

# TERMS AND CONDITIONS.

## Meaning of words:

CAF	Credit Application Form
Conditions	these Terms and Conditions
Goods	the goods specified in the OCF
MMT	MMTB Pty Ltd
MMT Standards	the Artwork Specifications at <a href="http://mmtprint.com/mmt/design.html">http://mmtprint.com/mmt/design.html</a>
OCF	Order Confirmation Form
Proof	a physical colour proof printed and provided by MMT
You	the customer/buyer

These Conditions, the OCF and CAF (if any), govern the supply of Goods by MMT to You and will apply in place of and prevail over any terms contained or referred to in any document. A quotation by MMT does not constitute an offer. MMT reserves the right to withdraw or revise a quotation at any time prior to its acceptance of Your signed OCF. A variation of these Conditions is only valid if in writing and signed by You and MMT.

## PAYMENT, CREDIT AND PRICE

You must pay for the Goods within 30 days of invoice date. Time of payment is of the essence and You are not entitled by reason of set-off or otherwise to withhold payment of any amount due. You must pay MMT an additional amount equal to any GST applicable to the supply of the Goods/services at the time that payment for the supply is due.

To the extent that the material/specifications/information provided by You does not comply with MMT Standards or You wish to vary the specifications in the OCF, MMT may charge you additional charges for any rectification or variation work.

Any extension of credit allowed to You may be changed or withdrawn at any time by MMT for any reason. If MMT considers Your credit-worthiness deteriorates before delivery of the Goods, MMT may require full or partial payment of the price prior to delivery or the provision of security for payment by You in a form acceptable to MMT.

Interest is payable on overdue accounts at the rate of 1% per month to run from the due date for payment until receipt by MMT of the full amount (including any accrued interest) whether before or after judgment. MMT is entitled to offset any amount owing to it by You against any amount owed to You by MMT. You will pay all costs and expenses (including legal costs) incurred in the recovery or attempted recovery of the overdue amounts.

If a Default Event occurs: (a) MMT may require immediate payment of all amounts outstanding (whether or not then due and payable); (b) stop any Goods in transit and suspend further deliveries; (c) terminate any order; or (d) without notice to You and without prejudice to any of its rights, MMT may recover the Goods or any of them and may enter Your premises. You indemnify MMT for all claims, actions, suits, demands, orders for costs or damages relating to or arising out of such entry.

**Default Event** means: (a) if MMT considers that Your creditworthiness has become unsatisfactory; (b) if You do not comply with any one or more of Your obligations under these terms; or (c) if You:

- (i) are in liquidation or provisional liquidation or under administration;
- (ii) have a controller as defined in the *Corporations Act 2001* (Cth) or an analogous person appointed to You or to any of Your property;
- (iii) are taken under section 459F(1) of the *Corporations Act* to have failed to comply with a statutory demand;
- (iv) cease to trade, are unable to pay Your debts or become insolvent or bankrupt;
- (v) die, cease to be of full legal capacity or become incapable of managing Your own affairs for any reason;
- (vi) take any step that could result in You becoming an insolvent under administration as defined in section 9 of the *Corporations Act*;
- (vii) enter into a compromise or arrangement with, or assignment for the benefit of, any of Your members or creditors; or
- (viii) are affected by any analogous event.

## LIMITATION OF LIABILITY

You cannot claim against MMT for any minor deviation regarding the specifications, dimensions, quality or finish of the Goods. MMT is not responsible for checking or correcting (and is not liable for) errors, omissions or other defects in any drawings, designs, incorrect specifications or any other instruction given by You, which causes an inferior product/result. You will be deemed to have accepted the Goods unless You requested and received a Proof and requested changes to the Proof which were not completed by MMT.

You acknowledge that You have exercised Your independent skill and judgement in acquiring the Goods/services and have not relied on any advice or representation by MMT or any descriptions, illustrations, or specifications contained in any document produced by MMT.

To the extent permitted by law, MMT excludes all statutory or implied conditions and warranties and limits its liability under any conditions or warranty which cannot legally be excluded to: (a) the replacement of Goods or the supply of equivalent Goods; (b) the repair of the Goods; (c) the payment of the costs of replacing the Goods or of acquiring equivalent Goods; or (d) the payment of the costs of having the Goods repaired.

MMT, its employees or agents shall not be liable for any loss or damage (including any loss or damage as a result of third party claims, any indirect or consequential loss or damage) of any kind whatsoever, whether for negligence, breach of contract, misrepresentation or otherwise.

You warrant that any design or instruction given to MMT by You will not infringe any third party rights in particular any intellectual property rights (such as a patent, registered design, trademark or copyright or confidentiality rights). You indemnify MMT against each loss, liability and cost which the MMT incurs as a result of a breach of that warranty. You authorise MMT to use copies or reproductions of the Goods, solely for MMT's advertising and promotional purposes, including but not limited to, display by MMT in its brochures, at trade shows and on MMT's website.

## DELIVERY

Any delivery dates mentioned in any quotation, OCF or elsewhere are approximate only. You must still accept and pay for Goods even if MMT delivers late. MMT reserves the right to deliver in one or more instalments. Unless otherwise agreed in writing, MMT is not liable for any loss or damage arising from the late delivery of the Goods made by instalments or otherwise. Unless otherwise specified, all quotes given for Goods/services are inclusive of normal road freight. Any special requirements, including air freight, will be at an additional cost, and agreed to in writing by both parties.

MMT shall use all reasonable endeavours to comply with Your particular delivery requirements, using a reputable courier/delivery company. Delivery will be complete when MMT's appointed courier/delivery company has attempted delivery as per Your written instructions. Any claims made by You for delivery problems must be made within 7 days of delivery. Any other claims for adjustment to any invoice for any reason whatsoever must be made in writing within 14 days of delivery.

## RISK AND RETENTION OF TITLE

Risk of damage to, or loss of, the Goods passes to You at the time of delivery. MMT is not liable to You for any loss or damage or deterioration of the Goods after delivery. Title of all Goods remains with MMT until You pay to MMT all amounts You owe to MMT on any account. While MMT retains title to the Goods: (a) on reasonable notice, MMT may enter the premises where the Goods are stored to inspect the Goods; (b) You must store the Goods in a way that identifies them as MMT's Goods and distinguishes them from all other goods in Your possession; and (c) You may sell the Goods in the ordinary course at full market value, until a Default Event occurs.

Until You pay all amounts You owe MMT; You: (a) acknowledges that You hold the Goods as MMT's bailee and that a fiduciary relationship exists with MMT; and (b) must hold the proceeds from any sales of Goods on trust for MMT and hold these proceeds in a separate account or otherwise clearly identify these amounts in Your accounts, and pay on terms.

## FORCE MAJEURE

MMT is not liable for failure to comply with the Conditions or an OCF if the failure (directly or indirectly) arises out of any circumstances which are not within its reasonable control. If such circumstances occur, we may delay or cancel delivery of the Goods or reduce the quantity to be delivered. The following are examples of situations beyond our reasonable control, include but are not limited to: strikes; lock-outs; accidents; war; fire; flood; explosion; shortage of power; breakdowns of plant or machinery; shortage of raw or other materials from normal sources of supply; act of God; and any order or direction of any local, State or Federal Government, Government authority or instrumentality (within the Commonwealth of Australia or elsewhere). We are not obliged to remedy such circumstances. We are especially not obliged to settle any strike, lock-out or any other kind of labour dispute.

## GOVERNING LAW

The laws of the State of Queensland govern these Conditions, the OCF and any Credit Application Form. You agree with MMT to submit to the non-exclusive jurisdiction of the Courts of Queensland and the Federal Court of Australia.