

TERMS AND CONDITIONS OF TRADE

1. Agreement

- 1.1 These Terms and Conditions (**Conditions**) are an offer open to acceptance by the person or entity (**Client**) to whom they are given, or who has accepted them as part of placing an order for the provision of Goods and/or Services by the Company, or who has visited the website of the Company at the URL <https://futura designs.com.au/> (**Website**) whereat a copy of these Conditions is available to the public. The Client may accept these Conditions expressly or through conduct by requesting, permitting or allowing the Company to provide the Goods and/or Services.
- 1.2 Upon acceptance, C. R. Brice and R. R. McDermid trading as Futura Designs (ABN 73 420 042 047), of 184 Cudmore Terrace, Henley Beach SA 5022 (**Company**) agrees to provide the Goods and/or Services to the Client subject to these Conditions.
- 1.3 Except to the extent otherwise explicitly agreed in writing between the parties, these Conditions govern the relationship between the Company and the Client in relation to the Goods and/or Services and will prevail over any other document, including any terms and conditions of the Client, to the extent of any inconsistency.
- 1.4 The Client acknowledges that it has not relied on any representation, inducement, warranty or promise which is not set out in these Conditions.
- 1.5 These Conditions may only be varied by both parties' agreement in writing.

2. Goods and/or Services

- 2.1 The Company shall provide the Client with the Goods and/or Services as requested by the Client, at a time agreed between the parties or in the absence of any agreement, as soon as is reasonably practicable to the Company.
- 2.2 The Goods and/or Services are those Goods and/or Services described or set out in any order, correspondence or other communication from the Client (**Goods and/or Services**).

3. Price and Payment

- 3.1 The Price payable for the Goods and/or Services is the amount agreed or charged by the Company as recorded in any quotes, orders, emails, invoices or other document, or as otherwise notified by the Company to the Client in writing (**Price**).
- 3.2 The Client must pay the Price for the Goods and/or Services prior to the Company providing such Goods and/or Services, or otherwise at the Company's request.
- 3.3 All prices advertised exclude freight delivery costs. Delivery charges are calculated depending on the delivery postcode, the weight and physical dimensions of the Goods. The Company will display or make reasonably available the full price including freight (and optional Transit Insurance) prior to the Client making any purchase.
- 3.4 The Company may, in its discretion, refer any unpaid accounts to an external debt collection agency. In that event, any fees and charges incurred by the Company comprise a debt immediately due and payable by the Client on demand by the Company.
- 3.5 The prices listed in any quotation do not include any statutory or Government charges unless expressly stated otherwise. Should any such charges or any other tax become applicable to the Goods and/or Services such tax or charge shall be charged to and paid for by the Client.
- 3.6 Notwithstanding anything else in these Conditions, if the Company has any liability to pay the Goods and Services Tax (**GST**) on any materials and/or services supplied herein to the Client, the Client shall pay to the Company the amount of such GST at the same time as amounts otherwise payable to the Company.

4. Shipping, Delivery and Freight of Goods

- 4.1 When placing an order, the Client may elect for the Goods to be shipped via:
 - 4.1.1 Standard postage (via Australia Post); or
 - 4.1.2 Express Postage (via Australia Post).
- 4.2 Orders are generally dispatched within 24 hours (excluding weekends) from the time the order is placed. The Company endeavours to dispatch orders within 1-3 business days of receipt, or within 14 business days for special order or bespoke items. However, during peak times (such as Christmas, Easter, Black Friday and Public Holidays), dispatch times may be slightly longer. The Company makes no guarantee or representation as to when Goods will be dispatched.
- 4.3 The Company will provide notification to the Client once the Goods are dispatched. All packages are trackable, and the Client will receive regular updates on the status of the delivery of the Goods as they are in transit following dispatch.
- 4.4 The maximum package length that can be sent through Australia Post is 105cm and the maximum weight is 22kg. Anything outside these parameters will be sent via courier. Parcels exceeding these dimensions cannot be delivered to PO Boxes or Parcel Lockers.

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- 4.5 The Client may, at its election, request "Authority To Leave" in the order notes at the time of placing an order
- 4.6 If "Authority To Leave" is requested, the Client accepts sole responsibility for delivery of the Goods once they have been dispatched by the Company. The Company will consider that delivery of Goods has been successfully made if the courier or postal service reports that the Goods have been delivered. The Company expressly disclaims any liability to the Client in any manner or on any account whatsoever, including in relation to allegations of non-delivery or theft, if the Goods are delivered pursuant to an "Authority To Leave" instruction provided by the Client, even if optional Transit Insurance (as set out below at clause 5) is purchased by the Client.
- 4.7 Alternatively, the Client can elect to collect the Goods from the Company's Henley Beach location. If this option is chosen, the Client will receive a notification when the Goods are available for collection, along with details of the store location from which they may be collected.

5. Insurance - Covering Loss/Damage In Transit

- 5.1 All freight carriers used by the Company are general carriers and therefore do not cover damage or loss of goods in transit.
- 5.2 The Company offers a simple insurance option, that is calculated at 2% of the value of Goods (starting at \$0.75) (**Transit Insurance**). If included at the Client's election at the time of placing an order, the Goods will be insured against damage and/or loss in transit.
- 5.3 Transit Insurance is offered on an "Opt-Out" basis for orders up to \$5,000 in value. The Client may de-select that option prior to placing an order, but by doing so the Client expressly accepts all risk in relation to the Goods once they have been dispatched by the Company. The Company expressly disclaims any liability to the Client in any manner or on any account whatsoever, including in relation to allegations of non-delivery or theft, if Transit Insurance is not purchased by the Client.
- 5.4 Transit Insurance will cover:
- 5.4.1 damage to the Goods from the point of dispatch to the point of delivery; and
- 5.4.2 Goods lost in transit from the point of dispatch to the point of delivery.
- 5.5 Transit Insurance will not cover:
- 5.5.1 any Goods stolen from the delivery address after the carrier has successfully delivered the package; and
- 5.5.2 Goods delivered under an "Authority To Leave".

6. Returns and Refunds

- 6.1 The Client may have rights under the Australian Consumer Law which cannot be modified or excluded.
- 6.2 In addition to any such rights, the Company offers a 7-day "change of mind" policy.
- Change of Mind Policy
- 6.3 If the Client changes their mind and wishes to return any Goods purchased from the Company, subject to the Company's approval, the Goods may be returned within 7 days from the date of receiving item (if the Goods were delivered) or within 7 days from collecting the Goods in-store.
- 6.4 The Client may request a return by email to sales@futuradesigns.com.au
- 6.5 The Client is responsible for the cost of return freight, and bears all risk in respect of the Goods until they are received by the Company.
- 6.6 Once a request for return has been approved by the Company, the Client must clearly mark their name and contact details on the packaging of the Goods being returned. The Goods must be in unused condition, and must be wrapped/packaged so the return label is attached to the packaging and not the Goods directly.
- 6.7 Any Goods returned other than in accordance with these Conditions will not be accepted under the "change of mind" policy. Once the Company has received the Goods in satisfactory resalable condition, the Company will issue a store credit for the full cost of the Goods (but excluding the original cost of freight and any Transit Insurance).

7. Limitation of Liability and Indemnity

- 7.1 For the purposes of these Conditions:
- 7.1.1 **Australian Consumer Law** means Schedules 1 and 2 of the *Competition and Consumer Act 2010* (Cth) and any other relevant provisions contained in that Act;
- 7.1.2 **Consumer** has the meaning in the Australian Consumer Law;

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- 7.1.3 **Consequential Loss** means loss of revenue, loss of profits, loss of anticipated savings or business, loss of data, loss of value of equipment (other than cost of repair), loss of opportunity or expectation loss and any form of consequential, special, indirect, punitive or exemplary loss or damages, however it arises (including as a result of negligence); and
- 7.1.4 **Loss** means any liability however it arises (including as a result of negligence) and includes any loss, claim, damage, demand, injury or death and a fine or penalty imposed by a statutory or other authority.
- 7.2 If the Client is not a Consumer, the Company shall not be liable in any circumstances:
- 7.2.1 for any Loss arising from disruption or delay; and
- 7.2.2 for any Consequential Loss.
- 7.3 Subject to clause 8, the Company's total aggregate liability in all circumstances is limited (to the extent permitted by law) in respect of any Goods and/or Services to the Price paid by the Client for the relevant Goods and/or Services.
- 7.4 To the maximum extent permitted by law, the Client hereby indemnifies and forever holds harmless the Company from all Losses caused or contributed to by an act or omission by the Client or any breach of these Conditions by the Client, or caused by the Company arising from performing the Goods and/or Services in accordance with these Conditions.

8. Limitation of Liability – Australian Consumer Law Guarantees

- 8.1 If the Client is a Consumer and any of the Goods and/or Services supplied by the Company are not Goods and/or Services of a kind ordinarily acquired for personal, domestic or household use or consumption, the Company's liability for a failure to comply with a consumer guarantee under the Australian Consumer Law in relation to those Goods and/or Services is limited to, at the option of the Company:
- 8.1.1 the supply of the Goods and/or Services again; or
- 8.1.2 the payment of the cost of having the Goods and/or Services supplied again.

9. General

- 9.1 The Company may terminate these Conditions by giving the Client notice in writing if any of the following happen:
- 9.1.1 The Client fails to pay the Price within the time for payment under these Conditions.
- 9.1.2 The Client becomes bankrupt or appoints a voluntary administrator or any party applies to wind up the Client.
- 9.1.3 The Client is in breach of this Contract and fails to rectify that breach for a period of 5 business days after the Company, in writing, requires the Client to rectify the breach.
- 9.2 Prices shown on the Website are in Australian dollars and include GST where applicable. Prices are subject to change.
- 9.3 Images of products shown without any advertised Price beside that image are not offered for sale.
- 9.4 Unless otherwise stated, any accessories shown in any image of products are not included in the Price.
- 9.5 The Company reserves the right to correct any errors published on the Website.
- 9.6 Special order products, being those which the Company sources from third-party suppliers, cannot be cancelled once the order has been placed with the third-party supplier. The Client agrees to indemnify the Company for any costs incurred by the Company if the Client cancels any such special order product.
- 9.7 If the Company has provided the Client with any information (including any advice) in connection with the Goods and/or Services, the Client acknowledges that it has formed its own opinion as to the correctness or otherwise of the information and has not and will not rely on the Company in respect of such information.
- 9.8 Any provision of these Conditions which is unenforceable or partly unenforceable is, where possible, to be read down so as to be enforceable, and if it cannot be read down, severed to the extent necessary to make these Conditions enforceable, unless this would materially change the intended effect of these Conditions.
- 9.9 The Client may have the benefit of certain statutory guarantees relating to the Goods and/or Services pursuant to the *Competition and Consumer Act 2010* (Cth). Otherwise, to the maximum extent permitted by law, all terms, conditions or warranties that would be implied into these Conditions by law or in connection with the supply of the Goods and/or Services by law, statute, custom or international convention (including, but not limited to, those relating to quality or fitness for purpose) are excluded.
- 9.10 These Conditions are governed by the laws of the State or Territory in which the Goods and/or Services are supplied / performed. The parties submit to the non-exclusive jurisdiction of the courts of that State or Territory and any courts which may hear appeals from those courts.
- 9.11 These Conditions are not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of these Conditions to protect itself.