



Terms and Conditions of Online Trading – Moofish Pty Ltd

Definitions

1 For the purpose of these Terms and Conditions of Online Trading, the following definitions apply:

Customer means the person who purchases the Product.

Force Majeure Event means any circumstance beyond the reasonable control of a party which results in a party being unable to observe or perform on time an obligation under these Terms.

Moofish means Moofish Pty Ltd (ACN 158 034 532).

Order means the order submitted by the Customer for the purchase of a Product/s from Moofish.

Privacy Policy means the Privacy Policy as published on the Website, as amended from time to time.

Product means any product available for purchase through the Website.

Purchase Price means the purchase price of the Order as displayed on the Website.

Terms means these Terms and Condition of Online Trading as set out herein and as amended from time to time.

Terms of Use means the Terms of Use as published on the Website, as amended from time to time.

Website means the Moofish website through which the Product is sold.

General

2 Moofish will sell, and the Customer will purchase, the Product on the terms and conditions set out in these Terms.

3 By placing an Order, the Customer agrees to abide by these Terms, the Terms of Use and the Privacy Policy.

4 If there are any inconsistencies between the Terms of Use, Privacy Policy and these Terms, these Terms will prevail.

5 In these Terms, a word importing the singular includes the plural (and vice versa).

Product

6 Certain Products may have limited quantities. Moofish reserves the right to limit sale of a Product to any person.

7 Moofish reserves the right to discontinue a Product at any time without notice.

8 Moofish have made every effort to display as accurately as possible the colours and images of the Products. Moofish cannot guarantee that the Customer's computer monitor's display of any colour or image will be accurate.

Pricing and Payment

9 In placing an Order through the Website, the Customer agrees to make payment of the total Purchase Price as listed on the Website at the time of purchase.

10 Unless otherwise stated, the Purchase Price is exclusive of GST and will be displayed in Australian dollars.

11 Full payment of the Purchase Price plus any additional delivery costs and/or payment surcharges (if any) is required in order to confirm the Order.

12 Moofish may, in its sole discretion, and without notice to the Customer, change the pricing of a Product from time-to-time.

- 13 The Customer acknowledges that pricing for the Product may be affected by stock availability and government impost (including levies, taxes and duties).
- 14 The Customer must make payment of the Purchase Price through PayPal or such other payment methods made available by Moofish from time to time. By placing an Order, the Customer agrees to be bound by and comply with the terms and conditions of all such third-party service providers, as updated from time-to-time.

Delivery

- 15 Any Order must be paid for in full prior to delivery.
- 16 All delivery costs will be added to the Purchase Price. Alternatively, the Customer may elect to pick up the Product from the Moofish premises free of charge on a date and time agreed to by Moofish.
- 17 All Products will generally be delivered to the Customer within 48 hours of payment unless Moofish notifies the Customer of a delay. The estimated delivery times provided to the Customer are estimates only, and Moofish will not be liable for late delivery.
- 18 If the Customer place the Order before 12pm, Moofish will endeavour to delivery the Product/s to the Customer on the next business day.
- 19 The Moofish delivery times are set out on the Website and may be amended as and when required by Moofish. As at the date these Terms are drafted, the Moofish delivery times are between 6am – 1pm, Monday – Friday.
- 20 Once the Customer has specified a location for delivery of the Product, this cannot be changed.
- 21 The Customer must either:
 - 21.1 arrange for the Product to be accepted on delivery by a person 18 years or older; or
 - 21.2 if no one will be able to accept the Product on delivery, instruct Moofish on delivery details of where to leave the Product unattended.

Cancellation and Change of Order

- 22 Once the Customer has placed an Order, under no circumstances whatsoever can the Order be cancelled. Other than as expressly stated in these Terms, the sale of all Products will be final.
- 23 The Customer acknowledges that once the Order has been placed, it cannot be changed.
- 24 Moofish do not accept responsibility for Orders that are declined, delayed or not accepted due to disruptions with internet connections.

Customer Obligations and Acknowledgments

- 25 The Customer acknowledges and agrees that:
 - 25.1 Moofish does not make any guarantees or warranties whatsoever regarding the Product other than as provided for pursuant to these Terms; and
 - 25.2 the Customer will comply with all provisions of these Terms.

Warranty

- 26 The Product comes with the guarantees and warranties that cannot be excluded under the Australian Consumer Law.
- 27 To the extent permitted by law, all express and implied warranties under statute or general law as to merchantability, description or quality are expressly excluded by Moofish.

Limitation of Liability and Indemnity

- 28 To the maximum extent permitted by law, Moofish excludes all liability (including all losses, damages, expenses and costs of whatever kind) arising from or in connection with:
 - 28.1 the Product/s;
 - 28.2 the Customer's or any other person's use of the Product;
 - 28.3 any failure to comply with these Terms; and/or
 - 28.4 any other act or omission of the Customer in connection with these Terms.

- 29 The Customer agrees to indemnify and keep indemnified Moofish from and against all actions, claims, proceedings, demands, liabilities, penalties, loss, damage, expenses and costs (including legal costs on a full indemnity basis) that may be brought against Moofish or which Moofish may pay, suffer, sustain or incur as a direct or indirect result of:
- 29.1 the Customer's or any other person's use of the Product;
 - 29.2 a breach of these Terms by the Customer; and/or
 - 29.3 any other act or omission by the Customer in connection with these Terms.
- 30 Notwithstanding any other provision of these Terms, in no event will Moofish's liability exceed the value of the Purchase Price paid by the Customer on the Customer's most recent Order.

Force Majeure Event

- 31 If Moofish is wholly or partially unable to perform its obligations under these Terms because of a Force Majeure Event, then:
- 31.1 after the Force Majeure Event arises, Moofish may notify the Customer of the extent to which Moofish is unable to perform its obligations;
 - 31.2 Moofish will use reasonable endeavours to mitigate the effect of the Force Majeure Event; and
 - 31.3 Moofish will not be liable to the Customer for any liability the Customer suffers or incurs as a result of the Force Majeure Event.
- 32 A Force Majeure Event does not relieve a party from liability for an obligation to pay money in a timely manner prior to the occurrence of that Force Majeure Event.
- 33 If a Force Majeure Event occurs and Moofish reasonably believes that it will continue for a period of more than 30 days, Moofish may take any action reasonably necessary to mitigate the effect of the Force Majeure Event, including:
- 33.1 suspending or postponing deliveries; or
 - 33.2 terminating the Order by notice to the Customer.

General

- 34 If a provision, or part of a provision, of these Terms is void or voidable that provision, or part, is severed and the remainder of these Terms have full force and effect.
- 35 These Terms and the Terms of Use
- 35.1 contain the entire agreement between the Customer and Moofish with respect to their subject matter; and
 - 35.2 set out the only conduct relied on by Customer and Moofish and supersedes all representations, conduct, contracts, expectations or arrangements by the Customer or Moofish with respect to their subject matter.
- 36 Moofish reserves the right to vary or amend these Terms at any time in its discretion by providing notice to the Customer (including by way of a notice posted on the Website).
- 37 Moofish may assign or transfer the benefit of these Terms by providing notice to the Customer.
- 38 These Terms must not be construed to the disadvantage of a party because that party was responsible for their preparation.
- 39 No failure to exercise or delay in exercising any right, power or remedy under these Terms will operate as a waiver, nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that right, power or remedy.
- 40 These Terms will be governed by, constructed by, and take effect in accordance with the laws of New South Wales, and the Customer and Moofish submit to the non-exclusive jurisdiction of New South Wales.

Questions

- 41 Should the Customer have any questions about these Terms, Moofish may be contacted at info@moofish.com.au.