are not designed, authorised or warranted to be suitable for use in any application or system for any purpose where the failure or malfunction of the goods could reasonably be expected to result in personal injury, death, severe property or environmental damage; or for use in industrial or other applications where the failure or malfunction of the goods could reasonably be expected to result in loss of production or of product or related financial loss.

Use or inclusion of the company's goods in any such application is strictly prohibited and any such use will be at the customer's own risk. The customer will indemnify the company and its suppliers against any and all liability and expense (including costs) resulting from any such inclusion or use, including, but not limited to legal costs and indirect or consequential loss (all of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of use, loss or cost of recovery of data, computer downtime, depletion of goodwill, business interruption, increased purchasing or manufacturing costs, loss of opportunity, loss of contracts and like loss).

#### **20. FORCE MAJEURE**

The company shall not be liable to the customer in any manner or be deemed to be in breach of these conditions because of any delay in performing or any failure to perform any of the company's obligations under these contract if the delay or failure was due to any cause beyond the company's reasonable control (which shall include, but not be limited to government actions, war, fire, explosion, flood, import or export regulations or embargoes, labour disputes or inability to obtain or a delay in obtaining supplies of goods or labour). The company may, at its option, delay the performance of, or cancel the whole or any part of a contract.

#### **22. GOVERNING LAW**

All contracts shall be governed by and interpreted in accordance with Queensland law and the customer submits to the jurisdiction of the Queensland courts and courts able to hear appeals from those courts, but the company may enforce such contract in any court of competent jurisdiction.



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### **23. GENERAL**

Any provision of these conditions of supply which is held by any competent authority to be invalid, void, voidable, unenforceable or unreasonable (in whole or in part) shall to the extent of such invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the other provisions of these conditions and the remainder of such provision shall not be affected. Failure by the company to enforce or partially enforce any provision of these conditions will not be constrained as a waiver of any rights under these conditions.

The company shall be entitled, without the consent of or notice to the customer, to assign the benefit, subject to the burden, of these conditions and/or any contract to a related body corporate (as defined in section 50 of *the Corporations Act 2001*) at any time.

These conditions supersede all previous terms and conditions which have previously governed a contract for the sale of supplies from the company to the customer.