

**The following Terms and Conditions apply between AM Dowling Family Trust & Future Trust (ACN 128 890 988) trading as “designFARM” (ABN 75 239 020 475) (us, our, we, designFARM) and person(s) names on a Quotation or Sales Order (you).**

## **1. Quotations, Sales Orders & Sales Invoices**

- i. Quotes are valid for 30 days from the date issued.
- ii. A Quotation is not an obligation to sell, no contractual relationship arises from a Quotation until your order has been accepted by you and us in writing, and after full payment of the deposit.

## **2. Price**

- i. All prices for goods or Services are quoted in Australia Dollars and include GST, unless otherwise noted.
- ii. Unless otherwise stated by us in writing, the prices quoted in a Quotation or Sales Order or set out in a Sales Invoice include delivery and any applicable installation charges.

## **3. Terms of Payment**

- i. Goods remain the property of designFARM until paid in full – this includes all delivery, installation and storage charges.
- ii. All payments must be made in Australian Dollars according to the terms set in the Quotation or Sales Order.
- iii. All orders under \$3000 including GST require 100% payment to proceed with your order.
- iv. If you are a non-account holder, we require 50% deposit for all orders over \$3000 including GST paid to proceed with your order and the balance to be paid prior to delivery of the goods or performance of the services.
- v. If you are an account holder, we require 50% deposit for all orders over \$3000 including GST paid to proceed with your order and the balance due 7 days of the date of issue unless otherwise stated on the Sales order or Sales Invoice.
- vi. We accept payment via Visa, Mastercard & America Express. All American Express payments will incur a surcharge of 2.5% at the time of payment.
- vii. Any confidential and private information we receive in processing your payments under this Agreement will be held and used in compliance with our Privacy policy.
- viii. Failure to pay in time will entitle us, without prejudice to our other rights, to:
  - a. Suspend any outstanding delivery and installation
  - b. Cancel the Agreement and seek damages for breach of contract and our costs of recovery, and/or
  - c. Charge interest on the outstanding amount at 6% above the RBA cash rate from time to time each day from the date of payment until the date of payment, both before and after any judgment.

## **4. Delivery, Installation & Storage**

- i. Upon approval of your Quotation, Sales Order or Drawings, or on the date you pay the deposit, whichever is the later, we will advise the lead time expected for your product/s in writing (this is an estimate only and cannot be guaranteed). If we receive notice that quoted lead times alter, we will provide written notice.
- ii. All lead times quoted in Quotes, Sales orders, are estimates and can vary depending on production delays, and logistical delays.
- iii. Delivery will be deemed to be made when the Goods are delivered to the location specified in the Quotation, Sales Order or Sales Invoice. If the customer has requested that the goods be left unattended, or with a third-party representative, no responsibility will be taken for loss or damage by designFARM or their freight partners.
- iv. We reserve the right to make part deliveries of any order and each part delivery will constitute a separate sale of Goods on these Sale Terms and may be invoiced separately. A part delivery of an order will not invalidate the balance of an order.
- v. designFARM will provide reasonable notice of commencement time on site, however it is your responsibility to provide access to site as necessary within good time. We will ensure all persons in our employment are covered by the appropriate Worker’s Compensation Insurance and Public Liability Insurance.
- vi. Site facilities will be provided by you, and it is your responsibility to ensure the site facilities are satisfactory and serviceable and to make arrangements for further facilities, where required.

- vii. If for any reason you do not accept delivery of the Goods or performance of the Services when they are ready for delivery or performance, or we cannot deliver the Goods or perform the Services on time because you have not provided us with appropriate instructions, documents, licences or authorisations, we reserve the right to:
  - a. Invoice you up to 100% of the total amount of the Sales Invoice, and
  - b. Charge a weekly minimum \$50.00 per order storage fee that will be calculated based on the size of the total consignment and in weekly increments (or part thereof) unless agreed prior in writing.
  - c. Payment of all storage charges is due prior to delivery or collection of goods.
- viii. If designFARM attempts delivery of the Goods to you, and it is discovered that the delivery site is not ready for delivery or installation of the Goods, and as a consequence, we are required to return the Goods back to our premises or warehouse and are subsequently required to re-deliver the Goods to you, we will be entitled to charge you a reasonable fee to recover the additional transport and storage costs.
- ix. It is the responsibility of the client or a representative of the client to inspect all product on delivery. designFARM must be notified of any products that are not in accordance with your Quotation, Sales Order or Sales Invoice within 24 hours of delivery or performance. Failing such notice and to the extent permitted by statute, the Goods or Services and their condition will be deemed to have been delivered or performed and accepted by the client.
- x. You must notify us if the products are not in accordance with the Quotation, Sales Order or Sales Invoice within 48 hours of delivery. Failing such notice and to the extent permitted by statute, the Goods or Services and their condition will be deemed to have been delivered or performed and accepted by you.

## 5. Title & Risk

- i. Title to the Goods will not be transferred to you (or any financial institution and or agent facilitating the acquisition of the Goods by you) until the total purchase Price and any other sums due to us under these Sale Terms, including any late payment charge payable, has been paid and cleared funds to us (Payment).
- ii. Until such Payment is made:
  - a. You will hold the Goods and any money received by you in respect of the sale or disposal of them (or if any part of the whole thereof has been damaged or destroyed, any insurance or other compensation moneys received) on trust for us, and
  - b. You will store the Goods or hold such money in such manner as to show clearly that they are our property.
- iii. Until Payment has been made, you irrevocably authorise us at any time to enter onto any premises on which:
  - a. Our Goods are stored or held to enable us to inspect the Goods and/or if you are in default under clause 4.iv, to reclaim the Goods. You indemnify us and hold us as not liable in respect of any action taken pursuant to our rights under this Agreement, and
  - b. You have retained records concerning the Goods being held, to permit us to inspect and copy such records where necessary.
- iv. The Risk of the Goods will pass to you on delivery. You accept the responsibility for insurance for the Goods from that time, but delivery does not make you the owner of the Goods until Payment in full.
- v. Until final Payment is made in accordance with these Sale Terms, neither you nor any administrator appointed pursuant to any section of the Corporations Act will move any part of the Goods from the location to which it was delivered by us nor will you sell or contract to sell, mortgage, charge, lease or otherwise dispose of the same or part with possession of the same.
- vi. We reserve the right to register any retention of title security interest in Goods on the Personal Securities Act 2009 (PPSR), and you agree to provide all such assistance to us to enable us to make any such PPSR registration.
- vii. Subject to the Australian Consumer Law, any products sold as seconds, floor stock, repaired products, or products that have a defect where this has been drawn to your attention prior to purchase is not returnable.

## 6. Cancellation & Returns

- i. We 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.
- ii. If we do accept a cancellation of your Sales Order, you agree to:
  - a. Arrange a return of the Goods, at your cost and risk, to our nominated returns warehouse or store, as we nominate,

- b. 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.
    - c. You 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 reasonably believe reflects the loss to us in accepting the cancellation, including any storage costs and any mark down of the price of the Goods.
- iii. If, after you have made full payment of the deposit where required in accordance with the Quotation, Sales Order or Sales Invoice but before the Goods are delivered to you, you wish to change your mind and cancel the Sales Order and we do accept such cancellation, you agree that we are entitled to forfeit the whole of the deposit paid by you, and charge you with any additional amount that we reasonably believe reflects the loss to us in accepting the cancellation, including any transportation or storage costs and any mark down of the price of the Goods.

## **7. Warranties**

- i. For warranty purposes designFARM acts as an agent for the manufacturers we represent and will manage the warranty claim process on behalf of our customers.
- ii. Manufacturer warranties will vary depending on the product purchased, designFARM provides a product warranty against defects for a period of one (1) year unless otherwise stated on your Quotation, Sales Order or Sales Invoice. This warranty against defects excludes fair wear and tear and is applicable only to faulty materials or workmanship. If product is determined by designFARM to be defective, designFARM may at its option either repair or replace the defective product or provide the client with a refund.
- iii. Any warranty claim must be notified to designFARM within one (1) year otherwise stated of the date of Product delivery to the Client. A warranty claim, if in writing shall be addressed to designFARM at 1000 Hay Street Perth WA 6000 or emailed to [accounts@designfarm.com.au](mailto:accounts@designfarm.com.au) or if by telephone to 08 9322 2200. The Client shall bear any costs or expenses incurred in the making a warranty claim.
- iv. In the event, that the Client is a Consumer:
  - a. The benefits under this warranty are in addition to other rights and remedies of the Client under The Australian Consumer Law (ACL) in relation to the Product.
  - b. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage.
- v. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

## **8. Your default**

- i. If you default by non-payment or non-performance of any obligation under this Agreement or if any proceedings under any bankruptcy, liquidation or insolvency laws are started by or against you, we will have the right to exercise any one of the following remedies:
  - a. Declare all unpaid amounts of the Sales Invoice to be immediately due and payable
  - b. Require you to make available all documentation and to assemble such parts of the Goods which has not been paid for and to make the same available at a time and place reasonably convenient to us
  - c. Take possession without demand or notice (where the right to demand or notice is expressly waived by you under this clause) of all parts of the Goods yet unpaid for
  - d. Sell, lease or otherwise dispose of the Goods publicly or privately
  - e. Terminate this Agreement in whole or in part, and/or
  - f. Pursue any other remedies existing at law or in equity.
- ii. In addition to any other payment obligations under the Agreement, you agree to pay to us all costs and expenses, including reasonable legal fees and costs incurred by us, in exercising any of our rights and remedies we are entitled to.