

1. GENERAL

These terms and conditions constitute the agreement between parties relating to the supply of Goods by Total Choice Packaging Pty Ltd to the Purchaser. These terms and conditions shall apply to the exclusion of any other agreement including any terms and conditions of the Purchaser (whether on the Purchaser's order form or otherwise). By ordering any Goods, the Purchaser is deemed to agree to be bound by these terms and conditions.

2. DEFINITIONS

Total Choice Packaging means Total Choice Packaging Pty Ltd.

Purchaser means the person placing an order to purchase Goods from Total Choice Packaging.

Goods means goods supplied by Total Choice Packaging the subject of the order. GST means Goods and Services Tax payable under the A New Tax System (Goods and Services Tax) Act 1999.

Insolvency Event means the happening of any of the following events in relation to the Purchaser:

(a) being a company, the appointment of an administrator or controller (within the meaning of section 9 of the Corporations Act 2001 (Cth)) or receiver or provisional liquidator or liquidator over the relevant company, the directors of the relevant company resolving that the company be wound up, the making of an order of a Court that the company be wound up or the company being deregistered for any reason or anything analogous to or having a similar effect under the law of any relevant jurisdiction; or

(b) being an individual, the appointment of a trustee or controlling trustee (within the meaning of the Bankruptcy Act) over the affairs of the person, or the person being an insolvent under administration (as defined under the Corporations Act 2001 (Cth)).

3. INTERPRETATION

Any references in these terms and conditions to: the singular includes a reference to the plural and vice versa; and legislation includes a reference to that legislation as amended or replaced from time to time and to any rulings or regulations issued in relation to that legislation.

4. PRICES

The prices for the Goods are the prices contained in Total Choice Packaging's price list in effect at the time the Goods are ordered and are subject to change without notice.

5. GST

The prices for the Goods are exclusive of GST. The Purchaser will be charged GST on all Goods purchased with the exception of goods that are specifically exempt from GST.

6. PAYMENT

Payment is to be made at the time of dispatch, or otherwise determined by Total Choice Packaging. Payment must be made by cash, credit card, and direct deposit or as otherwise specified by Total Choice Packaging. Credit card payments may attract a credit card surcharge at the rate notified by Total Choice Packaging from time to time.

7. PAYMENT DEFAULT

(a) If the Purchaser defaults in payment by the due date of any amount payable to Total Choice Packaging or an Insolvency Event occurs in respect of the Purchaser, then all money which is payable by the Purchaser to Total Choice Packaging or would become payable by the Purchaser to Total Choice Packaging at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Purchaser, and Total Choice Packaging may, without prejudice to any other remedy available to it:

- (i) charge the Purchaser for all expenses and costs (including legal costs on a full indemnity basis) reasonably incurred by Total Choice Packaging resulting from the default and in taking whatever action it deems necessary to recover any sum due;
- (ii) take all necessary action in respect of the Goods in accordance with clause 8;
- (iii) cease or suspend for such period as Total Choice Packaging thinks fit, supply of any further Goods to the Purchaser; or

(b) Total Choice Packaging reserves the right, at any time and in its absolute discretion, to withdraw credit facilities or impose conditions on them.

8. TITLE and SECURITY

(a) For the purposes of this clause, "PPSA" means the Personal Property Securities Act 2009 (Cth) and a term contained in this clause that is defined in the PPSA has the meaning given to it in the PPSA.

(b) The Purchaser acknowledges and agrees with Total Choice Packaging that:

- (i) these terms and conditions constitute a security agreement for the purposes of the PPSA;
- (ii) Total Choice Packaging may at its discretion register a financing statement in respect of any security interest created by these terms and conditions; and
- (iii) a security interest is taken in all Goods previously supplied by Total Choice Packaging to the Purchaser (if any) and all Goods that will be supplied in the future by Total Choice Packaging to the Purchaser during the continuation of the parties' relationship.

(c) The Purchaser undertakes to:

- (i) sign any and all further documents and provide any and all further information, such information to be complete, accurate and up to date in all respects, which Total Choice Packaging may reasonably require to register a financing statement or a financing change statement on the Personal Property Securities Register established under the PPSA;
- (ii) indemnify and upon demand reimburse Total Choice Packaging for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any property charged thereby;
- (iii) not register a financing change statement or an amendment demand in relation to any security interest created by these terms and conditions without the prior written consent of Total Choice Packaging; and
- (iv) give Total Choice Packaging not less than fourteen (14) days prior written notice of any proposed changes in the Purchaser's name or any other change in the Purchaser's details.

(d) The Purchaser and Total Choice Packaging agree that to the extent mentioned by section 115(1)(a)-(r) of the PPSA, they agree to contract out of each of the provisions of the PPSA listed in section 115(1)(a)-(r) of the PPSA and the Purchaser waives its rights under each of the sections of the PPSA referred to in those sections. The Purchaser further waives its right to receive a copy of any financing statement, any financing change statement or any verification statement that is or may be registered, issued or received at any time or which would otherwise be required to be provided by Total Choice Packaging under the PPSA.

(e) The Purchaser unconditionally ratifies any actions taken by Total Choice Packaging under clauses 8(a) to 8(d).

(f) Notwithstanding delivery of the Goods to the Purchaser, all right title and interest in the Goods remains with Total Choice Packaging until the Purchaser has made full payment to Total Choice Packaging of all and any amounts due and payable to Total Choice Packaging by the Purchaser ("Outstanding Amount").

(g) If the Goods are re-sold prior to payment to Total Choice Packaging of the Outstanding Amount, the Purchaser holds the proceeds from the sale of Goods on trust for Total Choice Packaging. Where the Purchaser has mixed or used the Goods and other materials to create other goods, all right title and interest in those other goods shall immediately pass to Total Choice Packaging until the Purchaser has made full payment to Total Choice Packaging of the Outstanding Amount.

(h) The Purchaser shall keep the Goods or goods constructed from the Goods in a fiduciary capacity as bailee for Total Choice Packaging. Total Choice Packaging grants a licence to the Purchaser to dispose of the Goods in the normal course of the Purchaser's business.

(i) Until the date of full payment of the Outstanding Amount the Purchaser must store the Goods clearly identified as the property of Total Choice Packaging and if requested, must supply, within the time specified by Total Choice Packaging, an inventory of all Goods in the Purchaser's possession. The Purchaser must allow any representative of Total Choice Packaging access to its premises to conduct any stocktake of its Goods without notice.

(j) In the event of a default by the Purchaser in respect of any of these terms and conditions including the payment of any Outstanding Amount under these terms and conditions, Total Choice Packaging has the right (without giving notice) to retake possession of the Goods and the Purchaser authorises Total Choice Packaging or its representative, servant, or agent to enter the Purchaser's premises upon which the Goods are housed or stored for the purpose of retaking possession of same. Total Choice Packaging is not liable for any cost, losses, damages, expenses or other monies incurred or lost by the Purchaser as a result directly or indirectly of Total Choice Packaging retaking possession of the Goods. In the event Total Choice Packaging retakes possession of the Goods, Total Choice Packaging is entitled to sell the Goods free of any claim from the Purchaser.

9. PURCHASER CLAIMS AND RETURNS

Subject to any rights granted to the Purchaser under the Competition and Consumer Act (Cth) or other consumer protection legislation:

- (a) The Purchaser will be deemed to have accepted that any Goods supplied by Total Choice Packaging are in accordance with the Purchaser's order unless it notifies Total Choice Packaging in writing of its claim within 14 days of receipt of the Goods;
- (b) The Purchaser will be deemed to have accepted all the details on an invoice provided by Total Choice Packaging for the Goods as being correct unless it notifies Total Choice Packaging in writing of its claim within 14 days of receipt of invoice;
- (c) No return of Goods will be accepted by Total Choice Packaging unless the Purchaser has requested and obtained authorisation from Total Choice Packaging to return those Goods. Under no circumstances will Total Choice Packaging accept Goods for return six (6) months after the purchase date. All freight for returns is at the Purchaser's cost and the Purchaser will be charged a fee for repackaging of those Goods.
- (d) Any Goods returned by the Purchaser to Total Choice Packaging must be returned in the same order and condition as they were delivered to the Purchaser.

10. CUSTOM STOCK

Total Choice Packaging reserves the right to invoice the Purchaser for all custom stock ordered, including goods specifically manufactured, sourced, or customised according to the Purchaser's specifications. Upon issuance of the invoice, Total Choice Packaging is authorised to proceed with the delivery of said custom stock. The Purchaser is obligated to accept delivery of all such custom stock as invoiced, within the payment terms agreed upon. In the event of a sale or transfer of the Purchaser's business, the Purchaser must settle any outstanding invoices related to custom stock before the transfer of ownership is completed. Failure to accept delivery or comply with these payment terms, including the settlement of invoices prior to business transfer, may result in the suspension of further deliveries and services until all outstanding obligations are resolved. Total Choice Packaging retains the right to enforce payment and acceptance of the custom stock, ensuring the protection of its financial interests and stock integrity during any ownership transition.

11. LIMITATION OF LIABILITY

- (a) Subject to the Competition and Consumer Act (Cth) and any other applicable consumer protection legislation ("CCA"), at Total Choice Packaging's sole discretion Total Choice Packaging's obligations to the Purchaser in respect of a breach of any of these terms and conditions (whether implied by statute or otherwise) shall be limited to a refund, credit note, repair or the replacement of the Goods.
- (b) Subject to the CCA, Total Choice Packaging will not be liable to the Purchaser or any other persons under any circumstances for any indirect, incidental or consequential loss or damage (including loss or damage caused by negligence or wilful acts of default of Total Choice Packaging, or its employees or agents) whatsoever arising from a breach of any of these terms and conditions or a breach of any other statutory implied warranty, term or condition in relation to the Goods.
- (c) Subject to the CCA, Total Choice Packaging will not be liable for any costs, claims, damages or demands arising from personal injury, loss or damage to, or personal property whatsoever occurring to the Purchaser or its employees or agents by reason of:
 - (i) the delivery of the Goods or any failure to deliver or delay in delivering the Goods;

- (ii) any act or omission of Total Choice Packaging or agents; or
- (iii) any statement or representation made by an employee or agent of Total Choice Packaging in respect of the Goods.
- (d) Subject to the CCA, except as specifically set out in these terms and conditions, any warranty in respect of the Goods is expressly limited to the minimum permitted under the CCA.
- (e) Subject to the CCA, replacement, repair or refund of the Goods is the absolute limit of Total Choice Packaging's liability howsoever arising under or in connection with the description, quality, condition, performance, assembly, manufacture, design, merchantability or fitness for purpose of the Goods or alternatively the sale, use of, storage or any other dealings with the Goods by the Purchaser.
- (f) Nothing in these terms and conditions is to be interpreted as excluding, restricting or modifying, or having or attempting to have the effect of excluding, restricting or modifying the application of the CCA to the supply of Goods which cannot be excluded, restricted or modified.

12. INDEMNITY

The Purchaser will at all times indemnify Total Choice Packaging, and Total Choice Packaging's officers, employees and agents ("those indemnified") from and against any loss (including legal costs and expenses) or liability, suffered or incurred by any of those indemnified arising from any claim against those indemnified where the claim is referable to:

- (a) a breach by the Purchaser of its obligations under these terms and conditions or a breach of the Purchaser's obligations to the person that the Purchaser sells the Goods to; or
- (b) any wilful unlawful, or negligent act or omission of the Purchaser.

13. Insolvency and Transfer of Ownership

The Purchaser agrees to notify Total Choice Packaging in writing of any change of ownership within seven (7) days from the date of such change and indemnifies Total Choice Packaging against any loss or damage as a result of the Purchaser's failure to notify Total Choice Packaging of any change.

In the event of the Purchaser's insolvency, bankruptcy, or any other situation that materially affects the Purchaser's ability to fulfill its financial obligations to Total Choice Packaging, or in the case of a transfer of ownership, sale, or dissolution of the Purchaser's business, the Purchaser agrees to immediately notify Total Choice Packaging. Upon such notification, or if Total Choice Packaging becomes aware of such circumstances, all outstanding invoices and financial obligations owed to Total Choice Packaging shall become immediately due and payable. Furthermore, Total Choice Packaging must be notified and given the option to approve any transfer of ownership of goods that have not been fully paid for, to ensure that its interests are protected.

14. POTENTIAL CLAIMS

If there is any claim or likely claim against Total Choice Packaging in respect of the Goods which comes to the Purchaser's attention (other than a claim by the Purchaser

against Total Choice Packaging), the Purchaser will immediately inform Total Choice Packaging providing full details of the claim or likely claim.

15. FORCE MAJEURE

If as a direct or indirect result of natural disaster, industrial dispute, accident, government restriction, war, civil disturbance or any other cause, of whatever nature, outside of Total Choice Packaging's control, Total Choice Packaging is unable to perform its obligations under these terms and conditions, Total Choice Packaging is released from those obligations to the extent of such inability, and the Purchaser shall not be entitled to claim compensation for any such failure by Total Choice Packaging to perform its obligations.

16. GOVERNING LAW

These terms and conditions shall be governed by and construed according to the laws of the State of Queensland, Australia and the parties accept the jurisdiction of the courts of Queensland.

17. SEVERANCE

If any provision of these terms and conditions are contrary to any State or Federal legislation (for example by being illegal, void or unenforceable) that provision shall be read down to the extent necessary to become valid and enforceable or, if this is not possible, shall be deemed to be severed from these terms and conditions, without affecting the remaining provisions of these terms and conditions.