

# Terms & Conditions

## Basis of Agreement

These Terms apply to every contract for the sale of goods or services by us to you, unless we agree otherwise in writing. The descriptions, illustrations and performance specifications of goods or services in a quotation, catalogues, prices in a price list and other advertising material do not form part of this Agreement. Any written quotation provided by us to you concerning the proposed supply of goods or services is: valid for 30 days; an invitation to treat only; subject to you offering to enter into an Agreement and accepting these Terms. The Agreement is accepted by us when we confirm our acceptance in writing or electronic means or provides you with the goods or services. We may vary or amend these Terms by notice in writing to you or if stated in our quote. Any variations or amendments will apply to orders made by you after the date of notice.

## Pricing

Prices quoted, whether in a price list, by written quotation or verbally, for the supply of goods and services, do not include GST and any other taxes or duties imposed on or in relation to the goods and services unless specified. The Customer must pay any GST and any other taxes or duties imposed on the goods and services. Where there is any change in the costs incurred by us in relation to the goods or services, we may vary our price for the goods or services in order to take account of any such change, by notifying you. Pricing does not include the cost of delivery of the goods to you.

## Payment

We reserve the right to require payment in full on delivery of the goods or completion of the services; Unless otherwise agreed in writing, payment for any goods or services must be made within 7 days from the date from which our invoice is raised. Payment by cheque is not deemed made until the proceeds of the cheque have cleared. We may amend any payment terms upon giving written notice to you.

## Payment Default

If you default in payment by the due date of any amount payable to us then all money which would become payable by you to us at a later date on any account, becomes immediately due and payable without the requirement of any notice to you, and we may, without prejudice to any other remedy available to us:

- Charge you a Late Payment Fee.
- Charge you for, and you must indemnify us from, all costs and expenses (including without limitation all legal costs and expenses) incurred by us resulting from the default or in taking action to enforce compliance with the Terms or to recover any goods.
- Forward all account information to a Debt Collection Agency (eg. Dun & Bradstreet (Australia) Pty. Ltd.) for debt collection where additional repercussions
- Charge you interest on any sum due at the prevailing rate pursuant to the Penalty Interest Rates Act 1983 (Vic) plus 5% for the period from the due date until the date of payment in full calculated daily.
- Account information being passed onto a Credit Reporting Agency (eg. Dun & Bradstreet (Australia) Pty. Ltd.) as per the Privacy Act 2000 (Vic) which may effect credit rating for a period of 5 years.
- Cease or suspend for such period as we think fit, supply of any further goods or services to you.
- By notice in writing to you, terminate any contract with you so far as

unperformed by us without effect on any of our accrued rights under any contract.

- We may, at our option, also rely clauses listed above where you are an individual and become bankrupt or enter into any scheme of arrangement or any assignment or composition with or for the benefit of your creditors or any class of your creditors generally or are a corporation and, you enter into any scheme of arrangement or any assignment or composition with or for the benefit of your creditors or any class of your creditors generally, or have a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up.

## Passing of Property

Until full payment in cleared funds is received by us for all goods and services supplied by us to you, as well as all other amounts owing to us by you. Title and property in all goods remain vested in us and do not pass to you. You must hold the goods as fiduciary bailee and agent for us. You must keep the goods separate from your goods and maintain our labelling and packaging. You are required to hold the proceeds of any sale of the goods on trust for us in a separate account however failure to do so will not affect your obligation to deal with the proceeds as trustee. We may without notice, enter any premises where we suspect the goods may be and remove them, notwithstanding that they may have been attached to other goods not our property, and for this purpose you irrevocably licence us to enter such premises and also indemnify us from and against all costs, claims, demands or actions by any party arising from such action.

## Performance of Agreement

Any period or date for delivery of goods or provision of services is intended as an estimate only and is not a contractual commitment. We will use our reasonable endeavours to meet any estimated dates for delivery of the goods or completion of the services but will not be liable for any loss or damage suffered by You or any third party for failure to meet any estimated date.

## Returns and Exchanges

We will not be liable for any defects, shortages, damage or non-compliance with the specifications in the Agreement unless you notify us in writing with full details within 7 business days of delivery of the goods or provision of the services. If You do not give the notice as required in clauses listed above you are deemed to have accepted the goods or services. When any defects, shortages, claim for damage or non-compliance with the Agreement specifications is accepted we may, at our option, replace the defective or missing goods or re-provide services. We will not accept goods for return that: have been altered in any way or have been used. You must obtain our prior written approval for the return of goods and pay all freight charges associated with the return of goods unless we accepts the reasons stated for the return is due to its fault.

## Cancellation

If, through circumstances beyond our control we are unable to effect delivery or provision of goods or services, then we may cancel your order (even if it has already been accepted) by notice in writing to you. No purported cancellation or suspension of an order or any part thereof



# Terms & Conditions (Continued)

by you is binding on us after that order has been accepted. You must indemnify us from, all costs and expenses (including without limitation all legal costs and expenses) incurred by us and/or resulting from the cancellation.

## Intellectual Property

You acknowledge that you have no proprietary right or interest in our Intellectual Property. You must not at any time create, sell, manufacture or process any goods using or taking advantage of the Intellectual Property. Any Intellectual Property provided to you by us in connection with the goods and services remains our exclusive property and must be returned to us on demand and must not be copied or communicated to any third party without our express written consent. You warrant that, where you provide intellectual property for use by InkD to fulfil any order, that you own the copyright in, or have licence to authorise the reproduction of, all artistic and literary works and specifically authorise us to use the intellectual property for that purpose. You license us to use the Client's IP in our own promotional materials to depict the quality and range of our goods and services. You indemnify and agrees to keep us indemnified against all liability, losses or expenses incurred by us in relation to, or in any way directly or indirectly connected with any breach of any intellectual property rights in relation to any Client's IP.

## Ownership of Copyright

Ownership of copyright in the Copyright Material will remain vested in us. Where by virtue of the Copyright Act 1968, or other Act of any Federal or State Parliament copyright in the Copyright Material would vest in you, You hereby assign such copyright to us.

## Grant of Licence

Subject to this Agreement, we hereby grant to you a limited licence to use the Copyright Material for the intended purpose. The Licence is limited to the use by you of such goods and services as have been supplied by us. You must not in any way modify, rewrite or alter the Copyright Material, or use the Copyright Material in an unauthorised manner or for an unauthorised purposes unless with our written permission.

## Artwork and Orders

We will not be liable for any errors which occur in the electronic transfer of any artwork. You must carefully review and approve all proofs or layouts to ensure the order is 'correct and true'. If, for whatever reason the order is not 'correct and true' and we proceed to arrange printing/publishing you accept responsibility of any alterations or subsequent changes required to make the order correct and true, which will be arranged by us at your cost. Any hard copies of proofs you provide are not used for colour matching or reference. Our digital proofs are imaged using calibrated press profiles. These profiles will reproduce the chosen colour when printed on our presses. However some colour shift may be observable due to the chosen medium/substrate and the addition of finishing medium/substrate or other special coating/finish. Although we will use our best endeavours to ensure that requested colours are matched we do not guarantee an exact match in colour or texture between your artwork (including electronic graphic file or previously printed material) or any other materials. While we do have quality control processes in place you acknowledge and accept that there are acceptable levels of colour variation (+/- 10%) from print run to

print run, from stock to stock, from back to front and between different printing processes and contractor. Trimming may vary by up to approx. 3 millimeter from the proof, specification or print job to print job. Every endeavour will be made to deliver the correct quantity ordered. However, you acknowledge that variation of up to 10% is inherent in the print process and accept as reasonable and we will not have any liability in respect of such variations. Your remedies, at our sole discretion, will be either refund of monies paid for the shortage on a pro-rata basis or re-print of the shortage quantity to be undertaken by us within a reasonable period of time and production method.

## Liability

Except as specifically set out herein, or contained in any warranty statement provided with the goods or services, any term, condition or warranty in respect of the quality, merchantability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or services, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded. Replacement of the goods or resupply of the services is the absolute limit of our liability howsoever arising under or in connection with the sale, use of, storage or any other dealings with the goods or services by you or any third party. We are not liable for any indirect or consequential losses or expenses suffered by you or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party. We will not be liable for any loss or damage suffered by you where we have failed to deliver goods or services or fails to meet any delivery date or cancels or suspends the supply of goods or services, or suspends or cancels the Copyright Licence. Nothing in the Terms is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be excluded, restricted or modified.

## Miscellaneous

The law of Victoria from time to time governs the Terms and the parties agree to the non-exclusive jurisdiction of the courts of Victoria, the Federal Court of Australia, and of courts entitled to hear appeals from those Courts. Failure by us to enforce any of these Terms shall not be construed as a waiver of any of our rights. If any of the Terms are unenforceable it shall be read down so as to be enforceable or, if it cannot be so read down, the term shall be severed from these Terms without affecting the enforceability of the remaining terms. A notice must be in writing and handed personally or sent by facsimile, email or prepaid mail to the last known address of the addressee. Notices sent by pre-paid post are deemed to be received upon posting. Notices sent by facsimile and email are deemed received on the facsimile machine confirming transmission

## Privacy

We are bound by the Privacy Act 2000 and take steps to ensure that all personal information obtained in connection with you will be appropriately collected, stored, used, disclosed and transferred in accordance with the National Privacy Principles. Such information may be accessed by request to us in accordance with the Privacy Act. We require that you comply with the National Privacy Principles in connection with any personal information supplied to you by us in connection with this Agreement.



# Acknowledgements

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Ownership of copyright in the Copyright Material will remain vested in us. Where by virtue of the Copyright Act 1968, or other Act of any Federal or State Parliament copyright in the Copyright Material would vest in you, You hereby assign such copyright to us.

Subject to this Agreement, we hereby grant to you a limited licence to use the Copyright Material for the intended purpose. The Licence is limited to the use by you of such goods and services as have been supplied by us. You must not in any way modify, rewrite or alter the Copyright Material, or use the Copyright Material in an unauthorised manner or for an unauthorised purposes unless with our written permission.

Except as specifically set out herein, or contained in any warranty statement provided with the goods or services, any term, condition or warranty in respect of the quality, merchantability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or services, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded. Replacement of the goods or resupply of the services is the absolute limit of our liability howsoever arising under or in connection with the sale, use of, storage or any other dealings with the goods or services by you or any third party. We are not liable for any indirect or consequential losses or expenses suffered by you or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party. We will not be liable for any loss or damage suffered by you where we have failed to deliver goods or services or fails to meet any delivery date or cancels or suspends the supply of goods or services, or suspends or cancels the Copyright Licence. Nothing in the Terms is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be excluded, restricted or modified.

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cannot be so read down, the term shall be severed from these Terms without affecting the enforceability of the remaining terms. A notice must be in writing and handed personally or sent by facsimile, email or prepaid mail to the last known address of the addressee. Notices sent by pre-paid post are deemed to be received upon posting. Notices sent by facsimile and email are deemed received on the facsimile machine confirming transmission

