

Nero Espresso Coffee Company Pty Ltd ONLINE TERMS & CONDITIONS

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1 General

1.1 This Nero Espresso Coffee Company Pty Ltd site at www.neroespresso.com.au (“Site”) is a shopping website where you can browse, select and order products advertised on the Site As Nero

Espresso Coffee Company Pty Ltd (ABN 53 605 428 466) (“Nero Espresso Coffee Company Pty Ltd”, “us” or “we”).

1.2 Please read these terms and conditions before accessing or using the Site. If you are under 18 years of age, then you must obtain your parent or guardian’s consent before accessing and using the Site.

1.3 Your access to and use of the Site, including your order of Products through the Site, is subject to these terms and conditions.

2 Compliance with the Terms & Conditions

2.1 You agree to bound by, and comply with, these terms and conditions:

- (a) by completing your registration through the Site; and
- (b) using the Site to obtain Products from us.

3 Registration

3.1 You must complete the customer registration process through the Site before placing an Order for Products through the Site. Any personal information that you give us will be held and used by us in accordance with our privacy policy referred to in clause 22 below.

3.2 You may not have more than one active account, and your account is non-transferable. You may update, edit or terminate your account at any time through the Site.

3.3 If you choose to use a workplace email address for your account or to access the Site, then you are solely responsible for ensuring that you comply with the rules, policies or protocols that apply to the use of your email address and your workplace facilities.

4 Placing an Order for Products

4.1 You may order Products by selecting and submitting your Order through the Site in accordance with these terms and conditions.

4.2 Any Order placed through this Site for a Product is an offer by you to purchase the particular Product for the price notified (including the delivery and other charges and taxes) at the time you place the Order.

4.3 We may ask you to provide additional details or require you to confirm your details to enable us to process any Orders placed through the Site.

4.4 You agree to provide us with current, complete and accurate details when asked to do so by the Site.

5 Acceptance or rejection of an Order

5.1 We reserve the right to accept or reject your Order for any reason, including if the requested Product is not available, if there is an error in the price or the product description posted on the Site or an error in your Order.

5.2 Each Order placed for Products through the Site that we accept results in a separate binding agreement between you and us for the supply of those Products. For each Order accepted by us, we will supply the Products in that Order to you in accordance with these terms and conditions.

5.3 If we reject an Order placed through the Site, then we will endeavour to notify you of that rejection at the time you place the Order or within a reasonable time after you submit your Order.

6 Minimum and maximum amounts in each Order

6.1 Unless otherwise indicated on the Site:

You may only obtain up to 50 items of a particular Product in each Order (there may be lower limits for particular Products. We will inform you of these limits on the Site when you place the Order or within a reasonable time after you submit your Order); and

6.2 If you wish to place an Order that differs from our ordering requirements, then you will need to contact our Nero Espresso Coffee Company Pty Ltd on 1800 836 601 during Contact Hours. If we agree to an Order that differs from our usual requirements, then you agree that the delivery time may be longer than our usual delivery times for standard orders. In this regard, we recommend that you allow at least 3 days between ordering and delivery within Australia or such other time that we notify you of at the time we accept your Order.

6.3 If we reasonably believe you are placing multiple orders, whether under the same or different registration details, for the purposes of circumventing the order limits, all such Orders may be cancelled by us without notice to you.

7 Delivery of Products

7.1 We will only deliver Products ordered through the Site to a location where delivery services are available at a reasonable rate. You may receive multiple deliveries for your Order.

7.2 You may obtain further information on the Site about our delivery timeframes and how we deliver your Products.

7.3 We will deliver the Products to the relevant Delivery Address. We ship small items (eg small parts) via standard Australia Post letter delivery.

7.4 You agree to comply with certain delivery requirements specified below and such other requirements that we notify to you when you place your Order through the Site.

7.5 You acknowledge and agree that any person at the Delivery Address who receives the Products is

8 Bulk Orders

8.1 If we classify an Order as a "Bulk Order", your Order may attract a handling charge depending on the size of your Order. Examples of orders that we classify as "Bulk Orders" are as follows:

- (a) Order of Products over normal retail quantities;
- (b) Order of Products which exceed 150 kg; and
- (c) Multiple orders placed during any 7 day period that combined volume meets or exceeds the bulk order criteria.

8.2 If your Order is a Bulk Order, we will contact you as soon as possible after the placement of your Order to advise you of the exact handling charge payable in respect of your Order.

8.3 If you are unsure whether your Order is a Bulk Order and would like to find out the exact handling charge payable in respect of your Order before you place your Order, please contact Nero Espresso Coffee Company Pty Ltd on 1800 836 601 or orders@neroespresso.com.au.

8.4 We value your Orders. To enable us to service you better, we request that you contact Nero Espresso Coffee Company Pty Ltd on 1800 836 601, seven (7) days prior to the placement of any Bulk Orders to allow us to ensure that the appropriate stock is ordered and available for your requirements.

9 Fraud and risk assessment

9.1 We have processes in place to assist in detecting transactions that may be illegal or in breach of these terms. We may contact you by telephone or email to confirm your payment and information details. If we are unable to confirm these details, we may cancel your Order. If you are unsure whether the person contacting you is from Nero Espresso Coffee Company Pty Ltd, please contact our Nero Espresso Coffee Company Pty Ltd on 1800 836 601 or email orders@neroespresso.com.au.

10 Risk and title

10.1 Risk in the Products passes to you on the date and time of delivery to the Delivery Address. Title to the Products passes to you on the later of the date and time of:

- (a) payment for those Products; and
- (b) delivery of those Products to the Delivery Address.

11 Cancelling an Order

11.1 We may cancel any Order or part of an Order (including any Orders that we have accepted) without any liability to you for that cancellation at any time if:

- (a) the requested Products in that Order are not available; or
- (b) there is an error in the price or the product description posted on the Site in relation to the relevant Product in that Order; or
- (c) that Order has been placed in breach of these terms and conditions.

1(a) clause 11.1(a) or 11.1(b) (where product is unavailable or there is a pricing or product description error): we will provide you with reasonable notice of that cancellation, and will not charge you for the cancelled Order. If any payment has been taken for the cancelled Order, then the full payment amount, including any Delivery Fee and other fees and charges, will be refunded to your original payment method or through an alternative means.

(b) clause 11.1(c) (where you are in breach of these terms and conditions): we will provide you with reasonable notice of that cancellation. If your Order is cancelled before the day of delivery or collection, then the full payment amount, including any Delivery Fee and other fees and charges, will be refunded to your original payment method or through an alternative means. If your Order is cancelled on the day of delivery or collection, provided we are not also in breach of these terms and conditions, then we may charge you a cancellation fee equal to any delivery fee, fee costs or charges for us to recover the product which we will deduct from any payment made by you.1.2 If we cancel an Order in accordance with:

11.3 You may cancel a Order (whether it is accepted by us or not):

- (a) through the Site up to 30 mins before the delivery or collection window closes (as specified on the Site). If so, no fees or charges will apply to that cancellation; or

(b) in all other circumstances, by contacting Nero Espresso Coffee Company Pty Ltd on 1800 836 601 during Contact Hours. In this instance, if you cancel an Order that has been accepted by us:

(i) before the day of delivery or collection, then no fees or charges will apply to that cancellation; and

(ii) on the day of delivery or collection, then we may charge you a cancellation fee of any delivery fee, costs fees or charges to recover any product.

11.4 If you cancel an Order in respect of which we have taken payment, then the full payment amount, including any Delivery Fee and other fees and charges other than any fee payable under clause 11.3(b)(ii), will be refunded to your original payment method or through an alternative means.

12 Fees and charges

12.1 We will charge you, and you agree to pay, the following fees and charges in relation to an Order that we accept (as applicable):

- (a) the purchase price of each Product that is ordered;
- (b) the delivery fee provided to you at the time when placing your Order (“Delivery Fee”); and
- (c) the cancellation fee for an Order that is cancelled as set out in clause 13.3(b)(ii); and
- (d) any other fees and charges set out in these terms and conditions.

12.2 All fees and charges identified in these terms and conditions and all prices for the Products include GST where applicable.

12.3 The purchase price of each Product is shown on the product list on the Site at the time you place your Order. The purchase price of a Product on the Site may not be the same or correspond to the prices in any of our display rooms or warehouse for the same Product.

12.5 Prices for Products change from time to time and we do not provide any notice of these changes. Subject to these terms and conditions, once we have accepted your Order, we will not change any prices that apply to the Products in that Order.

12.6 If a Product that you have ordered is not available and we have not provided you with a substitute then we will provide you with a refund back within 3-5 business days to your card of purchase to the value of the Products (excluding delivery) that were not supplied to you.

13 Payment methods

13.1 You must pay the fees and charges online using the online payment methods in clause 13.2.

13.2 We accept the following credit cards:

- (i) Visa and Visa Debit; and
- (ii) MasterCard and MasterCard Debit.

13.3 If we are unable to successfully process your credit card payment for your Order that is accepted by us, then we may notify you of dishonour and cancel your Order.

13.4 You authorise Nero Espresso Coffee Company Pty Ltd to debit the amount that is payable for an accepted Order from your nominated credit card to pay for the fees and charges.

13.5 You must not pay, or attempt to pay, for Products through any fraudulent or unlawful means.

14 Substitution or missing items in delivery

14.1 You acknowledge that a Product that you order may be out of stock or temporarily unavailable. If this happens, then we will not be able to provide you with that Product.

- (a) when the Product you have selected is not available; or
- (b) if we are not able to supply to you the Product that you have selected.

In our discretion we may select substitute Products that are of similar value and quality, but we reserve the right not to provide you with a substitute Product even if a suitable substitute Product is available.

14.2 If there are items missing from your Order, then you should check the receipt that we provided to you to determine if the missing Product is marked as out of stock. If so, then we will provide you with a refund to your card of purchase or coupon for the Products that were not supplied.

14.3 In all other circumstances, you may contact Nero Espresso Coffee Company Pty Ltd on 1800 836 601 during Contact Hours within 24 hours after the delivery or collection time and we will take steps to verify and confirm any such missing items. Once we are reasonably satisfied that the item was not delivered to you, provide you with a credit to your relevant card account within 3-5 business days for the Products that were charged but not delivered to you.

15 Returns

15.1 The Nero Espresso Coffee Company Pty Ltd Returns Policy applies to all purchases of Products using the Site and forms part of these terms and conditions.

16 Your general obligations

You:

- (a) must ensure that your Login ID and password that is used to access the Site and the details of your account are kept in a safe and secure manner;
- (b) must notify us through Nero Espresso Coffee Company Pty Ltd on 1800 836 601 during Contact Hours if you are or become aware that there is or has been an unauthorised use of your Login ID and password or account, or any other security breach relating to your account;
- (c) must promptly advise us of any changes to your information provided to us as part of the customer registration process;
- (d) are responsible for any costs associated with your access to or use of the Site, including Internet access fees;
- (e) are responsible and liable for any person that uses your LoginID and password to order Product(s) through the Site;
- (f) agree that we may charge you for all Products that we agree to supply to you that have been ordered using your LoginID and password through the Site; and
- (g) should check the labels on the Products before consumption or use.

17 General restrictions

You must not:

- (a) use the Site for any activities that breach any laws, infringe a third party's rights or are contrary to any relevant standards or codes;
- (b) use the Site in a manner or way, or post to or transmit to or via the Site any material, which interferes with other users or our other customers or defames, harasses, threatens, menaces or offends any person or which prevents any other person from using or enjoying the Site;
- (c) make fraudulent or speculative enquiries, purchases or requests through the Site;
- (d) use another person's details without their permission or impersonate another person when using the Site;
- (e) post or transmit any obscene, indecent, inflammatory or pornographic material or any other material that may give rise to civil or criminal proceedings;
- (f) tamper with or hinder the operation of the Site;
- (g) knowingly transmit any viruses, worms, defects, Trojan horses or similar disabling or malicious code to the Site;
- (h) use any robot, spider, site search and retrieval application or other mechanism to retrieve or index any portion of the Site;
- (i) modify, adapt, translate or reverse engineer any portion of the Site;
- (j) remove any copyright, trade mark or other proprietary rights notices contained in or on the Site;
- (k) reformat or frame any portion of the web pages that are part of the Site;
- (l) create accounts by automated means or under false or fraudulent pretences;
- (m) use the Site to violate the security of any computer or other network or engage in illegal conduct;
- (n) take any action that imposes or that would, in our reasonable opinion, result in an unreasonable or disproportionately large load on our infrastructure;
- (o) use the Site other than in accordance with these terms and conditions; or
- (p) attempt any of the above acts or engage or permit another person to do any of the above acts.

18 Suspension of account

18.1 We reserve the right to refuse service, terminate accounts and/or remove or edit content if we, acting reasonably, deem that you have acted in breach of these terms and conditions or have used the Site in a fraudulent or improper manner. Nero Espresso Coffee Company Pty Ltd also reserve the right to otherwise cancel Orders in accordance with clause 11.

18.2 If we lock, suspend or delete your account under clause 18, then we will refund all credits that you are entitled to receive under these terms and conditions by direct deposit to your nominated account once we have conducted all our verification and other relevant checks.

19 Warranties

You warrant that:

- (a) all information and data provided by you to us through the Site (including as part of the customer registration process) or otherwise is true, accurate, complete and up to date;
- (b) the person receiving the Products at the Delivery Address or collecting the Products on your behalf is authorised by you to do so; and
- (c) you have and will comply with all relevant laws relating to your use of the Site and your placement of any Order to us.

20 Liability

20.1 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 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. You may also be entitled to remedies that cannot be excluded under the Australian Consumer Law if any services supplied by us to you fail to meet a consumer guarantee under the Australian Consumer Law.

20.2 Without excluding, restricting or modifying the rights and remedies to which you may be entitled under these consumer guarantees provisions of the Australian Consumer Law liabilities under those provisions:

- (a) you acknowledge that each Site is provided "as is" and that we do not make any warranty or representation as to the suitability of the Site or a Product for any purpose;
- (b) we exclude all other implied terms and warranties, whether statutory or otherwise, relating to the Site or the subject matter of this agreement; and
- (c) we will not be liable to you for indirect and consequential loss arising from or connected to this agreement in contract, tort, under any statute or otherwise (including, without limitation, for loss of revenue, loss of profits, failure to realise expected profits or savings, loss or corruption of data and any other commercial or economic loss of any kind) unless such loss arises as a result of our own negligence or wilful misconduct.

20.3 Our liability to you for loss or damage of any kind arising out of this agreement or in connection with the relationship established by it is reduced to the extent (if any) that you cause or contribute to the loss or damage. This reduction applies whether our liability is in contract, tort

(including negligence), under any statute or otherwise.

21 Termination

21.1 We may immediately suspend, terminate or limit your access to and use of the Site and (where relevant) your account if you breach these terms and conditions and:

- (a) the breach cannot be remedied; or
- (b) you fail to remedy the breach within 10 days of our notice to you of that breach; or
- (c) if there is an emergency.

21.2 You may stop using the Site at any time and for any reason.

21.3 We may stop making the Site (or any part of it) available without prior notice. If so, any Orders that we have accepted will not be affected by this unless the Products that have been ordered are no longer available or we are prevented from supplying the Products, in which case, we will notify you and will refund to you all valid payments received by us for those Products.

22 Privacy policy

Our privacy policy is available on the Nero Espresso Coffee Company Pty Ltd site and forms part of these terms and conditions. You acknowledge and agree to our privacy policy.

23 Intellectual property rights

23.1 You:

- (a) acknowledge that the copyright in the Site, the software, design, text and graphics comprised in the Site, the selection and layout of the Site and the content and materials on the Site (together, the “Materials”) are owned by or licensed to us;
- (b) must not modify, copy, adapt, store in a retrieval system, reproduce, upload, post, transmit, sell, distribute in any way or communicate to the public a Material without our prior written consent; and
- (c) must not frame or embed in another website any of the material appearing on this Site without our prior written consent.

23.2 You may:

- (a) store a reproduction of the content on this Site on your local computer for the sole purpose of viewing the content and Materials; and
- (b) print hard copies of the content and Materials for the sole purpose of viewing and purchasing Products but not for any other use.

23.3 This Site contains registered trademarks and other trademarks which are protected by law. You must not use any of the marks or trademarks appearing on the Site or our name or the names of our related bodies corporate without our prior written consent. You must not use any of the other company, product and services marks on the Site that are owned by other third parties (including our suppliers) without obtaining the relevant third party owner’s consent.

24 Changes to these terms and conditions

24.1 We may change these terms and conditions at any time, and such modifications will be effective as soon as they are posted. For future orders, these terms may therefore be different. We recommend that you read these terms carefully each time you agree to them during the ordering process.

24.2 If you have an Order that has been accepted by us, the terms and conditions that will apply to the Order are the terms and conditions that applied at the time you placed your Order.

25 General

25.1 The Site may contain links to external websites that are not operated by us or our related bodies corporate.

These links are provided for your convenience only and you agree that:

(a) we make no representations or warranties, or have any responsibility or liability for those websites; and

(b) these links do not indicate, expressly or impliedly, that we endorse the site or the products or services that are provided at those sites.

You agree that you access and use the products and services made available at those sites solely at your own risk.

25.2 If the whole or any part of a provision of this agreement is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this agreement has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this agreement or is contrary to public policy.

25.3 This agreement is governed by the laws of Western Australia, Australia. Each party submits to the non-exclusive jurisdiction of the courts of that place. Any rights or remedies to which you are entitled under the Australian Consumer Law arise independently of these terms and conditions and this clause does not apply to any claim you may have under the Australian Consumer Law.

25.4 We attempt to be as accurate as possible and use our best endeavours to ensure, but do not warrant, that any information provided by our suppliers, including in relation to product descriptions or other content of this Site, is accurate, complete, reliable, current or error-free.

26 Definitions

Capitalised terms used are defined in these terms and conditions. In these terms:

Contact Hours means Nero Espresso Coffee Company Pty Ltd operating hours, Monday to Friday 8.30 am to 4.30 pm, Australian Western Daylight Time.

Delivery Address means the address specified by you during the time of making an order or customer registration process for the delivery of Products that we will supply to you under these terms and conditions.

Delivery Fee has the meaning given in clause 12.1(b).

GST has the meaning it has in the A New Tax System (Goods and Services Tax) Act 1999 (Cwlth).

LoginID means the email address or username that you provided to us as part of the registration process to use the Site.

Order means any order for a Product or Products submitted using the Site.

Product means each good or service that is advertised on the Site.