

Ecommerce Terms and Conditions - Rise Literacy

The website www.riseliteracy.com.au and its related services, products, websites, tools and applications (**Website**) is owned and operated by Rise Literacy Pty Ltd ACN 635 937 674 (**Rise Literacy**).

These terms and conditions (**Terms and Conditions**) govern the supply of any Products (as defined below) ordered by you on the Website or by any other means, including by social media, by phone, in person or email. Other terms and conditions contained in our privacy policy (**Privacy Policy**) and Website Terms and Conditions also form part of our agreement with you.

By using the Website or by giving your acceptance to these terms, you agree to be bound by these Terms and Conditions. If you don't agree to be bound by these Terms and Conditions, you must not use the Website.

These Terms and Conditions may be updated by us from time to time. Each order placed on the Website will be a separate contract and the Terms and Conditions that apply to an order will be the version of the Terms and Conditions that is on the Website at the time you place your order. Each time you use our Website you should revisit these Terms and Conditions.

1. DEFINITIONS

In these Terms and Conditions unless inconsistent with the context or subject matter the following terms have the corresponding meanings:

- (a) **Applicable Laws:** any Applicable Laws (including orders, by-laws and regulations) in the jurisdiction in which you, and any User you are interacting with are located or which in any way govern or affect the use of the Website;
- (b) **Australian Consumer Law:** the Australian Consumer Law (as set out in Schedule 2 to the Competition and Consumer Act 2010 (Cth));
- (c) **GST:** has the meaning given in A New Tax System (Products and Services Tax) Act 1999 (Cth);
- (d) **Loss:** any loss, liability, cost, charge, expense, tax, duty or damage of any nature whatsoever, including special, incidental, or consequential damages, losses or expenses (howsoever arising or caused, including, without limitation, negligence);
- (e) **our, us and we:** Rise Literacy;
- (f) **Privacy Policy:** our privacy policy accessible on the Website;
- (g) **Products:** has the meaning given to it under clause 2 and includes any other products offered for sale on the Website or as advised by us from time to time;
- (h) **State:** the Australian Capital Territory;
- (i) **User:** any person who uses the Website; and
- (j) **you and your:** a User.

2. SALE OF PRODUCTS

Rise Literacy sells Phonic Books and Sounds-Write readers and workbooks, Word Building kits developed by Rise Literacy, as well as other products which are available through the Website (together the **Products**).

3. PLACING AN ORDER FOR PRODUCTS

- 3.1 You may place an order for Products by following the prompts and submitting your order to us in accordance with these Terms and Conditions.
- 3.2 Orders may be placed online via the Website or by other means if offered by Rise Literacy, including by social media, by phone, in person or email. Any reference to

Website in these Terms and Conditions shall include references to other online locations in which the Products are sold (such as on Facebook business pages or Instagram business pages). Whether you are placing an order on the Website or by any other means, these Terms and Conditions will apply to you.

- 3.3 Any order placed through the Website for Products is an offer by you to purchase the Products for the purchase price specified on the Website at the time you placed the order. You acknowledge that by placing your order, you are agreeing to pay for and accept delivery of the Products ordered, subject to any limitations shown on the Website.
- 3.4 All orders placed are subject to availability. We reserve the right to accept or reject your order (or any part thereof) at any time and for any reason in our absolute discretion, including after you have placed the order and received a confirmation email and/or invoice (in which case we will provide you with a refund of any amounts paid). You may not cancel your order once it is placed other than as expressly provided for in these Terms and Conditions.
- 3.5 By placing an order, you are declaring that the Products are for your personal use only and will not be made available for resale by you or by someone with your authority.
- 3.6 In the event that you purchase a Product on behalf of a third party, you represent and warrant that you have made that third party aware of these Terms and Conditions and you acknowledge and agree that actions of that third party shall also be attributed to you for the purposes of these Terms and Conditions.
- 3.7 The purchase price for the Products will be displayed on the Website at the time you place an order. Prices and all other details for our Products are subject to change without notice.
- 3.8 You must make payment via a method accepted by us as stated on the Website. We will charge you and you agree to pay the purchase price and any other fees shown to you on the Website for the Products at the time you place your order, except where otherwise agreed (for example, we may in our discretion agree to invoice you for the Products following dispatch in which case payment is due at the time specified on the invoice).
- 3.9 Unless otherwise agreed, payments for an order of Products must be received in cleared funds before the Products will be dispatched. If your payment cannot be processed, or fails to clear, your order will be rejected.
- 3.10 You authorise us, directly or through third parties, to make any inquiries we consider necessary to help verify or check your identity or prevent fraud.
- 3.11 Our payment provider may charge you a fee depending on the payment method used by you (for example, payments made by credit card may attract a small surcharge). You agree to pay such fees at the same time as you make payment to us, even if such fees are not explicitly disclosed on the Website.
- 3.12 Prices shown on the Website are in Australian Dollars (AUD) and include GST, unless otherwise stated.
- 3.13 All payments must be made in clear funds without set-off or counter claim.
- 3.14 Each order placed by you will be a separate and binding agreement between you and Rise Literacy in respect of the supply of the Products.

4. SHIPPING AND DELIVERY OF PRODUCTS

4.1 Costs of Delivery

- (a) The costs of delivery of Products are payable in addition to the price of the Products. You must pay the costs of delivery of Products at the time you place an order or at another time agreed by us.
- (b) You are required to pay any duties or taxes which attach to the supply and delivery of your order, including but not limited to custom duties, at the same time as you pay for the Products or otherwise at the time specified by us.

4.2 Delivery of Products

- (a) Once we have accepted your order and received a valid payment in full for the Products and delivery costs (unless we have agreed to deferred payment terms) we will endeavour to process, post and deliver the Products within the timeframes as specified on the Website however we are unable to guarantee delivery within these timeframes.
- (b) Please note that all shipping times listed on the Website are an estimate time of delivery only and to the extent permitted by law, we are not responsible for any delays experienced or Loss suffered as a result of delays.
- (c) If you are not available to take delivery of the Products, or if another issue arises we may at our discretion either take your Products to a delivery service provider's local depot or redeliver the Products to your delivery address at a later date.
- (d) If we deliver your order to a local depot and you do not collect the order within the timeframe specified by us or our delivery agent, the order may be returned to us. In that case, you must contact us to arrange for re-delivery and collection (in which case you must pay the costs of return, storage and redelivery prior to the Products being re-delivered).
- (e) We deliver to most residential and business addresses across Australia, however unfortunately there are certain areas that we may be unable to deliver to. Unless otherwise stated on the Website, we do not deliver to locations outside of Australia.

4.3 Risk and Title

- (a) All fully paid orders will be shipped by the postage carrier nominated by us. Until an order is paid for in full, title in the relevant Product remains with us.
- (b) All risk in the Products ordered will pass to you at the time the Products are delivered to the delivery address (or some other address as agreed by the parties) or at the time you otherwise collect the Products from us.

5. PROMOTIONS AND DISCOUNTS

- 5.1 From time to time we may provide you with a promotional or coupon code for use when placing and order. It is your responsibility to ensure that the code is valid, and that you enter the code for use at the correct time. The code cannot be applied after you have submitted your order. Separate terms may apply to the use of the code and will be advised by us.

6. RETURNS AND REFUND POLICY

6.1 Consumer Guarantees

Our Products 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 Products repaired or replaced if the Products fail to be of acceptable quality and the failure does not amount to a major failure. Nothing in these Terms and Conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Australian Consumer Law) which cannot by law be excluded, restricted or modified.

6.2 Change of mind returns

Unless otherwise agreed by us in our discretion, unfortunately we are unable to offer change of mind returns and exchanges/refunds. If we do agree to a change of mind return for a refund or exchange, then this will be subject to your compliance with any conditions that we specify.

6.3 **Faulty Products Returns**

- (a) Without limiting our rights, we will provide our own remedies (set out below) which are equivalent to those remedies in the consumer guarantee provisions of the Australian Consumer Law where:
 - (i) the Products are either:
 - A. faulty or not of acceptable quality; or
 - B. not fit for their intended purpose; or
 - C. do not match the sample or our description; and
 - (ii) you can present to us your receipt or other adequate proof of purchase; and
 - (iii) you have complied with the notification and inspection requirements set out under clause 6.4;
 - (iv) the Products are returned to us in accordance with clause 6.5; and
 - (v) the Products are assessed by us as being faulty in accordance with clause 6.6.

6.4 **Notification and inspection**

- (a) You must inspect all Products immediately on receipt of the Products and before use.
- (b) You may reject any Products as faulty provided that you give us notice of such fault including information of your Products and the fault:
 - (i) in the case of a fault that is apparent on normal visual inspection, within 3 days of receipt or before use (whichever is first); or
 - (ii) in the case of a latent defect (being a defect that is not apparent on an initial visual inspection), within a reasonable time of the latent defect having become apparent and within six months of the delivery date.
- (c) You must do all that is reasonable to prevent the Products from becoming faulty or mitigate any further harm or damage. Products must be stored in a manner that does not cause any further harm or damage to the Products. Products (whether faulty or not) must be stored and handled in the same manner as if they had no fault.
- (d) We may require that you provide us with proof of the fault including by way of photographic or video evidence before you send it to us. In providing this information to us you authorise our use and disclosure to those third parties that may assist us in assessing the fault (such as the manufacturer or third party service providers).

6.5 **How to return Products**

- (a) Once we have received your information and consider it likely that there may be a fault in the Products, we will provide you with instructions on how to send the Products back to us. Please note that we reserve the right to assess the Products before providing a replacement or refund in accordance with clause 6.6.
- (b) In sending the Products back to us:
 - (i) ensure the Products are packaged and stored in a way that will not cause any further harm or damage to the Products. We are not responsible for any damage caused during return transit due to inadequate protection or storage methods;
 - (ii) ensure that the Products are packaged and delivered with registered post (or a similar service). We will not be responsible for any Products lost in the post;

- (iii) certain costs may be incurred by you in returning the Products to us, including postage or freight costs. We are not liable for those return costs (although if we accept that a Product is faulty, we may reimburse you the costs of return upon receipt of evidence of the costs incurred); and
- (iv) you must return the Products in the way as instructed by us or we will be unable to process your return and your Products may be forfeited.

6.6 Products being assessed

- (a) We reserve the right to assess the condition and age of the Products before providing a replacement or refund. We will not be liable for or required to accept any return for any fault or damage where such fault or damage is caused or partly caused by or arises as a result of:
 - (i) your acts or omissions, including where you fail to take reasonable steps to prevent them from becoming defective or you fail to follow our instructions or standard practice for products the same as or similar to the Products;
 - (ii) continued use after discovering fault, or attempting to alter or repair the Products without our consent;
 - (iii) wilful damage, negligence or abnormal use or storage or working conditions; or
 - (iv) fair wear and tear.
- (b) For some Products that we cannot assess ourselves, we may arrange for the Products to be sent to the manufacturer for assessment. In these circumstances, depending on the Products, please be aware that it may take several weeks to complete this process.
- (c) If there is a minor fault and the Products can be repaired, we will repair it for you or refund the purchase price, at our discretion.
- (d) If there is a major fault, you may choose to receive a refund, replacement or repair.
- (e) In the event that we do not find a fault in the Products, the replacement or refund will be refused, and the Products will be returned to you at your cost.
- (f) In the event that you fail to comply with any of your obligations set out under this clause 6, including in respect of the return of Products, we reserve the right to refuse to provide you with a replacement or refund of the Products in our discretion.

6.7 Refund processing

Any refunds provided under this clause 6 will be issued to the same payment method which was used for the purchase and will be processed within 3 weeks of confirmation that the conditions of refund have been met.

7. ACCURACY OF INFORMATION

- 7.1 You agree to provide current, complete and accurate billing and contact information for all purchases made on the Website.

8. CHOKING WARNING

The Products are not intended to be used by children below the age of 4 years old and you must not permit any child under that age to use the Products. The Products should not be consumed and they represent a choking hazard to children. The use of the Products by children must be supervised by an adult at all times.

9. DISCLAIMER

- 9.1 Except to the extent expressly set out in these Terms and Conditions and to the maximum extent permitted by law, we provide the Products on an “as is” basis and without any warranties, representations, or conditions of any kind, whether express, implied or statutory.
- 9.2 Without limiting the other terms of this clause, you acknowledge and agree that:
- (a) although reasonable care has been taken to provide accurate information, any content provided on the Website is intended for general guidance only and neither the content or any Products are intended to be a substitute for speech therapy or other treatments;
 - (b) all images of Products displayed on the Website are for illustrative purposes only and the actual Products may differ slightly from those images;
 - (c) any accessory featured with the Products may be sold separately; and
 - (d) we are not responsible for any information made available on this Website, and we do not represent or warrant the accuracy of any information. Rise Literacy does not promise that the Website or any content will be error-free or uninterrupted, or that your use of the Website or any Products will provide any specific results. You assume total responsibility for your use of the Website and Products.

10. LIMITATION OF LIABILITY

- 10.1 Subject to the other terms of this clause, we exclude all rights, representations, guarantees, conditions, warranties, undertakings, remedies or other terms in relation to the Products that are not expressly set out in these Terms and Conditions to the maximum extent permitted by law.
- 10.2 Without limiting clause 10.1, you acknowledge and agree that we will not be liable for any death, personal injury or damage to property arising out of or in connection with your use of the Products.
- 10.3 Subject to the other terms of this clause, our maximum aggregate liability to you for any Loss or damage or injury arising out of or in connection with these Terms and Conditions, including any breach by us of these Terms and Conditions however arising, under any indemnity, in tort (including negligence), under any statute, custom, law or on any other basis, is limited to the actual amounts paid by you in respect of the relevant Product which caused the Loss, damage or injury.
- 10.4 The limitation and exclusion of liability in this clause applies whether the liability claim is based on breach of contract, under a warranty or an indemnity, tort (including negligence), under statute, in equity or otherwise.
- 10.5 Without limitation to the other terms in these Terms and Conditions, we exclude any liability to you, whether in contract, tort (including negligence) or otherwise, for any special, indirect or consequential loss arising under or in connection with these Terms and Conditions.
- 10.6 Notwithstanding anything else in these Terms and Conditions, our liability will be reduced to the extent the Loss or damage is caused by or contributed to by you or any members of your staff.
- 10.7 Where you are or may be entitled to recover from a third party any sum in respect of any matter or event that could give rise to a claim under these Terms and Conditions, you must:
- (a) use your best endeavours to recover that sum before making the claim;
 - (b) keep us at all times fully and promptly informed of the conduct of such recovery; and
 - (c) reduce the amount of the claim to the extent that sums are recovered.

- 10.8 We will not be liable for any claim under or in relation to or arising out of these Terms and Conditions including a breach of any warranty unless:
- (a) you have first made a claim under any insurance policy held by you that may cover that claim; and
 - (b) that claim has been denied in whole or partly by the relevant insurer.
- 10.9 If you recover any amount under an insurance policy in respect of a claim under or in relation to or arising out of these Terms and Conditions and that amount is less than the loss or damage incurred by you, the amount of the shortfall will be the amount of your loss for the purposes of these Terms and Conditions.

11. INDEMNITY

- 11.1 You agree to indemnify us against, and hold us harmless from, any Losses (including any direct, indirect, special or consequential Losses) and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses suffered or incurred by us arising out of or in connection with:
- (a) your breach of these Terms and Conditions or any policy or the terms and policies they incorporate by reference;
 - (b) any claim made against us by a third party arising out of your use or the supply of the Products by you to that third party;
 - (c) any claim made against us by a third party for death, personal injury or damage to property arising out of or in connection with the Products, to the extent that such damage is attributable to your acts or omission (or failure to follow our instructions), or the supply of those Products by you to that third party; or
 - (d) your violation of any law or the rights of a third party, or otherwise arising directly or indirectly from your use of our services (including the sale of the Products).
- 11.2 You must make payments under this clause:
- (a) in full without set-off or counterclaim, and without any deduction in respect of taxes unless prohibited by law; and
 - (b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.
- 11.3 It is not necessary for us to incur expense or make payment before enforcing a right of indemnity under this clause.
- 11.4 The indemnities in this clause:
- (a) are continuing obligations of yours, independent from your other obligations under these Terms and Conditions and survive termination or expiry of these Terms and Conditions; and
 - (b) are absolute and unconditional and unaffected by anything which otherwise might have the effect of prejudicing, releasing, discharging or affecting your liability.

12. INTELLECTUAL PROPERTY RIGHTS

Certain Products you purchase may be protected by copyright or other intellectual property rights. You agree that you will not use the Products in a way that infringes those rights.

13. GENERAL TERMS

- 13.1 These Terms and Conditions are governed by the laws of the State, and the parties submit to the jurisdiction of the Courts of the State and relevant federal/Commonwealth courts competent to hear appeals from them.

- 13.2 If a clause of these Terms and Conditions is void or unenforceable it must be read down to the extent necessary to give it legal effect or severed from if it cannot be read down and the remaining part and provisions shall remain in full force and effect.
- 13.3 You agree that these Terms and Conditions and all incorporated agreements may be assigned by us in its sole discretion without notice. You may not assign these Terms and Conditions without obtaining our prior written consent.

14. INTERPRETATION

In these Terms and Conditions, unless inconsistent with the context or subject matter:

- (a) Headings and subheadings are for convenience only and do not affect the interpretation of these Terms and Conditions.
- (b) References to clauses, schedules, annexures, appendices, attachments and exhibits are references to the clauses of, and the schedules, annexures, appendices, attachments and exhibits to, these Terms and Conditions.
- (c) References to a party to any agreement or document include that party's permitted assignees and successors, including executors and administrators and legal representatives.
- (d) Words denoting the singular include the plural and words denoting the plural include the singular. Words denoting any gender include all genders.
- (e) The word 'person' includes any individual, corporation or other body corporate, partnership, joint venture, trust, association and any Government Agency.
- (f) A reference to any agreement or document (including these Terms and Conditions) includes any amendments to or replacements of that document.
- (g) A reference to a law includes legislation, regulations and other instruments made under legislation and any consolidations, amendments, re-enactments or replacements of them and is a reference to that law as amended, consolidated, re-enacted, replaced or applied to new or different facts.
- (h) Any promise, agreement, representation or warranty given or entered into on the part of two or more persons binds them jointly and each of them severally and is for the benefit of them jointly and each of them severally.
- (i) No provision of these Terms and Conditions will be construed adversely to a party because that party was responsible for the preparation of that provision or these Terms and Conditions.
- (j) A reference to time or day is a reference to time in the capital city of the State.
- (k) A reference to an amount of dollars, Australian dollars, \$ or A\$ is a reference to the lawful currency of the Commonwealth of Australia, unless the amount is specifically denominated in another currency.
- (l) Specifying anything in these Terms and Conditions after the terms 'include', 'including', 'includes', 'for example', 'such as' or any similar expression does not limit the sense of the words, description, definition, phrase or term preceding those terms unless there is express wording to the contrary.
- (m) A reference to writing or written includes email.