

TERMS AND CONDITIONS OF TRADE 1/10/2006

To the fullest extent legally possible, all dealings, arrangements and contracts made between MITCHELL LAMINATES PTY. LTD. ACN 056 527 907 ("Mitchell Laminates") and any Customer relating to any products, services or transactions are subject to the following Terms and Conditions of Sale ("these Terms") unless otherwise expressly agreed in writing and these terms and conditions (which shall only be waived in writing signed by Mitchell Laminates) shall prevail over all conditions of the customers order to the extent of any inconsistency.

1. PAYMENT is to be made, by cash, cheque or Electronic Funds Transfer and without deduction, within 30 days from the end of the month in which invoice was issued.

2. INTEREST may be charged on overdue accounts at the rate prescribed by the Penalty Interest Rates Act 1983 (Vic) plus 2%.

3. PROPERTY: a) Risk of damage to or loss of products supplied hereunder shall pass to the Customer upon collection or delivery. b) Property in products shall not pass until payment in full of all monies owed for those products or on any other basis by the customer and Mitchell Laminates reserves the right to take possession and dispose of products as it sees fit at any time until full payment. c) The Customer grants permission to any authorised representative of Mitchell Laminates to enter any property where any product is in order to do so and with such force as is necessary. d) Immediately upon delivery the Customer accepts liability for the safe custody of the products and agrees to indemnify Mitchell Laminates for any losses relating thereto. e) Upon sale or disposition of any products prior to full payment, the Customer agrees to deposit all proceeds in a separate bank account, agrees not to mix proceeds with any other monies and will forthwith account to Mitchell Laminates therefore notwithstanding that Mitchell Laminates may have granted any credit facility and/or time to pay or any conduct of Mitchell Laminates. f) Until payment in full the Customer agrees:- i) to keep all products unpaid for as fiduciary for Mitchell Laminates and store them in a manner which shows Mitchell Laminates as owner; ii) only to sell products in the usual course of its business on condition that the Customer holds all proceeds in trust for Mitchell Laminates; iii) sale on terms or for less than cost shall not be "in the usual course". g) This clause 3 is not intended to create a charge over any products and shall be read down to the extent necessary to avoid creating a charge. h) The Customer agrees that products will be deemed at all times to be dealt with by the Customer on a "first in first out" basis for the purpose of all transactions between the Customer and Mitchell Laminates. i) The Customer agrees that a certificate purporting to be signed by an officer of Mitchell Laminates identifying products as unpaid for shall be conclusive evidence that the goods have not been paid for and of Mitchell Laminates title thereto. j) If the Customer uses any product in any construction, the Customer agrees to hold such part of the proceeds of sale or disposition of the finished construction which incorporates products, upon trust for Mitchell Laminates until payment in full for those products and of all monies owed to Mitchell Laminates.

4. LIMITATION OF LIABILITY: Subject to clause 5 and to the extent permitted by the Trade Practices Act and the relevant State legislation: a) the customer agrees to limit any claim it makes to the cost of supply of equivalent products or the supply of services again; b) Mitchell Laminates shall not be liable for any claim, loss or expense arising which is made after 14 days from the date of delivery of product or services (or at all once products have been unpacked, on-sold or otherwise used or applied) after which there shall be deemed to have been unqualified acceptance; c) Mitchell Laminates will not be liable in any way for any contingent consequential direct or indirect special or punitive damage arising in any way and whether due to Mitchell Laminates negligence or negligence of Mitchell Laminates employees, agents or sub-contractors or otherwise and the Customer acknowledges this express limit and agrees to limit any claim accordingly; d) no other term, condition, agreement, warranty, representation or understanding whatsoever whether express or implied in any way extended to, otherwise relating to or binding upon Mitchell Laminates, other than these Terms, is made or given; e) the Customer shall indemnify Mitchell Laminates against all liability, actions, proceedings, costs, claims, damages or demands in any way connected with this contract brought or threatened to be brought against Mitchell Laminates by any third party (including, but not being restricted to, any loss suffered by customers of the Customer purchasing the goods or other products incorporating the goods) except to the extent Mitchell Laminates is liable to the Customer in accordance with these Terms.

5. LIABILITY UNDER TRADE PRACTICES ACT: If any products supplied pursuant to this agreement are supplied to the Customer as a "consumer" of goods or services within the meaning of that term in the Trade Practices Act 1974 as amended or similar State legislation, the consumer will have the benefit of certain non-excludable rights and remedies in respect of the products or services and nothing in these Terms excludes or restricts or modifies any condition, warranty, right or remedy which pursuant to the Trade Practices Act or similar legislation is so conferred. However, if the product is a product not ordinarily acquired for personal, domestic or household use or consumption pursuant to s.68A of the Trade Practices Act or similar provisions of relevant state legislation, Mitchell Laminates limits its liability to payment of an amount equal to the lower of: i) the cost of replacing the goods; ii) the cost of repair of the goods; and iii) the cost of having the goods repaired or replaced.

6. EXCLUSIONS: a) Sample: No contract between Mitchell Laminates and the Customer shall be or be deemed a sale by sample. b) If Mitchell Laminates publishes material concerning its products, services and prices anything so published which is incompatible with these Terms is expressly excluded. c) The Customer will rely on its own knowledge and expertise in selecting any product or services for any purpose and any advice or assistance given for or on behalf of Mitchell Laminates shall be accepted at the Customer's risk and shall not be or be deemed given as expert or adviser nor relied upon by the Customer or anyone claiming through the Customer.

7. CUSTOMER MATERIAL ETC: The customer acknowledges and agrees that it is the Customer's sole responsibility to ensure that materials, designs, drawings, specifications, procedures etc. which are provided by or on behalf of the Customer, to be used by Mitchell Laminates in meeting any orders, are correct and appropriate in every particular and will be relied upon by Mitchell Laminates.

8. PLACEMENT OF ORDERS: The Customer agrees: a) in the event of any dispute arising concerning any order (and including any questions of identity or authority or any telephone, facsimile, e-mail, e-commerce or computer generated order) that the internal records of Mitchell Laminates will be conclusive evidence of what was ordered in all respects; b) each order it places shall be and be deemed to be a representation by it, made at the time that it is solvent and able to pay all of its debts as and when they fall due; c) failure to pay Mitchell Laminates in accordance with these Terms shall be and be deemed to be conclusive evidence that the Customer had no reasonable grounds for making the representation referred to in 8b) hereof and that the representations were unconscionable, misleading and deceptive; d) when any order is placed, the Customer shall inform Mitchell Laminates of any material facts which would or might reasonably affect the commercial decision by Mitchell Laminates to accept the order and/or grant credit in relation thereto and any failure to do so by or on behalf of the Customer shall create and be deemed to create an inequality of bargaining position, shall constitute and be deemed to constitute the taking of an unfair advantage of Mitchell Laminates and to be unconscionable, misleading and deceptive.

9. PURCHASE PRICE: a) All sales are made by Mitchell Laminates at its ruling price at the time of delivery. b) Government imposts (including any GST or equivalent) will be to the Customer's account and Mitchell Laminates price lists will exclude these unless expressly noted thereon. c) Any volume rebate or settlement discount will be calculated on base price exclusive of GST or any government imposts, charges or duty etc.

10. DELIVERY: The Customer acknowledges and agrees that: a) Mitchell Laminates accepts no responsibility or duty for delivery, but may elect to arrange delivery at its discretion and without any liability and at the Customer's costs and responsibility in all things; b) Mitchell Laminates reserves the right to charge for any delivery; c) The Customer shall be deemed to have accepted delivery and liability for the products immediately Mitchell Laminates notifies the Customer that any products are ready for collection or they are delivered to a carrier or to the Customer's business premises or site whether attended or not; d) A certificate purporting to be signed by an officer of Mitchell Laminates confirming delivery shall be conclusive evidence of delivery as shall any signed delivery docket; e) Mitchell Laminates will not be liable for delay, failure or inability to deliver any products or perform any services; f) Once the Customer is notified products are ready for collection or delivery, the Customer agrees to pay all costs of Mitchell Laminates in holding those products for the Customer; g) Mitchell Laminates shall not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the products supplied hereunder (even if caused by Mitchell Laminates negligence or negligence of Mitchell Laminates employees, agents or sub-contractors or otherwise) nor will any delay entitle the Customer to terminate or rescind the contract for sale and purchase of the products; h) Mitchell Laminates shall not be liable for any non-delivery or shortage in delivery of the products sold hereunder (even if caused by Mitchell Laminates negligence or negligence of Mitchell Laminates employees, agents or sub-contractors or otherwise) and further any liability of Mitchell Laminates under this clause 10h) shall be limited to supplying the quantity of ordered products within a reasonable time or at Mitchell Laminates discretion issuing a credit note for products not supplied.

11. PRODUCTS AND SERVICES: a) Mitchell Laminates disclaims any responsibility or liability whatsoever relating to any products or services i) made or performed to designs, drawings, specifications and/or procedures etc. or with materials which are provided or approved (whether in part or fully) by or on behalf of the Customer ii) utilised, stored, handled or maintained incorrectly or inappropriately. b) The Customer agrees to check all products and services for compliance with all relevant applicable standards and regulatory bodies before use, on-sale or application and to use or apply same in accordance with all applicable standards, regulations and guidelines, with all manufacturers and/or Mitchell Laminates recommendations and directions as well as with good practice.

12. PRODUCT CHARACTERISTICS: a) The Customer acknowledges that the products supplied hereunder have been obtained by Mitchell Laminates from third parties. Subject to clause 5, no warranty is given in respect of the products. b) The description of the products shall be as set out in specifications (if any) as provided by Mitchell Laminates third party suppliers and all descriptive matter, specifications, and advertising issued by Mitchell Laminates or its third party suppliers and any descriptions or illustrations contained in catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the products described in them. They will not form part of the contract for sale and purchase of the products. Mitchell Laminates or its third party suppliers of the products may make any changes to the specification, design, materials or finishes of the products from time to time. c) Products may contain poisons and/or chemicals (including formaldehyde) should be stored and worked upon in well ventilated areas not burned except in a safe manner. d) Product related dust and sawdust are inherently dangerous if inhaled. e) The Customer agrees to check all products for compliance with all relevant applicable standards and regulatory bodies before use, on-sale or applications and to use or apply products in accordance with all applicable standards, regulations and guidelines, with all manufacturers or Mitchell Laminates recommendations and directions as well as with good commercial practice.

13. NO TERMS AND CONDITIONS sought to be imposed by the Customer upon Mitchell Laminates shall apply.

14. RECOVERY COSTS: The Customer will pay to Mitchell Laminates any costs and expenses incurred by it or its solicitors, legal advisors, mercantile agents and other parties acting on Mitchell Laminates behalf in respect of anything instituted or being considered against the Customer whether for debt, possession of any products or otherwise.

15. ATTORNEY: For the purpose of giving effect to the Customer's obligation in these Terms, the Customer hereby irrevocably appoints the Credit Manager of Mitchell Laminates from time to time, as its attorney in all things.

16. VARIATION: Any variation or cancellation of these Terms or any order must be in writing.

17. DEFAULTS: a) Upon any default or breach hereof by the Customer, Mitchell Laminates may (inter alia) retain all monies paid and/on cease further deliveries, call-up any monies owing and recover from the Customer all loss of profits arising and/or at its discretion take immediate possession of any products not paid for, without prejudice to any other of its rights and without being liable in any way to any party. b) The Customer agrees not to commence or continue or permit to be commenced or continued through it any suit or action against Mitchell Laminates whilst the Customer is in default under any part of these Terms or in any of its dealings with Mitchell Laminates.

18. SEVERABILITY: Any part hereof being a whole or part of a clause, shall be capable of severance without effecting any other part of these Terms.

19. CUSTOMER RESTRUCTURE: The Customer will notify Mitchell Laminates in writing of any change in its structure or management including any change in director, shareholder or management or change in partnership or trusteeship within 7 days of the date of any such change.

20. JURISDICTION: The Customer agrees that all contracts made with Mitchell Laminates shall be deemed to be made in the State nominated by Mitchell Laminates and agrees to submit to the jurisdiction of the appropriate Courts nominated by Mitchell Laminates.

21. CREDIT LIMIT: If Mitchell Laminates grants any credit facility or nominates any credit limit, this is an indication only of its intention at the time. Mitchell Laminates can vary or withdraw any credit facility at any time at its discretion and without any liability to the Customer or any other party.

22. WAIVER: In the event that Mitchell Laminates elects not to exercise any of its rights arising as a result of any breach of these Terms it shall not constitute a waiver of any rights of Mitchell Laminates relating to any subsequent or other breach.

23. NOTICE: The Customer agrees that it will be deemed to have notice of any change to these Terms, immediately they are adopted by Mitchell Laminates and whether or not the Customer has actual notice thereof. The Customer shall be bound by any terms and conditions of sale adopted by Mitchell Laminates immediately they are so adopted and notwithstanding any other purported or pre-existing terms and conditions of Mitchell Laminates.

24. INDEMNITY: The Customer indemnifies Mitchell Laminates against any claim or loss arising from or related in any way to any contract, dealing or transaction between Mitchell Laminates and the Customer or anything arising therefrom, or arising as a result of or subsequent to any breach of these Terms.

25. SECURITY FOR PAYMENT: The Customer agrees to charge in favour of Mitchell Laminates: i) by way of a fixed charge all its books of account, financial records, goodwill, documents of title and current and later acquired real property and intellectual property; and ii) by way of a floating charge, the whole of the Customers other undertaking, property and assets, with payment of all monies owed to Mitchell Laminates.

26. FORWARD ORDERS: If the Customer places a forward order the Customer agrees: a) to pay for so much of any order as is from time to time invoiced by Mitchell Laminates; b) no delay or failure to fulfill any part of any order shall entitle the Customer to cancel or vary any order or delay or reduce any payment.

27. FORCE MAJEUR: Mitchell Laminates will not be in default or in breach of any contract with the Customer by as a result of Force Majeur (which means beyond the reasonable control of Mitchell Laminates and includes any strike or lock-out, and any delay or non-supply for any reason whatsoever by Mitchell Laminates third-party supplier of the products or a carrier of them).

28. INSOLVENCY: a) If the Customer commits or is involved in any act of insolvency, it agrees that this should be deemed in default under these terms. b) An act of insolvency is deemed to include bankruptcy, liquidation, receivership, administration or the like.

29. MITCHELL LAMINATES NOT MANUFACTURER: The Customer acknowledges that Mitchell Laminates does not manufacture any products and agrees to make formal claim upon the manufacturer in relation to any alleged faulty products or products which are said to be unmerchantable or unfit for purchase.

30. RETURNS/FAULTY PRODUCTS: Mitchell Laminates may accept faulty products for return only to the extent that Mitchell Laminates is reasonably able, without recourse to litigation or other dispute resolution procedures by Mitchell Laminates, to obtain a credit from its third party supplier in respect of such faulty products.

31. RETURNS/INCORRECT PRODUCTS: Mitchell Laminates will accept products for return which are incorrectly supplied if it acknowledges and agrees that the products have been incorrectly supplied on the following basis: a) the products are returned within 7 days of delivery; b) the products are in as new and re-saleable condition.

32. OTHER RETURNS: If Mitchell Laminates for any reason elects to take back any stock other than stock which is alleged to be faulty or incorrect, it will be on terms agreed and a restocking fee of not less than 15% of invoice value will apply.

33. VARIATIONS IN QUANTITY: The Customer agrees to accept a permissible variation of quantity provided the variation does not exceed + or - 10% of the quantity ordered and the Customer shall pay for the actual weight or volume delivered and the quantity delivered shall be deemed to be the quantity ordered.

34. ABNORMAL PAYMENTS: The Customer agrees to pay an administration fee of 2% (calculated on the amount paid) on any payment which is made other than as provided in clause 1 hereof, which fee is agreed as the liquidated cost of processing such abnormal payments.

35. PALLETS: The Customer agrees to return all pallets or re-usable packaging or storage material provided to it by Mitchell Laminates with any product or otherwise and to indemnify Mitchell Laminates for the full replacement cost of any pallet not returned to Mitchell Laminates within 30 days.

36. GENERAL: a) Time is of the essence for performance of all obligations of the Customer. b) Failure by Mitchell Laminates to enforce or partially enforce any provision of these Terms will not be construed as a waiver of its rights under these Terms.