

TERMS AND CONDITIONS OF SALE

I/ We hereby agree to be bound by the following terms & conditions.

- 1) Max Frost & Co is not bound to provide any goods to the Purchaser unless it has received and accepted a written order form signed by the purchaser.
- 2) Delivery. Any time for delivery is an estimate only. While every endeavour is made, no guarantee is given by Max Frost & Co to deliver goods on the date nominated if the delay is unforeseeable. The Purchaser is not relieved of any obligation to accept or pay for goods because of any delay in delivery which is beyond Max Frost & Co control.
- 3) Freight and Handling. All prices for orders over \$500 are inclusive of freight in Sydney, Melbourne and Brisbane. Freight for deliveries outside these areas will be charged separately on each invoice unless a forward carrier is clearly nominated on the order. Express Post charges apply to all areas. A handling fee applies to all orders under \$500 excluding sampling.
- 4) Sampling. An agreed price plus air courier charges if applicable will apply for sampling.
- 5) Cancellation. When an order requiring an exclusive design to the Purchaser is cancelled by the Purchaser, the Purchaser shall be liable for any costs incurred by Max Frost & Co
- 6) Return of Goods. The Purchaser must obtain approval from Max Frost & Co to return goods. Max Frost & Co will either e-mail or fax the authority to the Purchaser; otherwise, goods will not be accepted. All returns must be via Max Frost & Co nominated carrier in good condition. Any original freight and handling charges are not refundable. All returns will be subject to a restocking fee of 10% and if not in their original or equivalent packaging, a restocking fee of 15% will apply.
- 7) Claims.
 - a) No warranties are given by Max Frost & Co as to the fitness of use and purpose of the goods purchased. The purchaser further acknowledges that he/ she should conduct sample tests to satisfy him/her that the goods purchased meet the requirements and purpose for which they have been purchased.
 - b) It is the Purchaser's responsibility to inspect all the fabric upon delivery. When Max Frost & Co's carrier is used; any damaged and loss suffered by the Purchaser is limited to the value of the goods. Max Frost & Co shall not in any circumstances be liable for any damaged to goods in transit whilst in the possession of the Purchaser's own nominated carrier.
 - c) No returns or credits adjustments will be allowed by Max Frost & Co unless there is a fault in the manufacture of the goods and the Purchaser has notified Max Frost & Co of such faults within 7 days of the delivery following an opportunity communicated to Max Frost & Co or their agent to inspect the goods. Any claims for fabric defects of goods supplied by Max Frost & Co or any losses or damages incurred by the Purchaser shall be limited to the price charged for the goods plus GST.
 - d) No claims will be recognized after the goods are cut.
 - e) Max Frost & Co will not be liable for a 3rd Party claim.

ALL CLAIMS MUST BE "IN WRITING" TO MAX FROST & CO WITHIN 14 DAYS OF RECEIPT OF THE GOODS.
- 8) Title. Max Frost & Co shall remains the legal and beneficial owner of all goods supplied until such a time as Max Frost & Co has received payment in full for these goods and all other debts owing by the Purchaser to Max Frost & Co have been paid in full. In addition to any other rights of Max Frost & Co; Max Frost & Co is entitled to take possession of any goods supplied by it to the Purchaser in the event the Purchaser fails to comply with any of the terms herein, commits an act of bankruptcy, a receiver, a liquidator or an official manager is appointed or any other forms of insolvency administration whether formal or informal, or where the Purchaser ceases to carry on business.

(a) The Purchaser agrees that the interest in goods supplied by Max Frost & Co to the Purchaser in this clause is a security interest as defined by the Personal Property Securities Act, 2009 (Cth)(PPS Act);

- (b) The Purchaser acknowledges that the Purchaser has received valuable consideration for the grant of the security interest referred to in (a) and agrees that the consideration received by the Purchaser is sufficient;
- (c) The Purchaser agrees that any of the goods or proceeds of the sale of the goods coming into existence subject to the security interest granted are subject to these Terms without the need for any further action or agreement by either Max Frost and Co or the Purchaser;
- (d) The Purchaser agrees that the security interest has attached to all goods supplied now or in the future to the Purchaser and that the attachment of the security interest has in no way been deferred or postponed from the date recorded in these Terms;
- (e) The Purchaser, promptly on request by Max Frost & Co, shall execute all documents and do any other thing reasonably required by Max Frost & Co to ensure that the security interest created by these Terms constitutes a perfected interest over all goods supplied;
- (f) The Purchaser shall not agree to allow any person to register a security interest over any of the goods supplied by Max Frost & Co without the prior written consent of Max Frost & Co and will immediately notify Max Frost & Co if the Purchaser becomes aware of any person taking steps to register a security interest in relation to the goods;
- (g) The Purchaser shall not allow the goods to become accessions or commingled with other goods unless Max Frost & Co has first perfected any security interest Max Frost & Co has in relation to the goods;
- (h) If Max Frost & Co perfects any security interest that Max Frost & Co has in relation to the goods, the Purchaser shall not do anything that results in Max Frost & Co having less than the security or priority granted by the PPS Act that the purchaser assumed at the time of that perfection, subject only to the rights of a Mortgagee subject to a registered Mortgage of Real Property;
- (i) The Purchaser irrevocably grants to Max Frost & Co the right to enter upon the Purchaser's property without notice, and without being in any way liable to the Purchaser or any third party if Max Frost & Co has cause to exercise any of it's rights under Section 109(3) of the PPS Act and the Purchaser shall indemnify Max Frost & Co from any claims made by any third party as a result of such exercise; and
- (j) Max Frost & Co and the Purchaser agree that nothing in Section 163(1) of the PPS Act will apply to these Terms or the security interest under these Terms.

9) Terms of payment.

- a) Payment terms are STRICTLY NET 30 DAYS from the end of the month of delivery with approved accounts. Payments must be made by credit card, direct deposit to Max Frost & Co nominated bank account or by cheque. If payment is by cheque, payment shall be deemed to have been made when the cheque is cleared by the bank. If payment is by credit card, payment shall be deemed to have been made upon receipt of the credit providers' approval.
- b) Where a Purchaser fails to adhere to payment terms, Max Frost & Co reserves the right to collect payments or costs involved.
- c) Max Frost & Co from time to time may place limits on the amount of credit to be extended to the Purchaser.
- d) Max Frost & Co reserves the right to vary the terms of payment and to require payment in full prior to delivery, if at any time the credit worthiness of the Purchaser is, in Max Frost & Co opinion, unsatisfactory or if the credit application of the Purchaser is yet to be approved.
- e) Max Frost & Co reserves the right to charge Administration Fees of 1.5 % per month, on amounts owing to Max Frost & Co over 60 days from the end of the month of delivery.

10) Cost Associated with Recovery Action. The Purchaser shall pay Max Frost & Co on demand all costs and expenses including legal costs incurred by Max Frost & Co in the collection of any overdue accounts.

11) Change of Business Ownership, Change of Directors and/or Change of Name.

It is the Purchaser's responsibility to notify Max frost & Co any changes to the management of the business.

