



## C2N Surfing Terms and Conditions of Sale

### 1. General

- 1.1 Except to the extent otherwise agreed in writing, all Goods and Services will be supplied to the Purchaser by C2N Surfing based on any Quote and Order Acknowledgement issued by C2N Surfing and these Terms.
- 1.2 For the avoidance of doubt, and except to the extent otherwise agreed, on acceptance of any Order by C2N Surfing, a separate contract of sale will arise which will consist of the Order and these Terms, to the exclusion of any other terms and conditions proposed by the Purchaser or which may otherwise be referenced in the Order.

### 2. Definitions

- 2.1 In these Terms, the following definitions apply.

**ACL** Means the Australian Consumer Law under the Competition and Consumer Act 2010 (Cth).

**C2N Surfing, we or us** means the following entity as identified in the Order. Pope, Matthew Guy (ABN 51 240 360 917).

**Force Majeure Event** means an event beyond the control of C2N Surfing, which may include an act of God, lightning, storm, flood, cyclone, fire, earthquake, explosion, sabotage, epidemic, poor Surf conditions whether or not C2N Surfing is a party to it.

**Goods** means the products and / or the services that C2N Surfing agrees to supply to the Purchaser in accordance with these Terms and as identified in the Order.

**Order** means the Quote, the purchase order issued by the Purchaser and the Order Acknowledgement issued by C2N Surfing.

**Order Acknowledgement** means C2N Surfing's acceptance of the Purchaser's purchase order.

**Purchaser or you** means the party listed as the purchaser in the Order.

**Quote** means any quote or proposal provided by C2N Surfing for the supply of Goods or Services and which forms part of the Order.

**Terms** means these Terms and Conditions of Sale.

### 3. Pricing

- 3.1 The price quoted by C2N Surfing for the Goods or Services is based on the cost of supply as at the date of the Quote. A Quote is valid for thirty (30) days from the date of issue. C2N Surfing may vary the price if the Purchaser changes any aspect of the supply under the Quote or otherwise fails to accept the Quote within the thirty (30) day validity period.
- 3.2 The price quoted by C2N Surfing is exclusive of any Goods and Services Tax ('GST'). These shall not form part of the final invoice unless otherwise stated in the Order.

- 3.3 If there is change to the quoted location C2N Surfing reserves the right to an equitable adjustment of the price on account of such changes. C2N Surfing's invoice will be issued on delivery to reflect such changes to the price.

### 4. Orders

- 4.1 The Order Acknowledgement will set out the price payable for the Order.
- 4.2 By written notice to the Purchaser, C2N Surfing may decline an Order, in whole or in part, at any time prior to issue of the Order Acknowledgement. If C2N Surfing declines an Order, it will have no further obligation or liability to the Purchaser with respect to that Order.

### 5. Delivery and Performance

- 5.1 On delivery, you must ensure that the Goods or Services are in accordance with the Order. Any claim by the Purchaser for wrongful delivery must be made in writing within fourteen (14) days of delivery. The Purchaser will be deemed to have fully accepted the Goods or Service if notice is not provided within this period.
- 5.2 C2N Surfing may, at its discretion, deliver the Order by instalments and each instalment will be deemed to be a separate Order. Failure of C2N Surfing to deliver any instalment shall not entitle the Purchaser to cancel the balance of the Order
- 5.3 Any time quoted for delivery or performance is indicative only. Whilst C2N Surfing will use all reasonable endeavours to meet any delivery or performance date set out in an Order, C2N Surfing shall not be liable for any loss or damage suffered by the Purchaser if C2N Surfing is unable to meet those dates. Any reasonable delay in delivery or performance of Order shall not relieve the Purchaser from its obligation to accept or pay for the Goods.
- 5.4 If delivery or performance is delayed or prevented due to a Force Majeure Event, C2N Surfing may, as it determines appropriate in the circumstances:
- (a) Extend the date of delivery or performance for such period reasonably necessary to overcome the Force Majeure Event; or
  - (b) Cancel the Order if determines that it will be unable to perform the Order as a result of the Force Majeure Event.

And C2N Surfing shall have no liability to the Purchaser whatsoever in the event of termination of the Order in the circumstances.

### 6. Payment

- 6.1 Unless otherwise agreed in an Order and subject to clause 6.2 the Purchaser must pay C2N Surfing's invoice within ten (10) days from date of invoice.
- 6.2 C2N Surfing may, in its discretion, require the Purchaser to pay for Goods or Services in advance or otherwise provide security in connection with the supply.



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- 6.3 If instalment payments are agreed for an Order and the Purchaser defaults under these Terms with respect to any instalment then C2N Surfing may treat the default as a breach of the entire Order and, without limiting or waiving any other rights it may have with respect to such default, withhold all future instalments until such time as the default is rectified.
- 7. Title**
- 7.1 Title in the Goods will not pass to the Purchaser until the Purchaser has made payment for the Goods in full. Until such time as payment is made in full, C2N Surfing retains full legal title in the Goods supplied.
- 7.2 The Purchaser may not sell or otherwise dispose of the Goods or New Products until the Goods are paid for in full unless:
- (a) they are sold by the Purchaser in the ordinary course of its business; and
  - (b) that part of the proceeds of sale Goods that represents the price payable for the Goods is paid immediately to C2N Surfing. The Purchaser will hold those proceeds in trust for C2N Surfing until such time as they are paid.
- 8. Return for Credit**
- 8.1 If the Purchaser wants to return Goods for credit, other than for reason of breach of warranty, then:
- (a) C2N Surfing will not accept return of Goods for credit unless the return is first authorized by C2N Surfing in writing.
  - (b) Goods will not be accepted for return unless they:
    - (i) are in original condition and packaging; and
    - (ii) are less than one (1) month old
  - (c) Proof of purchase must accompany any claim for credit.
  - (d) a fee equal to 20% of the value of the returned Goods must be paid by the Purchaser, unless otherwise agreed in writing by C2N Surfing.
- 9. Warranty for Goods**
- 9.1 For all Goods supplied by C2N Surfing, to the extent permitted by applicable law and unless otherwise agreed in an Order, C2N Surfing warrants only that the Goods manufactured and supplied by it will conform to C2N Surfing's standard commercial specifications (subject to C2N Surfing's right to incorporate such minor modifications as appropriate or necessary to comply with any relevant laws) and will be free from failure due to defects in workmanship and material for (3) months from the date of delivery.
- 9.2 Any claim during the Warranty Period must be made in writing to C2N Surfing. For any valid claim, C2N Surfing will, at its option and discretion, either:
- (a) repair or replace the Good, or defective part or component thereof; or
  - (b) credit the Purchaser for the purchase price of the Goods. C2N Surfing will not be liable for any additional costs, charge, loss or expense in connection with the Claim, including labour, access, removal and installation and transporting of the Goods.
- 10. Statutory Rights**
- 10.1 Our goods and Services come with guarantees that cannot be excluded under the ACL. 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.
- 11. Limitation of Liability**
- 11.1 Notwithstanding anything to the contrary in these Terms, to the full extent permitted by applicable law, the total cumulative and aggregate liability of C2N Surfing arising from or related to any Order on any grounds whatsoever shall not exceed an amount equal to the value of the Goods on which such liability is based.
- 11.2 To the full extent permitted by law, C2N Surfing will not be liable to the Purchaser in respect of any claim for any loss of profit, goodwill or business, for any interruption to business, loss of, damage to, or unauthorized access to media, failure to transmit or receive media or for any consequential, indirect, special, punitive or incidental loss, whether in contract or in tort.
- 12. Indemnity**
- 12.1 The Purchaser indemnifies and holds C2N Surfing harmless from and against all claims, liabilities, losses, damages, costs or expenses incurred or suffered by C2N Surfing, and from and against all actions, claims or demands made against C2N Surfing, arising as a result of:
- (a) the Purchaser's failure to:
    - (i) take any other reasonable precautions either to bring to the attention of any potential users of the Goods any quality issues associated with the Goods, or to detect any matters in relation to which C2N Surfing may become liable, including, without limitation, liability under the ACL; or
    - (ii) otherwise comply with any laws, rules, standards or regulations applicable in relation to Goods or the use of the Goods;
  - (b) any other negligence or other breach of duty by the Purchaser; or
  - (c) any compliance or adherence by C2N Surfing with any instructions of the Purchaser in relation to the Goods or their manner of fabrication.
- 13. Cybersecurity**
- 13.1 The Purchaser is responsible for obtaining (at the Purchaser's expense) assurances from third party suppliers with respect to cybersecurity for third party equipment.



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### 14. Termination

- 14.1 The Purchaser may not cancel an Order unless:
- (a) for Goods or Services which are specifically manufactured or purchased for the Purchaser, the Purchaser gives written notice no later than two (2) days before the date of delivery of its intention to cancel the Order; and
  - (b) the Purchaser pays C2N Surfing a reasonable termination charge, which will include all milestone payments paid by the Purchaser and all costs and expenses incurred by C2N Surfing in connection with the Order.

### 15. Default in Payment

- 15.1 If the Purchaser fails to make any payment when due, then, without prejudice to C2N Surfing's other remedies and rights:
- (a) interest shall accrue on the amount of the overdue payment at a rate equivalent to the Commonwealth Bank Corporate Loan & Overdraft Reference Rates per annum calculated from the date payment was due;
  - (b) all payments which are not yet due under any Order shall immediately become due and payable by the Purchaser; and
  - (c) any collection expenses incurred by C2N Surfing incurred in recovery of such overdue amount will be payable by the Purchaser.

### 16. Purchaser Acknowledgements

- 16.1 (a) the Purchaser acknowledges that neither C2N Surfing nor any person purporting to act on its behalf has made any representation or given any promise or undertaking which is not expressly set out in these Terms.

### 17. Privacy

- 17.1 Eaton collects and manages personal information in accordance with the Privacy Act 1988 (Cth) ('Privacy Act') for the purposes of supplying Order to the Purchaser. If C2N Surfing does not collect such information, C2N Surfing may not be able to provide the Purchaser with Order requested. C2N Surfing may disclose personal information to parties whom C2N Surfing is required to disclose the information by law. Where the Purchaser provides personal information (as defined in the Privacy Act) about its directors or employees or personnel to C2N Surfing in the course of its dealings with C2N Surfing, the Purchaser undertakes to notify the relevant director, employee or personnel that:
- (a) their personal information has been provided to C2N Surfing and the purpose of that disclosure is to enable C2N Surfing to supply Order to the Purchaser;
  - (b) they may request access to their personal information held by C2N Surfing by writing to C2N Surfing at the address set out at the end of these Terms.

### 18. Governing Law

- 18.1 In respect of any Goods or Services supplied or performed in Australia, these Terms and any Order shall be governed by and construed in accordance with the laws of Queensland and the Purchaser agrees to submit to the non-exclusive jurisdiction of the courts of Queensland.