



## **muk mat - Wholesaler Terms & Conditions**

*Last Updated: 26 May 2023*

### **1. General**

- 1.1. If you register and make a wholesale purchase via this website, you are agreeing to comply with and be bound by the following terms and conditions (the Agreement), as well as the terms and conditions of our Privacy Policy, Website Terms and Shipping Policy, which together, govern our relationship with you.
- 1.2. By applying for a wholesale account and/or placing an order for muk mat products as a wholesale customer, you accept and agree to be bound by the terms of this Agreement.
- 1.3. For the purposes of this Agreement, "us", "our", "we" and "muk mat" refers to muk mat (BURLEIGH LIFE PTY LTD) and "Stockist", "you" and "your" refers to the legal entity specified in your Wholesale Account Application Form.
- 1.4. We may modify and update the terms of this Agreement at any time, without notice. You need to ensure you review the terms of this Agreement from time to time.
- 1.5. muk mat will not be responsible for any direct or consequential loss to the Customer arising out of failure, error or defect by muk mat or agents under the terms of the contract, except in so far as required at law including by the Trade Practices Act.
- 1.6. Wholesale accounts are registered subject to acceptance by muk mat. Upon being accepted, the customer will be given access to wholesale pricing for approved products.
- 1.7. Wholesale accounts must represent muk mat products, brands etc in a manner that is not unfairly damaging or detrimental.
- 1.8. Wholesale accounts can be canceled at any time by muk mat, and without prior advice.

### **2. Appointment of Stockist**

- 2.1. muk mat appoints the Stockist as a non-exclusive stockist to sell and market the Goods to retail customers from the Agreed Premises on the terms and conditions of this Agreement.
- 2.2. muk mat retains the unrestricted right to enter into agreements with other stockists for the sale of the Goods, and to sell the Goods directly to customers anywhere, at any time, without liability or obligation to the Stockist of any kind.
- 2.3. Stockist may not appoint sub-agents or sub-distributors to sell and distribute the Goods without our prior written consent.

### **3. Term**

- 3.1. This Agreement commences on the "Approval" Date and continues until terminated in accordance with the terms of this Agreement. "Approval" date is the date in which your application has been approved and you have been notified.

## **Supply of Goods**

### **4. Orders**

- 4.1. The Stockist shall submit orders for Goods via the [www.mukmak.com](http://www.mukmak.com) website or via email to [suzanne@mukmat.com](mailto:suzanne@mukmat.com).
- 4.2. The Stockist agrees to place orders based on minimum order requirements outlined in Appendix A.
- 4.3. We may refuse to supply Goods to you if any amount due and payable by you, to us, (under this Agreement or any other agreement) is outstanding or if either party has issued a termination notice under the terms of this Agreement.

### **5. Changes to Goods**

- 5.1. We reserve the right absolutely at any time and without notice or incurring any liability to the Stockist to:
  - 5.1.1. discontinue or limit its production of any of the Goods;
  - 5.1.2. terminate or limit deliveries of such discontinued or limited Goods;
  - 5.1.3. discontinue or limit its supply (whether temporarily or permanently) of certain Goods;
  - 5.1.4. alter the design, construction, specifications, features or attributes of any of the Goods; and/or
  - 5.1.5. add new, different, modified and/or extra products or lines of products to the Goods.

### **6. Stockist Obligations**

7. The Stockist must:
  - 7.1. only stock, store, sell and offer for sale, Goods acquired from muk mat, and from no other source;
  - 7.2. only stock, store, sell and offer for sale for consumption by its retail customers the Goods from the Agreed Premises and no other premises;
  - 7.3. use its best efforts to sell and promote the Goods and the muk mat brand generally;
  - 7.4. conduct its business according to the highest business standards;
  - 7.5. purchase all Goods launched by muk mat from time to time;
  - 7.6. range the Goods to be sold as agreed by the Stockist and muk mat from time to time;
  - 7.7. not sell or offer the Goods for sale outside of Australia or anywhere including within Australia by mail, internet, telephone or other electronic means, without our prior written consent;
  - 7.8. not break up any promotional packs of Goods as provided by muk mat;
  - 7.9. not sell, or offer for sale, any gifts with purchase, bonus stock, samples or testers, or promotional or advertising material;
  - 7.10. maintain sufficient inventory to meet anticipated retail demand
  - 7.11. use its reasonable endeavours to notify muk mat of any potential shortages to ensure that an appropriate range of the Goods is maintained at all times;
  - 7.12. store Goods in suitable conditions, and supply only those in good condition;
  - 7.13. make clear, in all dealings with customers and prospective customers, that Stockist is acting as a stockist of the Goods, and not as a direct agent for muk mat;
  - 7.14. act in good faith at all times towards muk mat and cooperate with and provide all reasonable assistance to muk mat upon muk mat's request;
  - 7.15. not engage in misleading or deceptive conduct in accordance with section 18 of the Australian Consumer Law;
  - 7.16. not engage in bribery or corruption;
  - 7.17. obtain independent legal, accounting and business advice and, if required in order to understand the terms of this Agreement, a translation of this Agreement into another language, prior to entering into this Agreement;
  - 7.18. comply fully with any and all applicable laws, regulations and codes of practice; and
  - 7.19. comply with all other obligations set out in this Agreement.

8. If the Stockist is the trustee of a trust, the Stockist acknowledges that:
  - 8.1. (a) this Agreement applies to the Stockist in its individual capacity and as trustee of the trust; and
  - 8.2. (b) its own assets and the assets of the trust are available (and are sufficient) to meet its payment obligations under this Agreement.
9. The Stockist must immediately notify muk mat in writing of any change to the Stockist's details listed on the Wholesale Account Application Form.

## **10. Marketing and Advertising**

- 10.1. The Stockist must use its best efforts to promote, advertise, market, sell and distribute the Goods to retail customers at the Agreed Premises.
- 10.2. All advertising and promotional activities by the Stockist must comply with muk mat's merchandising, trademark, marketing and communications guidelines and policies, as may be communicated to the Stockist by muk mat from time to time.
- 10.3. The Stockist must maintain the highest standards of presentation of the Goods and services at the Agreed Premises. muk mat will notify the Stockist of presentation standards and of any changes to those standards. In order to maintain these standards, the Stockist must (without limitation):
  - 10.3.1. display, within the Agreed Premises, such promotional material as is supplied by muk mat in accordance with muk mat's reasonable direction;
  - 10.3.2. only use muk mat supplied promotional material to promote muk mat products;
  - 10.3.3. comply with merchandising programs including planograms and Display standards imposed by muk mat, which may be varied from time to time;
  - 10.3.4. ensure that the Goods and the muk mat display are kept clean at all times;
  - 10.3.5. inform muk mat well in advance of special advertising campaigns or other activities proposed by the Stockists that might create unexpected demand for the Goods;
  - 10.3.6. refrain from engaging in any marketing or advertising of a nature which might harm the brand image of muk mat;
  - 10.3.7. maintain an environment of high quality which is compatible with the muk mat brand image; and
  - 10.3.8. participate in any advertising or sales promotion programs and any customer relationship management programs that may be offered by muk mat and on such terms and conditions which may be agreed between muk mat and the Stockist.
- 10.4. The Stockist must not use, display, advertise or promote the Goods or muk mat Intellectual Property via any medium without the prior written consent of muk mat. muk mat may withhold consent in its absolute discretion. Failure by the Stockist to obtain such approval will entitle muk mat, without prejudice to any other rights muk mat may have against the Stockist, to terminate this Agreement.
- 10.5. The Stockist must not repackage Goods, alter the packaging of Goods, apply anything to the Goods other than prices and the Stockist identification, or market the Goods in altered, defaced, damaged or substituted packaging.

## **11. POS Materials**

- 11.1. muk mat may from time to time provide the Stockist with POS Materials for the sale and promotion of the Goods. The Stockist acknowledges that muk mat owns all rights, including copyright and other Intellectual Property rights, in all POS Materials. The Stockist further acknowledges that all POS Materials are and will remain at all times the property of muk mat, whether or not the Stockist has made any payment or contribution in respect of them.
- 11.2. The Stockist must use the POS Materials provided from time to time by muk mat in accordance with muk mat's directions, except as otherwise expressly agreed by muk mat in writing. The Stockist must keep such POS Materials clean, properly maintained, and in good condition and use. The Stockist will use such POS Materials only in conjunction with the sale of the Goods at the Agreed Premises. The Stockist will comply with all instructions and recommendations of muk mat regarding the maintenance, use (including the period of time a certain POS Material is to be displayed), location, and removal of POS Materials. The Stockist

will not purchase or manufacture its own POS Materials except with muk mat's prior written consent.

- 11.3. The Stockist must only use muk mat POS Materials provided by muk mat and not provided or produced by another party.
- 11.4. Upon expiry or termination of this Agreement for any reason, the Stockist must immediately cease to use all POS Materials, and shall return all POS Materials to muk mat at the Stockist's own cost, or dispose of the POS Materials if directed by muk mat in writing.

## **12. Displays**

13. muk mat may prescribe Displays from time to time. Unless otherwise agreed by muk mat in writing:
  - 13.1. the Stockist must install and use the amount and type of Displays that may be specified in writing by muk mat from time to time and within any time frames that may be notified to the Stockist by muk mat; and
  - 13.2. where a Display has been prescribed for a specific Good, the Stockist must not display that Good except using the prescribed Display.
14. The Stockist must at all times:
  - 14.1. keep the Displays clean and in good condition and use;
  - 14.2. install and use the Displays only at the Agreed Premises, unless otherwise agreed by muk mat in writing;
  - 14.3. use the Displays only in conjunction with the sale of the Goods;
  - 14.4. where muk mat specifies that particular Goods or complementary third party products should be displayed on a Display, use the Display only in conjunction with those specified Goods or complementary products; and
  - 14.5. comply with all instructions and recommendations of muk mat regarding the installation, maintenance, use, location and removal of Displays.
15. The Stockist is responsible for making any alterations to the Agreed Premises necessary to accommodate the Displays, and for all associated costs, and must comply with any reasonable directions given by muk mat in respect of such alterations.

## **16. Upon**

- 16.1. expiry or termination of this Agreement for any reason either as a whole or in respect of particular Agreed Premise;
- 16.2. a particular Good becoming obsolete or muk mat ceasing to supply a particular Good to the Stockist; or
- 16.3. the request of muk mat,
- 16.4. the Stockist must cease using such Displays as may be specified by muk mat in writing.
- 16.5. Unless purchased by Stockist, and paid for in full, the Displays will at all times remain the sole and exclusive property of muk mat and the Stockist will not obtain any rights in respect of the Displays. Risk in Displays provided by muk mat will pass to the Stockist upon delivery by muk mat or its agent to the Stockist and from the time of delivery the Stockist:
  - 16.5.1. will bear all risk of loss, theft, damage and destruction of the Displays, except normal wear and tear;
  - 16.5.2. must ensure the Displays for their full insurable or replacement value (whichever is the higher), or such amount as may be notified by muk mat in writing from time to time; and
  - 16.5.3. will reimburse muk mat for any repairs to or replacement of the Displays or part thereof or for the reduction in value of the Displays in the event that any of them are lost, stolen, damaged or destroyed, excepting normal wear and tear.

## **17. Customer Complaints**

- 17.1. If any customer complaint concerning the Goods is received by the Stockist, the Stockist must:
  - 17.1.1. promptly inform muk mat of all the details of the complaint within 5 Business Days of receipt of the complaint;
  - 17.1.2. allow muk mat access to any documentation or Goods requested by muk mat in order to investigate the complaint; and

- 17.1.3. cooperate with and provide all reasonable assistance to muk mat in dealing with the complaint.
- 17.2. Any Goods the subject of a customer complaint that are returned to muk mat without muk mat's prior written consent will not be credited to the Stockist.
- 17.3. Any product that is defective and returned by the customer due to product fault must be replaced by the stockist. Upon notification, muk mat will issue a credit note to the supplier.

## **18. Liability and Indemnity**

- 18.1. Except as expressly provided in this Agreement and to the full extent permitted by law, muk mat will not be liable for any loss or damage, including loss of profits, loss of business, loss of goodwill or any other special, incidental, indirect or consequential damages whatsoever (and whether caused by the negligence of muk mat or its employees or agents or otherwise) arising out of or in connection with any act or omission of muk mat relating to the manufacture or supply of the Goods, their resale by the Stockist or their use by any end-user, whether for breach of contract, tort (including negligence and strict liability), or otherwise, even if muk mat has been advised of the possibility of such damages.
- 18.2. Where legislation implies into this Agreement any condition or warranty or provides any other rights or remedies, which avoid or prohibit provisions in a contract excluding or modifying the application of, or exercise of, or liability under such condition or warranty or other rights or remedies, the liability of muk mat to the Stockist for any breach of the condition or warranty or under any other rights or remedies will be limited, at the option of muk mat, to one or more of the following:
  - 18.2.1. if the breach relates to products:
    - 18.2.1.1. the replacement or the repair of the products, or the supply of equivalent products; or
    - 18.2.1.2. the payment of the costs of replacing or repairing the products, or acquiring equivalent products; or
  - 18.2.2. if the breach relates to services, the supply of the services again or the payment of the cost of having the services supplied again.
- 18.3. The Stockist will indemnify muk mat in respect of any and all loss, expenses, damage or liability (including reasonable legal fees), suffered or incurred directly or indirectly by muk mat as a result of or relating to any claim, proceeding, action, liability or injury arising out of or relating to:
  - 18.3.1. the Stockist's conduct of its business, including its relations with its customers and other third parties;
  - 18.3.2. any breach of this Agreement by the Stockist (or any of its officers, employees, agents and sub-contractors), or any negligent acts or omissions, of or by the Stockist or any of its officers, employees, agents or sub-contractors;
  - 18.3.3. any unauthorised promise, representation, warranty, act, statement or omission by the Stockist or its officers, employees, agents and sub-contractors;
  - 18.3.4. any unauthorised modifications to the Goods; or
  - 18.3.5. any unauthorised use of muk mat's Intellectual Property.

## **19. Change in Control**

- 19.1. The Stockist must notify muk mat in writing of any change to its directors, owners or shareholders (or the shareholding percentages). muk mat may, in its absolute discretion, terminate this Agreement on receiving such notice.

## **20. Acceptance, Shipping & Delivery**

- 20.1. The customer is responsible for the entire shipment, as-is, once the receipt of goods has been signed/accepted from a freight company. Any discrepancies should be noted on the bill of lading prior to accepting the delivery.
- 20.2. Claims for faulty goods, shortages or errors in shipments must be made within seven (7) days of receipt, in writing to [hello@mukmat.com](mailto:hello@mukmat.com)
- 20.3. No returns for credit or replacement will be accepted without prior authorisation from muk mat.

- 20.4. If muk mat has agreed in writing to accept returned goods – these are to be in saleable condition and returned to our warehouse at the expense of the applicant. muk mat reserves the right to charge a handling/restocking fee of 5% of total goods returned. Please order carefully, as we do not support CHANGE of MIND on products.
- 20.5. Photos of faulty or damaged product may be required, prior to any claim being processed.
- 20.6. muk mat does not offer product for SALE OR RETURN (Consignment).

#### **Appendix A**

- 1. Minimum Order Requirement (MOQ) is set at 30 mats per individual order.
- 2. Payment terms are 30 days from the date of invoice.