

Terms and Condition of Sale

When purchasing products from Ozdirect's websites at www.ozdirect.com and www.ozdirect.com.au, you agree that the purchase and supply of the products will be subject to the terms and conditions listed on this web page (**Terms and Conditions**).

These Terms and Conditions may be varied, amended, updated and changed from time to time without prior notice. You will be subject to the Terms and Conditions displayed on this page at the time that you placed your order with Ozdirect. You should read these Terms and Conditions carefully before placing an order with Ozdirect as by placing your order, you offer to be bound by these Terms and Conditions.

1. Product Descriptions and Pricing

- (a) You acknowledge that products displayed on the Website are to be construed as an invitation to treat only and do not constitute an offer by Ozdirect to sell you those products.
- (b) Publishing information about a product on the Website does not ensure its availability. Products are advertised subject to availability.
- (c) Unless otherwise specified, the prices shown on the Website:
 - (i) are updated on a daily basis from information provided to Ozdirect by its suppliers; and
 - (ii) include GST.
- (d) In addition to the purchase price of any product, you will need to pay the shipping costs associated with the purchase of that product, which are displayed on the Website at the time that you place your order.
- (e) Price information is subject to change without prior notice.
- (f) Some product specifications, tables and/or descriptive phrases were created by respective suppliers and/or manufacturers and are used with permission. Product illustrations are, in some cases, provided courtesy of the manufacturer and/or supplier and used with their permission.
- (g) You acknowledge and agree that to the extent permitted by law, you release Ozdirect and hold Ozdirect harmless against all loss, damage or injury that you may suffer as a result of or ancillary to you relying on such product description, product images or other content.

2. Orders

- (a) You may submit orders on the Website by following the order process on the Website and offering payment for the product. Ozdirect will not accept payment for a product unless it accepts your order. If Ozdirect does not accept your order, it will notify you by email and promptly refund your payment in the manner that it was made (for more details see the section dealing with payments).

- (b) Ozdirect may in its absolute discretion accept or reject an order.
- (c) Where the price of a product you ordered (including any delivery costs) varies from that advertised on the Website at the time you submitted your order, Ozdirect:
 - (i) will charge you the price of the product at the date your order is accepted, if that price is less than the price advertised at the time you submitted your order (a processing fee of up to \$25 may be charged for processing the order at a lower price but you will not have to pay more than you originally offered for the product); or
 - (ii) may (in its discretion):
 - (A) notify you if the price at the date it proposes to accept your order is more than the price when your order was submitted and, if you consent within that Business Day to purchase the product at the higher price, proceed with accepting your order at the higher price; or
 - (B) accept your order at the price at the date that you submitted your order (ie the lower price); and
 - (iii) may reject your order and notify you of its rejection.

If you do not agree to purchase a product at the higher price or Ozdirect rejects your order, the full purchase price will be refunded to you promptly in the manner that you made payment.

- (d) Once you receive confirmation by email from Ozdirect that your order has been accepted, you will have entered into a binding contract with Ozdirect for the supply of the product on the terms of the order:
 - (i) you originally submitted; or
 - (ii) as varied in accordance with paragraph (c)(ii) above,

as the case may be. If you do not receive confirmation from Ozdirect that your order has been accepted or rejected by Ozdirect within 3 Business Days of submitting your order, please contact our customer service line on 9212 3326 or 8022 8384 ext 500 to check that your order was received by Ozdirect.

3. Payment

- (a) You may only pay for a product purchased on the Website by one of the acceptable methods of payment stated below.
- (b) Ozdirect only accepts payments by:
 - (i) direct deposit; and

- (ii) Master Card or VISA credit card.
- (c) Payments by direct deposit may take up to 3 Business Days to clear and you are deemed not to have made any payments to Ozdirect until the payment is cleared. It may therefore take up to 3 Business Days after you have placed your order for your order to be accepted by Ozdirect.
- (d) You acknowledge and agree to pay the following surcharges to Ozdirect:
 - (i) up to 3.7% of the purchase price (including GTS and shipping costs) for credit card payments; and
 - (ii) a surcharge of \$10 for orders of \$50.00 or less.
- (e) You will be charged a dishonour fee of \$30 if your financial institution refuses to honour a payment that you made to Ozdirect for any reason. This dishonour fee is in addition to any dishonour fee charged by your financial institution and Ozdirect's financial institution.
- (f) If you use a credit card that you do not own to pay for any product that you order, you represent and warranty to Ozdirect that you have the authority of the owner of that credit card to use it to make the payment.

4. Delivery, Risk and Title

Delivery

- (a) If you have been notified that your order has been accepted by Ozdirect, the product you ordered will be delivered to the delivery address you specified in your order (**Delivery Address**) by a courier arranged by the supplier of the product.
- (b) When you submit your order, the Website will display estimates of delivery times. These estimates are provided to Ozdirect by the couriers normally used by the suppliers to ship the product to you and are used with their permission.
- (c) The actual delivery time may vary depending on the availability of the product with the supplier and the courier chosen by the supplier to deliver the product. When your order is accepted, you will be given by email a consignment note which will then allow you, by going to the courier's website, to track the progress of the delivery of your product.
- (d) The Product ordered will be deemed to be delivered to you if left at the Delivery Address.
- (e) If the Delivery Address is unattended or no one at the Delivery Address acknowledges receipt, the product may be returned to the courier's depot (as chosen by the courier) and a note notifying you where and when the product may be collected will be left at the Delivery Address. You will then have to promptly arrange to collect the product from the depot (at your cost). Products which are not promptly collected from

depots may be returned to the suppliers and you may be charged additional costs for the re-supply of that product.

Risk and Insurance

- (f) Risk in a product transfers to you immediately when the product leaves the supplier's premises and is shipped to you.

Title

- (g) You acknowledge and agree that title to the product sold to you will only pass or be transferred to you when Ozdirect receives payment in full of all money owing to Ozdirect in relation to the product.
- (h) Until Ozdirect receives payment in full for a product you will hold the product as bailee only. Prior to receipt by Ozdirect of payment in full for the product you must:
- (i) not intermingle the product with any other property;
 - (ii) change the product in any way;
 - (iii) not change or obscure in any way any identification marking that Ozdirect have placed on the product by lettering and numbering;
 - (iv) not sell the product except to a bona fide purchaser for full value;
 - (v) keep all proceeds from the sale of the product in trust for, and on, Ozdirect's behalf in a separate trust account;
 - (vi) promptly pay the proceeds of any sale of the product to Ozdirect.
- (i) If you do not make all payments to Ozdirect for a product or take any action that prevents Ozdirect from receiving payment for a product that has been shipped or delivered to you, you irrevocably authorise Ozdirect, and appoint Ozdirect as your agent, to:
- (i) stop the shipped of the product to you; and/or
 - (ii) enter upon any property where the product is stored or ought to be stored, and to use such reasonably force as may be necessary, for the purpose of repossessing the product,
- and to do so at your cost.

5. Back Orders

- (a) If you order a product that:
- (i) has been sold to other customers and the supplier does not have that product in stock at the time that the order is accepted;
- or

- (ii) the quantity of the product that you have ordered is more than the quantity that the supplier has immediately on stock; or
- (iii) is not generally held on stock by the supplier (sometimes because of the nature or cost of the product),

you order could go on the supplier's back orders. This means that you will have to wait until the supplier restocks the product before it is dispatched to you.

- (b) You can check whether your order has been placed on back order by checking the status of the order through your account on the website.
- (c) If you are concerned we the delay that may be caused to the supply of the product that you have ordered because it has been placed on back order, contact us on [Customer enquiries], alternatively, you can cancel the order as discussed below.

6. Cancellations, Returns and Refunds

Cancellations

- (a) You may cancel an order by notifying Ozdirect in writing or by email at any time prior to receiving a notice of the product being dispatched by the supplier for delivery to you. You can determine whether your product has been dispatched by logging on to your account on the Website and checking the order status.
- (b) If you request to cancel an order after dispatch, then Ozdirect may:
 - (i) accept your cancellation and charge you a cancellation fee of \$25 per order plus any costs and charges imposed by its supplier; or
 - (ii) reject your request.
- (c) When you cancel an order in accordance with paragraph (a) above, Ozdirect will provide you with a full refund of the purchase price. If we accept your request to cancel an order after the product has been dispatched to you we will refund the purchase price less any applicable cancellation fees and charges referred to above.

Returns for Warranty Claims

- (a) Subject to the provisions dealing with cancellations and refunds, you may not return a product because you changed your mind about purchasing it or you want to exchange it for another product.
- (b) Where you wish to make a warranty claim in relation to a product you must:
 - (i) give Ozdirect written notice of your complaint specifying such the details of the problems or fault;

- (ii) complete a Return Authority Form available at www.ozdirect.com.au/returns.html; and
 - (iii) return (at your cost) the faulty product to the supplier together with the RA Number within 5 Business Days of completing the Return Authority Form; and
 - (iv) clearly display the RA Number on the return package which must include all accessories and the original packaging.
- (c) Ozdirect and/or the relevant supplier:
- (i) will pay for the cost of shipping a replacement/repaired product; and
 - (ii) reserves the right to reject incomplete or not properly packaged product.
- (d) Once the product has been tested for the specific fault and found to have that fault, a refund or replacement product will only be issued in accordance with the terms of these Terms and Conditions. If the product does not have a fault, a \$ service fee may be charged and you will be responsible for collecting the product from the supplier.

Refunds

- (a) You are entitled to a full refund of the purchase price for a product only in the circumstances specified in this section.
- (b) If you acquire:
- (i) a product normally meant for personal or household purposes; or
 - (ii) any other product costing less than \$40,000; and
 - (iii) you do not acquire the product to on-sell it or to make a profit, you will be entitled to a refund provided you follow the procedures set out in this section of the terms and conditions,
- you will be deemed to be a **consumer** and subject to the remaining provisions of this section, be entitled to a refund.
- (c) If you are a **consumer** and the product that you have purchased:
- (i) is not of merchantable quality;
 - (ii) is not fit for its intended purpose;
 - (iii) does not match the description of the product given on the website; or
 - (iv) you are not given clear title to the product,

then subject to complying with the remaining provisions of this clause, you will be entitled to request a full refund of the purchase price.

- (d) Subject to the provisions of paragraphs (j) and (k) above, you may request a refund of the full purchase price for any product purchased on the Website by:
 - (i) returning the goods to the supplier, or notify us of the problem, within a reasonable time after you have had a reasonable opportunity to inspect the product (generally before you have used the product); and
 - (ii) not disposing or, losing or destroying the product.
- (e) Whilst the product is in your possession you must also:
 - (i) take reasonable care of the product;
 - (ii) not damage the product by using it in a way that it was not meant to be used; and
 - (iii) be able to prove that you purchased the product from Ozdirect.
- (f) If you are entitled to request a refund under these Terms and Conditions or any applicable law, and you request a refund the purchase price will be refunded to you in the form of your original payment (eg if you paid for the product by credit card, Ozdirect will give you a credit card refund). If you do not request a refund, Ozdirect may either refund you the purchase price, supply with you a credit note equal to the value of the purchase price or provide a replacement product (at its cost).
- (g) Except as set out in this provision or any applicable law from time to time, you are not entitled to request a refund of the purchase price.

7. Warranties on Products and Services

- (a) If you are a **consumer** within the meaning defined paragraph 6(j), in addition to any warranty provided by the manufacturer of the product as discussed above, you are entitled to request a refund or to seek another remedy (such as the issues of a credit note of equal value to the purchase price, or the replacement or repair of the product) from Ozdirect if:
 - (i) is not of merchantable quality;
 - (ii) is not fit for its intended purpose;
 - (iii) does not match the description of the product given on the website; or
 - (iv) you are not given clear title to the product,

provided that whilst the product was in your possession you:

- (v) took reasonable care of the product;
 - (vi) did not damage the product by using it in a way that it was not meant to be used; and
 - (vii) are able to prove that you purchased the product from Ozdirect.
- (b) In all other cases, to the extent permitted by law:
- (i) all representations, warranties and other terms, including warranties with respect to quality and fitness for a particular purpose, are excluded; and
 - (ii) the liability of Ozdirect under any representation or warranty, express or implied, is limited to, at Ozdirect's election:
 - (A) passing onto you any manufacturer's warranty Ozdirect obtained;
 - (B) resupply of the product or services (or equivalent product or services) or payment of cost of such resupply; or
 - (C) repair of the product or payment of the cost of such repairs.
- (c) You acknowledge that manufacturer's warranty on the Products may vary from 3 months to one year and it is your responsibility to ensure that you comply with the terms of such warranties that accompany the Product.

8. Indemnity

Without limiting the operation of any other provisions of these Terms and Conditions of Sale, you agree to indemnify Ozdirect and keep Ozdirect indemnified, holding Ozdirect harmless from all claims, demand, damages or loss (including legal costs on a full indemnity basis) incurred by Ozdirect as a result of, or flows naturally from, your breach of these Terms and Conditions of Sale.

9. Limitation of Liability

- (a) To the extent permitted by law, Ozdirect disclaims all warranties and representations (whether express or implied) as to the accuracy of any information contained on the Website.
- (b) You acknowledge and agree that:
 - (i) any liability Ozdirect may have for any losses or claims arising from supply of product or services, inability to access the Website, or from any use of the Website or reliance on the data

transmitted using the Website, is excluded to the fullest extent permissible by law; and

- (ii) in no event will Ozdirect be liable for any loss of profit, revenues, goodwill, opportunity, business, anticipated savings or other indirect or consequential loss of any kind in contract, tort (including negligence) or otherwise arising out of use of the Website or the provision of goods or services by Ozdirect.
- (c) To the extent permitted by law, Ozdirect's liability in relation to any product or service supplied as a consequence of your use of the Website whether by reason of defect, fault, or otherwise lack of merchantable quality or unfit for any particular purpose is limited to the lesser of:
 - (i) passing onto you any manufacturer's warranty Ozdirect obtained;
 - (ii) the replacement of any product purchased; and
 - (iii) the purchase price paid by you to Ozdirect for that product or service.

10. Taxes and Duties

If you are located outside of Australia, you will be liable for all taxes, costs and charges payable including port storage costs and any applicable customs duties at the port of destination.

11. Applicable Law

- (a) These Terms and Conditions are subject to and will be construed in accordance with the laws of New South Wales.
- (b) You agree to submit to the exclusive jurisdiction of the courts of New South Wales.

12. Severability

If any part of these Terms and Conditions is or becomes legally ineffective, invalid or unenforceable, the effectiveness, validity or enforceability of the remainder will not be affected.

13. Definitions and Interpretation

13.1. Interpretation

Where the context allows, in these Terms and Conditions:

- (a) a reference to the Website means Ozdirect's websites at www.ozdirect.com and www.ozdirect.com.au and all its contents.
- (b) a reference to Ozdirect means Ozdirect Online Brands Pty Limited ABN 65 106 509 808 and includes all officers, agents, employees, suppliers and other contractors of Ozdirect.

- (c) a reference to you means the person accessing the Website and includes all his or her principals, employers, partners, officers, agents and employees.

13.2. Definitions

Where the context allows, in these Terms and Conditions:

Business Day means a day other than a Saturday, Sunday or any day that is a public holiday in Sydney.