

1. INTERPRETATION

Company means Fusion Global Print Group Pty Ltd (ABN 24 057 494 505) and its subsidiaries or Related Bodies Corporate;

Confidential Information means all secret processes, technical know-how, techniques, discoveries, ideas, research, practices, systems, formulae, drawings, trade secrets, pricing, supplier lists, customer lists, supply and demand histories and forecasts, pricing, know-how, marketing information, financial information, business plans, other financial information and other confidential information and data subsisting in or relating to the Company's business (including without limitation information and data to one or more of the Company's customers or to the Intellectual Property) and information relating to the Company's customers acquired by the Supplier directly or indirectly from the Company including, without limitation, clients' identities and contact details, and the identities and contact details of individuals within a client's organisation;

Goods means the objects or articles the subject of an Order and includes objects or articles relating to Services;

GST has any meaning used in the GST Law;

GST Law means A New Tax System (Goods and Services Tax) Act 1999 (as amended from time to time) or any replacement or other relevant legislation and regulations;

Intellectual Property means all copyrights, patents, trade marks, service marks, trade names, know how, trade secrets, customer listings, confidential information, designs and similar industrial, commercial and intellectual property (whether or not registered or registrable) of the Company used in or relating to the Company's Business;

Insolvency Event means –

- a receiver, receiver and manager, trustee, administrator, other controller (as defined in the Corporations Act 2001 (Cth)) or similar official is appointed over any of the assets or undertaking of the Supplier;
- the Supplier suspends payment of its debts generally;
- the Supplier is or becomes unable to pay its debts when they are due or is or becomes unable to pay its debts or is presumed to be insolvent within the meaning of the Corporations Act 2001 (Cth);
- the Supplier enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;
- a resolution is passed or any steps are taken to appoint, or to pass a resolution to appoint, an administrator to the Supplier; or
- an application or Court order is made for the winding up or dissolution of the Supplier, or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the party, otherwise for the purpose of an amalgamation or reconstruction;

Order means an order for Goods or Services or both given by the Company to the Supplier and includes these Terms and Conditions;

Related Bodies Corporate has the meaning given to it in Section 50 of the Corporations Act 2001 (Cth);

Supplier means the person, firm or corporation from whom Goods or Services are ordered by the Company;

Services means services set out in an Order and includes the provision of printing and design and the sourcing of related goods;

Supply Contract means the contract created between the Company and the Supplier when an Order is accepted;

FIS means free into store; and

Terms and Conditions means these terms and conditions.

Words in the singular include the plural and vice versa.

2. CONTRACT AND VARIATION

2.1 These Terms and Conditions apply to all Supply Contracts and Orders.

2.2 Where there is a conflict or inconsistency between a Supply Contract and these Terms and Conditions, these Terms and Conditions will prevail, unless otherwise agreed in writing by the Company.

2.3 An Order is deemed to have been accepted by the Supplier if the Supplier supplies Goods or Services set out in the Order.

2.4 Where there is a conflict or inconsistency between these Terms and Conditions and any terms and conditions of the Supplier, these Terms and Conditions shall prevail.

2.5 A Supply Contract constitutes the entire contract between the parties and supersedes all previous communications and negotiations.

2.6 No terms stated by the Supplier in accepting or acknowledging an Order will be binding on the Company unless expressly accepted by the Company in writing.

2.7 The Supplier may not assign a Supply Contract without the Company's prior written consent, which consent may be withheld in the absolute discretion of the Company.

2.8 A Supply Contract may not be varied except by written agreement signed by the Company.

2.9 A Supply Contract constitutes a contract between the parties and no further document or act will be required of the parties to be legally bound.

3. QUALITY OF GOODS AND STANDARD OF SERVICE

3.1 The Supplier warrants that the Goods will at all times be of merchantable quality, fit for the purpose for which they are required and intended, conform to their description and specifications and be of merchantable quality. These warranties are in addition to any other warranties or guarantees given by the Supplier or that may be implied by Law.

3.2 Services will be provided professionally, in accordance with best commercial practice and with due skill, care and attention.

3.3 The Supplier will comply with the following requirements:

- Goods and Services will not be under or over supplied;
- Minimum order requirements will not be applicable unless specified in the Order;
- The product brands described in the Order will be supplied. Alternative product brands may only be supplied if approved in writing by the Company;
- The Goods and Services will not be defective, sub-standard, faulty, soiled, damaged, unusable or late;
- The Supplier shall maintain the quality of Goods from the time of the Order until delivery;
- In the case of the provision of Services, the Supplier undertakes to rectify or redo any faulty work or Services for a period of 12 months from the date of practical completion; and
- The Supplier will comply with all relevant laws, regulations and standards in the supply of the Goods and will obtain any requisite licences or permits.

4. DELIVERY

4.1 The Supplier will deliver the Goods to the location specified in the Order

between the hours of 7.30 a.m. and 4.00 p.m. on any day Monday to Friday unless other prior written arrangements are made. The Supplier will ensure that:

- The Goods are delivered with detailed documentation including Order number, description of contents and invoice, detailing item, quantity, individual price and total price;
- The Goods are supplied in one delivery;
- The Goods are provided FIS unless otherwise specified in the Order;
- To the extent that it is relevant, any item subject to shelf life control will be freshly manufactured and clearly identified on delivery with details of date of manufacture, shelf life conditions, requirements and shelf life period; and
- All Goods are packed in a way to ensure their safe delivery undamaged to the Company.

4.2 Time is of the essence in the delivery of Goods and in the provision of Services. The Supplier will deliver Goods and Services pursuant to an Order on the date and time specified in the Order.

If the Supplier fails to deliver the Goods on the date and of the time as specified in the Order, the Company may at its election do any one or more of the following:

- cancel the whole or part of the Order;
 - return some or all of the Goods to the Supplier at the Supplier's expense and obtain a full credit for the returned Goods;
 - seek damages as a result of the Supplier's late delivery;
 - order the Goods from another supplier and recover from the Supplier any additional cost or expense incurred in doing so.
- If the Supplier fails to provide Services on the date or at the time specified in the Order, the Company may at its election do any one or more of the following:
- cancel the whole or part of the Order;
 - seek damages as a result of the Suppliers' delay;
 - order the Services from another supplier and recover from the Supplier any additional cost or expense incurred in doing so.

4.3 Where no delivery date is specified in the Order, the Supplier must notify the Company of the delivery date upon receipt of Order.

4.4 If Goods are delivered but the Company has not provided signed acknowledgment of receipt, the Goods may (at the Company's election) be considered not to have been delivered for all purposes.

5. RETURN OF GOODS

5.1 Notwithstanding the terms of any delivery documentation or any signed receipt provided by the Company, the Company may reject and return any Goods which do not comply with the Order (and in particular Clause 3.1) or which are otherwise unacceptable in the reasonable opinion of the Company.

5.2 The Supplier will accept the return of any Goods in excess of the requirements set out in the Order and Goods which do not comply with the requirements set out in the Order.

5.3 The Supplier will bear the cost of returning goods rejected pursuant to Clause 5.1 or returned pursuant to Clause 5.2 and the Company may, without prejudice to any other rights under the Supply Contract or otherwise:

- Obtain a full credit for the returned Goods; or
- Obtain replacement Goods from the Supplier; or
- Source the Goods from another supplier and recover from the Supplier any additional cost or expense incurred in doing so; or
- Terminate the Order in whole or in part and seek damages.

6. TITLE AND RISK OF LOSS OR DAMAGE

6.1 The Supplier warrants that the Goods purchased are free and clear of all liens and encumbrances and the Supplier has good and marketable title to same.

6.2 All risks whatsoever, including risk of loss or damage to the Goods, material supplied by the Company or any third parties or the property of either the Company or a third party, will be borne by the Supplier until the Goods, Services, items or materials are delivered to the Company in accordance with the Order.

6.3 Where the Supplier engages a subcontractor to assist in completing all or part of an Order, the Supplier shall nonetheless remain wholly responsible for the completion of the Order in accordance with the Supply Contract.

6.4 Where part payment for any partly completed Goods is made by the Company, the title to and property in the partly completed Goods, namely the materials and parts used in the manufacture process will pass to the Company. Risk of loss will remain with the Supplier.

7. INSTALLATION AND FITTING

Where the Supplier provides Services or work in connection with the delivery or manufacturing (or both) of Goods at the Company's premises or where the presence of the Supplier or its servants or agents is required on the Company's premises:

- The Supplier will use its best endeavours not to impede or interfere with other work in progress on the Company's premises;
- The Supplier enters the Company's premises at its own risk and shall be liable for and indemnify the Company against any loss, damage, claim or liability arising directly or indirectly out of the performance of work or presence on the Company's premises; and
- The Supplier, its employees, agents and contractors shall comply with the safety regulations of the Company and with the reasonable directions of the Company.

8. SUPPLY INDEPENDENT OF THE COMPANY

The Supplier performs all work independently of the Company (as an independent contractor) and not as an agent, partner or employee of the Company.

9. PRICE

9.1 Unless otherwise specified in the Order all prices are exclusive of GST.

9.2 Where a price is not specified in an Order or is variable, if the Supplier has failed to justify a price or if the price appears unreasonable to the Company, the Company may refuse to accept the delivery or may accept the delivery on condition that payment will only be made after the price has been agreed between the parties.

9.3 The Company may reduce the amount payable on any invoice on a pro-rata basis where Goods are returned.

10. INVOICE AND PAYMENT

10.1 The Supplier shall invoice the Company in duplicate at the agreed rate specified in the Order. All invoices shall be addressed to the Company and sent to the address specified in the Order. All invoices and other documents relating to an Order must include reference to the relevant Order number and the description and quantity of the Goods delivered or Services rendered;

10.2 Invoices shall be settled at the agreed rate or price specified in the Order and may only be varied by consent in writing of the Company, irrespective of any pending counter claim. All invoices are subject to these Terms and Conditions.

10.3 The Company may offset against or deduct from any amount owing to the Supplier such amounts as may be due or payable by the Supplier to the Company whether pursuant to this Order or otherwise.

11. INDEMNITY AND INSURANCE

11.1 The Supplier will indemnify and hold harmless the Company, its officers, representatives, employees and agents from and against all liabilities, claims, losses, damages and judgments, including costs and expenses incidental thereto:

- For damage to or loss of property or injury, death or inconvenience to any person whomsoever arising from or in any way connected with any act or omission of the Supplier or defect in the Goods or other items provided by the Supplier;
 - For the misappropriation of Goods while in the possession of the Supplier;
 - Arising out of or in connection with infringement of a patent, trade mark, copyright or the like of the Company, regardless where such action, claim or demand arises, by reason of the use of the Goods or Services provided pursuant to an Order;
 - Arising out of or in connection with infringement of patent, trade mark, copyright or the like regardless where such action, claim or demand arises, by reason of the use of the Goods and/or Services purchased by an Order;
- 11.2 The Supplier will take out and maintain public liability insurance with a minimum cover of ten million dollars (\$10,000,000.00) at the Supplier's own cost and will provide a copy of the certificate of currency of this insurance cover to the Company within seven (7) days from the execution of these Terms and Conditions or as agreed on between the parties.

12. TERMINATION

Without prejudice to any other rights the Company may have against the Supplier, the Company may terminate a Supply Contract in whole or in part in writing with immediate effect if any of the following occur:

- The Supplier becomes subject to an Insolvency Event;
 - The Supplier's conduct is, in the Company's opinion, prejudicial to the interests and operations of the Company;
 - The Supplier breaches any of the terms or conditions of the Supply Contract;
 - The Supplier breaches any of these Terms and Conditions;
 - The Supplier purports to assign or sub-contract the Supply Contract in whole or part without the prior written consent of the Company; or
 - The Supplier ceases or threatens to cease to carry on its business.
- Waiver by the Company of any specific default by the Supplier or failure by the Company to cancel an Order or a Supply Contract or any part thereof when a right of cancellation arises shall not constitute waiver by the Company of any other rights the Company may have pursuant to an Order, a Supply Contract, these Terms and Conditions or otherwise.

13. THE COMPANY'S PROPERTY

13.1 All designs, data, samples, blueprints, plans, drawings, specifications, film, cutting forms and the like ("such property") furnished by the Company to the Supplier whether or not the Supplier has been charged for the same and any such property which has been manufactured or purchased by the Supplier and which has been paid for by the Company ("the Company Property") shall be the sole property of the Company. No Company Property or any substantial portion or description thereof may be produced or reproduced in any material form without authority in writing from the Company.

13.2 Upon conclusion or cancellation of an Order the Supplier shall hand to the Company any finished or unfinished work relevant to the Order and all the Company Property.

13.3 The Supplier will not during the term of a Supply Contract or any time thereafter manufacture any Goods using the Company Property for commercial use other than to the Order of the Company, nor furnish to a third party any such Goods or Services or samples of such Goods or Services.

14. ADVERTISING

The Supplier will not, without first obtaining the written consent of the Company, in any manner advertise or publish the fact that the Supplier has contracted with the Company for the supply of Goods or Services.

15. NOTICE

15.1 The Supplier agrees that it will be deemed to have notice of any change to these Terms and Conditions upon publication by the Company on its website at www.fusionpmg.com or such other website as the Company notifies to the Supplier from time to time, whether or not the Supplier has actual or constructive notice.

15.2 The Supplier shall be bound by any terms and conditions of sale for suppliers published by the Company on its website at www.fusionpmg.com or such other website as the Company notifies to the Supplier from time to time, immediately they are so published, notwithstanding these Terms and Conditions or any other purported, pre-existing or other terms and conditions.

16. CONFIDENTIALITY

The Supplier shall not, and shall procure that its directors, servants, employees and agents do not, without the prior written approval of the Company, disclose any Confidential Information to any person or other entity not a party to the Supply Contract and shall treat all Confidential Information as being strictly confidential. The Supplier agrees that it will not approach, contact, deal with or enter into any business relationship with any of the Company's customers (directly or indirectly) using Confidential Information. However, nothing in this clause will prevent the disclosure of any information which the Supplier is obliged at law to disclose pursuant to an Order of Court or the direction of a Government Agency. The Supplier agrees that it will not sell all or part of its business unless the purchaser has entered into an agreement with the Company (on terms acceptable to the Company) for the preservation of the Confidential Information and to uphold the restraints and other provisions of these Terms and Conditions.

17. GOVERNING LAW

These Terms and Conditions and all Supply Contracts shall be governed by and construed within the laws of Victoria, Australia and the parties submit to the exclusive jurisdiction of the courts of Victoria, Australia.

change in director, shareholder or management or change in partner franchise role or trustee and of the sale of any part of its business within seven (7) days thereof.