

1 Adoption of Terms and Conditions

These Terms and Conditions apply to all transactions between the Company and the Customer relating to the provision of the Goods and Services and include all quotations, agreements and variations. These Terms and Conditions take precedence over any terms of trade contained in any document of the Customer or elsewhere.

2 Definitions

In these Terms and Conditions, unless the context indicates otherwise:

- (a) **Company** means Horizon Print Management Pty Ltd ACN 158 922 242;
- (b) **Customer** means the person identified on a Quote as the customer;
- (c) **Goods** means any goods supplied by the Company including those supplied in the course of providing Services;
- (d) **Intellectual Property Rights** means intellectual property rights at any time protected by statute or common law, including without limitation copyright, trade marks, patents and registered designs;
- (e) **PPSA** means the *Personal Property and Securities Act 2009* (Cth);
- (f) **Production Cycle** means the period of time from the commencement of the Work to the completion of the Work as determined by the Company;
- (g) **Quote** means a written description of the Goods or Services to be provided, an estimate of the Company's charges for the performance of the required work and an estimate of the time frame for the performance of the work;
- (h) **Services** means the services to be provided by the Company to the Customer in accordance with the Quote and these Terms and Conditions;
- (i) **Work** means the work required to be done in order to fulfil the Customer's instructions and requirements as stated in the Quote.

3 Quotes

- (a) The Company may provide the Customer with a Quote which will include an estimated price for the Goods and Services to be provided to the Customer.
- (b) Any Quote issued by the Company is valid for 30 days from the date of issue of the Quote.
- (c) The Quote is based on the current cost of production at the time of preparation of the Quote and is subject to any amendment by the Company before or after acceptance of the Quote to account for any cost or other variation prior to the execution of the Work.
- (d) Following provision of a Quote to the Customer, the Company is not obliged to commence work until the Quote has been accepted by the Customer in writing. Acceptance of the Quote by the Customer also constitutes acceptance of these Terms and Conditions.
- (e) The Customer may accept a Quote:
 - (i) by signing the Quote and returning it to the Company; or
 - (ii) by email confirmation to the Company; or
 - (iii) by providing artwork or proof of the Goods to the Company.
- (f) The Company reserves the right to amend any Quote before the Work has been completed to take in account any rise or fall in the cost of completing the Work. The Company will notify the Customer of any amendment as soon as practicable, at which point the amended Quote will be the estimate or Quote for the purposes of these Terms and Conditions.

4 GST/Customs Duty

Unless otherwise stated in the Quote or these Terms and Conditions, prices quoted or agreed do not include goods and services tax or any other applicable government tax or duty payable either before or after invoice from the Company. The Customer will be liable for and must pay to the Company an amount equivalent to all goods and services tax and any other applicable government tax, duty, charge or levy payable on the Goods or Services.

5 Delivery

- (a) Unless otherwise specified in writing, the price estimated for delivery of the Goods is based on continuous and uninterrupted delivery of complete orders.
- (b) The Customer will be deemed to have accepted the Goods on delivery unless within 6 hours of delivery of the Goods the Customer gives written notice to the Company otherwise.
- (c) For the purposes of clause 5(b) and these Terms and Conditions, delivery of the Goods is deemed to have occurred on the earliest of the following days:

- (i) for unaddressed mail services referred to under clause 26, delivery is deemed to have occurred on the first day of the nominated delivery week as agreed in writing between the Company and the Customer;
- (ii) for delivery of Goods to a third party for insertion into a publication or magazine, delivery is deemed to have occurred on the on-sale date of the publication or magazine;
- (iii) for Goods which are stored or warehoused by the Company or by a third party, delivery is deemed to have occurred on the last date of the end of the Production Cycle, notwithstanding that the Goods may still be stored in the warehouse facility; and
- (iv) for Goods which are delivered to the Customer's nominated address for delivery, delivery is deemed to have occurred on the actual date of delivery.
- (d) All dates specified for delivery of Goods are approximate and the Company will not be liable for any delay in delivery.

6 Invoicing and payment

- (a) After the commencement of the Production Cycle, the Company will issue an invoice to the Customer for the Work.
- (b) Unless otherwise agreed by the Company in writing, the Customer must pay the invoice issued by the Company in full by the earlier of:
 - (i) 30 days from the date of issue of the invoice; and
 - (ii) the end of the Production Cycle.
- (c) The Company may charge interest on amounts not paid within the time frame specified in clause 6(b) at an interest rate that is the Cash Rate Target set by the Reserve Bank of Australia plus 2%.
- (d) For the avoidance of doubt, the parties acknowledge and agree that the Customer's obligation to pay the Company's invoices under this clause 6 is independent of and in no way conditional upon the delivery of any Goods under clause 5.

7 Title and risk

- (a) Risk in the Goods passes to the Customer immediately upon delivery.
- (b) Title in the Goods supplied to the Customer does not pass to the Customer until all money (including money owing in respect of other transactions between the Company and the Customer) due and payable to the Company by the Customer have been fully paid.
- (c) The Customer may sell or otherwise dispose of the Goods in the ordinary course of the Customer's business. If the Customer sells or disposes of the Goods before the Customer has paid for them in full, the Customer agrees that the Company will hold the proceeds of sale or disposal on trust for the Customer to secure payment of the amount the Customer owes to the Company for the Goods.
- (d) Until the Customer has paid for the Goods in full, the Customer agrees:
 - (i) to keep the Goods separately stored and marked as the property of the Company;
 - (ii) that it has no right or claim, to any interest in the Goods to secure any liquidated or unliquidated debt, to any lien over the Goods, or obligation that the Company owes to the Customer; and
 - (iii) to provide the Company access to the premises where the Goods are stored to enable the Company to inspect and/or seize the Goods.
- (e) If the Customer does not pay the Company the amount that the Customer owes the Company for the Goods when due, the Company may retake possession of the Goods. The Customer gives consent to the Company and its representatives to enter any land or premises for the purpose of retaking possession.

8 PPSA

- (a) The Customer acknowledges and agrees this agreement is a security agreement for the purposes of the PPSA and that the Company will, unless otherwise agreed in writing with the Customer, register its security interest in the Goods and their proceeds as a purchase money security interest on the register.
- (b) Where the PPSA applies to action taken by the Company in relation to the Goods the Customer waives its right to receive any notices required under sections 95, 118, 121, 129, 130, 132 and 135 of the PPSA.
- (c) The Customer waives its right under sections 137, 142, 143 and 157 of the PPSA to receive notice of a verification statement.

- (d) The Customer agrees to do all things necessary and execute all documents reasonably required to register the PMSI granted by the Customer under these Terms and Conditions and to ensure that the Company acquires a perfected security interest in the Goods under the PPSA.
- (e) The Customer will, on demand by the Company, pay all of the expenses and legal costs incurred by the Company in relation to the registration and enforcement of the security interest.

9 Suspension or Cancellation of Work

- (a) If, for whatever reason, a Customer suspends any part of the Work for a period of fourteen (14) days or more, or cancels any part of the Work, the Company is immediately entitled to payment in full for the portion of the Work completed including all materials specifically ordered for that Work and any other additional costs, including storage and charges for Goods or Services obtained from any third parties.
- (b) In addition to clause 9(a), if a Customer cancels any part of the Work, the Customer will be liable for and must pay any costs incurred and any loss suffered by the Company that could not reasonably be avoided by the Company including without limitation lost press time at current machine rates and loss as a result of other work not being able to be placed on the press due to the schedule to print the cancelled work.

10 Proofs and Suitability of Goods or Work

- (a) Estimates for printing provide for one low resolution content proof only, which will be supplied upon request by the Customer. The Customer will be charged extra for any additional proofs.
- (b) If the Company submits to the Customer a proof of the Goods, the Company will not be responsible for any errors in the Goods which appeared in the proof and which were not corrected by the Customer before the commencement of the Work.
- (c) If a proof is not requested or is returned to the Company unsigned it will be deemed to have been approved by the Customer and printing will proceed at the Customer's own risk.
- (d) All reasonable efforts shall be made by the Company to obtain the best possible colour reproduction however colour matching to proofs is subject to differences in proofing stock to printed stock and in printing reproduction methods.
- (e) No warranty is given by the Company that the Goods are suitable in size, shape, colour, capacity, quality or otherwise for the purpose for which Goods are ordered and the Company is not liable for any damage resulting from the unsuitability of the Goods for any purpose for which they may be used.
- (f) The strength of perfect binding varies with the quality and absorption values of the paper used and no guarantee is given by the Company in relation to the life of this style of binding.

11 Claims

Any claims against the Company must be made in writing within fourteen (14) days of receipt of the Goods by the Customer. To the extent permitted by law, failure to notify the Company of any potential claim within the specified period will be taken to constitute a waiver of any such claim that could, but for this clause, have been made against the Company.

12 Exclusions and Limitations

- (a) The Customer agrees that the use of the Goods and Services is at the Customer's risk. To the fullest extent permitted by law, the Company's liability for breach of any term implied into these Terms and Conditions by any law is excluded.
- (b) All information and samples provided by the Company in relation to the Goods or Services are approximations only and, subject to any guarantees under the Australian Consumer Law, small deviations or slight variations from them which do not substantially affect the Customer's use of the Goods or Services will not entitle the Customer to reject the Goods upon delivery, or make any claim in respect of them.
- (c) To the fullest extent permitted by law:
 - (i) the Company is not liable for any direct, indirect, punitive, incidental, special, consequential damages or any damages whatsoever arising out of or in any way connected with the provision of Goods or Services;
 - (ii) the Company is not liable for any postage or distribution costs for any item that is incorrectly distributed.

13 Force Majeure

The Company will not be liable for any failure to perform any contractual obligation where such failure is due to events beyond its reasonable control, including but not limited to strike or other industrial action, trade dispute, fire, acts of God, war, tempest, machine breakdown, material shortages or any other occurrence whatsoever preventing or hindering the performance of a contractual obligation.

14 Quantity Delivered

The Company will use its best endeavours to deliver the correct quantity ordered by the Customer but owing to the difficulty of producing exact quantities, estimates and/or orders are conditional upon a margin of ten percent (10%) being allowed for overs or shortages which will be charged for, or deducted from, the amount owing by the Customer in relation to the Goods at the relevant run-on rate.

15 Materials

- (a) At the discretion of the Company, all plates, digital image files and other related items remain the absolute property of the Company and may be destroyed or deleted immediately on completion of Work unless otherwise agreed by the Company in writing.
- (b) Sketches and dummies submitted by the Company on a speculative basis remain the property of the Company. The Customer must keep confidential and must not use any ideas communicated by the Company to the Customer without the Company's prior written consent. The Company is entitled to full compensation from the Customer for any unauthorised use or disclosure of any confidential information.

16 Customer's Property and Material Supplied

- (a) All property and material supplied to the Company by or on behalf of the Customer (including items in transit) will be held at the Customer's risk and the Company accepts no liability whatsoever for loss of or damage to, nor for the insurance of, such property or material.
- (b) The risk and cost of all spoilage of materials supplied by the Customer must be borne by the Customer.
- (c) Where the Customer supplies materials, adequate quantities must be supplied to cover spoilage.
- (d) If the Customer leaves property and materials with the Company without specific instructions, the Company is free to dispose of them at the end of 3 months after receipt from the Customer.
- (e) Where materials or equipment are supplied by the Customer, the Company accepts no responsibility for imperfect work caused by defects in or unsuitability of such materials or equipment.
- (f) The Company accepts no responsibility for the content and accuracy of materials or input supplied by the Customer and will not be responsible for checking or correcting errors contained within the material or input supplied by the Customer.
- (g) Unless otherwise indicated in writing, the Company will assume that all data supplied by the Customer and/or other authorised persons are duplicate copies of the original.
- (h) No liability will be assumed by the Company for problems that may be encountered as a result of the inability to work with material supplied by the Customer in a digital format. Any additional cost incurred by the Company to edit or alter these digital files in order for them to be used as intended by the Company will be charged to the Customer at the Company's current rates.

17 Intellectual Property

- (a) The Customer warrants that it owns all Intellectual Property Rights in all data and material supplied to the Company for the purposes of the order or has a licence to authorise the Company to reproduce or use all copyright works or other materials the subject of Intellectual Property Rights supplied by the Customer to the Company for the purposes of the Customer's order.
- (b) The Customer indemnifies the Company against all liability, losses or expenses incurred by the Company in relation to or in any way directly or indirectly connected with any breach of any Intellectual Property Rights in relation to any material supplied by the Customer.
- (c) Subject to payment of all invoices due in respect of the Goods or Services, the Company grants to the Customer a perpetual, non-exclusive licence to use the works created or produced by the

Company in connection with the provision of Goods or Services under these Terms of Trade for the purposes contemplated by the Customer's order.

18 Illegal Matter

- (a) The Company is not required to print any material or matter which in its opinion is or may be of an offensive, illegal or libellous nature or which may involve any infringement of any third party rights or which would otherwise involve any criminal or tortious liability of any kind.
- (b) The Customer indemnifies the Company against all actions, claims, demands, costs and expenses of whatever nature which the Company may suffer, incur or sustain in connection with, or arising in any way whatsoever from the Goods.

19 Additional Charges

Charges for all work not specifically allowed for in the estimation (including author's corrections and reproofing) must be borne by the Customer.

20 Outside Work

In carrying out this agreement with the Customer, the Company may obtain goods or services or both from a third party and at its absolute discretion, the Company may engage any one or more third party suppliers as the Company deems necessary or appropriate unless otherwise agreed by the parties in writing. The purchase and supply of goods or services from any third party may be subject to any terms and conditions which the third party supplier may have.

21 Imprints

Imprints or any legal obligations required to appear on any printed material are the responsibility of the Customer. The Company reserves the right to place its imprint on all printed material unless specifically requested otherwise by the Customer.

22 Assignment of Debts

The Company reserves the right to assign any unpaid debts owed to the Company by the Customer to any associated or related entity and if that entity has a valid and enforceable security against the Customer, that security may be enforced in part or total settlement of the relevant debt. Conversely, any security entered into in relation to this agreement between the Company and the Customer may be used at the Company's discretion for the satisfaction of any unpaid debts of the Customer assigned to the Company by any associated or related entity.

23 Packing

Any packing of Goods, other than the Company's normal commercially acceptable packing required by a Customer will be charged separately as an additional charge unless expressly stated in writing on the Quote.

24 Authority to Obtain Credit Information

The Customer authorises the Company to obtain credit reports from a credit agency in order to ascertain whether credit will be provided or continue to be provided to the Customer. The Company may also contact any of the trade reference contacts provided by the Customer to make the necessary enquiries in order to assess the credit worthiness of the Customer.

25 Jurisdiction and Validity of Clauses

This agreement is to be governed by the laws applicable in the place where the Goods are to be produced or the Services performed. The invalidity of any clause or part of a clause shall not affect any other clause or any other part of the clause.

26 Postage, Delivery and Distribution of Addressed and Unaddressed Mail, Inserts and other collateral

- (a) The Company may at its absolute discretion engage or use mailing houses, courier services, magazines, newspapers and/or other forms of media, including letterbox distributors and Australia Post to fulfil the Company's obligations with respect to postage, delivery and distribution of the Customer's Goods. The Company will not be liable or held responsible for any costs, expenses, damages or claims associated with any of the following:
 - (i) late or delayed delivery;

- (ii) incorrect material being inserted, distributed or delivered;
- (iii) materials not packed or delivered in accordance with specific requirements, unless otherwise agreed in writing;
- (iv) overweight mail packs or inserts.
- (b) With respect of any services provided by Australia Post, the Customer acknowledges and agrees as follows:
 - (i) With respect to unaddressed mail service (**UMS**) distribution, the Customer acknowledges that Australia Post is the sole distributor of lodged articles. As such, the *Australian Postal Corporation Act 1989* (Cth) applies, as do the Australia Post Terms and Conditions as set out under section 32 of the Act. These are found at <http://www.auspost.com.au>.
 - (ii) The Customer agrees that the Company is not responsible in any way for any issues arising from the distribution of client UMS articles by Australia Post. Delivery of the articles will be by Australia Post through its UMS facility. In the event of any dispute, the confirmation statement issued by Australia Post for the articles in question shall be accepted by the Customer as conclusive evidence of the extent of the distribution of the articles.
 - (iii) The Customer accepts all responsibility for articles to meet the Australia Post UMS criteria. Any charges for non-compliant articles will be required to be paid by the Customer. Once an article is lodged and mailed with Australia Post, an article cannot be cancelled, retrieved or tracked and full distribution charges will occur.
 - (iv) Australia Post endeavours to deliver in the week commencing on the booking date agreed to, regardless of weather. The Company will not be responsible for any Australia Post delivery delays or impacts due to force majeure events such as bushfires and floods.
 - (v) Where addressed mail service is required, lodgement will be made with Australia Post and the Australia Post General Terms & Conditions will apply. These are found at <https://auspost.com.au/terms-conditions/general-terms-conditions>.

27 Termination

- (a) The Company may suspend or terminate any agreement between the Company and the Customer with immediate effect if the Customer:
 - (i) is in breach of any provision of this or any other agreement and fails to remedy this breach within 7 days of the Company giving written notice to the Customer to do so; or
 - (ii) is in breach of a material provision of this or any other agreement where the breach is not capable of remedy; or
 - (iii) ceases to pay their debts when they fall due; or
 - (iv) becomes subject to insolvency administration or any step is taken by a mortgagee to take possession or dispose of the whole or any part of the Customer's assets.
- (b) If the Company suspends or terminates this agreement under clause 27(a), the Company will be immediately entitled to invoice the Customer for any work in progress under the agreement at the Company's current rates without limiting any other remedy which may be available to the Company including seeking compensation for any loss or damage suffered by the Company.

28 Storage and warehousing

- (a) The Company may provide storage or warehousing services as part of the Services.
- (b) If the Company provides storage or warehousing services to the Customer as part of the Services, the Customer agrees that unless otherwise agreed by the parties in writing, the following terms will apply:
 - (i) the Goods will be held by the Company on the Customer's behalf at the relevant warehouse facility for a maximum period of twelve (12) weeks;
 - (ii) if, after the twelve (12) week period, the Goods are still required to be stored by the Company at the relevant warehouse facility, then the Company may at its sole discretion and by written notice to the Customer, charge the Customer for storage costs based on the costs incurred by the Company to store the Goods;
 - (iii) if, after a period of twenty six (26) weeks, the Customer fails to request delivery of the Goods or fails to request an extension of the period of storage at the warehouse facility or does not respond to the Company's written communication within seven (7) days with respect to the Goods in the warehouse facility, then the Company may at its sole discretion declare and deem the Goods abandoned; and

- (iv) if the Goods are declared or deemed abandoned by the Company under clause 28(b)(iii), the Company may at its sole discretion recover from the Customer the costs associated with the abandonment, including without limitation the management time and transport and rubbish removal fees incurred by the Company. The Customer must pay or reimburse the Company for the costs associated with the abandonment within fourteen (14) days of receiving a written notice from the Company.