



# Terms & Conditions: Made to Order Sale

## Whole Contract

These Conditions constitute all the terms and conditions governing the sale of products and services by Tait Enterprises Pty Limited A.C.N. 064 976 389 "Tait" to the exclusion of all other terms and Conditions. No modification to these Conditions, whether put forward in the Buyers purchase order, specification or otherwise, shall bind Tait unless agreed to in writing.

### 1. PRICE AND PAYMENT

In the absence of any contrary express written agreement, the price for products and services supplied shall be the price set out in this contract. The products and services supplied must be paid for on the payment terms set out in these Conditions. Without prejudice to any other remedy, Tait reserves the right to charge a default charge on any overdue payments at a rate equal to 2% above the rate notified by National Australia Bank from time to time as being that Bank's indicator lending rate.

- 1.1 All prices, quotations and price lists are inclusive of GST. Any other taxes shall be added to the amount to be paid by the Buyer if applicable.
- 1.2 Non-account customers are required to pay a 50% deposit on all orders, this deposit is non-refundable. Balance of payment for the goods is due prior to delivery.
- 1.3 Payment can be made by any of the following:

EFT: Account Name: Tait Enterprises Pty Ltd, BSB: 083 184  
Account Number: 62738 2321

Credit Card: Tait accept payment by Visa, MasterCard and Amex.  
Credit card payments will attract a surcharge of 1.5% for all commercial sales (not applicable for retail sales). The surcharge will be processed at the time of payment.

Cheque: Payable to: Tait Enterprises Pty Ltd  
Mailed to: 1 Milne Street, Thomastown, Melbourne, VIC 3074

### 2. CANCELLATION

- 2.1 Without prejudice to any other remedies the Seller may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions the Seller may suspend or terminate the supply of Goods to the Customer. The Seller will not be liable to the Customer for any loss or damage the Customer suffers because the Seller has exercised its rights under this clause.
- 2.2 The Seller may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice the Seller shall repay to the Customer any money paid by the Customer for the Goods. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 2.3 In the event that the customer cancels delivery of Goods the Customer shall be liable for:
  - a) a minimum fee of ten percent (10%) of the Price, provided that the manufacture of the Goods has not commenced and that no expenditure or expense has been incurred by the Seller; or
  - b) any loss incurred by the Seller (including, but not limited to, any loss of profits) up to the time of cancellation, where production of goods has commenced.
- 2.4 Cancellation of orders for Goods made to the Customer's specifications, will not be accepted after 7 days of confirmation.

#### HEADQUARTERS

1 Milne Street, Thomastown VIC 3074

(03) 9495 0966

MADEBYTAIT.COM.AU



### 3. DELIVERY AND RISK

On acceptance of an order, Tait will advise the period for delivery and will notify you of any variation from the quoted period. Unless you object in writing within 7 days of that notification to you, the period of shipment or delivery notified to you will be the contractual period for shipment or delivery.

- 3.1 A quoted period for delivery will only start on the date you provide final specifications and finishes schedules (as applicable), or on the date you pay the deposit, whichever is the later. We may extend the quoted period if you request any variation to finishes schedules after that date.
- 3.2 Freight charges cover a single delivery to ground level or loading bay, during weekday business hours. Non-standard access (e.g. stairs, lifts and lift capacity, weekends) must be advised in writing at order placement. Tait reserve the right to charge additional costs if correct information is not provided.
- 3.3 If Tait attempt delivery of the Goods to the Buyer, and it is discovered that the delivery site is not ready to accept Goods, and as a consequence, we are required to return the Goods back to its own premises and subsequently re-deliver the Goods, Tait will be entitled to charge a reasonable fee to recover the additional transport and storage costs.
- 3.4 Delivery will be deemed to be made when the Goods are delivered to the place specified in the Sales Order or Sales Invoice.
- 3.5 If the Buyer is unable to accept delivery, 7 days following notification of order completion and intention to deliver, the invoice must be paid in full. In addition, a storage fee will also be charged. Storage is charged at \$200 per cubic meter per month plus GST.
- 3.6 While Tait shall use all reasonable endeavours to meet agreed delivery dates, Tait shall not be liable to the buyer for any expense, cost, loss or damage whatsoever should it be delayed or prevented from delivering the products or otherwise performing any of its contractual obligations due to any cause or circumstance of any kind whatsoever.
- 3.7 Subject to clause 2, delivery dates shall not be varied once they have been agreed, without Tait's prior written consent. Should Tait agree to postpone delivery, Tait reserves the right to impose a weekly deferment charge equal to 0.5% of net invoice value. Where delivery is postponed for more than 3 months, any fixed contract price may be increased by Tait, at Tait's discretion, to reflect the current Tait sale price.
- 3.8 Risk in the products will pass to the Buyer upon the Buyer taking delivery of the products. The Buyer shall indemnify Tait for all loss, damage, expense or cost incurred by Tait as a result of the Buyer failing to take delivery of any products.

### 4. INSPECTION AND REJECTION

The buyer shall inspect all products supplied upon delivery. Tait shall not be liable for shortages, loss of or damage to any of the products, or any other errors in delivery unless the Buyer submits a written claim to Tait within one (1) business day of the delivery to which the claim relates. If a claim is not made within (1) business day the products are deemed accepted by the Buyer and cannot be rejected.

### 5. PASSING OF RISK AND RETENTION OF TITLE

Whilst the risk in the Goods passes on delivery, legal and equitable title remains with Tait until payment is made to Tait in full for those goods and all other goods and services supplied to the Purchaser by Tait at any time. Prior to title in the Goods passing to the Purchaser, the Purchaser:

- (a) holds the goods bailee and fiduciary agent of Tait
- (b) must store the Goods separate from its own goods and those of any other third party in such a way as to clearly indicate at all times that the Goods are owned by Tait, and
- (c) must ensure that, at all times, the Goods are properly stored, protected, readily identifiable as Tait's and insured.

- 5.1 The Purchaser may sell or deal in the ordinary course of business with the Goods and with the interest of Tait in the Goods and may for the purpose of such sale or dealing part with possession thereof provided that:
  - (a) any such sale or dealing is at arms' length and on market terms; and
  - (b) the proceeds of such sale or dealing will be held by the Purchaser on trust for Tait in a separate identifiable account as the beneficial property of Tait and the Purchaser must pay such amount to Tait upon request.

### HEADQUARTERS

1 Milne Street, Thomastown VIC 3074

(03) 9495 0966

MADEBYTAIT.COM.AU

# Tait.

The Purchaser hereby agrees to accept this appointment as bailee and fiduciary agent of Tait. Notwithstanding the provisions of this clause 4.1, Tait is entitled to maintain an action against the Purchaser for the purchase price of the Goods.

- 5.2 Notwithstanding any other provision to the contrary, Tait reserves the following rights in relation to the Goods until all amounts owed by the Purchaser to Tait are fully paid:
- (a) legal and equitable ownership of the Goods
  - (b) to retake possession of the Goods; and
  - (c) to keep or resell any of the Goods repossessed pursuant to clause 4.2 (b) above
- 5.3 Where the Purchaser processes the Goods, either by using the Goods to manufacture other goods or by incorporating the Goods in or with any other goods, before title in the Goods has passed to the Purchaser, the Purchaser:
- (a) holds such part of the new goods (processed goods) on trust for Tait as bailee and fiduciary agent of Tait.
  - (b) Must store such part of the processed Goods separately from the Purchaser's own goods and those of any other third party in such a way as to clearly indicate that the processed goods are owned by Tait; and
  - (c) Must ensure that such part of the processed goods is properly stored, protected, readily identifiable and insured. For the purpose of this clause 4.3, "such part" means an amount equal in dollar terms to the amount owing by the Purchaser to Tait at the time the Goods are used in the manufacture of, or incorporated into, the processed goods.
- 5.4 The Purchaser may sell or deal with the processed goods provided that:
- (a) any such sale or dealing is at arms' length and on market terms
  - (b) the Purchaser holds on trust such part of the proceeds of any sale of or dealing in the processed goods that is equal in dollar terms to the amount owing by the Purchaser to Tait at the time that Goods are used in the manufacture of, or incorporated into the processed goods, in a separate identifiable account as the beneficial property of Tait and must pay such amount to Tait upon request.
- 5.5 Without prejudice to Tait's rights in clause 4.2 above, in the event of a breach of this contract by the Purchaser including, without limitation, failure by the Purchaser to make payment for the Goods by the date specified by Tait to the Purchaser, the Purchaser must return the Goods to Tait on demand. If the Purchaser does not return the Goods to Tait within 48 hours of receipt of the demand, Tait shall be entitled (without further notice) to enter upon the Purchaser's premises at any time to all things necessary to recover the goods.
- 5.6 The Purchaser hereby grants full leave and irrevocable licence to Tait and any person authorised by Tait to enter upon any premises where the goods may for the time being be placed or stored for the purpose of retaking possession of the Goods. The Purchaser agrees that:
- (a) it shall be liable for all costs, losses, damages, expenses or any other sums of money incurred or suffered by Tait (including consequential losses and damages) as a result of Tait retaking possession of the Goods or otherwise exercising its rights under this clause 8: and
  - (b) it shall indemnify Tait for all fees (including legal fees on a full indemnity basis), costs and expenses incurred or suffered as a result of any and all prosecution, actions, demands, claims or proceedings brought by or against Tait in connection with the retaking possession of the Goods or the exercise by Tait of its rights under this clause 4.
  - (c) And the Purchaser shall repay all such fees, costs, losses, damages, expenses or any other sums of money on demand.
- 5.7 The parties agree that this clause 4 is not intended to create a charge or any other form of security interest and that if and to the extent that, as a matter of law this clause creates a charge or any other form of security interest, the offending words shall be deleted.

## 6. FORCE MAJEURE

Where Tait is unable, wholly or in part, by reason of an act of God, flood, earthquake, storm, cyclone, tornado, hurricane, lightning, fire, explosion, epidemic, war, embargo, riot or civil disturbance, strike or other labour dispute, sabotage, expropriation, confiscation or requisitioning of facilities, orders or temporary or permanent injunctions of any

HEADQUARTERS

1 Milne Street, Thomastown VIC 3074

(03) 9495 0966

MADEBYTAIT.COM.AU



duly constituted court of competent jurisdiction, or any other cause which is not reasonably within the control of Tait or the Buyer, to perform any obligation under this contract such party shall be relieved of that obligation to the extent and for the period that it is so unable to perform and shall not be liable to the other party in respect of such inability.

#### 7. LIMITATION OF LIABILITY

To the extent permitted by law, Tait shall under no circumstances be liable in any way whatsoever to the Buyer for any form of loss, damage, expense or cost sustained or incurred by the Buyer or any other person in consequence of or resulting directly or indirectly out of the supply of products by Tait, the use or performance thereof, any breach by Tait of this contract or the negligence of Tait.

#### 8. WARRANTIES

These Conditions must be read and construed subject to certain statutory provisions, including the Trade Practices Act 1974, which imply warranties or conditions or impose obligations upon Tait which cannot be excluded, restricted or modified or which cannot be excluded restricted or modified except to a limited extent. Otherwise all other conditions and warranties whether express or implied by law in respect of the state, quality or condition of the products which may apart from this clause be binding on Tait are hereby expressly excluded. In addition, to the extent to which Tait is entitled to do so, its liability under any statutory provision shall be limited at its option to the replacement of the products or supply of equivalent products.

#### 9. RETURNS AND EXCHANGES

Tait will not accept the return of the Goods delivered to you if the Goods delivered have been accepted or deemed accepted by you or you wish to change your mind and cancel the Sales Order, unless we choose to do so in our sole discretion.

- 9.1 If we do accept a cancellation of your Sales Order, you agree to arrange a return of the Goods, at your cost and risk, to our nominated returns depot or store, as we nominate, and you agree to return the Goods in their original condition, in their original unopened and sealed packaging, accompanied by the original Sales Order docket receipt or another form of proof of purchase.
- 9.2 You also agree that we are entitled to deduct from any refund of the Payment made by you, the cost of the original delivery and an amount that we reasonable believe reflects the loss to us in accepting the cancellation, including any storage costs and any mark down of the price of the Goods
- 9.3 Tait do not offer exchange or credit note on custom made furniture or custom made soft furnishings unless the item is faulty, significantly different from what was shown to you, or in breach of manufacturer's warranties or consumer guarantees or where otherwise required by law.

#### 10. DEFAULT

If the Buyer makes default on any payment, commits any breach of this contract or commits an Insolvency Event, then all monies owing by the Buyer to Tait shall become immediately due and payable without demand and Tait may at its sole discretion, without prejudice to any other remedy, either suspend further deliveries, require payment in advance for all such deliveries or terminate any contract forthwith by written notice to the Buyer.

#### 11. LAW AND JURISDICTION

The construction, validity and performance of this contract shall be governed by the law in force in Victoria, Australia, and the Buyer irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria, Australia.

HEADQUARTERS

1 Milne Street, Thomastown VIC 3074

(03) 9495 0966

MADEBYTAIT.COM.AU