

Coolon Standard Purchase Terms and Conditions

1. Agreement

- 1.1 These Conditions apply to all Purchase Orders issued by Coolon.
- 1.2 Purchase Orders are only valid if issued on a standard Coolon Purchase Order form with a Coolon purchase order number.
- 1.3 These Conditions prevail over any terms submitted by the Supplier whether in the Supplier's terms of sale or in any other document issued by the Supplier. The acceptance of a Purchase Order by the Supplier will be deemed as the Supplier's acceptance of these Conditions.
- 1.4 The Supplier must advise Coolon of receipt and acceptance of Purchase Orders promptly. The Supplier will be taken to have accepted a Purchase Order if it does not reject it within 7 days after it is issued.

2. Price

- 2.1 Prices in each Purchase Order cannot be increased by the Supplier unless such increase has been agreed to in writing by Coolon.
- 2.2 No charge will be allowed for packing, crating, cartage or freight unless specified in the Purchase Order.
- 2.3 The consideration for each supply under each Purchase Order is exclusive of GST. If GST is payable the consideration for the supply will be increased by an amount of the GST and the
- 2.4 Supplier must provide a tax invoice to Coolon to enable Coolon to claim input tax credits in respect of the supply.

3. Payment

- 3.1 Purchase Orders are placed on the basis that all prices include the Supplier's delivery to Coolon at the address shown on the Purchase Order unless otherwise specified in the Purchase Order.
- 3.2 Invoices for Goods provided in accordance with each Purchase Order will be paid by Coolon following acceptance of the Goods and receipt by Coolon of a correctly rendered invoice which quotes the correct Purchase Order number.

4. Delivery

- 4.1 The Supplier must deliver the Goods within the times, and to the location, specified in the Purchase Order.
- 4.2 Delivery at all times is at the cost of the Supplier unless otherwise expressly agreed in writing by Coolon. Goods shall be delivered on the date as specified on the order.
- 4.3 Coolon may, without liability to the Supplier, cancel the whole or any portion of any Purchase Order if the relevant Goods are not supplied within the time stipulated in the Purchase Order.
- 4.4 The Supplier must, with each delivery, provide to Coolon sufficient documentation identifying the Goods delivered.
- 4.5 Unless stated otherwise in the Purchase Order, the Supplier must, at its cost, unload the Goods at the specified location.

5. Late Delivery

- 5.1 The Supplier indemnifies and will keep Coolon indemnified in respect of any damage, loss, liability or expense (including all legal costs and expenses) which Coolon suffers, incurs or is liable for as a consequence of the Supplier's failing to supply by the due date.
- 5.2 Coolon may seek damages from the Supplier for any direct losses resulting from the delay.

6. Force Majeure

- 6.1 Neither Party shall be liable for any delay or failure to perform its obligations under this Agreement that results directly or indirectly from or contributed to by any acts of God, acts of government or other civil or military authorities, strikes, labour conflicts, industrial disputes, fires, accidents, epidemics, wars or war-like conditions, riots, embargoes, temporary unavailability of shipping space or carrier, import restrictions, lack of import licenses for the Goods as a result of actions or omissions to act by a third party, or other circumstances beyond the Party's reasonable control ("Force Majeure Event").
- 6.2 The affected Party shall notify the other Party in writing as soon as practicable after the affected Party becomes aware of such circumstances, whether actual or anticipated, and both Parties shall, as soon as practicable, consult and determine mitigation action for any such force majeure event.
- 6.3 If performance of the Supplier's obligations is delayed or hindered by circumstances outside the Supplier's control arising from force majeure as stated above, the Supplier's duty to perform shall be suspended for as long as the circumstances amounting to force majeure continues, and the timeframe for the Supplier's obligations shall be extended by a period equal to the duration of those circumstances.

7. Liability

- 7.1 The Supplier indemnifies, and keeps Coolon indemnified, from and against each liability, loss, judgement or expense incurred by reason of the Supplier's breach of any of the provisions of the Agreement or any claim or proceedings arising from any alleged infringement by Coolon of the intellectual property rights of any person arising from purchase or use of the Goods.

8. Confidentiality

- 8.1 All information contained in drawings, specifications and technical data that may be provided by Coolon for preparing quotations or carrying out each Purchase Order are strictly confidential and are issued on the condition that they are the property of Coolon and are issued on loan and may not be copied or transferred to a third party without Coolon's prior written consent and they are to be used for no other purpose other than for preparing a quotation or fulfilling a Purchase Order and must be returned to Coolon on completion of the Purchase Order or on request.
- 8.2 The placing of a Purchase Order does not entitle the Supplier to use Coolon's name for any purpose.
- 8.3 If any Coolon branded Goods are supplied by the Supplier to Coolon the Supplier must not use those Goods for display or advertising without Coolon's prior written consent. In the event of such consent being given, each such display or advertisement must be approved in writing by Coolon prior to the erection of such display or the publication of such advertisement.

9. Specification of Goods

- 9.1 All Goods must conform to Specification. In the event of Goods not being to Specification Coolon reserves the right to reject those Goods in whole or in part. If Goods are rejected Coolon will not be required to hold the Goods on behalf of the Supplier for more than 30 days after they are received. For Goods that comprise services, the Supplier warrants that the services will be provided with all due care and skill.
- 9.2 All Goods supplied must be of good and merchantable quality and reasonably fit for the purposes for which they are purchased. The Supplier must provide Coolon with any applicable manufacturer warranties for the Goods and if the Supplier is not the manufacturer it must assign to Coolon (and to any purchaser from Coolon) the benefit of any manufacturer warranties for the Goods.

10. Variations

- 10.1 The Supplier must not vary a Purchase Order, the Goods or any part of them without the prior written consent of Coolon.
- 10.2 Coolon may at any time direct the Supplier to vary a Purchase Order, the number, type or specification of the Goods and to the extent that the Supplier can reasonably comply with that direction, it must do so.

11. Insurance

- 11.1 For Goods supplied all risks insurance for the replacement value of the Goods is to be effected by the Supplier and is to remain in force up to delivery of the Goods at Coolon's address shown on each Purchase Order. The Supplier must maintain a public liability insurance policy and a professional indemnity insurance policy (where it supplies professional services) at levels that are consistent with normal industry practice for providers of the relevant Goods.

12. Title and Risk

- 12.1 Title to the Goods free of encumbrances and all other adverse interests passes to Coolon upon the later of delivery and payment being made for the Goods. Risk in the Goods passes to Coolon upon delivery.

13. Personal Property Securities Act 1999 ("PPSA")

- 13.1 Coolon acknowledges that, until payment has been made for the Goods, the Supplier may register a Security Interest in favour of the Supplier in respect of the Goods and their proceeds.
- 13.2 Coolon undertakes to:
 - 13.2.1 promptly do all things and execute all documents which the Supplier may reasonably require to enable the Supplier to attach, enforce, register, protect and maintain the perfection of its security interest; and
 - 13.2.2 give the Supplier written notice of any change in its name and/or any other change to its details.
- 13.3 Coolon waives its rights to receive a copy of any verification statements under section 157 of the PPSA.
- 13.4 Coolon will give the Supplier notice if another party with a security interest in the Goods seizes or otherwise deals with the Goods in a way that might impact the Supplier's Purchase Money Security Interest.
- 13.5 To the maximum extent permitted by law, Coolon and the Supplier agree that the following provisions of the PPSA do not apply to the enforcement by the Supplier of its security interest in the Goods: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) and 135.
- 13.6 In this clause "proceeds" and "Security Interest" have the meanings given to those expressions in the PPSA.

14. Termination

- 14.1 If the Supplier is in default of its obligations under these Conditions (including where it becomes insolvent as defined in the Corporations Act 2001 (Cth) or commits an act of bankruptcy), Coolon may, on notice to the Supplier, immediately terminate this Agreement.
- 14.2 If this Agreement is terminated under clause 12.1, the Supplier is liable for and indemnifies Coolon against any additional costs and expenses incurred by Coolon in acquiring goods similar to the Goods and any other losses suffered as a result of the termination.

15. Privacy

- 15.1 The Supplier must ensure that any collection, use and transfer of any Personal Information in the course of providing Goods under this Agreement complies with all applicable laws in

Australia including the Australian Privacy Principles in the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth) and the Privacy Act 1988 (Cth).

- 15.2 Where necessary, the Supplier must obtain all necessary consents in relation to the collection, use and transfer of Personal Information required under this clause from the relevant individual.

16. General

- 16.1 The Supplier must not assign the benefit of, or otherwise create an interest in its rights under this Agreement unless it obtains the prior written consent of Coolon. Coolon may assign any or all of its rights under this Agreement to any person.
- 16.2 Time is of the essence of this Agreement.
- 16.3 The failure of Coolon to insist upon strict performance of any of these Conditions is not to be construed as a waiver.
- 16.4 Coolon may set off any amount owed by the Supplier to Coolon against any amount of money that is owed, or may become owing, by Coolon to the Supplier. The Supplier waives any right to set off any amount that is, or may become, owing by the Supplier to Coolon against any amount owing by Coolon to the Supplier.
- 16.5 The Agreement is governed by the laws of the State of Victoria and Coolon and the Supplier agree to irrevocably submit all disputes arising between them to the jurisdiction of the courts of that State.
- 16.6 The invalidity or unenforceability of any provision of these terms and conditions shall not affect the validity or enforceability of the remaining provisions. The Supplier's failure to enforce at any time or for any period of time, any term of any contract incorporating this Contract shall not constitute a waiver of such terms and shall in no way affect the Supplier's right to enforce them.

17. Definitions and Interpretation

- 17.1 In these Conditions:
- 17.1.1 **Agreement** means the agreement between Coolon and the Supplier for the supply of the Goods, comprising the relevant Purchase Order, these Conditions and any other document referred to in the Purchase Order;
- 17.1.2 **Conditions** means these terms and conditions, as amended from time to time;
- 17.1.3 **Goods** means any goods, products, materials or services supplied by the Supplier;
- 17.1.4 **GST** has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- 17.1.5 **Coolon** means Coolon Pty Ltd (ABN 66 097 249 931) as indicated on the applicable Purchase Order;
- 17.1.6 **Personal Information** has the same meaning as in the Privacy Act 1988 (Cth) as amended (including as amended by the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth));
- 17.1.7 **Purchase Order** means a purchase order issued by Coolon to a Supplier;
- 17.1.8 **Specification** means the specification for the Goods contained in the related Purchase Order together with any other information referred to in the Purchase Order or contained in the relevant
- 17.1.9 **Quotation** or documentation provided by the Supplier relevant to the type, quality or nature of the Goods; and
- 17.1.10 **Supplier** means the supplier of the Goods the subject of a Purchaser Order.