

DISCLAIMER - THIS DOCUMENT IS PROVIDED FOR REFERENCE PURPOSES ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE.

WEBSITE TERMS OF USE

between

[Organic Earth Pty Ltd] (ABN 62124136572)

(Referred to in these Terms of Use as the **Company, we, our or us**)

And

You, the user of this website

The Terms of Use set out below (the **Agreement**) governs your use of our website located at [<https://www.organicearth.com.au/>] (the **Website**), including any purchases you may make via the Website, and form a binding agreement between the Company and you in relation to your use of the Website and any purchases you may make from the Website. Please note that additional terms and conditions governing your relationship with us are contained in other Website pages (including the Delivery Policy at [<https://www.organicearth.com.au/>] and the Returns Policy at [<https://www.organicearth.com.au/>]) which are incorporated into and will form part of this Agreement.

By using the Website, including making a purchase via the Website, you agree that the then current version of this Agreement and the Privacy Policy applies to your use of the Website (including any purchase you make via the Website). If you do not agree with them, you should not use the Website (including to purchase items) or register as a user. If you have any questions, please contact us at [0248612011].

The Company may, from time to time, update or amend this Agreement in its sole discretion. You should therefore carefully read this Agreement each time you use the Website. Any amendments will be posted on the Website and will take effect [7] days after such posting.

1. The Website

1.1 SUBJECT TO CLAUSE 1.2, WE WILL MAKE THE WEBSITE AVAILABLE TO YOU ON THE TERMS AND CONDITIONS SET OUT IN THIS AGREEMENT. YOU MUST USE THE WEBSITE ONLY IN ACCORDANCE WITH THIS AGREEMENT.

1.2 NOTWITHSTANDING ANYTHING IN THIS AGREEMENT, CERTAIN LEGISLATION INCLUDING THE *COMPETITION AND CONSUMER ACT 2010* (CTH), MAY IMPLY WARRANTIES, CONDITIONS OR GUARANTEES OR IMPOSE OBLIGATIONS OR REMEDIES WHICH CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED EXCEPT TO A LIMITED EXTENT. TO THE EXTENT THAT SUCH LEGISLATION APPLIES, THIS AGREEMENT MUST BE READ SUBJECT TO THOSE STATUTORY PROVISIONS AND NOTHING IN THIS AGREEMENT IS INTENDED TO ALTER OR RESTRICT THE OPERATION OF SUCH PROVISIONS.

2. REGISTRATION

2.1 IN ORDER TO ACCESS SOME OF THE FUNCTIONALITY OF THE WEBSITE, YOU MAY NEED TO REGISTER A USER ACCOUNT. YOU ARE SOLELY RESPONSIBLE FOR THE USE OF YOUR USER ACCOUNT AND MUST ENSURE THAT YOU KEEP ALL PASSWORDS SECURE. ALL USE OF YOUR USER ACCOUNT IS DEEMED TO BE USE OF THE WEBSITE BY YOU FOR THE PURPOSES OF THIS AGREEMENT.

3. INTELLECTUAL PROPERTY

3.1 YOU MAY USE THE WEBSITE, INCLUDING CONTENT, ONLY IN THE MANNER PERMITTED BY THIS AGREEMENT. YOU MUST NOT DO ANYTHING WHICH BREACHES

OR OTHERWISE INTERFERES WITH THE COMPANY'S INTELLECTUAL PROPERTY RIGHTS OR ANY OF THE COMPANY'S OTHER THIRD PARTY LICENSORS.

3.2 NOTHING IN THIS AGREEMENT CONSTITUTES A TRANSFER OF ANY INTELLECTUAL PROPERTY RIGHTS. ALL INTELLECTUAL PROPERTY RIGHTS (INCLUDING, WITHOUT LIMITATION, COPYRIGHT, TRADEMARKS, PATENTS, DESIGN RIGHTS AND ALL OTHER FORMS OF INTELLECTUAL PROPERTY RIGHTS EXISTING IN THE WORLD) IN THE WEBSITE, INCLUDING ALL CONTENT, ARE OWNED BY OR LICENSED TO THE COMPANY.

3.3 YOU MUST NOT DISTRIBUTE, REPRODUCE, PUBLISH, ALTER, MODIFY OR CREATE DERIVATIVE WORKS FROM ANY CONTENT WITHOUT THE PRIOR WRITTEN PERMISSION OF THE COMPANY AND YOU MUST NOT EXPLOIT ANY CONTENT FOR COMMERCIAL BENEFIT.

Content means all Company content contained on the Website (including without limitation all software, text, graphics, videos, sounds, scripts, photos, audio-visual material, icons, advertisements, photographs, databases, trademarks and other information and materials).

4. WEBSITE ACCESS AND AVAILABILITY

4.1 THE COMPANY RESERVES THE RIGHT TO MODIFY, DISCONTINUE OR DISABLE THE WEBSITE OR ANY PART OF THE WEBSITE (ON A PERMANENT OR TEMPORARY BASIS) AT ANY TIME. THE COMPANY WILL, WHERE REASONABLY PRACTICABLE AND POSSIBLE, ENDEAVOUR TO PROVIDE YOU WITH PRIOR NOTICE OF SUCH MODIFICATIONS, DISCONTINUATIONS OR DISABLING BY POSTING SUCH NOTICE ON THE WEBSITE. HOWEVER, YOU ACCEPT THAT IT MAY NOT ALWAYS BE POSSIBLE TO PROVIDE SUCH PRIOR NOTICE.

4.2 IF YOU MATERIALLY BREACH THE TERMS OF THIS AGREEMENT, THE COMPANY MAY (AT ITS OPTION, AND WITHOUT LIMITING THE REMEDIES AVAILABLE TO IT IN ANY WAY) BAR YOU FROM ACCESSING THE WEBSITE ON A PERMANENT OR TEMPORARY BASIS. IF THIS OCCURS, YOU MUST NOT ACCESS OR USE THE WEBSITE DURING THE PERIOD OF YOUR SUSPENSION.

5. WEBSITE USE

5.1 YOU MUST NOT USE THE WEBSITE TO:

(a) Upload or send any content that is, or may be reasonably considered likely to be, material that:

(i) Is false or misleading, abusive, harassing, threatening, defamatory, offensive, humiliating, vulgar, obscene, pornographic, racist, discriminatory or invasive of another's privacy;

(ii) Infringes the intellectual property rights of another party;

(iii) Is not owned by you;

(iv) Might encourage any criminal activity;

(v) Contravenes any applicable laws, regulations, codes or standards;

(vi) Disturbs or damages the Website or its Content;

(vii) Damages the Company or our reputation;

(viii) Otherwise breaches this Agreement; or

(b) [Transmit any advertising, promotional materials or similar materials without the express written consent of the Company].

5.2 YOU MUST NOT VIOLATE THE SECURITY OF, OR OTHERWISE HACK INTO, THE WEBSITE, THE COMPANY'S COMPUTER SYSTEMS.

HACK MEANS ANY UNAUTHORISED ACCESS, MALICIOUS DAMAGE AND/OR INTERFERENCE AND INCLUDES, WITHOUT LIMITATION, SPAMMING, PROPAGATING VIRUSES, WORMS OR OTHER TYPES OF MALICIOUS PROGRAMS, DELIBERATE ATTEMPTS TO OVERLOAD A COMPUTER SYSTEM, BROADCAST ATTACKS OR ANY OTHER METHOD DESIGNED TO DAMAGE OR INTERFERE WITH THE OPERATION OF A COMPUTER SYSTEM OR WEBSITE.

5.3 WITHOUT LIMITING CLAUSES 5.1 AND 5.2 ABOVE, YOU MUST COMPLY WITH ALL APPLICABLE LAWS, REGULATIONS, CODES OR STANDARDS WHEN USING THE WEBSITE.

6. ORDER PROCESS AND FULFILMENT

6.1 ANY ORDER YOU SUBMIT VIA OUR WEBSITE IS SUBJECT TO OUR ACCEPTANCE OF YOUR ORDER AND THE AVAILABILITY OF ITEMS. UNTIL YOU

COMPLETE A PURCHASE, ANY ITEMS IN YOUR SHOPPING BAG ARE NOT RESERVED AND MAY BE PURCHASED BY OTHER CUSTOMERS.

7. PAYMENT

7.1 YOU MUST PAY FOR ITEMS AT THE TIME YOU PLACE YOUR ORDER. YOU MAY PAY USING THE AGREED PURCHASE METHODS WHICH ARE SET OUT ON THE PAYMENT PAGE. IN ADDITION TO THE PRICE OF THE ITEMS, YOU MUST PAY THE SPECIFIED DELIVERY CHARGES AND ALL TAXES WHICH THE COMPANY IS REQUIRED TO COLLECT FROM YOU. ALL PRICES ARE [INCLUSIVE] OF GST.

7.2 THE COMPANY WILL DEDUCT ALL AMOUNTS OWING AT THE TIME OF PROCESSING YOUR ORDER. IF WE ARE UNABLE TO DEDUCT FROM YOUR CREDIT CARD THE TOTAL AMOUNT OWING TO US IN ONE TRANSACTION, WE MAY PROCESS ANY NUMBER OF TRANSACTIONS ON YOUR CREDIT CARD UNTIL THE TOTAL AMOUNT OWED TO US IS PAID.

8. CHANGES TO ITEMS

8.1 WE MAY WITHDRAW AND/OR RE-OFFER ANY ITEM LISTED FOR SALE ON THE WEBSITE IF THE ITEM:

- (a) Becomes unavailable;
- (b) Is withdrawn by the manufacturer or supplier; or
- (c) Was incorrectly described or listed.

9. PRICING & CURRENCY

9.1 UNLESS OTHERWISE SHOWN, ALL THE PRICES LISTED ON WEBSITE ARE DISPLAYED IN AUSTRALIAN DOLLARS (AUD). IF A PRODUCT INADVERTENTLY APPEARS ON THE WEBSITE AT THE WRONG PRICE, THE COMPANY MAY DECLINE OR CANCEL ANY ORDERS PLACED AT THE WRONG PRICE, EVEN IF THE ORDER HAS BEEN CONFIRMED AND A CREDIT CARD CHARGED. IF YOUR CREDIT CARD WAS CHARGED FOR THE PURCHASE AND THE ORDER IS CANCELLED, THE COMPANY WILL NOTIFY YOU AND ISSUE A CREDIT TO YOUR CREDIT CARD ACCOUNT IN THE AMOUNT OF THE CANCELLED ORDER.

10. DELIVERY AND RETURNS

10.1 PLEASE SEE OUR DELIVERY POLICY AT [HTTPS://WWW.ORGANICEARTH.COM.AU/] AND OUR RETURNS POLICY AT [HTTPS://WWW.ORGANICEARTH.COM.AU/] FOR FURTHER INFORMATION WHICH APPLIES TO THE DELIVERY AND RETURN OF ANY PRODUCTS COVERED UNDER THIS AGREEMENT.

11. PRIVACY

11.1 ANY PERSONAL INFORMATION COLLECTED BY THE COMPANY THROUGH THE WEBSITE WILL BE HANDLED IN ACCORDANCE WITH OUR PRIVACY POLICY, THE TERMS OF WHICH ARE AVAILABLE AT [HTTPS://WWW.ORGANICEARTH.COM.AU/].

12. LIABILITY

12.1 TO THE FULLEST EXTENT PERMITTED BY LAW BUT SUBJECT ALWAYS TO CLAUSES 1.2 AND 12.2:

- (a) the Website and all Content is provided to you "as is" and on an "as available" basis, without any representation or endorsement and without warranty or guarantee of any kind and the Company excludes all representations, warranties, guarantees, terms and conditions, whether express or implied (and including, without limitation, those implied by statute, custom, law or otherwise) except as expressly set out in this Agreement;
- (b) the Company does not guarantee continuous, uninterrupted or secure access to the Website or that its servers are free of computer viruses, bugs or other harmful components or that defects will be corrected. As a result, you may at times experience disruption or other difficulties in using the Website;
- (c) the Company excludes all liability for any damages or loss of any kind (including without limitation direct, indirect, consequential, special, punitive or exemplary damages or any loss of business, interest, goodwill, revenue, profit or loss or corruption of data) arising in connection with your access to, or use of, or inability to use or access the Website or otherwise in connection with:
 - (i) **Your use of, or reliance on, the Website (or in any of the Content) however caused (including, without limitation, damage or loss arising in contract, tort (including, without limitation, negligence) statute or otherwise);**

- (ii) Any disruption or other difficulties in accessing or using the Website; or
(iii) The accuracy, timeliness, quality, utility or completeness of the information contained on the Website (or in any of the Content).

12.2 IF THE STATUTORY PROVISIONS OUTLINED IN CLAUSE 1.2 APPLY, NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, TO THE EXTENT THAT THE COMPANY IS ENTITLED TO DO SO, THE COMPANY LIMITS ITS LIABILITY IN RESPECT OF ANY CLAIM UNDER THOSE PROVISIONS TO (AT ITS OPTION):

- (a) in the case of services, the supply of the services again or the payment of the cost of having services supplied again; and
(b) in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of such goods, the payment of the cost of replacing the goods or acquiring equivalent goods, or the payment of the cost of having the goods repaired.

12.3 YOU AGREE TO FULLY COMPENSATE AND HOLD HARMLESS THE COMPANY AND ITS OFFICERS, EMPLOYEES AGENTS FROM AND AGAINST REASONABLE LIABILITY, LOSS, DAMAGE, COSTS AND EXPENSE (INCLUDING, WITHOUT LIMITATION, REASONABLE LEGAL EXPENSES) AND PENALTIES SUFFERED OR INCURRED BY ANY OF THEM ARISING OUT OF:

- (a) Your material breach of this Agreement (noting that for the purposes of this clause, any breach of clause 3 or 5 will be deemed material); or
(b) Any act of fraud by or on behalf of you.

13. SECURITY

13.1 WE WILL ENDEAVOUR TO TAKE ALL REASONABLE STEPS TO KEEP SECURE ANY INFORMATION WHICH WE HOLD ABOUT YOU. YOUR INFORMATION IS STORED ON SECURE SERVERS THAT ARE PROTECTED IN CONTROLLED FACILITIES, IN ACCORDANCE WITH OUR PRIVACY POLICY AT [HTTPS://WWW.ORGANICEARTH.COM.AU/].

14. GENERAL

14.1 WE MAY PROVIDE YOU WITH NOTICES IN CONNECTION WITH THIS AGREEMENT BY POSTING SUCH NOTICES ON THE WEBSITE, OR WHERE WE CONSIDER IT APPROPRIATE, BY EMAIL OR MAIL IF YOU HAVE PROVIDED CONTACT DETAILS FOR THAT PURPOSE.

14.2 THIS AGREEMENT AND ANY OTHER DOCUMENTS REFERRED TO IN THIS AGREEMENT IS THE ENTIRE AGREEMENT OF THE PARTIES ABOUT THE SUBJECT MATTER OF THIS AGREEMENT AND SUPERSEDES ALL OTHER REPRESENTATIONS, ARRANGEMENTS, UNDERSTANDINGS OR AGREEMENTS AND ALL OTHER COMMUNICATIONS.

14.3 IF A PROVISION OF THIS AGREEMENT IS INVALID OR UNENFORCEABLE IN A JURISDICTION:

- it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
- that fact does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions.

14.4 THIS AGREEMENT IS GOVERNED BY THE LAWS OF [NEW SOUTH WALES, AUSTRALIA], AND THE PARTIES SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF [NEW SOUTH WALES] AND WAIVE, WITHOUT LIMITATION, ANY CLAIM OR OBJECTION BASED ON ABSENCE OF JURISDICTION OR INCONVENIENT FORUM.