

## Terms & Conditions

These Terms and Conditions apply to the use of this Website and the purchase of goods and services from us. By using this Website and our services, and otherwise contracting with us for the purchase of products and services, you agree to be bound by these Terms and Conditions. If you do not accept these Terms and Conditions, you must refrain from using the Website.

### 1. Definitions. In these Terms and Conditions:

- 1.1 "We", "us" and "our" are references to NZAZZ Limited trading as NZAZZ.
- 1.2 "Website" means our website located at [www.nzazz.nz](http://www.nzazz.nz) as well as any other URLs that we may have registered and may register in future and use for the purpose of linking to the website, and unless the context requires otherwise includes any related services; and
- 1.3 "You" and "your" are references to you as a user of the Website.

### 2. Purchasing

- 2.1 In order to purchase goods from us through our Website, you will need to register as a user. Upon registration we may collect information such as your name, address, valid email address and mobile phone number. You agree to provide accurate and complete information and to keep this information updated when interacting with us.
- 2.2 The promotion and listing of a product on the Website does not constitute an offer to sell or guarantee the availability of products. It is an invitation to treat only and we reserve the right to accept or reject your purchase request. Orders placed by you via the Website are offers to purchase products at the prices listed and pursuant to the terms of this Agreement.
- 2.3 Prices are in New Zealand Dollars and excludes GST. Prices do not include Import Duty or Ancillary Charges (if applicable) and local sales taxes (if any), which maybe payable on deliveries to customers outside of New Zealand prior to delivery.
- 2.4 You may not cancel an order once it has been submitted, even if our acceptance or rejection of your offer is still pending.
- 2.5 Once your order has been accepted, you will receive an order confirmation via email. Please check this confirmation.
- 2.6 If paying with a credit card, there may be additional charges imposed by your credit card provider where your purchase involves foreign exchange transactions.
- 2.7 Payment must be effected in the manner described on the Website (credit card and any other method indicated) and must be received in full prior to dispatch of any products by us. If your payment is not received or declined by your bank or credit card issuer, we cannot hold products against your order. Title in the products does not pass to you until payment has been received.
- 2.8 You must not do anything to cancel or reverse your payment for an order until the goods have been returned in the original condition correctly packaged in the original and undamaged packaging.
- 2.9 Should a payment be cancelled for any reason after delivery of any goods, then you will return those goods to us immediately in the original condition and correctly packaged in the original and undamaged packaging.
- 2.10 Should the payment for an order from a customer in New Zealand be cancelled or reversed in any way then you acknowledge and agree that these Terms and Conditions constitute a security agreement for the purposes of section 36 of the Personal Property Securities Act 1999, and a security interest is taken in all goods previously supplied by us to you (if any) and all goods that will be supplied in the future by us to you (if any).
- 2.11 You acknowledge that despite our reasonable precautions, products may be listed at an incorrect price or with incorrect information due to a typographical error or like oversight. In these circumstances, we reserve the right to cancel the transaction, notwithstanding that your order has been confirmed and your credit card has been charged. We reserve this right up until the time of delivery of goods to you. If a cancellation of this nature occurs after your credit card has been charged for the purchase, we will immediately credit your credit card account for the amount in question.
- 2.12 Your order must contain your full name, email address, delivery address, credit card details and any other ordering information specified on this website. Promptly after receipt of your order, we will at our discretion, accept or reject your offer to purchase. We are not required to give reasons for rejecting your offer to purchase. If we reject your offer to purchase the products for any reason, neither of us will be under any further liability to the other arising out of your original offer or our non-acceptance of that offer. If we have not responded to you within 7 days, your offer will be deemed to be rejected.
- 2.13 The products are offered for sale only to persons who can make legally binding contracts.

### 3. Delivery

- 3.1 The products will be deemed to be delivered, and risk of loss or damage to the products will pass to you, when the products are delivered at the address you provided in your order, unless we agree otherwise in writing.
- 3.2 Delivery charges (if applicable) are dependent on what the items are and where the order is to be delivered. These will be calculated and you will be advised of their amount before you finalise and submit your order.
- 3.3 To the extent permissible by law, we are not responsible for loss, damage or theft of items once they leave us. We recommend insuring your items. We also strongly recommend that you have your product shipped to a business address.
- 3.4 We are located in Auckland, New Zealand and we dispatch from there.

#### **4. Returns**

- 4.1 Please choose carefully and check your order thoroughly before proceeding, as we are not obliged to provide refunds for "change of mind" reasons or reasons of consumer purchasing error. It is your responsibility to ensure that the product you have chosen is suitable for the purposes for which you propose to use it.
- 4.2 Please check products that you receive thoroughly as soon as received and ensure that all components and parts you have ordered are included.
- 4.3 Notwithstanding clause 4.1, we may in our discretion accept a return (for change of mind reasons) of a product that is unopened, in as new and saleable condition and is current stock. Where we accept such returns, you will be responsible for all of the costs we incurred processing and delivering your PO and the costs involved in returning the products in question.
- 4.4 Without limiting any other provision of these Terms and Conditions, we do not accept returns for change of mind reasons on custom ordered products.
- 4.5 Products must not be returned without authorisation by us. We aim but do not guarantee, to process refunds and replacements within 7 days of receipt by us of the original products.

#### **5. Intellectual property**

- 5.1 NZAZZ and monomounts, including any logo version of the trademarks, are trademarks owned by NZAZZ and/or its affiliated companies and may not be used by you without our prior written consent.
- 5.2 Everything on this website, unless otherwise stated is copyright and copyright in this Website is owned by us. Other than for the purposes of, and subject to the conditions prescribed under, the Copyright Act and similar legislation throughout the world, and except as expressly authorised under such legislation, by these Terms and Conditions or with our prior written permission, you may not in any form or by any means reproduce, adapt, store, distribute, print, display, perform, communicate to the public or create derivative works from the Website.
- 5.3 If you provide us with any material or content (which may include text, data, files, images, photographs and audiovisual material) ("User Content") for inclusion on the Website or for inclusion in or reproduction on any product, you grant us a royalty-free license to use and reproduce that content on the Website or product as the case may be. We shall not be obliged to use, display or retain any User Content so supplied on the Website. You warrant that all such User Content will not infringe any third party's intellectual property or other rights.
- 5.4 We do not claim copyright or ownership of other intellectual property rights in respect of third party content (including trademarks and logos of third parties) appearing on the Website, which remain the proprietary rights of the respective third parties concerned.
- 5.5 We welcome the use of this website for personal use, non-commercial use, research or study – provided that the user acknowledges all copyright and any other notices contained in the content.
- 5.6 Any requests for our permission to publish, copy, reproduce, distribute, transfer, or otherwise use any materials contained in this website should be e-mailed or mailed to us for authorization. You agree not to add, change or delete any copyrighted or proprietary information from materials downloaded from this website.
- 5.7 From time to time we may include functionality for users to upload User Content to make comments or other postings on the Website. If we avail yourself of these facilities, you must not:
  - (a) upload, post, transmit or otherwise make available on the Website any content that:
    - (i) is defamatory;
    - (ii) promotes, encourages or provides information about unlawful conduct or activities;
    - (iii) infringes any third party's intellectual property rights or breaches confidentiality;
    - (iv) includes a photograph or other likeness, or personal information of another person without their consent;
    - (v) contains pornography, nudity, sexual acts or references;
    - (vi) incites hatred or discrimination against any person or group of persons;
    - (vii) contains any unsolicited or unauthorized advertising or promotional material;
    - (viii) misrepresents your relationship with any person;
    - (ix) is misleading, false or deceptive (whether by representations or omissions); or
    - (x) contains viruses, worms or other types of malicious or harmful programs, nor take any action that imposes an unreasonable or disproportionately large load on our infrastructure; or
  - (b) damage, modify, interfere with, disrupt or destroy the files, data, passwords, devices or resources that belong to us or do anything that compromises the security of the Website.
- 5.8 We reserve the right to remove any User Content that you may post at any time without notice to you.

#### **6. Links**

- 6.1 This Website may contain links to other websites, including but not limited to those of suppliers of products ("linked websites"). 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.
- 6.2 Our links with linked websites should not be construed as an endorsement, approval or recommendation by us of the owners or operators of those linked websites, or of any information, graphics, materials, products or services referred to or contained on those linked websites, unless and to the extent stipulated to the contrary.
- 6.3 You may link to our Website with our written consent. Any such linking will be entirely your responsibility and at your expense. By linking, you must not alter any of our Website's contents including any intellectual property notices and you must not frame or reformat any of our pages, files, images, text or other materials.

#### **7. Disclaimer**

- 7.1 We provide general information about our business and the products and services we offer. We reserve the right to change, delete or move any of the material at any time without notice.
- 7.2 To the extent permissible by law this Website and all content appearing on it are provided on an "as is" and "as available" basis, without warranties of any kind. You accept that is provided or relayed by us is general information and is not in the nature of advice and is not guaranteed to be error-free.

- 7.3 While we endeavour to supply accurate information on this website, errors and omissions may occur. We do not accept any liability, direct or indirect, for any loss or damage which may directly or indirectly result from any advice, opinion, information, representation or omission on whether negligent or otherwise, contained on this website. You are solely responsible for the actions you take in reliance on the content on, or accessed, through this Website. We have obtained this information from sources which we consider reliable, but we do not guarantee the accuracy or completeness of this information. Any mention of third parties is for informational purposes only, and does not constitute an endorsement or recommendation. We do not make any representations or warranties, whether express or implied, with respect to the information found on this website.
- 7.4 We endeavour to represent products for sale as accurately as possible on the Website, however due to technical limitations of photography and visual representation, we cannot guarantee that products listed for sale appearing at the Website will always look exactly the same when received.
- 7.5 While we make reasonable efforts to supply correct and accurate information about products listed for sale on the Website, the information about products is based on information provided by our suppliers and product manufacturers, some of which we have no means to verify.
- 7.6 To the extent permissible by law, we exclude liability for any loss, damage or injury however caused (including through negligence), which you may directly or indirectly suffer in connection with your use of this Website, or any other linked website, nor do we accept responsibility for any such loss arising out of your use of or reliance on information contained on or accessed through this Website. Without limiting the foregoing, to the extent permissible by law we exclude liability in respect of:
- (a) mistakes or inaccuracies on the Website;
  - (b) any unauthorised access to or use of secure servers and/or personal information and/or financial information stored on those servers;
  - (c) bugs, viruses, Trojan horses or other harmful code which may be transmitted to or through our Website by a third party;
  - or
  - (d) any interruption or cessation of transmission from our Website;
- 7.7 To the extent permissible by law, any representation, condition or warranty which would otherwise be implied into these Terms and Conditions is hereby excluded. Without limiting the foregoing, to the extent permissible by law we disclaim all warranties regarding title, merchantability, fitness for a particular purpose and non-infringement of intellectual property rights. Where legislation implies any condition or warranty, and that legislation prohibits us from excluding or modifying the application of, or our liability under, any such condition or warranty, that condition or warranty will be deemed included but our liability and the remedies available to you will be limited to the extent permissible by law.
- 7.8 We assume no responsibility for the installation of any products ordered through the Website. You should ensure that only competent qualified installers, install any products you order through the Website.
- 7.9 To the extent permissible by law, in no circumstance will we be liable to you for any indirect, incidental, special and/or consequential losses or damage (including loss of profits, revenue, production, goodwill, data or opportunity, or any physical injury) of any nature arising through or as a result of your use of the Website or any products purchased through it.
- 7.10 We do not make any representations or warranties that your access to the Website will be uninterrupted, timely, secure or error free.
- 7.11 Details contained on this Website relating to goods or services have been prepared in accordance with New Zealand law and may not satisfy the laws of any other country. We do not warrant that the details concerning those goods or services will satisfy the laws of any other country. It is your responsibility to determine whether these details satisfy the laws of any jurisdiction where you reside (if outside New Zealand) and if the details do not satisfy the laws of your jurisdiction, you may not order any products or services from this Website.
- 7.12 You agree and acknowledge that products you order may be adversely affected by severe environments, temperature extremes, frost, wind borne salt or other abrasive elements which can cause deterioration and/or reduce expected operating life.
- 7.13 You understand and expressly agree that use of this website is at your own risk, that any material or data downloaded or otherwise obtained through the use of the website or by virtue of interaction with other users is at your own discretion and risk, and that you are solely responsible for any damage to your computer system or loss of data that results from the download of such material or data, and for any form of damage that may be incurred. We shall not be liable to users for any damage resulting from use of the website, nor are we in any way responsible for the conduct of users, or information exchanged on the website.
- 7.14 In no event shall we or any of our affiliates, officers, directors, employees, consultants or agents be liable for any direct, indirect, punitive, special, incidental, or consequential damages or any damages whatsoever, including, without limitation, damages for loss of profits or business interruption, arising out of or any way related to the use or performance of this website or to any information or products or anything else obtained through this website, or otherwise arising out of the use of this website, or to inability to use the website, whether based in tort, contract, negligence, strict liability or otherwise, even if we have been advised of the possibility of damages. We and our affiliates shall not be liable to you or any other third parties for any direct, indirect, special, consequential or punitive damages allegedly sustained arising out of your access to or inability to access this website. This includes viruses alleged to have been obtained from this website, your use of or reliance on this website or any of the information or materials available on this website, regardless of the type of claim or the nature of the cause of action.

## **8. Your use of the Website**

- 8.1 You are provided with access to and are authorised to download material contained on this Website only for your personal use. Without limiting the foregoing, you may not, without our written permission, on-sell any information obtained from this Website, use any data mining robots or other extraction tools or metatag or mirror the Website without our prior written permission.
- 8.2 You must take your own precautions to ensure that the process which you employ for accessing this Website does not expose your computer to the risk of viruses, malicious computer code or other forms of interference which may damage your own computer system. We do not accept responsibility for any interference or damage to your own computer system which arises in connection with your use of this Website or any linked website.

- 8.3 When you click on a website or access details of a product, your browser may automatically direct you to a new browser window that is not hosted or controlled by us. We are not responsible for the functionality or safety of those sites.
- 8.4 Other than connecting to our servers by HTTP requests using a web browser, you may not attempt to gain access to our servers by any means – including, without limitation, by using administrator passwords or by masquerading as an administrator while using this website or otherwise.
- 8.5 You agree not to disrupt, modify or interfere with this website or its associated software, hardware and servers in any way and you agree not to impeded or interfere with others' use of this website. You further agree not to alter or tamper with any information or materials on, or associated with, us or this website.
- 8.6 You are solely responsible for any activity occurring on your account. You must maintain the security of your account details including passwords. If you suspect unauthorized use of your account or that your password is no longer secure, you must notify us immediately.
- 8.7 You may not use another member or user's account without their permission.
- 8.8 We may stop (temporarily or permanently) providing access to you or visitors and users generally, at our discretion and without prior notice.

## **9. Age/legal capacity**

- 9.1 You affirm that if purchasing products using our website that you are over 18 years of age. You agree that you are entering into legal contract with us.
- 9.2 Without limiting clause 13.1 you agree and acknowledge that in event we suffer loss or damage as a result of a minor purporting to enter into a transaction with us, that we reserve the right to take legal action and seek recompense from the parent or guardian of that minor.

## **10. Indemnity**

- 10.1 You agree to fully indemnify and hold us harmless against any expenses, costs, loss or damage (including consequential loss) that we may suffer or incur as a result or in connection with your use of the website and any breach of Terms and Conditions.
- 10.2 By viewing and utilizing this website, you agree to indemnify, defend, and hold us harmless, including or suppliers, vendors Affiliates, officers, directors, employees, consultants and agents from any liability, losses, claims, causes of actions and expense (including but not limited to reasonable attorneys' fees) relating to your violation of this agreement or use of this website in any unauthorized manner. Your use of this website shall constitute your acceptance of the aforementioned items of this disclaimer and copyright policy, as revised and modified, if any every time you access this website. We reserve the right to revise this agreement at any time, and such modifications shall be effective immediately upon posting of the modified agreement on this website.

## **11. Breach of Terms and Conditions / Termination of Access**

- 11.1 Without limiting any other remedy available to us by law, if we reasonably consider that you have breached any of these Terms and Conditions, we may take such action as we deem appropriate to deal with the apprehended breach, including, but not limited to suspending your access to the Website, preventing computers using your IP Address from accessing the Website, and contacting your internet service provider to request that your access to the Website be blocked.
- 11.2 Without limiting the foregoing, you acknowledge that we may terminate the operation of, and hence your access to, this Website (whether temporarily or permanently) at any time by us without notice. We will not be liable to you for doing so.
- 11.3 Those of the Terms and Conditions that are capable of surviving termination will survive any such termination.

## **12. Waiver, Severance and Assignment**

- 12.1 Our failure to take action with respect to any breach by you or others does not waive our rights to take action with respect to subsequent or similar breaches.
- 12.2 If any part of these Terms and Conditions are found to be void, unlawful or unenforceable then that part will be deemed severed from the remainder of these Terms and Conditions and will not affect the validity of the remaining provisions.
- 12.3 In the event that we merge, sell or otherwise change control of our business or company or this Website, we reserve the right and you hereby consent to us transferring, assigning or sublicensing the rights to use of any personal information and/or User Content that you have provided to us. You agree that we shall have the right to assign, transfer or novate the rights that we have under this Agreement.

## **13. Amendments to Terms and Conditions**

- 13.1 No terms and conditions sought to be imposed by you shall bind us, unless we agree to them in writing.
- 13.2 We reserve the right to amend these Terms and Conditions from time to time. Amendments will be effective immediately upon publication on this Website. Your continued use of the Website following publication will represent an agreement by you to be bound by the Terms and Conditions as amended.

## **14. Force majeure**

- 14.1 We shall not be liable for any delay in performance of our obligations under this agreement if the delay is caused by circumstances beyond our reasonable control.

## **15. Governing Law**

- 15.1 These Terms and Conditions are governed by the laws in force in New Zealand.