

TERMS AND CONDITIONS OF SUPPLY

1. PREAMBLE

Pooled Pty Ltd ABN 45 664 002 706 (in this Contract referred to as “**Pooled**”, “**we**”, “**our**” or “**us**”), is a supplier of goods and services (including the Pooled Automation System) to its customers (in this Contract referred to as “**you**” or “**your**”).

This Contract is made up of:

- a) these Terms and Conditions of Supply; and
- b) your Service Request, being the webform you completed to order the Pooled Automation System

These are collectively referred to as this “**Contract**”.

You should read this Contract carefully because it governs the sale of all goods and services (including the Pooled Automation System) by Pooled to you. By acquiring any goods or services (or both), including our Pooled Automation System, from Pooled, you agree to be bound by and to comply with the terms of this Contract. This Contract supersedes any prior agreement, understanding, or arrangement between us in relation to the subject matter of this Contract.

2. THE TERM OF THIS CONTRACT

2.1 Contract Start Date

This Contract starts on the date you submit a Service Request with us, and we confirm in writing that your Service Request has been accepted (this is your “**Contract Start Date**”).

2.2 Pooled Services Start Date

The Pooled Automation System will start after Our Pool Equipment has been set-to-work. This will be done either by Pooled staff on a mutually agreed date or, in the case of our Pool Equipment being installed by the pool owner, the date when the equipment commences operation. In either case, this will be called the “**Pooled Services Start Date**”.

If you are an existing Pooled customer and Our Pool Equipment is already installed and operational at your premises, then your Pooled Services Start Date will be same date this Contract commences under clause 2.1 above.

After your Pooled Services Start Date, the term of this Contract will continue monthly until either party cancels it.

2.3 Charges Start Date

Charges for your Pool Automation System will commence on your Contract Start Date. If there is a delay between your Contract Start Date and your Pooled Services Start Date, then you will be entitled to a credit for any Subscription Fees paid during such period, which will be applied to your next bill. If you terminate this Contract before your next billing cycle, then this amount will be refunded to you.

2.4 Early Termination

- a) Without limiting any of your rights under applicable consumer laws, you can terminate this Contract by written notice if we materially breach any of our obligations and do not remedy that breach within 14 days of your written notice.
- b) We may immediately terminate this Contract or suspend the Pooled Automation System if: (i) you materially breach any of your obligations (including failing to pay any amounts owing to us) and do not remedy that breach within 7 days of our written notice; (ii) you move out or no longer have ownership or possession of your premises; or (iii) any of the warranties given by you in clause 4.a are not truthful or accurate.
- c) Either party can terminate this Contract at any time by providing written notice, in which case the Pooled Automation System will come to an end at the end of your current billing cycle.
- d)

2.5 Consequences of termination

- a) Following termination or expiration for any reason, you grant us access to your premises to remove Our Pooled Equipment and/or we may provide you with instructions on how to dismantle Our Pooled Equipment (at our option).
- b) Any accrued rights and obligations (including your obligations to pay any outstanding amounts) will continue after termination or expiry of this Contract for any reason.
- c)

3. SCOPE OF THIS CONTRACT

3.1 Our Services

The scope of products and services comprising the Pooled Automation System are set out in your Service Request. The Pooled Automation System is comprised of the following:

- a) operation and maintenance of our Intelligent Pool Controller (“**IPC**”) hardware and software, any power switching modules, communications, and other equipment provided by Pooled (this is “**Our Pool Equipment**” and any equipment at your pool other than Our Pool Equipment is “**Your Pool Equipment**”). Any electronic sensors previously sold to you for the measurement of water quality form part of Your Pool Equipment;
- b) establishment of an automated operation plan for filtration, sanitation, and water chemistry monitoring;
- c) supply of our Advanced Water Chemistry pool chemicals delivered to your home twice a year;
- d) access to our Pooled App (available for [Apple](#) and [Android](#) smartphones and tablets) for monitoring and controlling the operation of both Our Pool Equipment and Your Pool Equipment (the “**Pooled App**”); and
- e) access to our customer support channels; and
- f) advice by us as to what actions you need to take to keep your pool and Our Pool Equipment operating correctly.

3.2 What is not covered by this Contract?

You understand that the Pooled Automation System is not a complete pool management solution and does not replace your responsibility to maintain and manage your pool and Your Pool Equipment. In addition to your other responsibilities in this Contract, you will need to:

- a) keep Your Pool Equipment, pool, and surrounding area maintained and in good repair and working order;
- b) purchase and add salt as needed if your pool has a saltwater system, magnesium chloride mineral formulations (as applicable) and liquid chlorine pool if you have a chlorine pool;
- c) ensure your pool stays connected to water, electricity, gas, and/or telecommunications services (as applicable);
- d) obtain (at your cost) extra chemicals when needed due to situations outside of our normal operation (as discussed in clause 6(a) below); and
- e) follow our directions in relation to the Pooled Automation System (including as notified via the Pooled App), add our Advanced Water Chemistry as directed and complete any actions required of you in the [Pool Owners Guide](#) (as updated occasionally).

4. YOUR GENERAL OBLIGATIONS

It is important you understand what is required of you under this Contract and for the Pooled Automation System to operate properly. Failure to carry out your responsibilities may result in the Pooled Automation System being cancelled or additional costs being incurred by you to restore the proper functioning of the Pooled Automation System.

4.1 What you'll need to do

You agree to:

- a) pay all amounts owing under this Contract;
- b) grant us safe, reasonable access to your property, site, and our equipment for installation, updates, maintenance, and chemical delivery during the term, and for disconnection and removal of Our Pool Equipment after the Contract ends;
- c) follow the [Pool Owners Guide](#) for proper operation and maintenance of your pool and both Your Pool Equipment and Our Pool Equipment;
- d) allow all pool equipment to operate automatically without interference and ensure our Intelligent Pool Controller stays online;
- e) promptly address any issues relating to Your Pool Equipment, pool or surrounding area and continue to monitor your pool for any conditions that cannot be observed locally;
- f) not modify or reconfigure your pool, or Your Pool Equipment without first advising us;
- g) keep your site, Your Pool Equipment and Our Pool Equipment safe and secure and not do anything that could damage Our Pool Equipment;
- h) only use Our Pool Equipment as configured and directed by us, and do not (and do not attempt to) modify or connect it to any other devices without our approval; and
- i) safely store, access, handle, and manage pool-related chemicals (including our Advanced Water Chemistry chemicals), making sure they are not accessible to children or pets and are used, stored, handled, and disposed of according to their labels and instructions.

4.2 Your information

You agree to provide us all information reasonably required for the purposes of this Contract and must promptly notify us of any:

- a) changes to your information, including contact or billing details;
- b) plans to modify or reconfigure your pool or Your Pool Equipment;

- c) damage to your pool or impact on services to it or modification plans;
- d) plans to move out or vacate (including lease) your premises;
- e) actual or potential risks to the safety or security of equipment or personnel at your premises (including dogs or other hazards); or
- f) plans to install any solar panels or other electricity generation or storage at your premises.

4.3 Other customer warranties

As part of us agreeing to provide you with the Pooled Automation System at your premises, you warrant to us at all times that:

- a) you are the legal owner of the premises and have obtained all necessary permissions for us to install and provide the Pooled Automation System; and
- b) you have the full right, power, and authority to enter into and perform your obligations under this Contract (including having the right to authorize any changes to the pool and equipment at the premises); and
- c) all information you provide to us is accurate and not misleading in any way.

5. Ownership of the pool equipment

- a) Our Pool Equipment is not sold to you. We at all times remain the owner of Our Pool Equipment and any information or data produced by Our Pool Equipment. You must not (and must not assist or allow others to) sell, encumber, transfer, lease, or otherwise deal with Our Pool Equipment in ways that could affect our ownership rights.
- b) We may charge you a reasonable replacement or repair fee if Our Pool Equipment becomes lost or damage due to your breach of this Contract.

6. OUR LIABILITY

- a) Our team will provide the Pooled Automation System with due care and skill. However, you acknowledge that the quality and reliability of the Pooled Automation System can be affected by a number of factors beyond our control, including contamination, debris build-up, inclement weather, continuous rainfall, limitations of and issues arising from Your Pool Equipment and your pool and surrounding area, and the extent you fulfill your obligations under this Contract and the Pool Owner Guide We will not be liable if the Pooled Automation System stops or experiences reduced functioning due to any of these factors and in these circumstances you may be required at your cost to purchase additional chemicals or take other action as reasonably directed by us to restore the proper functioning of the Pooled Automation System.

- b) To the maximum extent permitted by law, and at all times subject to our obligations under Australian consumer law, unless there is a default, negligence or breach of this Contract or any law by us or any of our personnel, we are not responsible for (and exclude all liability for) any loss or damage arising from:
- loss of communications or internet service or connectivity or other utilities;
 - issues associated with Your Pool Equipment and pool infrastructure, including pool surface and provision of adequate circulation;
 - our remote operation of Your Pool Equipment;
 - staining, erosion, pitting or plating of your pool surface;
 - you (or anyone other than Pooled personnel at your property) tampering, modifying, reconfiguring or using Our Pool Equipment and Advanced Water Chemistry chemicals other than in accordance with agreement; and
 - indirect, consequential or special loss.
- c) Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
- to cancel your service contract with us; and
 - to a refund for the unused portion, or to compensation for its reduced value.
- d) You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done, you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

7. PRICE FOR POOL AUTOMATION SUBSCRIPTION AND OTHER SERVICES

7.1 Pool Automation System Subscription Fees

The fees and charges for the Pooled Automation Subscription Service ("**Subscription Fees**") are set out in your Service Request.

7.2 Additional Fees and Charges

In addition to your Subscription Fees, you may be charged additional fees and charges in connection with this Contract, including transaction fees (as notified to

you in advance) and repair and replacement charges for damage or loss to Our Pooled Equipment in accordance with clause 5(b) above.

7.3 Changes to Pool Automation Subscription Fees

- a) Occasionally we may need to adjust our Subscription Fees by providing 21 days' notice before such changes apply to you. If you do not accept the new fees, you may terminate this Contract with effect from the earlier of: (i) the end of your current billing cycle; and (ii) the date the new Subscription Fees will apply to you. If you continue to use the Pooled Automation System after the end of this notice period, you will be deemed to have accepted the new Subscription Fees. However, any deemed acceptance will not limit your right to terminate this Contract under clause 2.4(c).
- b) If the Subscription Fees or other charge applying to you changes during a billing cycle, we may calculate your next bill on a proportionate basis.

7.4 GST

All fees set out in your Service Request include GST (as defined in *GST Act (A New Tax System (Goods and Services Tax) Act 1999* (Cth)), if applicable. If any additional charges under this Contract are also subject to GST, you will be required to pay an additional amount equal to the GST. Any GST charged will appear on your bill, which will be in the form of a tax invoice, with exemptions clearly identified.

8. BILLING

8.1 General

- a) The Pooled Automation Subscription Service fees and any other charges payable under this Contract will be billed monthly according to your billing cycle for payment and sent to an email address nominated by you.
- b) Please be aware that our payment processing partner, Stripe, and its global affiliates are responsible for processing all payment transactions on our behalf. By purchasing products and services from us, you acknowledge and agree that your transactions will be processed by Stripe and its global affiliates and that your payment details will be collected by Stripe and its affiliates as necessary for them process such payment.

8.2 What you have to pay

Except where there is a genuine dispute, you must pay to us the amount shown on each bill on or before the date for payment on the bill. All payments must be paid by Visa or Mastercard.

8.3 Non-payment

If you have not paid your bill by the pay-by date, we will send you a reminder notice that payment is due and must be paid. Please be aware that any non-payment may result in us suspending the Pooled Automation System or terminating this Contract.

8.4 Disputed Fees

If you consider there is an error or dispute relating to any of your fees or charges, you must let us know as soon as possible. We will investigate the matter and notify you of the outcome of our investigation as soon as reasonably practicable.

9. PRIVACY ACT and DATA SECURITY

- a) We will comply with all relevant privacy legislation in relation to your personal information and will handle your data and personal information in accordance with our [Privacy Policy](#), which you can access on our website. If you have any questions, you can contact our privacy officer.
- b) You acknowledge that Pooled owns all data generated by or relating to Our Pooled Equipment, and you agree not to use, disclose, distribute, or otherwise share this data except for the purpose of using the Pooled Automation System.

10. Events outside our control

- a) You acknowledge that sometimes events outside our control, such as natural disasters, inclement weather, prolonged disruption to electricity or government actions, can impact the performance of our obligations and supply of our products and services to you. If such events prevent us from performing our obligations under this Contract in a material way, we will notify you as soon as possible.
- b) Where clause 10(a) applies, we may suspend our obligations (including the supply of the Pooled Automation System) for the period and to the extent we are unable to perform our obligations without liability. You will not be charged any Subscription Fees for the period the Pooled Automation System is unavailable.
- c) If the event continues for an extended period of time, either party may terminate this Contract by providing written notice and any pre-payments for the period after termination will be refunded to you.

11. APPLICABLE LAW

This Contract is governed by the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

12. GENERAL

12.1 Subcontracting

We may subcontract any or all of our obligations under this Contract without notice. We will remain responsible for any breach of this Contract by our subcontractors.

12.2 Transferring the contract

You must not assign or transfer this Contract to anyone else without our permission. We may transfer or assign any of our rights or obligations under this Contract and you agree to cooperate with us in doing so.

12.3 Amending this Contract

- a) Occasionally we may need to change the terms of this Contract (including the products and services that are supplied to you as part of the Pooled Automation System). We will notify you at least 21 days before such changes apply to you.
- b) We may also need to change the terms of this Contract due to changes in laws, guidelines from regulators, issues with our suppliers, or for urgent technical, operational or security reasons. In such cases, we'll inform you as soon as we can, although this may be less than 21 days.
- c) We may also update our Pool Owner Guide from time to time and will notify you of any changes.
- d) If any proposed changes are likely to have a material impact on you, you may terminate this Contract with effect from the earlier of: (i) the end of your current billing cycle; and (ii) the date the new Subscription Fees will apply to you. If you continue to use the Pooled Automation System after the end of this notice period mentioned above, you will be deemed to have accepted the new Subscription Fees.
- e) In the event that any provision in this Contract is illegal, void or unenforceable, it is severed from these terms and conditions such that the rest of these terms and conditions may be construed without such clause or part of these terms and conditions.

12.4 Notices

You may contact us through any of the following means:

- **Phone:** 1300 581 334
- **Email:** info@pooled.au

We may reach you through any of the following channels based on the latest information you've shared with us: post, telephone call, email, message via the Pooled App, or an SMS to your mobile number. You also agree to electronic billing at your nominated email address under this Contract.

A notice or bill sent under this Contract is taken to have been received by you or by us (as relevant) on the date the email is sent, without it being bounced back by the email service to the party (in either case).

12.5 Complaints

If you have a query, a complaint or dispute, you may contact us through any of the mechanisms above. We are committed to investigating all feedback and will respond to your complaint as soon as reasonably practicable and we will notify you of the outcome of our investigation.