

TERMS OF TRADE

1. AGREEMENT

1.1 The Quotation, the Agreement, the Agreement Details and these Terms form a legal binding contract between you and us (the Agreement). The Agreement is subject to these Terms, the Quotation and any other documents attached or referred to in this Agreement.

1.2 We will commence the Services when you have confirmed acceptance of the Agreement. You can accept by:

- (a) paying any Deposit specified in the Quotation or the Agreement Details;
- (b) confirming acceptance of the Agreement via email to us or by clicking "Accept" where indicated in the online Quotation;
- (c) instructing us (whether in writing or orally) to proceed with the Services after this Agreement has been provided to you;
- (d) issuing a purchase order referring to this Agreement or the Quotation attaching this Agreement; or
- (e) electronically signing and returning this Agreement.

1.3 If you accept this Agreement by issuing a purchase order, an Agreement will be formed despite anything in the purchase order to the contrary, on these Terms and Conditions. Any terms in a purchase order inconsistent with these Terms and Conditions are void and of no effect and are deemed to be withdrawn in favour of these Terms and Conditions. A purchase order on different terms is not a counteroffer.

2. OUR OBLIGATIONS

2.1 We and/or our Personnel will undertake the Services (including any Variation to the Services agreed in writing):

- (a) in accordance with this Agreement;
- (b) diligently, within a reasonable time and in a tradesman-like manner, during the hours of 8am to 4pm Monday to Friday;
- (c) using materials that are suitable, new, and free of defects;
- (d) using Personnel who are properly trained, have the necessary experience to carry out the Services and hold all necessary qualifications, approvals, licences, and accreditations; and
- (e) in accordance with all relevant laws and regulations, including relevant work health and safety legislation.



3.YOUR OBLIGATIONS

3.1 You must:

- (a) pay us the Price in the manner and at the times stated in clause 9;
- (b) promptly provide us with any information or directions that we reasonably require from you in connection with this Agreement;
- (c) give us access to the Site on the agreed dates and to the extent necessary to perform the Services; and
- (d) confirm approval of the Final Drawings within 3 business days of their delivery to you.

3.2 Prior to the commencement and for the duration of the Services you must ensure that:

- (a) all obstacles, equipment, shelving, furniture, non-structural cabinetry, and other items are removed from the surface and surrounding area where the Product is to be installed;
- (b) you have provided us with uninterrupted access to:
 - (i) power; and
 - (ii) the Site of the Services, including unobstructed passage for our Personnel and equipment;
- (c) the Site of the Services will remain clear of persons, equipment and animals for the duration of the Services;
- (d) all areas of the Services are properly lit;
- (e) if an Appliance is to be installed by us into the Product:
 - (i) the Appliance must be compatible with models approved by us and not exceed a maximum thickness of 7.2cm;
 - (ii) we will guarantee the panel incorporating the Appliance for a period of one year after the date of installation, in the event of a failure in an Appliance installed by us, subject to your payment to us of an attendance fee to repair the relevant panel;
 - (iii) you will deliver or arrange for the delivery of the Appliance to us at least 7 days before the date of installation that we notify to you; and
 - (iv) you have notified us in writing of any guidelines set out by the manufacturer, supplier, or installer of any Appliances to be installed in the Product regarding the treatment or installation of the appliance;
- (f) there have been no material changes to the Site that cause the Site conditions to differ to those inspected and measured by us prior to completing the final drawings; and
- (g) there are no property conditions, damage or defects on, about or under the Site which might reasonably affect the Services.

3.3 You agree to maintain the Product in accordance with the Maintenance Instructions and any Site-specific instructions that we provide to you on completion of the Services.

4.YOUR ACKNOWLEDGEMENTS

4.1 You agree and acknowledge that:

- (a) we will not place the order for the manufacture of the Product until you have paid the relevant instalment of the Price and confirmed your approval of the Final Drawings;
- (b) after we have placed the order for manufacture of the Product, there can be no further changes to the design of the Product;
- (c) cleaning and sealing products used to finish the Product may have an odour that may remain noticeable for some time after completion of the Services;
- (d) to prepare the Site and in compliance with relevant safety regulations, we may be required to drill holes in the adjacent wall to attach the Product;
- (e) we will advise you if the floor or adjacent walls require additional reinforcement to support the Product, which reinforcement will be at your cost;
- (f) we are not responsible for any unavoidable minor damage to walls/surfaces surrounding the Site as a result of the Services;
- (g) in the course of delivering the Services we may, in our absolute discretion, vary the application or installation methods based on past experience and knowledge of the Product, Site and environmental conditions to achieve the desired finish described within the Quotation and Final Drawings;
- (h) we may delay or postpone the Services if weather conditions are not suitable for installation or if delivery of the manufactured Product is delayed for reasons outside our reasonable control; and
- (i) any colour charts, pictures, samples, or test areas supplied by us are indicative only and the finish obtained under real install conditions may vary from these as a result of Site conditions and the inherent qualities of the materials used in the Product.



5.VARIATIONS

5.1 Subject to clause 4.1(g), we will not vary any part of the Services except as agreed in writing between us prior to commencing the varied Services (Variation). The Variation must set out:

- (a) the scope of the varied Services;
- (b) the price of the Variation; and
- (c) any impact of the Variation on the time required to complete the Services.

5.2 You acknowledge that it is not possible to change the dimensions of the Product after you have approved the Final Drawings and the Product order has been placed.

5.3 The Price is to be adjusted by the price of the Variation, which will be calculated according to our Agreement or on the basis of the hourly rates set out in the Agreement Details. You agree that we may claim the adjustment in our next invoice following the written Variation agreement.

6.PRODUCT ACCEPTANCE AND WARRANTIES

6.1 You must check the integrity of the Product upon completion of the installation and notify us of any defects within 2 days from the date of installation. If you do not notify us of any defect within this period, the Product will be considered to be in good working order.

6.2 Subject to your signing the delivery certificate on the day of installation, for a period of 8 years after completion of the Services and on receipt from you of a written defect notice, we will, at our cost rectify any part of the Product that we agree is faulty or defective and not in accordance with the requirements of the Agreement, due to an error by us or our Personnel.

6.3 Our obligation to rectify faulty or defective Services under clause 6 excludes any responsibility for repairing damage to the Product caused or contributed by:

- (a) you or other contractors engaged by you;
- (b) any movement or relocation of the Product by you;
- (c) your failure to maintain the Product in accordance with the Maintenance Instructions provided to you on completion of the Services;
- (d) wear and tear;
- (e) adverse or unexpected environmental conditions and/or unknown Site conditions;
- (f) damage caused by excessive heat from ovens, heaters, and other high-temperature sources;
- (g) gouging or scratching of the Product, unless caused by us or our Personnel;
- (h) damage or discolouring to the Product resulting from items or liquids placed on or stored in the Product;
- (i) any cause connected with an Appliance; or
- (j) chipping or cracking caused by impact or falling objects.

6.4 The Product is constructed from natural materials and therefore may be subject to some unavoidable surface irregularities or imperfections which are not considered defective.

6.5 On full payment of the Price, we will provide you with any relevant manufacturer warranties in relation to materials used in the Services.

6.6 No warranty as to materials is provided or implied other than a warranty supplied in writing.

6.7 No warranty is supplied against UV related discolouration of the Product.



7.LIABILITY

7.1 We will be liable for any loss, damage, injury or death caused by our negligent acts or omissions in the performance of the Services under this Agreement, except to the extent that such loss, damage, injury or death is caused or contributed to by you, your agents or representatives or other contractors engaged by you.

7.2 To the extent permitted by law, our liability to you for any loss or damage connected with a breach of this Agreement, in tort, under an indemnity or for any other common law or statutory cause of action arising out of this Agreement will (except to the extent prohibited by law) be limited to reperforming the Services or the Price, whichever is the lesser.

7.3 Neither of us will be liable in respect of any indirect or consequential loss, damage, cost or liability of any kind (including negligence) which may be suffered by the other one in connection with the performance or non-performance of this Agreement, or any economic loss, loss of revenue, profit or anticipated profit, loss of contract, loss of production, loss of use of property or business interruption, in each case whether direct or indirect and irrespective of whether or not such losses were foreseeable at the time of entering into the Agreement.

7.4 You indemnify us against all claims that may be brought by third parties against us in relation to any loss or damage to property or injury or death arising out of or in relation to the Services or this Agreement.

8.EXCLUSIONS FROM LIABILITY

8.1 To the extent permitted by law, we accept no liability for the installation and/or performance of any Appliance supplied by you for us to install into the Product.

8.2 Unless expressly stated in the Quotation, we have not allowed to protect the Product during construction from other trades or events and accept no liability for damage to the Site or the Product caused by you or other contractors.

8.3 We accept no liability for any failure or damage to the Product or any Appliance caused or contributed to by deficiencies in the Site.

9.PAYMENT

9.1 You will pay us the Price in consideration of our performance of the Services.

9.2 Deposits and part-payments paid by you to us are non-refundable.

9.3 Unless otherwise agreed, we will submit invoices to you at the times stated in the Agreement Details.

9.4 On receipt of a valid invoice from us, you must pay the total amount invoiced by the due date stated in the invoice, or if no time is stated, within 7 days of the date of the invoice.

9.5 Any amount that is not paid by the due date may attract interest. Interest will be calculated daily at the Interest Rate on the balance which is unpaid from until the date of payment.

9.6 Unless otherwise stated, the amount of payment for any taxable supply under this Agreement has been calculated exclusive of goods and services tax and will be increased by the amount of any goods and services tax required by law.

9.7 If at any time a payment is not made in accordance with this Agreement, we may suspend all Services until we receive payment or alternative arrangements acceptable to us are made.

9.8 If payment of any individual instalment is not made by the due date for that instalment, any remaining balance of the Price will become due and payable immediately on demand.

9.9 We reserve the right to assign our entitlements to payment under this Agreement and/or to employ the services of a mercantile collection agency in the event that any invoiced payment remains unpaid 7 days after it was due.

9.10 If you do not pay a debt due by you to us, we will require you to pay part or all of our costs and expenses associated with carrying and ensuring payment of such debt. This may include but is not limited to financing costs, internal accounting and administrative costs and any commission and fees payable to a mercantile collection agency or solicitor.

10.FORCE MAJEURE

10.1 If by reason of any matter or thing beyond our reasonable control we are unable to perform an obligation under this Agreement, then we:

- (a) are relieved of the obligation to the extent and for the period that we are unable to perform it;
- (b) we will not be liable to you for failure to perform the obligation to the extent and for the period of non-performance contemplated by this clause; and
- (c) any delivery date for completion of the Services will be automatically extended for the period during which our obligations were suspended.



11.TERMINATION

11.1 Provided the Services have not commenced, you may terminate this Agreement by written notice to us.

11.2 We may terminate this Agreement:

- (a) if you are in default of these Terms and fail to remedy the default within 7 days after receiving written notice of the default;
- (b) immediately if you file for bankruptcy, enter into liquidation, are acquired by another entity or become insolvent or are deemed to be insolvent under the Corporations Act 2001 (Cth);
- (c) for our convenience on 28 days' written notice.

11.3 If this Agreement is terminated in accordance with clause 11.2(a) or 11.2(b), you must pay us for:

- (a) all Services delivered up to the date of termination, calculated at our hourly rate;
- (b) the cost of materials or Products reasonably ordered (which we are liable to accept and pay for) or made by us in anticipation of carrying out the Services under this Agreement;
- (c) any reasonable costs arising from the termination, including demobilising from Site.

11.2 If this Agreement is terminated in accordance with clause 11.2(c), we will refund to you any Deposit and instalments of the Price.

11.3 Termination of this Agreement for whatever cause will be without prejudice to any rights or obligations that have accrued or are owing prior to the termination, including payments of money.

12.DISPUTE RESOLUTION

12.1 If either of us has any difference or dispute between us as to anything in connection with the Agreement (except a claim of unpaid debts), then:

- (a) that party must give the other party written notice of the dispute, setting out adequate details; and
- (b) if a notice of dispute is issued under 12.1(a), we may suspend the Services until the dispute is resolved.

12.2 Suspension of the Services under this clause 12 does not entitle you to:

- (a) delay any outstanding payment; or
- (b) otherwise to any additional claims arising from the suspension.

12.3 Within 14 days of the issue of a dispute notice, we must meet and negotiate in good faith to resolve the dispute.

12.4 If the dispute cannot be resolved after the meeting described in clause 12.3, either of us may refer the matter for mediation by a mediator nominated by the Resolution Institute, in accordance with the Resolution Institute Mediation Rules.

12.5 Both parties must continue to perform their obligations under this agreement (including payment obligations) despite the existence of any dispute.

12.6 Nothing in this clause 12 prevents either party from applying for urgent or interlocutory relief.

13.CONFIDENTIALITY AND INTELLECTUAL PROPERTY

13.1 You must keep any information disclosed to you in connection with this Agreement confidential unless you are required by law to disclose it.

13.2 All IP Rights created in the performance of the Services vest in us from the moment of creation. We grant to you a non-exclusive, transferable, revocable licence to use the IP Rights for the purpose of enjoying the benefit of the Services and the Product.

13.3 You consent to us:

- (a) photographing or filming the Product and the location and surrounding location of the Product and using the resulting images for marketing and other purposes.
- (b) collecting personal information (as it is defined in the Privacy Act 1988 (Cth)) for the purposes of recovering any outstanding payments.



14. INTERPRETATION

- (a) Unless otherwise defined, capitalised terms used in this Agreement have the meaning given to them in the Quotation.
- (b) Appliance means any piece of electronic or other equipment to be provided by you and installed by us into the Product;
- (c) Final Drawings means the design drawings prepared by us following a Site measure and submitted to you for approval.
- (d) Interest Rate means 6% plus the cash rate target published by the Reserve Bank of Australia for overnight lending on the date of invoice, calculated daily on every day that the payment remains outstanding.
- (e) IP Rights means all industrial and intellectual property rights whether protectable by statute, at common law or in equity, including all copyright in relation to inventions (including all patents and patent applications), trade secrets and know-how, rights in relation to designs (whether or not registrable), rights in relation to registered or unregistered trademarks.
- (f) Maintenance Instructions means the Maintenance Instructions provided on completion of the Services.
- (g) Personnel means contractors, consultants, servants, agents, officers and employees.
- (h) Price means the price of the Services set out in the Quotation or the Agreement Details, subject to any adjustments agreed in accordance with the Agreement.
- (i) Product means the furniture or storage system designed and manufactured in accordance with the specification set out in the Quotation and the Design Brief.
- (j) Quotation means the proposal delivered by us to you setting out the Services to be performed by us for the Price.
- (k) Services means the services set out in the Quotation and the Agreement Details, including the design, manufacture and installation of the Product.
- (l) Site means the site where the Product will be installed, as specified in the Agreement Details.
- (m) Variation means an agreement between us to vary the Services in accordance with clause 5.

15. GENERAL

- 15.1 This Agreement is the entire agreement between us with respect to its subject matter and supersedes all prior oral or written representations and agreements.
- 15.2 This Agreement can only be amended in writing and signed by both of us.
- 15.3 No variation and no rise or fall in the price of materials or in labour shall vitiate this contract.
- 15.4 Each of us must do or cause to be done or refrain from doing all such acts or things necessary to give effect to this agreement.
- 15.5 You may not assign your rights or obligations arising under this Agreement without our prior written consent.
- 15.6 Nothing in this Agreement creates a relationship of employer and employee, principal and agent, partnership or joint venture between us or between us and any third party including either party's employees, subcontractors or other personnel.
- 15.7 Neither of us has authority to act for or to bind or incur liabilities on behalf of the other unless we agree otherwise in writing.
- 15.8 A waiver by either of us of a breach of this Agreement does not constitute a waiver of any succeeding breach of the same or any other provision.
- 15.9 If any part of this Agreement is invalid or unenforceable, that provision will be deemed deleted but only to the extent necessary. The remaining provisions of the Agreement will remain in full force and effect.
- 15.10 This Agreement is governed by the laws of Western Australia. We both submit to the non-exclusive jurisdiction of the courts of Western Australia.