

General Terms and Conditions

Updated September 2018

These terms and conditions apply to the use of this website and the ordering, purchase, fulfilment and delivery of Products from www.foost.com.au.

Please read the following Terms and Conditions carefully before placing Your Order. These Terms and Conditions contain important information about the ordering, processing, fulfilment and delivery of goods, including limitations of liability.

These Terms and Conditions constitute a contract between the customer (You) and Foost.

1. Agreement

1.1

In these Terms and Conditions We, Our or Us means Foost Pty Ltd; and You or Your means the person who accepts these Terms and Conditions, by using this Website and associated software, networks and processes, including the purchase of Products or services through the Website.

1.2

By browsing the Website, or placing an Order, You agree to these Terms and Conditions as set out below, which constitutes a legally binding Agreement between Us and You for the supply of Products.

1.3

The Agreement together with Your Order constitute the entire agreement between Us and You for the supply of Products. The Agreement cannot be varied unless We agree to vary it in writing or by email.

2. Legal Capacity

If you are under the age of eighteen (18) years you cannot place Orders with Foost Pty Ltd. By accepting this Agreement, You acknowledge that You are over the age of eighteen (18) years.

3. Website Use

3.1

The Website may contain links to other web sites. Those links are provided for convenience only and may not remain current or be maintained. We are not responsible for the content or privacy practices associated with linked websites.

3.2

You must ensure that Your access to, or use of the Website is not illegal or prohibited by laws which apply to You.

3.3

You must take Your own precautions to ensure that Your process for accessing the Website does not expose You to risk of viruses, malicious computer code or other forms of interference which may damage Your computer system. We take no responsibility for any such damage which may arise in connection with Your use of the Website.

4. Pricing

4.1

Prices displayed on the Website are subject to change without notice. Once an Order has been accepted by Us and a Purchase Contract formed under clause 6, the price of the Product cannot be varied except:

- by agreement between You and Us in writing or by email; or
- in accordance with clause 7.4.

4.2

All prices listed on the Website exclude Delivery Costs. Delivery Costs are shown separately on an Order.

5. Product Specifications

5.1

Features and specifications of Products described or depicted on the Website are subject to change without notice. For the avoidance of doubt, We will not materially change the features and specifications of a Product once an Order has been accepted by Us and a Purchase Contract formed under clause 6.

5.2

All weights and dimensions of Products described in the Website are approximate.

6. Orders

6.1

You may place an Order by following the instructions on the Website. By placing an Order, you make offer to enter into an agreement to purchase the Product(s) the subject of Your Order (Purchase Contract).

6.2

Orders will be deemed to have been received by Foost Pty Ltd at the time Foost Pty Ltd sends an Order confirmation to Your nominated e-mail address.

6.3

Foost Pty Ltd is an online business and will primarily communicate with Customers via e-mail. It is the Customer's responsibility to ensure the correct contact details are entered and that the nominated e-mail address is regularly checked for correspondence.

6.4

Foost Pty Ltd reserves the right to decline to enter into a Purchase Contract with You and may cancel Your Order at any time prior to dispatch of the Product(s).

6.5

In the event of a cancelled Order not dispatched, funds paid in relation to that Order will be refunded in full. You will be provided with e-mail confirmation of the cancellation and refund.

6.6

Foost Pty Ltd does not accept any responsibility for Orders that are declined, delayed or not accepted due to disruptions with internet connections.

6.7

Foost Pty Ltd shall not be liable for any delay in performing any of its obligations under this Agreement if such delay is caused by circumstances beyond the reasonable control of Foost Pty Ltd (or its affiliates), and Foost Pty Ltd shall be entitled to a reasonable extension of time for the performance of such obligations.

6.8

Where You have provided an incorrect or incomplete delivery address for Your Order, We may charge a redelivery fee for each subsequent delivery attempt.

7. Payment

7.1

You may provide Your nominated credit card during the purchase process described on the Website.

7.2

Payment for Orders will be processed immediately upon confirmation of Your Order.

7.3

If Your nominated payment method triggers Our fraud prevention protocols, We may contact You to confirm additional details, or rescind the transaction. In this case, until Your Order has passed Our fraud prevention protocols Your Order will not be fulfilled. If you do not provide the requested information within up to 7

days, Your Order will be cancelled and Your payment will be refunded back to the method in which you paid. These information requests are sent to help protect credit card holders from online fraud.

7.4

Despite Our best efforts, on occasion it may be possible that a small number of the Products in Our range may be incorrectly priced on the Website. If We have made a mistake and a Product's correct price is higher than the price on the Website, We may either contact You before shipping to request whether You want to buy the Product at the correct price or cancel Your Order. If a Product's correct price is lower than the stated price on the Website, We will charge the lower amount and send You the Product, or where the higher incorrect price has been charged, We will refund the price difference and send You the Product.

8. Delivery and ownership of the goods

8.1

We try to ensure that all Products are delivered in a prompt and timely manner. However, from time to time, it is possible that shipping and other factors outside of Our control may result in delays. Foost Pty Ltd does not accept any liability for loss or damage suffered by anyone as a result of any such delays.

8.2

The date of dispatch listed on the Website is the estimated date of dispatch as is reasonably estimated by Foost Pty Ltd. Where scheduled dispatch of a Product is delayed by more than one week, Customers will be notified by e-mail via the e-mail address nominated in their Order. Customers are permitted to cancel their Order and receive a refund or store credit at any time prior to dispatch of the Product(s).

8.3

Foost Pty Ltd will not deliver Products to PO Box addresses.

8.4

Where a Customer gives written authority for Products to be delivered without a signature, any and all included insurance cover will be voided.

8.5

The couriers or postal services nominated by Foost Pty Ltd will deliver Products during local business hours (9am to 5pm, Monday to Friday).

8.6

Foost Pty Ltd is not responsible for the delivery times of Products. Once Products have been dispatched, it is the Customers responsibility to liaise with the courier nominated by Foost Pty Ltd (as notified to the Customer) in relation to date and time of delivery. Foost Pty Ltd shall not be liable for any inaccuracy of information

provided to Customers relating to the date and time of delivery.

8.7

Foost reserves the right to not ship to remote or rural locations.

9. Faulty or damaged goods

Foost Pty Ltd will repair, replace or refund faulty or damaged Products in accordance with the Warranty Terms and Conditions and Your rights under the Australian Consumer Law.

10. Intellectual Property

All Intellectual Property in any Material on the Website is the property of Foost Pty Ltd. Unless expressly authorised under these Terms and Conditions or otherwise, you may not reproduce, adapt, modify, display, perform or distribute any Material or any part of any Material.

11. Privacy

By placing your Order or otherwise contacting Foost Pty Ltd, you agree that We may store, process and use data collected from your Order for the purposes of processing your Order. By placing your Order or otherwise contacting Us, you also agree that we may use such data, other than credit card details, in order to provide you with information from time to time on other Products or Services that may be of interest to you. You may obtain a copy of the data held by us concerning you on request in writing. We reserve the right to charge an administration fee for processing such request. If any data held by us concerning you is incorrect, we will correct it on your written request. Please refer to our Privacy Policy.

13. Gift Vouchers

13.1

Gift Vouchers & eVouchers have a validity of 12 months from the date of purchase, unless otherwise specified at the time of issue in writing.

13.2

Gift Vouchers & eVouchers may be redeemed by entering the voucher code into the Gift Card field at checkout. Gift cards will not be refunded.

14. Miscellaneous

14.1

Title and risk in the Foost Products pass to You at the point of dispatch or embarkation by Foost to Your courier.

14.2

Foost Pty Ltd reserves the right to make changes to the Foost Pty Ltd Website

and these Terms and Conditions without notice. For the avoidance of doubt, any such changes will operate prospectively from the time that the revised Terms and Conditions are published on the website and will not impact any Purchase Contracts entered into prior to the date of the publication of the revised Terms and Conditions.

14.3

Any provision of these Terms and Conditions which is void or unenforceable may be severed from these Terms and Conditions without affecting the enforceability of other provisions.

14.4

A failure or delay by Foost Pty Ltd to exercise a power or right under these Terms and Conditions does not operate as a waiver of that power or right, and the exercise of a power or right by Foost Pty Ltd does not preclude its future ability to exercise that or any other power or right.

14.5

Insofar as they apply to the ordering, purchase, fulfilment and delivery of Products from www.foost.com, these Product Terms and Conditions and General Terms and Conditions are governed by and must be construed according to the law of the State of Victoria, Australia and the parties submit to the jurisdiction of the courts in that State.

14.6

No Foost Pty Ltd employee or agent has the authority to vary any of the Terms and Conditions governing any sale.

Complaints

If you have a complaint, please let us know. We welcome your feedback as an opportunity to improve our business and customer service.

You can make a complaint by:

Contacting us;

Mail: Complaints Officer, Foost, 758 North Rd, Ormond VIC 3204

Email: hello@foost.com.au

Telephone: 1300 611 941

When making a complaint, please let us know the following information:

- Your Name and Email Address
- A brief description of the issue

- Order number, the product name and serial number, if applicable
- Date of purchase or date of issue

We will respect our customers' privacy in relation to any personal information given to us.

Foost Pty Ltd
ABN 72 164 223 901

Change of Mind Policy

Updated September 2018

1. At www.foost.com.au, we stand behind Our product! That's why we offer a 14 Day Change of Mind Guarantee on all our Foost Branded items
2. Some of these products can't be returned - usually due to health and safety reasons. If so, this is specified in the product listing.
3. If the Product is not a Foost Branded item, the Change of Mind Policy doesn't apply.
4. Subject the rest of this policy, if for any reason you are unsatisfied with your purchase of a Foost Brand product, you can contact us within 14 days of taking delivery and return the product. You will then receive a store credit for the purchase price of your product (excluding the initial delivery charges as set out in your order confirmation email).
5. Products must be returned in their original packaging, along with all included accessories, be in new condition suitable for resale, and must not have been damaged during the time the product is in your possession, including up until we receive the product.
6. You must notify us via the email (hello@foost.com.au) within 14 days of taking delivery of your product and request a return under this policy.
7. If there is no proof of the delivery date it will be assumed to be 3 business days from the date of dispatch of the product.
8. The product must be returned to us within 10 business days of your request to return your product.

Warranty Terms and Conditions

Updated September 2018

Please obtain Support via our Help Centre for all warranty and product support requests.

These terms and conditions apply to products purchased from www.foost.com.au and relate to the Foost Warranty. These terms and conditions do not apply to products purchased directly from third party sellers.

Foost supplies and supports the Warranty relating to Products which are noted as being offered and supplied by Foost.

Foost Pty Ltd is referred to as 'we' or 'us'.

The warranties and product support set out in these Terms and Conditions are provided by Foost irrespective of:

- the identity of the manufacturer of the Product;
- whether or not the manufacturer has provided its own warranties or product support in relation to the Product.

For the avoidance of doubt we make no representations or warranty in relation to the existence, non-existence, validity, availability, terms or conditions of any other warranties or product support that may or may not be offered or provided by the manufacturer of the Product.

Warranty Terms

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 goods fail to be of acceptable quality and the failure does not amount to a major failure.

2

Subject to the terms and conditions set out below, Foost agrees to repair or replace the Product which it supplied to you at its own cost or provide you with a refund if the Product is found to be defective and not able to perform in accordance with our specifications during:

- the Foost Warranty period as set out in the table at the end of these terms;
or
- the applicable Extended Care period,

commencing on the date of delivery of the Product. Where there is no proof of delivery, this date will be assumed to be 3 business days from the date of dispatch of the Product.

3

When requesting service under the Foost Warranty or Extended Care, proof of purchase (invoice or paid Order confirmation) must be provided and every effort must be made to return any accessories that were sold with the Product.

4

When requesting service under the Foost Warranty or Extended Care you must comply with directions from our staff in relation to troubleshooting any issue and facilitating any repair or replacement.

5

You are responsible for inspecting the Product received from Foost upon arrival. Where Products are faulty or damaged upon delivery, photographic evidence of the damage must be submitted to Foost Support via our Help Centre within 3 days of receipt of the Product otherwise we can deny your claim.

6

Where we have an obligation to repair a Product, we reserve the right to replace the Product with the same or equivalent Product, rather than repair it.

Where we provide a replacement we will determine, in our discretion, the closest Product within the then current range of Products offered by us with which to replace the faulty or damaged Product. The replacement Product may differ with the replaced Product in size and specifications, at our reasonable election. We may replace parts with refurbished parts. Replacement of the Product or a part under the Foost Warranty or Extended Care does not extend or restart the Foost Warranty or Extended Care period.

7

Where we have an obligation to repair or replace the Product but we are not reasonably able to do so, we will offer a store credit or a refund of the purchase price of the Product excluding the cost of delivering the Product ('Delivery Cost').

8

In the event that a replacement or refund, is provided, the faulty item will become our property.

9

Subject to clause 13, where we authorise the repair or replacement of a Product, we will organise for our authorised courier to pick up the Product during business hours (between 9am and 5pm, Monday to Friday) and deliver it to the appropriate authorised repair centre, provided that the Product is safely and securely

packaged for safe transport. If we deem it appropriate, we may alternatively supply a pre-paid postage label for the Product to be returned via our chosen carrier to the authorised repair centre. In either instance it will be at our cost. Alternatively, if we specifically authorise you in writing, you may take the Product to the appropriate repair centre or post the Product as directed by us in which case we will refund you the cost of the postage on provision of a scanned copy of the postage receipt. Where you are located outside Australia, we may require that the Product be sent to Hong Kong or Australia, as directed by us.

10

If you do not have the original packaging, you will bear the responsibility for safely packaging your Product for transport and we accept no liability for any damage that may occur in transit. If your Product was exclusively available for shipping to Sydney and Melbourne metro areas only, we will collect and return the Product from these areas only.

11

We reserve the right to determine the authorised repair centre.

12

The Product will be at the Customer's risk while in transit to and from the Foost Authorised Repair Centre.

13

We may seek reimbursement of any costs we incurred where the Product is found to be in good working order, or when it has been determined that the Foost Warranty or Extended Care (as the case may be) does not apply.

14

We will reasonably determine whether any Product is or is not performing in accordance with the Foost specifications.

15

Extended Care is available for purchase for some Products, as listed on the Website and may be purchased up to 14 days after delivery of Your Products.

16

Where an Extended Care is purchased, it will replace the Foost Warranty period with the Extended Care period (for example, either 3 or 5 years).

17

To the full extent permitted by law, the Foost Warranty and Extended Care will not apply:

- to a Product which has not been installed, operated, maintained or used in accordance with the manufacturer's instructions or specifications provided with the Product;

- if the factory-applied serial number has been altered or removed from the Product;
- to a Product which has suffered damage, malfunction or failure resulting from any unauthorised alterations or modifications (of hardware or software), accident, misuse, abuse, fire, liquid spillage, mis-adjustment of customer controls, use on an incorrect voltage, power surges and dips, thunderstorm activity, force majeure, voltage supply problems, tampering or unauthorised repairs or service, use with other defective or incompatible accessories or products, the operation of a computer virus of any kind, exposure to abnormally corrosive conditions or entry by any insect, vermin or foreign object in the Product;
- to a Product which has been primarily used in a business or commercial capacity and Foost has not explicitly advised, prior to purchase, as to the product's suitability for that purpose;
- to consumable parts, such as batteries or protective coatings that are designed to diminish over time;
- to cosmetic damage to boxes, packaging or exterior surfaces (including during transit);
- to defects caused by normal wear and tear or otherwise due to the normal ageing of the Product;
- to damage arising during transportation, installation or while moving the Product,
- if the Product is stolen or we reasonably believe that the Product is stolen based on information provided by law enforcement authorities;
- where proof of purchase (invoice or paid Order confirmation) cannot be provided;
- to service of any product whilst it is outside Australia.

18

To the full extent permitted by law:

- we will not be liable for any loss, damage or alterations to third party hardware, software, programs, data and/or information stored on any media or any part of the Product, no matter how occurring; or for any loss or damage arising from loss of use, loss of profits or revenue, or for any resulting indirect or consequential loss or damage; and
- our aggregate liability in respect of all claims under the Foost Warranty and Extended Care shall not exceed the original purchase price of the Product or, at Foost's option, replacement of the Product with a like or similar Product.

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Table setting out the duration of the Foost Minimum Voluntary Warranty

	Under 3 months	Under 6 months	Under 12 months	Over 12 months
Up to \$500	A	B	C	C
Over \$500	A	A	B	C
Over \$2000	A	A	B	C

(A) Subject to these terms, if the Product is defective you can choose to obtain a replacement product (if available), a refund or have the product repaired free of charge.

(B) Subject to these terms, if the Product is defective you can choose to have the Product repaired free of charge. If the Product cannot be repaired within a reasonable time, we will provide you with a replacement 'like for like' product.

(C) The Foost Warranty does not apply but you might still have rights under Australian Consumer Law.