

Philips Lumify Ultrasound Solutions Online Terms and Conditions of Sale

1. General

These terms and conditions, in addition to the Philips Equipment Sales Agreement, form the agreement between you and Philips Electronics Australia Limited ABN 24 008 445 743 of 65 Epping Road, North Ryde NSW 2113 (Philips) for the sale of the products on [www.Philips.com.au/shop-Lumify] (Web Site). In case of inconsistency between these online terms and conditions and the terms and conditions of the Equipment Sales Agreement, the following order of precedence will apply:

- these online terms and conditions
- Annex I – Additional Terms and Conditions for Lumify Ultrasound Solutions
- Equipment Sales Agreement

together referred to as 'the Agreement'.

The Web Site is intended only for registered health practitioners wishing to order the Philips Lumify Ultrasound Solutions (Product) through the Web Site for delivery in Australia for personal use and not for re-sale. Philips does not accept orders for delivery outside Australia. The terms and conditions under which the Products are offered for sale on this Web Site are set out below. By ticking the 'I have read and agree' box on the order form and submitting the order, you accept and agree to be bound by this Agreement. Philips reserves the right to change these terms and conditions at any time without prior notice. Such changes however will have no effect on orders that were submitted before posting of such revised terms and conditions on this Web Site.

2. Placing Your Order

2.1. To place an order you must be 18 years of age or over, be accessible by telephone and have a valid email address, and be a registered health practitioner in Australia.

2.2. You may place an order by:

2.2.1. Filling in the order form on the Web Site after logging into or creating your personal account and clicking on the appropriate submission button.

2.3. When you place your order, Philips will issue you with an Order Number via the Web Site. Please note the Order Number is supplied for reference purposes only and does not constitute our acceptance of your order.

2.4. By placing an order, you make an offer to us to purchase the Products you have selected on these terms and conditions. Philips may or may not accept your offer at our reasonable discretion or may reduce the number of Products we accept to deliver to you. However, orders submitted by you are binding on you and cannot be cancelled after order submission.

2.5. If Philips accepts your order, Philips will notify you of our acceptance by issuing an order confirmation. Philips will send your order confirmation to you by e-mail and this will be effective as of the date on which the order confirmation is sent to you. If Philips cannot accept your order, Philips will attempt to contact you by email or telephone.

2.6. Please note that the on-screen display of the colors, designs or size of products offered on the Web Site may differ from the actual color, appearance or size of the products.

3. Supply of Your Products

Subject to these terms and conditions, Philips will supply to you the Products indicated on your order confirmation.

4. Prices

4.1. All prices are in Australian dollars. Prices shall be those prices published on this Web Site at the time you submit your order. The prices published on the Web Site are exclusive of GST and duties, and exclusive of shipping and handling costs, which are for your account. These costs will be calculated separately as applicable and specified on the order form then added to the total price of the order. The total price stated on the order form you submit shall be the total amount payable by you for the products including all taxes, recycling fee, duties, handling and shipping charges.

4.2. Delivery costs, where applicable, are payable by you as indicated on your invoice.

5. Paying for Your Products

5.1. You may pay for your Products by the methods of payment displayed on the payment section of the Web Site.

5.2. You must pay in the currency as indicated on your invoice.

5.3. If you are paying by credit card, then you must supply your credit card details when you place your order. Your credit card will be charged upon placing your order. Philips will not supply the Products to you nor perform the services until your credit card issuer has authorized the use of your card for payment of the Products and/or services ordered. If Philips does not receive such authorization Philips shall inform you accordingly. Philips reserves the right to verify the identity of the credit card holder by requesting appropriate documentation.

6. Delivery of Your Products

6.1. Orders placed on this site can only be delivered in Australia.

6.2. Philips will deliver the Products to the delivery address you specified in the order form and in accordance with the delivery option you chose. In the event you order various Products to be delivered to different addresses, you will need to submit a separate order form for each delivery address. Any delivery or shipment dates given by Philips are best estimates only and Philips shall not be liable for any loss, damage, costs or expenses for failure to deliver in accordance with the delivery or shipment dates given. In the event any of the Products ordered is out of stock, this may mean the whole order is delayed. If so, an estimate of the delay will be given by e-mail but delivery shall in any case be made within thirty (30) days as of the date indicated on the order confirmation by Philips. Philips reserves the right to delay delivery until stock is available or replace the order with an equivalent product if the product ordered is no longer available.

6.3. Title to and risk of loss of your Products will pass to you on delivery of the Products

7. Exchanges, Returns and Refunds

7.1 If a Product was supplied in error, is incomplete or faulty, please call Philips at 1800 251 400 between 9AM and 5PM Monday to Friday. In the event that you are entitled to a replacement or repair in accordance with paragraph 8 below, the transportation charges will not be applied.

7.2. Steps to Follow to Claim a Refund:

(i) Please call Philips at: 1800 251 400 between 9AM and 5PM Monday to Friday to obtain a Return Merchandise Authorisation (RMA) number and return instructions.

(ii) You are responsible for arranging return shipment to Philips, subject to Cl. 7.1.

(iii) Before returning any Product(s) please check that you have:

- Received a RMA number from Philips (issued on request);
- Enclosed all accessories, in box warranties and other material supplied unless informed otherwise;
- Used all packaging that was originally supplied if still available;
- Clearly displayed the returns address and the RMA number;
- Sealed the packaging securely.

(iv) By following these steps will help ensure the Product(s) arrive at the correct destination and in good condition within a timely fashion. Please note that your failure to follow this procedure may result in the returned Product(s) being rejected upon receipt and you may, subject to applicable laws, forfeit your right to a refund or replacement.

(v) Please note that Philips reserves the right to reject any Product(s) that are not returned in accordance with the provisions set out above and particularly within this paragraph 7.2.

8. Warranty

8.1. In addition to any Philips manufacturer product warranty available for the Product ('Philips Warranty'), 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 for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the good repaired or replaced, at Philips's option, if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

8.2 The Philips Warranty does not apply to the devices or cables used in connection with the Product.

9. Philips Liability

9.1. To the fullest extent permitted by law, these terms and conditions set out the full extent of our obligations and liabilities in respect of the supply of the Products (and performance of telephone support and warranty services) and the performance of any Services.

9.2. Except where set out in paragraph 9.3 below, there are no warranties, conditions or other terms

that are binding on Philips regarding the supply of Products or the provision of Services except as expressly stated in the Agreement.

9.3. To the fullest extent permitted by law, any warranty, condition or other term arising out of or in connection with the supply of Products and/or the provision of Services which might otherwise be implied in or incorporated into the contract by statute, common law, laws applicable in the country where you purchased the Products or Services or otherwise (including without limitation any implied term as to quality, fitness for purpose, reasonable care and skill) is hereby expressly excluded.

9.4 TO THE FULLEST EXTENT PERMITTED BY LAW PHILIPS SHALL NOT BE LIABLE FOR ANY LOST PROFITS, LOST SAVINGS, LOSS OF REPUTATION, LOSS OF GOODWILL, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES UNDER, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SALE OF ANY PRODUCTS OR SERVICES BY PHILIPS OR THE USE THEREOF WHETHER OR NOT SUCH DAMAGES ARE BASED ON TORT (INCLUDING NEGLIGENCE), WARRANTY, CONTRACT, UNDER AN INDEMNITY OR ANY OTHER LEGAL THEORY – EVEN IF PHILIPS HAS BEEN ADVISED, OR IS AWARE, OF THE POSSIBILITY OF SUCH DAMAGES. PHILIPS WILL HAVE NO LIABILITY WHATSOEVER FOR ANY LOSS OR HARM HOWEVER CAUSED, ARISING FROM OR IN CONNECTION WITH THE PURCHASE AND USE OF THE PRODUCT BY INDIVIDUALS WHO ARE NOT SUITABLY QUALIFIED REGISTERED HEALTH PRACTITIONERS. TO THE FULLEST EXTENT PERMITTED BY LAW PHILIPS' AGGREGATE AND CUMULATIVE LIABILITY SHALL NOT EXCEED THE AMOUNT PAYABLE BY YOU TO PHILIPS IN RESPECT OF THE PRODUCT(S) AND/OR SERVICES IN QUESTION.

9.5. The limitations and exclusions set forth above in this Section 9 shall apply only to the extent permitted by applicable mandatory law.

9.6. Nothing contained in this Section 9 affects your statutory rights as a consumer, nor your right to return the Products as per clause 7.

10. Contacting Philips Accessories & Parts online shop

You can contact Philips Accessories & Parts online shop:

- By telephone: 1800 251 400 between 9AM and 6PM Monday to Friday

11. Data Protection

11.1. Your transaction records are accessible to you if you are a registered customer by entering your Web Order Number(s) so that you may check the status of your order(s) and check the order content.

11.2. By placing your order, you agree and understand that Philips may store, process and use the data collected from your order form for processing your order, completing the sale and to notify you of Philips products and offers from time to time. This data will be treated in conformance with the Philips Privacy Policy which is available by clicking on the button Privacy Policy in the footer of this Web Site. If you wish to have access to information we hold concerning you, or if you want to make any changes, or if you do not want to receive information from Philips please follow the update procedure set forth in the Philips Privacy Policy.

12. Force Majeure

Philips shall not be liable for any failure or delay in performance if:

- (i) such failure or delay results from interruptions in the Product manufacturing process; or
- (ii) such failure or delay is caused by Force Majeure as defined below or by law.

In case of such a failure as set forth above, the performance of Philips' obligations will be suspended for the period such failure continues, without Philips being responsible or liable to you for any damage resulting therefrom.

The expression "Force Majeure" shall mean and include any circumstances or occurrences beyond Philips' reasonable control - whether or not foreseeable at the time of order - as a result of which Philips cannot reasonably be required to execute its obligations including force majeure and/or default by one of Philips' suppliers. In the event that the Force Majeure extends for a period of three (3) consecutive months (or in the event that the delay is reasonably expected by Philips to extend for a period of three (3) consecutive months), Philips shall be entitled to cancel all or any part of the order without any liability towards you.

13. Rights in Software, Documentation and Intellectual Property

Subject to the provisions set forth herein, the sale by Philips of any goods implies the non-exclusive and non-transferable limited license to you under any of Philips' and/or its affiliates' intellectual property rights ("Philips' IPR") used in the goods to use and resell the goods as sold by Philips to you. To the extent that software and/or documentation is embedded in or delivered with any goods sold by Philips to you, the sale of such goods shall not constitute the transfer of ownership rights or title in such software and/or documentation to you, but, subject to the provisions set forth herein, shall only imply a non-exclusive and non-transferable license to you under Philips IPR used in the software to use such software and/or documentation in conjunction with and as embedded in or delivered with the goods as supplied by Philips to you.

You shall not: (a) modify, adapt, alter, translate, or create derivative works from any software residing in or provided by Philips in conjunction with any goods; (b) assign, sublicense, lease, rent, loan, transfer, disclose, or otherwise make available such software; (c) merge or incorporate such software with or into any other software; or (d) reverse assemble, decompile, disassemble, or otherwise attempt to derive the source code for such software without written authorization from Philips except as explicitly allowed under applicable law. You shall reproduce, without any amendments or changes thereto, any proprietary rights legends of Philips and/or its affiliates or its third party suppliers in any software or documentation provided by Philips. If and to the extent copyright in the software is owned by third parties, the license terms of these third parties shall apply.

14. Disagreements Governing Law and Jurisdiction

Philips will try to solve any disagreements quickly and efficiently. If you are not happy with the way Philips deals with any disagreement and you want to file court proceedings, you must do so within New South Wales law and courts. The applicability of the United Nations Convention on Contracts for International Sale of Goods is hereby explicitly excluded.

15. General

15.1. Neither Philips failure nor your failure to enforce any term of the contract constitutes a waiver of such term. Such failure shall in no way affect the right later to enforce such term.

15.2. The invalidity or unenforceability of any provision of the contract shall not adversely affect the validity or enforceability of the remaining provisions.

16. Content Restrictions

You agree not to use the Web Site or service:

- To upload, order for print, or otherwise transmit or communicate any material for any unlawful purpose or that is obscene, offensive, blasphemous, pornographic, sexually suggestive, deceptive, threatening, menacing, abusive, harmful, an invasion of privacy, supportive of unlawful action, defamatory, libelous, vulgar, violent, or otherwise objectionable
- To upload, order for print, or otherwise transmit or communicate any material that depicts celebrities or celebrity likenesses, regional, national or international leaders or politicians, current or former world leaders, convicted criminals, newsworthy, notorious or infamous images and individuals, or any material that is vintage in appearance or depicts images from an older era;
- To upload, order for print, or otherwise transmit or communicate any material that you do not have a right to transmit or communicate under any contractual or fiduciary relationship or which infringes any copyright, trademark, patent or other intellectual property right or any moral right of any party;
- To upload or otherwise transmit any material which is likely to cause harm to this Web Site or anyone else's computer systems, including but not limited to that which contains any virus, code, worm, data or other files or programs designed to damage or allow unauthorized access to this Web Site or which may cause any defect, error, malfunction or corruption to the service; and

In addition, in the event you violate one of these Content Restrictions and you intentionally publicize such violation, you acknowledge that Philips will suffer substantial damage to its reputation and goodwill and that you can be liable for causing such substantial damage.