

Terms and Conditions

Terms and Conditions

By doing any of the following:

1. browsing, accessing or otherwise using this website or any data or content from www.3monkeez.com.au/ (**this website**); or
 2. placing an Order,
- you agree to be irrevocably and unconditionally bound by these Terms and Conditions.

Application

In these Terms and Conditions:

1. **3Monkeez** means 3Monkeez Pty Ltd ABN 94 100 572 174, its successors and assigns;
2. **Part A** of these Terms and Conditions applies to the use of this website;
3. **Part B** of these Terms and Conditions applies to all Orders which are made by you, whether through this website or otherwise.
4. **Part C** of these Terms and Conditions applies to all users.

Part A – Website Specific Terms

1. No Warranty

- (a) 3Monkeez and its contractors are responsible for maintaining this website and all publications, content, data or the like uploaded on this website and make no warranty as to the accuracy or reliability of the information contained therein. This extends to any content, data or information generated or uploaded to this website by or on behalf of 3Monkeez and/or any third party and/or any user or subscriber to this website.
- (b) 3Monkeez, its associated entities, related entities, officers and employees are not liable or responsible for any loss or damage which may be caused to any recipient by directly or indirectly relying on anything contained in or omitted from our website or any information or data contained therein.
- (c) You acknowledge that you access this website at your sole and absolute risk and by accessing this website you expressly and irrevocably release 3Monkeez from any and all liability which may accrue as a direct or indirect result of your access and access to this website and reliance upon any data or information therein.

2. Disclaimer

- (a) The contents of this website are provided for general information purposes only.
- (b) To the maximum extent permitted by applicable laws, content published within this website is provided in good faith on an "as is", "as available" and "where is" basis and 3Monkeez excludes and disclaims to the maximum extent permitted by law all guarantees, conditions, warranties or terms of any kind, whether express or implied or imposed by any applicable law.

- (c) Illustrations and photos contained on this website are sample representations of the relevant products advertised, and variations may occur from time to time.
- (d) Whilst 3Monkeez endeavours to ensure the functionality of this website, to the maximum extent permitted by applicable laws, 3Monkeez:
 - (i) in no way guarantees uninterrupted access to the website or the security of the website;
 - (ii) does not guarantee the accuracy or completeness of the elements and / or information published on the website; and
 - (iii) disclaims liability for any damage whatsoever, including without limitation direct, indirect, incidental, special, punitive or consequential damages and / or loss of profits, business interruption or loss of data or information that may result from access to this website and the use of all or part of the elements or information contained on the website.
- (e) Notwithstanding any of the above, nothing in these terms and conditions or within this website shall operate to exclude, restrict or modify any guarantee, term, condition or warranty, right or remedy implied or imposed by any statute or regulation that cannot lawfully be excluded or limited (including under the *Australian Consumer Law*). To the extent that rebel's liability can be limited, our liability will be so limited.

3. Restrictions

- (a) By browsing, accessing or otherwise using this website, you warrant and agree that you must not and will not:
 - (i) use any device, software, hardware, process or any other technology of any means to access, retrieve, scrape or index this website or any information, content or data contained therein;
 - (ii) interfere with the operation of this website by any means, through any technology or through any third party;
 - (iii) cause excessive and burdensome internet traffic to this website or the 3Monkeez infrastructure;
 - (iv) use any data, information or content of this website to compete with 3Monkeez in any capacity whatsoever, whether by website or otherwise;
 - (v) violate any proprietary rights, property rights, copyrights, privacy or intellectual property rights of 3Monkeez or any other person;
 - (vi) violate these Terms and Conditions or any New South Wales or Australian law, regulation, requirement or code of conduct;
 - (vii) solicit any unauthorised financial benefit from any other user of this website;
 - (viii) copy, reproduce, retransmit, create derivative works, sell or display or in any way exploit this website without the prior express written authorisation of 3Monkeez

- (ix) use the website or any activities that breach any laws, infringe a third party's rights or are contrary to any relevant standards or codes;
 - (x) use the website in a manner or way, or post to or transmit to or via the website 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 this website;
 - (xi) make fraudulent or speculative enquiries or requests through the website;
 - (xii) use another person's details without their permission or impersonate another person when using the website;
 - (xiii) tamper with or hinder the operation of the website; or
 - (xiv) make any action that imposes or that would, in our reasonable opinion, result in an unreasonable or disproportionately large load on our infrastructure.
- (b) You acknowledge that if you fail to adhere to the restrictions set out in term 3(a) above, 3Monkeez may proceed with any of the following actions against you:
- (i) reporting your conduct to Australian or New South Wales regulatory officials such as the New South Wales Police Force or the Australian Federal Police;
 - (ii) institute technological barriers however 3Monkeez deem necessary;
 - (iii) commence Court proceedings seeking damages from you; or
 - (iv) commence Court proceedings seeking injunctive and/or declaratory relief against you.
- (c) You must indemnify 3Monkeez and its related associated entities from any loss suffered as a direct or indirect result of your contravention of term 2(a) including but not limited to damages, costs, legal expenses, disbursements, fees, charges and the like.

4. Copying of Data

- (a) This term is subject to the *Copyright Act 1968* (Cth) and nothing in this term is intended to affect or alter the operation of the *Copyright Act 1968* (Cth). In the event of an inconsistency between this term and the *Copyright Act 1968* (Cth), the *Copyright Act 1968* (Cth) shall prevail to the extent of that inconsistency.
- (b) All content included on this website, including but not limited to data, information, content, material, text, images, audio, videos, logos, button icons, is the intellectual property of 3Monkeez, its associated entities or related entities or its third-party content suppliers. Use of this website does not transfer any intellectual property rights or copyrights to the user or grants the user any licence to exercise any intellectual property rights unless expressly authorised by 3Monkeez in writing.
- (c) 3Monkeez grants users of this website revocable permission to download copyright material on this website for their own personal use provided that such use is non-commercial and not to obtain any financial benefit whilst excluding 3Monkeez.
- (d) You must not reproduce, copy or alter information, data or content contained on this website without the prior express written authority of 3Monkeez.
- (e) This website contains registered trademarks and other trademarks which are protected by law. The user must not use any of the marks or trademarks appearing on this website or our name or the names of our related bodies corporate without the prior written consent of 3Monkeez. The user must also not use any of the other company, product and services marks on this website that are owned by other third parties

(including our suppliers) without obtaining the relevant third party owner's consent.

5. Third Party Content

- (a) You acknowledge that this website may from time to time contain information, data and content uploaded by third parties (**Third Party Content**).
- (b) 3Monkeez does not in any way monitor the Third Party Content on this website and makes no warranty as to the accuracy of such Third Party Content. For that purpose, 3Monkeez is not liable or responsible for any matters pertaining from the Third Party Content whether directly or indirectly.
- (c) You rely upon Third Party Content on this website at your sole and absolute risk and you acknowledge that 3Monkeez makes no express or implied representations as to the Third Party Content or the accuracy thereof.
- (d) You are responsible for making your own independent enquiries in respect of the Third Party Content on this website. You acknowledge that the Third Party Content does not necessarily represent the view of 3Monkeez.
- (e) You release and hold harmless 3Monkeez from any and all liability arising from any Third Party Content on this website.

6. Advertising

- (a) 3Monkeez is entitled to, at its sole and absolute discretion, upload and include advertisements and links to third party material (such as contact details of users) and other third party websites on this website.
- (b) Such third party material and third party websites are not part of this website and are not controlled by 3Monkeez by any means whatsoever. 3Monkeez makes no warranty or express or implied representations as to the accuracy or reliability of the third party material and third party websites or any information, data or material contained therein.
- (c) You acknowledge that you access such third party material and third party websites at your sole and absolute risk. For that purpose, 3Monkeez is not liable or responsible for any matters or liability pertaining from the third party material and third party websites and you agree to release 3Monkeez from such liability.

7. Uploading Data

- (a) By subscribing to 3Monkeez, you may be entitled to upload material, information, data, content, text, images, video, audio or the like with the approval of 3Monkeez (**uploaded data**).
- (b) 3Monkeez may reject any request by you to upload any uploaded data to this website at its sole and absolute discretion.
- (c) You expressly warrant that the uploaded data is not:
 - (i) in contravention of any law, regulation, code of conduct or requirement imposed by any authority;
 - (ii) in contravention of copyright or the intellectual property rights of any third party;
 - (iii) misleading or deceptive;
 - (iv) inappropriate noting the purpose of this website;
 - (v) materially incorrect;
 - (vi) obscene;

- (vii) offensive;
 - (viii) defamatory;
 - (ix) maliciously false;
 - (x) unlawful;
 - (xi) corrupt;
 - (xii) likely to damage the reputation of 3Monkeez; or
 - (xiii) likely to damage or adversely affect the operation of this website.
- (d) You expressly warrant that the uploaded data is:
- (i) owned and controlled by you, including any rights in the uploaded data;
 - (ii) able to be lawfully displayed by 3Monkeez on this website;
 - (iii) lawfully obtained by you, including obtainment of all necessary licences, rights, consents and permissions required to use the uploaded data
- (e) In the event that you contravene terms 7(d) or 7(d), you agree and acknowledge that:
- (i) 3Monkeez may remove, alter, delete or disable the uploaded data at its sole and absolute discretion;
 - (ii) you indemnify 3Monkeez and its related and associated entities from any loss suffered as a direct or indirect result of your contravention of terms 7(d) or 7(d) including but not limited to damages, costs, legal expenses, disbursements, fees, charges and the like.
- (f) You grant 3Monkeez a global, royalty-free, perpetual, transferable and irrevocable licence to use, reproduce, modify, adapt, translate, distribute, publish, create derivative works from and display your uploaded data through any medium, whether currently in existence or not.
- (g) 3Monkeez is not liable to you for any loss which may be occasioned by use of your uploaded data by a website user. You acknowledge that you upload data to this website at your sole and absolute risk.
- (h) You will ensure that:
- (i) your email address that you provided to us as part of the registration process to use the website (**Login ID**) and password that is used to access the website are kept securely;
 - (ii) you promptly advise us of any changes to your information provided to us as part of the customer registration process;
 - (iii) you are responsible for any costs associated with your access to or use of the website, including internet access fees;
 - (iv) you are responsible and liable for any person that uses your Login ID and password through the website.

Part B – Order Specific Terms

8. Availability of Products

- (a) From time to time, 3Monkeez may make a product(s) (**Product**) available for you to purchase through any means which 3Monkeez may transact from time to time (**Order**).
- (b) You acknowledge that Your Order is subject to the Product's availability and if the product(s) becomes unavailable, your Order may be cancelled in accordance with term 11.

9. Placing an Order for Products

- (a) From time to time, you may request a quotation from 3Monkeez for the purchase of Products. This request must be made through the means directed by 3Monkeez from time to time and may be way of telephone, email and/or the website.
- (b) 3Monkeez may provide you with a quotation for the Products including the price for those Products (**Quotation**). Any Quotation issued by 3Monkeez is only valid for the period specified in the Quotation, or 30 days from the date of issue, whichever is shorter.
- (c) You may order Products by submitting your order through any means which 3Monkeez makes available in a Quotation, and any such Order is taken to made in accordance with and subject to these terms and conditions. Any Order placed by you is an offer by you to purchase the particular Product for the price notified (including the delivery and other charges and applicable taxes) at the time you place the Order.
- (d) 3Monkeez may ask you to provide additional details or require you to confirm your details to enable us to process any Orders placed by you.
- (e) All Orders for a Product must be intended for personal non-commercial use only.
- (f) 3Monkeez may, from time to time restrict the quantity of Products ordered by customers during a particular time.
- (g) You expressly warrant that on each occasion an Order is placed:
 - (i) you are solvent;
 - (ii) you are able to pay all amounts due in connection with that Order;
 - (iii) the person nominated as receiving the Products at the delivery address is authorised by you to do so;
 - (iv) you re-affirm and confirm that these Terms and Conditions shall govern the processing of that Order;

10. Acceptance or Rejection of Orders

- (a) 3Monkeez reserves the right to accept or reject an Order for any reason, including but not limited to:
 - (i) if the party submitting the Order:
 - (A) failing to comply with 3Monkeez minimum Order policy that is in place from time to time;
 - (B) has previously breached any of these Terms and Conditions; or
 - (C) is in the opinion of 3Monkeez, not creditworthy;
 - (ii) if the requested Product is not available; or

- (iii) if there is an error in the price or the product description posted on this website or in your order.
- (b) In the event that 3Monkeez is required to reject an Order, 3Monkeez will use all reasonable endeavours to let you know as soon as possible of the rejection and the reason for the rejection (although 3Monkeez may, in its sole and absolute discretion, choose not to disclose the reason for the rejection).
- (c) Each order placed for Products that is accepted by 3Monkeez shall result in a separate binding agreement between you and 3Monkeez for the supply of those Products.
- (d) For each order accepted, 3Monkeez will supply the Products in that order in accordance with these Terms and Conditions.

11. Cancellation

11.1 Cancellation by 3Monkeez

- (a) Prior to the dispatch of an Order, 3Monkeez may cancel all or any part of an Order (including any Order that has been previously accepted by 3Monkeez) without any liability to you for such cancellation provided that:
 - (i) 3Monkeez has become aware that the party submitting the Order:
 - (A) has previously breached any of these Terms and Conditions; or
 - (B) is in the opinion of 3Monkeez, not creditworthy;
 - (ii) the requested Products in that Order are no longer available;
 - (iii) there is an error in the price, or the product description set out in the Quotation in relation to the relevant Product in that order; or
 - (iv) that order has been placed in breach of these Terms and Conditions.
- (b) If 3Monkeez deems that an Order must be cancelled due to anything contained within term 11.1, then 3Monkeez will endeavour to provide reasonable notice of such cancellation and there will be no charge, provided that:
 - (i) 3Monkeez has cancelled the order prior to the delivery of the Products;
 - (ii) you are not at fault for the cancellation; or
 - (iii) you are not in breach of these Terms and Conditions.

11.2 Cancellation by User

- (a) Prior to the acceptance by 3Monkeez of an Order, you may request to cancel all or any part of an Order. However, 3Monkeez shall not be required to facilitate the cancellation of any Order or provide funds, returns or replacements of any Products unless it elects to do so in its sole and absolute discretion.
- (b) If 3Monkeez permits the cancellation of an Order, 3Monkeez reserves the right to charge a re-stocking fee that is equal to 30% of the amount of the Order.
- (c) If you request to cancel an Order in accordance with term 11.2(a) above, then you must provide 3Monkeez with notice of such cancellation, and the applicable reasons for cancellation, prior to the acceptance of the Order.
- (d) For the avoidance of doubt, the user is unable to request to cancel all or any part of an Order after that Order has been accepted.

12. Payment for Products

- (a) All payments for Orders must be made by one of the methods permitted by 3Monkeez from time to time. Generally, payments are to be by cash, cheque, bank cheque, EFTPOS, credit card, or direct deposit prior to the dispatch of any Products that are subject of the Order, unless otherwise agreed in writing by 3Monkeez.
- (b) 3Monkeez may, but is not required to, allow you 30 days from the date of placement of the Order to make payment of the amount of the Order. If this is permitted, it will be stated in the invoice issued by 3Monkeez. You agree to make payment of the invoice by the time specified in the invoice, time being of the essence.
- (c) All payments made by You must be made free from set-off, counterclaim and deduction.
- (d) By entering your payment information, you acknowledge and consent to 3Monkeez and any third party payment processor used by 3Monkeez charging the credit card details you provide for the amount of Your Order plus the amount of any applicable credit card surcharge as set from time to time.
- (e) Without prejudice to the other rights and remedies of 3Monkeez, interest will be charged on overdue accounts at the rate prescribed by the cash target rate set by the Reserve Bank of Australia from time to time plus 5% per annum. Interest is calculated daily on the amount outstanding.
- (f) You shall pay all costs and expenses (including legal costs on an indemnity basis) incurred by 3Monkeez and/or its employees, contractors, officers or agents relating to the recovery of any debt and/or possession of Products.

13. Product Pricing

13.1 General

- (a) 3Monkeez shall charge, and you agree to pay, the following fees and charges in relation to an Order is accepted (as applicable):
 - (i) the advertised purchase price of each Product that is ordered;
 - (ii) the delivery fee for delivering the Products to you; and
 - (iii) any other fees and charges set out in these Terms and Conditions or displayed on this website or on the Quotation from time to time (including credit card surcharge fees where payment is made by credit card).
- (b) All fees and charges identified in these Terms and Conditions and all prices for the Products as shown on this website are exclusive of GST as that term is defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) unless otherwise indicated.

13.2 Prices

- (a) All prices displayed upon this website are in Australian Dollars (AUD), unless otherwise stated.
- (b) The prices of products and delivery and other charges displayed on any Quotation are current at the time of issue, however, 3Monkeez reserves the right to change prices at any time before we accept an order from you.
- (c) The purchase price of each Product is shown on the invoice issued by 3Monkeez following acceptance of an Order.

13.3 Delivery Fees

- (a) Delivery fees are payable in addition to the purchase price of each Product and may

vary depending on the delivery method.

- (b) You acknowledge and agree that you may incur additional delivery fees/freight charges (in excess of the fees and charges specified above) for:
 - (i) special, non-stock and/or bespoke items;
 - (ii) heavy, bulky and/or awkward items;
 - (iii) express or urgent deliveries; or
 - (iv) bulk or large quantity orders.

13.4 **Incorrect Pricing**

- (a) 3Monkeez will use its reasonable endeavours to ensure that any price indicated for a Product is accurate and without error. In the event that a price listed for a Product is incorrect or erroneous (**Incorrectly Priced Product**), 3Monkeez reserve the right to rectify any prices at its sole and absolute discretion and without any notice to you.
- (b) If an Incorrectly Priced Product has been added to your Order, 3Monkeez may in its sole and absolute discretion cancel your Order or contact you for further instructions.
- (c) If an Incorrectly Priced Product has been shipped to you, you agree that 3Monkeez may direct you to either:
 - (i) pay 3Monkeez the difference between the actual price for the product and the price you paid for the product, within 10 business days of receiving notice from 3Monkeez of same; or
 - (ii) return the Incorrectly Priced Product to 3Monkeez.

14. **Product Shipping**

- (a) Your Order will only be processed between Mondays to Fridays and may take between one (1) to two (2) weeks, however the actual timing of delivery is always subject to and dependent on the Product, availability of goods and labour and any events outside of our control.
- (b) You agree and acknowledge that all orders will require a signature upon delivery and that PO Box addresses will not be accepted, unless otherwise agreed by 3Monkeez.
- (c) You may verify the status of Your Order by contacting our customer service team number +612 9627 6111 between 8:00AM – 5:00PM Monday through Friday, AEST.

15. **Product Returns**

- (a) Unless you notify 3Monkeez to the contrary by email, telephone, or facsimile transmission within seven (7) days of delivery of any Products, the Products shall be deemed to have been accepted by you.
- (b) Subject to the satisfaction of the conditions listed in term 15(c) below, if you are unhappy with the Product purchased, you may request a credit or exchange for the Product from 3Monkeez where the product delivered:
 - (i) is faulty or is not of merchantable quality;
 - (ii) is not fit for its intended purpose;
 - (iii) does not match the description of the Product as published by 3Monkeez in writing;
 - (iv) otherwise fails to meet any mandatory guarantees imposed by applicable laws;

or

- (v) fails to meet any express warranty given by 3Monkeez.
- (c) In order for 3Monkeez to be able to provide you with a credit or exchange for the Product:
 - (i) at least one of the conditions in term 15(b) must apply;
 - (ii) you must contact 3Monkeez within seven (7) days from the date the Product is confirmed to be delivered to you;
 - (iii) the Product must be delivered to 3Monkeez in its original packaging; and
 - (iv) the Product must not have any damage or any signs of use.
- (d) If the Product does not satisfy the above conditions listed in term 15(c) above, 3Monkeez reserves the right to reject your request in its sole and absolute discretion for a credit or exchange in return for the Product.
- (e) Notwithstanding any other provisions of these Terms the Customer shall not return any Products which have been custom made, custom cut, custom processed or custom acquired.
- (f) Subject to any applicable law to the contrary which cannot be modified or excluded, 3Monkeez does not permit credits, exchanges or refunds where the conditions in term 15(b) are not satisfied (for example, where you simply change your mind following a purchase).
- (g) If 3Monkeez permits the return of any Products, 3Monkeez reserves the right to charge a re-stocking fee that is equal to 30% of the amount of the Products that are returned (except where the Product is returned because at least one of the conditions in term 15(b) apply).
- (h) Notwithstanding any of the above, your goods and services come with guarantees that cannot be excluded under the *Australian Consumer Law*. For major failures with the service, you are entitled to the rights and remedies provided under the *Australian Consumer Law* without exclusion.

16. Retention of Title

3Monkeez may, but is not required to, permit you to pay for an Order after it is accepted. If 3Monkeez permits this to occur:

- (a) property in the Products shall not pass to you until payment of all monies owed to 3Monkeez is paid in full;
- (b) 3Monkeez reserves the right to take possession and dispose of Products as it sees fit at any time until full payment;
- (c) you irrevocably and unconditionally grant permission to 3Monkeez to enter any property to recover the Products and with such force as is necessary;
- (d) you agree that a certificate purporting to be signed by an officer of 3Monkeez identifying Products as unpaid for shall be conclusive evidence that Products have not been paid for and of 3Monkeez's title to those Products;
- (e) upon sale or disposition of any Products prior to full payment the Customer agrees to deposit all proceeds in a separate bank account, not mix such proceeds with any other monies and account to 3Monkeez for the same as fiduciary and bailee;
- (f) without derogating from 3Monkeez rights as a creditor or arising under these Terms and Conditions, if Products are used in any construction, building, fabrication and/or manufacturing process (**the Process**) which results in an entitlement for you to receive money from any other person, you agree to hold such part of any monies received by you (or the corresponding debt owed to you in respect of those monies)

as is equivalent to the value of any Products used in the Process as invoiced to you by 3Monkeez on trust for 3Monkeez until payment in full for those Products and all monies owed to 3Monkeez has been paid.

17. Exclusions

- (a) You have relied on your own knowledge and expertise in selecting Products for any purpose and any advice or assistance given by or on behalf of 3Monkeez shall be accepted at your sole risk and shall not be deemed to have been given as expert or adviser nor to have been relied upon.
- (b) 3Monkeez will not be liable for any defect, fault or damage to the Product of any nature whatsoever:
 - (i) in respect of which notice was not provided in accordance with term 15, or
 - (ii) resulting from or caused or contributed to in any way by:
 - (A) you failing to properly maintain or store the Product after delivery;
 - (B) you using the Product for any purpose other than that for which the goods were designed;
 - (C) the shipping of the Product (including any loss, damage or theft) which occurs after dispatch of the Product to You;
 - (D) any delay in delivery of the Products;
 - (E) you continuing to use the Product after any defect became apparent or ought to reasonably have become apparent;
 - (F) you failing to follow any instructions or guidelines provided by 3Monkeez;
 - (G) fair wear and tear; and
 - (H) any accident, intentional damage, negligent damage or Force Majeure.
- (c) For the purposes of this term, "**Force Majeure**" means an event or circumstance which is beyond the control and without the fault or negligence of the party affected and which by the exercise of reasonable diligence the party affected was unable to prevent provided that event or circumstance is limited to the following:
 - (i) riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not) acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power, requisition or compulsory acquisition by any governmental or competent authority;
 - (ii) ionising radiation or contamination, radio activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive assembly or nuclear component; and
 - (iii) epidemics, pandemics, national health emergencies, earthquakes, flood, fire or other physical natural disaster, including adverse weather conditions.

Part C – General Terms

18. Warranties

18.1 You expressly warrant that:

- (a) you agree to be irrevocably and unconditionally bound by these Terms and Conditions;
- (b) your use of this website and placement of any Orders is conditional upon compliance with these Terms and Conditions;
- (c) all information and data provided by you through the website (including as part of the customer registration process) or otherwise is true, accurate, complete and up to date;
- (d) you have and will comply with all relevant laws relating to your use of this website and your placement of any order to 3Monkeez;
- (e) you will ensure that your email address that you provided to us as part of the registration process to use the website (**Login ID**) and password that is used to access the website are kept securely;
- (f) you will promptly advise us of any changes to your information provided to us as part of the customer registration process;
- (g) you are responsible for any costs associated with your access to or use of the website, including internet access fees;
- (h) you are responsible and liable for any person that uses your Login ID and password to order Product(s) through the website;
- (i) except for any applicable non-excludable consumer guarantees, rights or warranties under the *Australian Consumer Law*, 3Monkeez gives no guarantees and makes no warranties as to the condition of the goods supplied to you, except to the extent that they are expressly stated;

19. General Indemnity

- (a) It is an essential term of these Terms and Conditions that you must indemnify 3Monkeez, its related and associated entities, its officers and its employees for any loss or damage arising out of, whether directly or indirectly, your use of and access to this website and any contravention of these Terms and Conditions.
- (b) The indemnity provided in term 19(a) is a continuing indemnity and continues notwithstanding your cessation of use of this website.

20. Limitation of Liability

- (a) To the maximum extent permissible by law:
 - (i) 3Monkeez liability under these Terms and Conditions and generally, shall be limited to the replacement of any Product supplied to the relevant customer;
 - (ii) 3Monkeez shall not be liable for any damages for personal injury, any damage to property and/or any contingent, consequential, direct, indirect, special or punitive damages and you acknowledge this limit of liability and agrees to limit any claim accordingly;
 - (iii) no other term, condition, agreement, warranty, representation and/or understanding whether express or implied, in any way extending to, otherwise relating to or binding upon 3Monkeez other than those:
 - (A) contained in these Terms and Conditions;
 - (B) published on the website of 3Monkeez or on the Products; or
 - (C) required by law which cannot be modified or excluded.

- (b) Products are sold subject to each and every manufacturer's trading terms and conditions and are protected by each and every manufacturer's warranty. 3Monkeez shall not be liable to the extent that any manufacturer is liable under a manufacturer's warranty, unless otherwise required by law

21. No Waiver

No term or condition of these Terms and Conditions has the effect of replacing, overriding, or otherwise removing, your statutory rights.

22. Amendments or Variations

3Monkeez may, from time to time, make changes to these Terms and Conditions, or to specific functions of this website. It is your responsibility to monitor these Terms and Conditions from time to time to ensure that you remain compliant with what is required from you when using this website or otherwise. Changes to these terms and conditions will be effective immediately upon publishing on this website.

23. Severability

If any term or condition of these Terms and Conditions are deemed invalid, void, or unenforceable for any reason whatsoever, that term or condition will be deemed severable and will not affect the overall validity and enforceability of the remainder of the Terms and Conditions.

24. Termination

3Monkeez reserves its right to terminate or suspend your access to the website and shall not be required to provide you with any reasons why it has suspended or terminated your access. However, generally, such suspension or termination will only occur if you are found to be in serious violation of any of these Terms and Conditions

25. Other Terms and Conditions

3Monkeez is not bound by and does not accept any terms and conditions provided by you. These Terms and Conditions shall, unless expressly agreed in writing by 3Monkeez, be the terms which govern the relationship between you and 3Monkeez.

26. GST

All monies payable to 3Monkeez and any other consideration for any other "taxable supply" (within the meaning of *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and associated legislation as amended from time to time) shall, unless 3Monkeez expressly states otherwise, be deemed at all times to be exclusive of GST and/or any other applicable taxes, government charges, levies and/or imposts of any kind whatsoever. Any and all such amounts must be paid by you to 3Monkeez as and when and in such manner as 3Monkeez reasonably requires.

27. Security

- (a) To the extent that any monies remain outstanding from you to 3Monkeez, that indebtedness shall constitute a charge over any real property held by you and such charge may be registered by 3Monkeez as a charge and constitutes in 3Monkeez a caveatable interest. You shall neither raise complaint nor require the lapsing of a caveat or a charge, as the case may be, where 3Monkeez registered such interest pursuant to these Terms and Conditions. This chargeable interest accrues and is applicable under the *Real Property Act 1900* (NSW) and applicable interstate land registration acts and under the common law.

- (b) You, as the beneficial owner, state that you are absolutely entitled to grant security interest and in consideration of 3Monkeez agreeing to enter into these Terms and Conditions and offer you the Products for purchase, hereby charge in favour of 3Monkeez all of your personal property present and future and wheresoever situated with the payment to 3Monkeez of all money owed to 3Monkeez by you. Such security interest shall be a non-circulating and specific security interest on all of the above mentioned personal property, now or in the future belonging to you and a circulating security interest on all of your other assets and property.
- (c) In the event of your default under these Terms and Conditions, 3Monkeez may appoint a receiver and/or manager to you, as the case may be without deviating from its rights under these Terms and Conditions.
- (d) You irrevocably appoint 3Monkeez and any receiver or manager appointed by 3Monkeez to be your joint and several attorneys to execute, sign and perform in its name and on its behalf all agreements, contracts, instruments, acts and things whatsoever which you are required or reasonably expected to execute, sign and perform under the covenants contained in these Terms and Conditions and generally, to use your name in the exercise of all or any of the powers conferred on 3Monkeez or any receiver or manager appointed by 3Monkeez as the case may be.
- (e) You agree that your acceptance of these Terms and Conditions constitute a security agreement for the purposes of the *Personal Property Securities Act 2009* (Cth) and creates a security interest.

28. Credit Information

- (a) You irrevocably authorise 3Monkeez, its employees, agents and contractors to make such enquiries from time to time as 3Monkeez may deem necessary to obtain information and/or to investigate your creditworthiness, including enquiries with persons nominated as trade references, your bankers, any other credit provider, any credit reporting agency, any land titles office, ASIC, ITSA and/or any similar body and/or related information service (**the Sources**). The information 3Monkeez may obtain includes personal credit and consumer credit information and any property, business and/or solvency information.
- (b) You irrevocably authorises the Sources to disclose anything about the Customer which is in the Sources' possession and you agrees that 3Monkeez may disclose any information it has about you to any interested person (subject only to any obligations 3Monkeez may have under the *Privacy Act 1988* (Cth)).

29. Governing Law

- (a) You irrevocably agree that by using this Website and subsequently, your acceptance of these Terms and Conditions, that these Terms and Conditions are governed by and construed in accordance with the laws of New South Wales and Australia.
- (b) You agree, to submit to the non-exclusive jurisdiction of the Courts of New South Wales and Australia.