

TERMS AND CONDITIONS OF SALE

Definitions

For the purpose of these Terms and Conditions of Sale the following definitions apply:

"Company" means Materialised Pty Limited (ABN 33 001 987 211);

New Zealand branch company number 977 677, GST Number 072718453

"Customer" means any person at whose request or on whose behalf the Company provides a service;

"GST" means the Goods and Services Tax imposed in Australia by legislation;

"Order" means an order by the Customer to the Company requesting supply of Goods;

"Person" includes persons or any body or bodies corporate;

"Goods" means all goods and services purchased or ordered by the Customer from the Company;

"Indent" means an order for product to be exported or imported;

"Custom" means product made according to the specifications of an individual purchaser;

"Permitted Security Interest" means any security interest which the Company consents to or otherwise agrees in writing with the Customer will be a Permitted Security Interest for the purposes of these terms and conditions.

"PPSA" means the Personal Property Securities Act 2009 (Cth).

"PPSR" means the Personal Property Security Register.

"Purchase Money Security Interest" that has the meaning prescribed to it in the PPSA.

"Security Interest" includes any security interest under the PPS Act.

1. GENERAL

The Company and the Customer shall be bound by these terms and conditions. No term or condition contained in the Customer's Order shall be allowed to amend or delete any of these terms and conditions unless expressly agreed in writing by a duly authorised officer of the Company. Changes to the terms and conditions of sale will apply to all new Orders after notification.

2. ACCEPTANCE OF GOODS

It is the customer's responsibility when entering into this contract or ordering to ensure the Goods and services ordered conformed to the Customer's requirements and are suitable and sufficient for the customer's purpose. It is the customer's responsibility to provide all information necessary to enable performance of the contract and the customer shall be responsible for any costs arising directly or indirectly from any error or omission in that information or any delay in providing that information. Failure by the Customer to notify the Company of any non-conformity to description or the terms and conditions of this contract shall constitute an irrevocable acceptance of the Goods by the Customer.

3. PRICE

- Prices quoted are based on the full quantities specified and do not necessarily operate pro rata for any greater or less quantities.
- Prices quoted are exclusive of GST and the Customer is required to pay any GST payable by the Company in respect to the supply of Goods at the same time that the price is required to be paid by the Customer to the Company.

4. PAYMENT TERMS

The Company may require a deposit on Order and any balance of the price owing must be paid either before or on delivery of the Goods to the Customer unless the Company has agreed to provide the Goods to the Customer on credit terms. Credit approval once granted may be withdrawn at any time. Where credit approval has not been granted, or is withdrawn, payment of all Goods supplied is required prior to delivery. Where credit has been granted, payment for the Product is to be made on or before the agreed date of each invoice raised. A service fee may apply to any payments made by credit card.

5. DIMENSIONS

Sizes, widths and pattern repeats are approximate and current stock should be checked if critically important.

6. CREDIT POLICY

The Customer must pay the Company the amount set out in invoices within the agreed terms from the date on which the invoice was raised. The Company may charge interest on all amounts not paid by the Customer within the time for payment at a rate of 2% per calendar month accruing each calendar month until the date of payment. If the Customer defaults in payment of any invoice when due and payable, the Customer shall indemnify the Company from and against all costs and disbursements incurred by the Company in pursuing the debt.

7. CUSTOM AND INDENT ORDERS

Custom and Indent Orders require a deposit of 50% with each confirmed order, balance payable by arrangement days after issue of final invoice, or letter of credit. No cancellations and returns are allowed on Custom and Indent Orders. In some cases it may not be possible to supply exact metreage therefore we reserve the right to over supply or under supply by up to 5% of amount ordered.

8. PRIVACY ACT

The Customer also agrees to the Company collecting, using and disclosing personal information of the Customer for the purpose of supply of the Goods to the Customer and the management of the Customer's account.

9. DELIVERY

Any times quoted by the Company for delivery of the Goods are estimates only and the Company shall not be liable for any failure to deliver or for any delay in delivery. The Customer shall not be relieved of any obligation to accept or pay for Goods ordered by reason of any delay in delivery or dispatch. In the event that the Customer is unable to accept delivery of the Goods as arranged, then the Company shall be entitled to charge a reasonable fee for redelivery. Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purpose of the Terms. Textile piece goods is in accordance with current rate set by the Company (ex GST) freight per delivery to selected metropolitan destinations in Australia, elsewhere at cost. Commission & custom printing freight to and from Blakehurst will be at the Customer's expense

10. WARRANTY AND LIABILITY OF SUPPLIER

- To the extent permitted by law, liability of Company for breach of this contract by the Company or negligence of the Company or for breach of any conditions or warranty implied by the Competition and Consumer Act, 2010 and / or the Sales of Goods Act 1896 (as amended) shall be limited to one of the following at the Company's option:
 - the replacement of the Goods or the supply of equivalent Goods; or
 - the repair of the Goods; or
 - the payment of the costs of replacing the Goods or of acquiring equivalent Goods; or
 - the payment of the cost of having the Goods repaired.
- To the full extent permitted by law all other warranties or liabilities imposed or implied whether by law or by statute are expressly negated.
- Customer shall assume all risk and liability resulting from the use of the Goods either alone or in conjunction with other Goods or materials even if Company had or should have had prior knowledge of use to which the Goods would be put.
- To the extent permitted by law, the Company is not liable to the Customer for any indirect or consequential losses, loss of profits or use, any rectification costs or third party claims in connection with providing the Goods.

11. RETENTION OF TITLE

- As long as the Customer owes the Company any part of the sale price for Goods supplied at any time the Company shall retain the legal title in all Goods supplied and not yet used or resold. The Customer shall keep such Goods stored separately during the time he has them in such a way that Goods remain identifiable and shall hold such Goods as bailee for the Company. When such Goods are filled or used, even with loss of identity, legal title to the resultant product shall vest in the Company.
- If the Customer resells the Goods aforesaid before all moneys payable by the Customer to the Company have been paid, the Customer agrees that it holds the proceeds of re-supply of the Goods on trust for and as agent for the Company immediately when they are receivable or received, such proceeds to be kept in a separate account.
- It is further accepted, acknowledged and agreed that:
 - the retention of title clause herein constitutes a security agreement for the purposes of the PPSA which creates a Security Interest in all Goods including any Commingled Goods. It is the intention of the Company and the Customer that upon registration of the Company's Security Interest on the PPSR a Purchase Money Security Interest will result; and
 - until such time as ownership of the Goods shall pass from the Company to the Customer, the Company may give notice in writing to the Customer to return the Goods to the Company. Upon such notice the Customer's rights to obtain ownership or any other interest in the Goods shall cease.

12. INTELLECTUAL PROPERTY

The company owns and will retain the ownership of all intellectual property, copyright and design rights in and to the Goods the services any associated documentation, and owns and will retain the ownership of any associated documentation produced in connection with the Goods and services.

13. SECURITY INTEREST

- The Customer hereby acknowledges that these terms and conditions of sale constitute a security agreement which creates a Security Interest in favour of the Company and in all Goods supplied by the Company to the Customer and all after acquired Goods supplied to the Customer by the Company (or for the Customer's account) to secure the payment from time to time for Goods, including future advances. The Customer agrees to grant to the Company a Purchase Money Security Interest.
- The Customer gives the Company a Security Interest in all of its present and after acquired property in which Goods supplied or financed by the Company have been attached or incorporated, including any Commingled Goods and in any proceeds of sale of Goods.

14. GENERAL COVENANTS

- Until such time as payment in full has been received by the Company from the Customer in respect to an Order, the Customer covenants to the Company not to create, cause or permit to exist any other Security Interest over any Goods the subject of the applicable Order, other than a Permitted Security Interest and covenants that it shall comply with the terms of each Permitted Security Interest binding on it in respect of the relevant Goods from time to time and shall ensure that:
 - there is no increase in the amount secured under a Permitted Security Interest (excluding any part of a Permitted Security Interest which is a purchase money security interest); and
 - there is no variation to a Permitted Security Interest that increases the collateral the subject of the Permitted Security Interest, other than in the case of a purchase money security interest, without obtaining the prior written consent of the Company.
- The Customer covenants to the Company that it shall sign anything and do anything the Company requires to further or more effectively secure the Company's rights over the applicable Goods or under these terms and conditions. This includes anything the Company requires in order for it to:
 - register and maintain (including renew before expiry) one or more financing statements in relation to any Security Interest in the relevant Goods created by these terms and conditions and/or any Order;
 - remove any financing statement which is registered against the Customer or in relation to a Security Interest which is not a Permitted Security Interest; and
 - obtain possession or control of any Goods for the purposes of perfecting any Security Interest in that property by possession or control for the purposes of the PPS Act.
- The Customer waives its rights to receive a verification statement in respect of any financing statement or financing change statement registered by or on behalf of the Company under the PPSA to the extent permitted by the PPSA and agrees to that as between the Company and the Customer, to the extent permitted by the PPSA, the Customer will have no rights under (or by reference to) sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 132(3)(d), 132(4), 134(1), 135, 142 and 143 of the PPSA.
- Materialised may take photo's during the course of the project, and reserves the right to use these images for promotional use only.

15. RETURNS

Any product which is damaged or defective, or which is not in accordance with the Customer's order, may be returned within fourteen (14) days of delivery. The Customer may not return Goods that are not in a saleable condition by reason of any act or omission on part of that customer. The Customer shall inspect the Goods on delivery and shall within seven (7) days notify the Company of any defect, shortage in quantity, damage or failure to comply with the description or quote ("a Claim"). The Customer shall prior to cutting the Product check that it matches their order because it is agreed no Claim is valid after the Goods have been altered, Samples of the Goods supplied will not be accepted for return without prior agreement with the Company.

16. EXTRAORDINARY EVENTS BEYOND OUR CONTROL

The Company will have no liability to the Customer in relation to any loss, damage or expense caused by the Company's failure to complete an order or delivery or contract as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, industrial action, lock out, war or the inability of the Company's suppliers to supply necessary materials or any other matter beyond the Company's control.

17. MISCELLANEOUS

This Contract shall be governed and construed in accordance with the law of the State in which the Goods are delivered and no conduct by the Company with respect to any default of the Customer and the performance of any obligation or condition of this Contract shall be deemed to be a waiver of that or any other obligations or condition.

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18. DESIGN REPRODUCTION

Where the Customer submits a design to the Company for reproduction, The Customer shall indemnify the Company against any loss, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party alleging infringement of that third party's intellectual property rights by reason of the provision by the Customer of infringing designs or materials for use by the Company and/or the failure of the Customer to obtain any necessary permission, authorisation, licence or consent of a third party in relation to the use and incorporation of that third party's design or other material containing its intellectual property rights.

Please Sign and Return if Providing your own Artwork Indemnifying Materialised Pty Limited of any Copyright Issues

Company Name:	_____		
ABN number:	_____		
Client's Signature:	_____	Client's name:	_____
Date:	_____		
Witness Signature:	_____	Witnesses Name:	_____
Date:	_____		

The Following Terms of Trade are further applicable if you are providing your own base cloth.

Materialised Pty Limited offers to perform the process of transfer printing the design either from Materialised or presented by you onto your fabric.

Responsibility

Materialised Pty Limited shall use its best endeavours to carry out the work to your satisfaction, however due to matters beyond our control including the characteristics of the fabric, Materialised Pty Limited shall not be responsible for any loss, damages or consequential loss in part or contract or equity or otherwise for the work performed by it on your behalf.

Preparation

Base cloth must be correctly prepared for Transfer Printing. Fabric rolled open width on 50mm Ø cores. Fabric must be prepared for Transfer Printing (PPF), at 205C degrees for 40 seconds. Fabrics not prepared to this specification, distortion/smudging of the print can (and probably will) occur, for which Materialised will not be liable. Technical specification on fabric must be provided.

Textiles must not contain Nylon, Acrylic or the like. Only polyester!

Should fabric supplied not be as stated and cause damage to our transfer Calenders, client will be liable for repairs. Therefore a copy of your Third Party Insurance Certificate of Currency is required for Materialised records.

Fabric face must always be clearly marked on every roll. Please add an extra 2m of fabric additional to your actual printed requirements to allow for 'lead-in' when printing.

Sampling

Should colour accuracy be critical, production samples should be requested and approved in writing prior to bulk transfer (climatic conditions, temperature, speed and pressure can effect colour reproduction day to day).

Delivery

Transport to and from Blakehurst factory provided by client, unless otherwise arranged.

Please Sign And Return If Providing Your Own Base Cloth.

Company Name:	_____		
ABN number:	_____		
Client's Signature:	_____	Client's name:	_____
Date:	_____		
Witness Signature:	_____	Witnesses Name:	_____
Date:	_____		

Please Attach Your Third Party Insurance Certificate Of Currency.