

POLYAIRE PTY LTD ACN 007 673 690
WEBSITE TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1 These Conditions are in effect at all times while you are using the Website. By using the Website, you agree to these Conditions. Please read them carefully.
- 1.2 We reserve the right to amend these Conditions at any time and your continued use of the Website will constitute your acceptance of any amendments to these Conditions.

2. OUR WEBSITE

- 2.1 While we take all reasonable care in the construction, operation and content of the Website, we make no guarantee or warranty that:
 - 2.1.1 the use of the Website will be uninterrupted or virus and error free; or
 - 2.1.2 any information contained in the Website is complete, accurate or up to date.
- 2.2 Where the Website contains information, opinions or advice of or given by third parties, we do not endorse such information, opinions or advice or give any guarantee or warranty as to the accuracy or reliability of such information, opinions or advice.
- 2.3 You must take your own precautions to ensure that the process which you employ for accessing the Website does not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your computer system. We are not responsible for any interference or damage to your computer system which arises in connection with your use of the Website or any other website linked to the Website.
- 2.4 We may ask other people to analyse traffic on the Website and they may use cookies to do so. Cookies are small text files that are transferred to a user's hard drive by a website for the purpose of collecting information about a user's identity, browser type or website visiting patterns.
- 2.5 Access to the Website may be terminated at any time by us without notice.
- 2.6 The material provided on the Website has been compiled for reference purposes only, and you use that material at your own risk. Before relying on any material available through the Website, you should verify the accuracy, completeness and currency of the material. We strongly encourage you to seek professional advice to ensure that the material is relevant to your individual circumstances.

3. LINKS TO OTHER WEBSITES

Any links to third party websites located on the Website are provided for your convenience only. We have not reviewed each third party website and have no responsibility for such third party websites or their content. We do not endorse the third party websites or make representations about them or any material contained in them. If you choose to access a third party website linked to the Website, you do so at your own risk.

4. YOUR CONDUCT

- 4.1 You must not post or send to or from the Website any information or other material:
- 4.1.1 that is inaccurate or misleading or deceptive in any material respect;
 - 4.1.2 that contains images of another person without that person's permission (or in the case of a minor, the minor's parent or legal guardian);
 - 4.1.3 for which a third party holds the Intellectual Property Rights where you have not obtained all necessary consents to copy, disclose, distribute, incorporate or otherwise use the material for any purpose;
 - 4.1.4 that is discriminatory, obscene, pornographic, defamatory, liable to incite racial hatred, in breach of confidentiality or privacy, which may cause annoyance or inconvenience to others, which encourages or constitutes conduct that would be a criminal offence, give rise to a civil liability, or otherwise is contrary to the law in Australia;
 - 4.1.5 that is harmful in nature including computer viruses, Trojan horses, corrupted data, or other potentially harmful software or data; or
 - 4.1.6 that may be used in connection with spamming, spimming, phishing, trolling or similar activities.
- 4.2 You must not use the Website for:
- 4.2.1 the advertising, promotion or sale of goods or services or any other commercial activity;
 - 4.2.2 any conduct that would be a criminal offence, give rise to a civil liability, or otherwise be contrary to the law in Australia; or
 - 4.2.3 copying or translating for commercial use, reproducing, adapting, varying or modifying any material in the Website without our express consent,
- nor may you solicit any Other User for such purposes.
- 4.3 You must not place a link to the Website without our prior written consent and on terms satisfactory to us.
- 4.4 You must not through the Website or in any other manner, harass, annoy, intimidate or threaten us or our employees or agents or any Other Users.
- 4.5 We will fully co-operate with any law enforcement authorities or court order requiring us to disclose the identity or other details of any person contravening this clause.

5. OUR LIABILITY

- 5.1 Except to the extent permitted by the Australian Consumer Law, this clause does not limit our liability in respect of any Consumer Guarantees.

- 5.2 Except where otherwise required by law (including the Australian Consumer Law):
- 5.2.1 all guarantees, conditions, warranties or other terms which may be implied by law or otherwise in connection with these Conditions or your use of the Website and the licence in clause 7.3 are excluded;
 - 5.2.2 we are not liable in tort for any loss or damage suffered by you or by any other person;
 - 5.2.3 we do not accept responsibility for any Liabilities which you may incur in connection with these Conditions, your use of the Website or any linked website, or the licence in clause 7.3, and you release us from any Claim relating to such Liabilities;
 - 5.2.4 in no circumstances will we be responsible for any loss of profits or interruption to business or other indirect economic or other consequential loss suffered by you or any third party in connection with these Conditions, your use of the Website or the licence in clause 7.3;
 - 5.2.5 you indemnify us against all Liabilities which we may incur and release us from any Claim in connection with these Conditions, your use of the Website and the licence in clause 7.3.

6. **PRIVACY**

- 6.1 We are committed to protecting your privacy. We collect Personal Information to provide and market our services. We may disclose that information to our employees and to other persons where required in connection with the provision of our products or services. We may also disclose that information to our contractors, suppliers, auditors and professional advisers who assist us in our business.
- 6.2 We may provide Personal Information to overseas recipients to the extent required to provide specific products or services to specific customers, including but not limited to providing this information to our sales office located in Malaysia.
- 6.3 If you do not provide us with any Personal Information we may request from you, we may not be able to provide you with our services or otherwise assist you.
- 6.4 Our Privacy Policy (<https://www.polyaire.com.au/wp-content/uploads/2019/11/PolyairePrivacyPolicy.pdf>) contains information about how you may access or correct information we hold about you, how you can complain about a breach of privacy and how we will deal with such complaints.

7. **INTELLECTUAL PROPERTY**

- 7.1 Except as expressly provided in this clause, you acquire no Intellectual Property Rights in using the Website.
- 7.2 Copyright and other Intellectual Property Rights in all material on the Website and underlying software codes and programs are held by us or licensed by us.

- 7.3 We grant you a non exclusive non transferrable royalty free licence to print and download material from the Website for your personal and non commercial use, provided that you do not modify such material without our consent.
- 7.4 The licence in clause 7.3 terminates automatically and without the requirement for notice in the event you breach any of your obligations under these Conditions.
- 7.5 Subject to the limited licence in clause 7.3, other than for the purposes of, and subject to the conditions prescribed under the *Copyright Act 1968* (Cth) and equivalent legislation which applies in your location, you may not, in any form or by any means:
- 7.5.1 download, print, display, perform, reverse engineer, modify, reproduce, transmit, disseminate or publish such material;
 - 7.5.2 create derivative works from any part of such material; or
 - 7.5.3 commercialise any information, products or services obtained from any part of the material,
- without our consent or, in the case of third party material, the consent of the owner of the copyright in that material.
- 7.6 With the exception of Personal Information, the use of which is covered under our Privacy Policy (<https://www.polyaire.com.au/wp-content/uploads/2019/11/PolyairePrivacyPolicy.pdf>) any material you send or post to the Website or you otherwise provide to us will be considered non-proprietary and not confidential.
- 7.7 By posting or sending material to or from the Website or otherwise providing material to us, you:
- 7.7.1 warrant to us that such material does not infringe any Intellectual Property Rights of any person; and
 - 7.7.2 grant us an irrevocable, perpetual non exclusive royalty free license to download, print, display, perform, reverse engineer, modify, adapt copy, reproduce, transmit, disseminate and publish such material and to create derivative works from any part of such material for any purpose and to grant sublicenses of the same.
- 7.8 You must notify us as soon as practicably possible in the event you believe that any material on the Website constitutes an infringement of any Intellectual Property Rights and provide us with details and supporting evidence as we may reasonably request.

8. RESERVATION OF RIGHTS

- 8.1 We reserve the right to remove or modify any material on the Website at any time.
- 8.2 We reserve the right to carry out our own investigations by various means for the purposes of verifying any information which you send or post to or from the Website and you consent to us carrying out such investigations. However, we make no warranties or representations about the conduct of such enquiries and will not be responsible to you for any information incorrectly verified.

9. YOUR BREACH

- 9.1 You indemnify us against all Liabilities which we may incur in respect of your breach of these Conditions.
- 9.2 Any breach or threatened breach of these Conditions entitles us to apply for and obtain injunctive relief in any court of competent jurisdiction in addition to all other available remedies.

10. CONTACT US

Please do not hesitate to send us any queries, comments or requests for information you may have regarding these Conditions. Please contact us by email at business@polyaire.com.au

11. GENERAL

- 11.1 Unless otherwise provided, we may in our discretion give (conditionally or unconditionally) or withhold any approval or consent under these Conditions.
- 11.2 You must not assign or otherwise deal with these Conditions or any right or obligation under these Conditions without our written consent.
- 11.3 These Conditions cover the entire agreement and understanding between you and us with respect to your use of the Website and supersede any prior agreement or understanding.
- 11.4 If there is any conflict between anything in these Conditions and anything else in the Website, these Conditions prevail.
- 11.5 A waiver of a provision of or right under these Conditions by us must be in writing signed by us and is effective only to the extent set out in the written waiver.
- 11.6 The failure, delay, relaxation or indulgence in exercising a power or right under these Conditions is not a waiver of that power or right.
- 11.7 An exercise of a power or right under these Conditions does not preclude a further exercise of it or the exercise of another right or power.
- 11.8 Any indemnity or release in these Conditions survives termination of access to or closure of the Website. Any other provision in these Conditions intended to do so, survives the suspension or termination of access to or closure of the Website.
- 11.9 The validity and interpretation of these Conditions are governed by the laws of South Australia. Any dispute in connection with these Conditions is subject to the exclusive jurisdiction of the courts of South Australia.

12. DEFINITIONS

In these Conditions, unless the context otherwise requires:

- 12.1 **Australian Consumer Law** means the law as set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

- 12.2 **Claim** means any claim, demand, action or cause of action, whether in contract, tort, equity or under statute, and any loss, cost, expense or Liability arising from or in connection with such claim, demand, action or cause of action.
- 12.3 **Conditions** means these Terms and Conditions as amended from time to time.
- 12.4 **Consumer Guarantees** means the consumer guarantees under the Australian Consumer Law.
- 12.5 **Intellectual Property and Intellectual Property Rights** includes property and rights in connection with copyright (including future copyright and rights in the nature of or analogous to copyright), know-how, trade mark, service mark, design, inventions (including patents), semi-conductor or circuit layout rights, trade, business or company names, or other proprietary rights, or any rights to registration of such rights (including all renewals and extensions).
- 12.6 **Liabilities** means liabilities, losses, damages, actions, causes of action, arbitrations, claims, orders, judgments, outgoings, costs (including legal costs calculated on a solicitor and own client basis) and expenses, whether present or future, actual or contingent.
- 12.7 **Other User** means a third party using the Website.
- 12.8 **Personal Information** has the meaning set out in the Privacy Act.
- 12.9 **Privacy Act** means the *Privacy Act 1988* (Cth).
- 12.10 **Related Company** means a related body corporate with the meaning of the *Corporations Act 2001* (Cth).
- 12.11 **Website** means the websites operated by us, which includes but is not limited to www.polyaire.com.au, www.PolyaireCommercial.com.au , www.AirTouch.net.au , www.Store.Polyaire.com.au , www.PolyairePricebook.com.au , www.zonemaster.com.au and service.polyaire.com.au , and includes all information tools and other material posted or accessible from that website.
- 12.12 **We, our** and **us** refers to Polyaire Pty Ltd ACN 007 673 690 and includes its successors, assigns and its related bodies corporate.
- 12.13 **You, your** and **yourself** refers to any person viewing or using the Website, including any links from the Website, either wholly or in part and includes a person who places an order for a product or service through the Website or who makes a payment in connection with the use of the Website.

13. INTERPRETATION

In these Conditions, unless the context otherwise requires:

- 13.1 headings do not affect interpretation;
- 13.2 singular includes plural and plural includes singular;
- 13.3 words of one gender include any gender;

- 13.4 a reference to a party includes its employees, officers, contractors, executors, administrators, successors and permitted agents and assigns;
- 13.5 a reference to a person includes a partnership, corporation, association, government body and any other entity;
- 13.6 a reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- 13.7 a provision is not to be construed against us only because we prepared it;
- 13.8 an unenforceable provision or part of a provision may be severed, and the remainder of these Conditions continues in force, unless this would materially change the intended effect of these Conditions; and
- 13.9 the meaning of general words is not limited by specific examples introduced by 'including', 'for example' or similar expressions.