



TERMS AND CONDITIONS OF SALE AUSTRALIA / NEW ZEALAND

1. APPLICABILITY

These Terms and Conditions of Sale (these “**Terms**”) govern the sale by Multi-Color Corporation, an Ohio corporation, or any of its affiliated entities that issue an order confirmation for Products (collectively, “**MCC**”), of labels, packaging, printed products, and related products and equipment (collectively “**Products**”) when the Products are shipped to a Buyer in Australia or New Zealand. By purchasing Products from MCC, the buyer of the Products (“**Buyer**”) agrees to these Terms. MCC expressly objects to, rejects, and excludes any other Buyer terms and conditions, including, but not limited to, any different, additional, or contrary terms proposed by Buyer, or any standard terms and conditions set forth in a Buyer purchase order or other document. Buyer’s purchase order excluding Buyer’s standard terms and conditions which are expressly rejected, shall be referred to herein as the “**Order**”. These Terms, together with the MCC quotation and/or MCC order confirmation into which they are incorporated (the “**Order Confirmation**”) and collectively with these Terms, this “**Agreement**”) supersede all prior understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. No Order shall become binding on MCC until MCC issues an Order Confirmation accepts the Order in writing or starts performing in accordance with the Order. Orders that are not accepted by MCC within 30 days shall be deemed rejected. In the event of a conflict among the provisions of these Terms and the Order Confirmation, these Terms shall control.

2. CANCELLATION OR MODIFICATION OF ORDERS

Buyer may not cancel or modify an Order without MCC’s prior written consent. In the event of such cancellation or modification, Buyer shall compensate MCC for all resultant costs and damages. MCC may cancel an Order without incurring any liability to Buyer other than a refund of any pre-paid fees or costs, if production becomes impracticable, provided that MCC must promptly communicate any impracticability to Buyer.

3. LABEL DESIGNS AND SPECIFICATIONS

(a) Buyer shall be charged for all artwork, printing plates, dies and tooling supplied by MCC to produce the Products. All such charges shall be invoiced with the first shipment of Products unless otherwise set forth in the Order Confirmation.

(b) As between Buyer and MCC, Buyer is solely responsible for the content of all Products. Buyer shall furnish all artwork, designs and wording to be imprinted on the Products, and/or shall review and approve all artwork, designs, and written material supplied by MCC (“**Designs**”). Buyer must accept and approve the Designs before MCC prints the Products. Buyer shall release and indemnify MCC against any claims that the Designs do not comply with the requirements of law or fail to imprint any word, device, or design that may be required by law.

(c) Buyer warrants it has all necessary right, title and interest in and to the Designs, including all label content and any intellectual property rights comprised therein, and warrants that the Designs do not infringe upon the intellectual property rights or privacy or proprietary rights of any third party. Buyer grants to MCC a personal, non-assignable, royalty-free, right and license to utilize Buyer’s intellectual property rights in the Designs in order for MCC to perform its obligations under this Agreement.

(d) Buyer acknowledges that MCC is not under any obligation to enforce Buyer’s intellectual property rights in the Designs, or to independently confirm the Designs do not infringe any third party intellectual property rights, including in relation to any Designs supplied by MCC unless those Designs are not approved by Buyer.

(e) Each party is and will continue to be the sole owner of any intellectual property owned by it prior to the date of the Agreement. Any new intellectual property relating to the methods of production, assembly, or supply of the Products which is conceived, made, authored

or reduced to practice by MCC under this Agreement shall be MCC’s sole and exclusive property. To the extent any such rights vest in Buyer

by operation of law, Buyer hereby agrees to assign and convey such rights to MCC without the payment of any amounts including any royalties, commissions or profit participation charges. Buyer will not make any adverse claim regarding intellectual property owned by or to be assigned to MCC. Further, unless specified otherwise in the Order Confirmation, Buyer does not acquire any ownership rights or interests in any tooling acquired by MCC on behalf of Buyer, despite payment of any invoice charges for the dies, tools, and fixtures.

4. ESTIMATES AND QUOTATIONS

MCC’s written estimates and quotations are valid for a period of 30 days from the date of the quotation unless otherwise agreed to in writing by MCC. All pricing shall constitute good faith estimates only and shall be conditioned upon review by MCC of any Design and/or samples supplied by Buyer.

5. PRICING; PAYMENT TERMS

(a) Buyer shall purchase the Products from MCC at the prices set forth in the Order Confirmation.

(b) All prices are exclusive of good and services tax (GST), sales, use and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental authority on any amounts payable by Buyer. Buyer shall be responsible for all such charges, costs, and taxes; provided, however, that MCC shall be responsible for any taxes with respect to MCC’s income, revenues, personnel or real or personal property.

(c) Buyer shall pay all invoiced amounts within 30 days from the date of MCC’s invoice. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off, counterclaim, or dispute with MCC. Buyer shall pay a late payment charge on overdue amounts at a rate equal to the lesser of: (a) one and one-half percent (1½%) per calendar month, or (b) the maximum rate allowed by applicable law. In addition, Buyer shall be responsible for all costs of collection incurred by MCC on past due amounts, including court costs, collection agency fees and reasonable attorney’s fees. MCC shall have the right to suspend performance of an Order until all past due amounts are paid in full.

6. TITLE, RISK AND INSURANCE

(a) Legal and equitable title in the Products remains with MCC until such time as the Buyer has made full payment for the Products and discharged all outstanding indebtedness or obligations whatsoever to MCC. The Buyer acknowledges and agrees that, until then, the Buyer:

(i) holds the Products as bailee of MCC and a fiduciary relationship exists between MCC and the Buyer for this purpose;

(ii) must keep the Products in good condition;

(iii) must keep the Products stored separately from other goods and marked so that the Products are clearly and easily identifiable as the property of MCC, and inform MCC of the location of the Products, if requested; and

(iv) must not sell, assign or let the Products or any interest in them, except in the ordinary course of business, or permit any charge, pledge, lien or other encumbrance to be created in relation to them.

(b) If the Buyer fails to pay for any Products on the due date for payment, the Buyer authorizes MCC, its employees and agents to enter the Buyer’s premises (and any premises under the Buyer’s control or the control of the Buyer’s agent if the Products are stored on those premises) and to re-take possession of the Products without liability for trespass or damage. MCC may at its option keep or re-sell the Products re-taken from the Buyer.

(c) If the Products are resold, or the Products have been applied to bottles or other products and then on-sold (prior to MCC having been paid in full for the Products), the Buyer must hold (in a separate identifiable account as the beneficial property of MCC) such part of the proceeds of any such sale as represents the price of the Products sold or used in the bottles or other products being sold, and must pay that amount to MCC immediately upon request. If the Buyer intermingles those proceeds of sale with the Buyer’s other funds, the Buyer acknowledges



TERMS AND CONDITIONS OF SALE AUSTRALIA / NEW ZEALAND

that MCC has a beneficial interest in those intermingled funds to the extent of the monies owing to MCC in respect of the relevant Products sold or used.

(c) The Buyer must not assign the right to any such proceeds or enter into any other arrangement which would result in MCC not receiving those proceeds.

(d) Despite the retention of these rights, MCC is entitled to bring and maintain an action or claim against the Buyer for the purchase price of any Products supplied to the Buyer.

(e) Risk in the Products supplied passes to the Buyer at the time of dispatch of the Products from MCC's premises. The Buyer must keep the Products insured against all risks for goods of that kind from the time the risk in the Products passes to the Buyer until the time the property in the Products passes to the Buyer. The Buyer holds the proceeds of that insurance on trust for MCC up to the amount the Buyer owes MCC in respect of those Products, and must keep such proceeds in a separate account until all indebtedness or obligations owed to MCC in respect of Products supplied to the Buyer is discharged and the Buyer must immediately pay that amount to MCC upon demand.

7. DELIVERY

(a) Unless otherwise agreed in writing by the parties, MCC shall deliver the Products to Buyer FCA, MCC's facility dock (FCA shall have the meaning set forth in Incoterms 2020 (ICC No. 715) with its attendant rights and obligations) using MCC's standard methods for packaging and shipment. Buyer shall be responsible for all loading costs and shall provide all equipment and labor reasonably suited for receipt of the Products at Buyer's delivery point. All risk of delay or loss or damage in transit shall pass to Buyer when MCC delivers the Products to the carrier. Buyer shall promptly inspect the Products and must inform MCC within 30 calendar days of receipt of the Products of any defects (or shall be deemed to have accepted the Products).

(b) MCC will use commercially reasonable efforts to comply with the delivery dates set forth in the Order Confirmation. Time for delivery shall not be of the essence. Shipments may contain shortages or overruns not exceeding 10%. Failure by MCC to meet the estimated delivery dates shall constitute cause for cancellation of the relevant Purchase Order only after the estimated delivery date has passed and Buyer provides a written notice to cure and the delivery issue remains uncured fourteen (14) days thereafter. In the event of a delay in delivery requested by Buyer or caused by Buyer, MCC will store the Products at Buyer's risk and expense. Claims for shortages or other errors must be made by Buyer in writing within 30 calendar days of delivery, provided shipments may contain shortages or overruns not exceeding 10%. Failure to give such notice shall constitute unqualified acceptance and a waiver of all claims by Buyer related to shipment or delivery issues (this does not waive Buyer's right to any product warranty claims). Partial shipments shall be permitted.

8. LIMITED WARRANTY

Unless specifically stated otherwise in the Order Confirmation, MCC warrants for a period of six (6) months from the date of shipment that the Products will be free of material defects and will conform in all material respects with the written specifications for the Products as agreed to by the parties in writing (the "Limited Warranty"). This Limited Warranty is in addition to and in no way a limitation of the Consumer Guarantees under the Australian Consumer Law (ACL), a consumer's rights under the New Zealand Consumer Guarantees Act 1993, or any other warranties guaranteed by applicable law. Buyer's sole and exclusive remedy for any breach of this Limited Warranty, and of any warranty whatsoever unless another remedy is mandated by applicable law shall be limited to replacement, correction, or repair of defective Products by MCC, including the cost of inspection, removal, delivery, or field service travel expenses. EXCEPT AS PROVIDED IN THIS SECTION 7, MCC MAKES NO OTHER REPRESENTATION OR WARRANTIES AS TO THE PRODUCTS, AND HEREBY DISCLAIMS ANY OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF

MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR THOSE ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE USAGE. TO THE EXTENT PERMITTED BY LAW, MCC DOES NOT WARRANT THAT THE PRODUCTS WILL MEET BUYER'S SPECIFIC NEEDS OR REQUIREMENTS. THE WARRANTIES SET FORTH IN THIS SECTION 7 SHALL NOT APPLY TO ANY PRODUCTS THAT HAVE BEEN (i) SUBJECTED TO ABUSE, MISUSE, NEGLECT, NEGLIGENCE, ACCIDENT, IMPROPER TESTING, IMPROPER INSTALLATION, IMPROPER STORAGE, IMPROPER HANDLING, ABNORMAL PHYSICAL STRESS, ABNORMAL ENVIRONMENTAL CONDITIONS OR USE CONTRARY TO ANY INSTRUCTIONS ISSUED BY MCC; OR (ii) RECONSTRUCTED, REPAIRED OR ALTERED BY PERSONS OTHER THAN MCC OR ITS AUTHORIZED REPRESENTATIVE.

9. INDEMNIFICATION

Buyer hereby releases and agrees to indemnify, defend and hold harmless MCC, its shareholders, directors, officers, employees, managers, members, affiliates, subsidiaries, agents, successors and assigns from and against any and all direct and indirect claims, demands, actions, liabilities, judgments, damages, losses, fines, penalties, forfeitures, costs and expenses, including, without limitation, reasonable attorneys' fees and costs of proceedings (collectively, "Losses"), arising out of or relating to: (i) any damage to or destruction of property, or injury to or death of persons caused, or alleged to have been caused, in whole or in part, by any intentional, reckless, negligent or other act (or failure to act) of Buyer or any of Buyer's Parties; (ii) losses, damages or injuries caused by, arising out of or relating to the Products and/or Designs or the handling or use of the Products and/or Designs, except to the extent caused by MCC's negligence, willful misconduct, or a breach of the Limited Warranty in Section 7; and/or (iii) except to the extent caused by MCC's negligent or more culpable act or omission, any infringements of any patent, trademark, copyright or other intellectual property rights of Buyer or any third party with respect to the Products and/or Designs either alone or in combination with other products. Buyer understands it is responsible for all Losses set forth in this Section 8 and agrees to obtain and maintain adequate levels of insurance to cover its operations on a primary and non-contributory basis. Buyer agrees to release and waive all rights of recovery against MCC and its insurers by way of subrogation.

MCC agrees to indemnify, defend, and hold the Buyer Parties harmless from third party claims arising from the grossly negligent acts or omissions or willful misconduct of MCC in the performance of its obligations under these Terms, and MCC shall be responsible for Losses attributable thereto. Buyer shall provide MCC prompt written notice of any claim for indemnification under this Section 8(b) and MCC shall have the sole right to defend and settle the claim. Buyer shall reasonably cooperate with MCC in the defense at MCC's expense. Buyer may choose to participate in the defense on a non-controlling basis with counsel of its own choosing at its own expense. MCC shall obtain and maintain adequate levels of insurance to cover its operations on a primary and non-contributory basis.

10. LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMISSIBLE BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOSS OF USE, REVENUE OR PROFIT, OR FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE REASONABLY FORESEEABLE AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL A PARTY'S



TERMS AND CONDITIONS OF SALE AUSTRALIA / NEW ZEALAND

AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PRODUCTS UNDER ANY THEORY OF LIABILITY EXCEED THE TOTAL OF THE AMOUNTS PAID OR PAYABLE TO MCC FOR THE PRODUCTS SOLD HEREUNDER OR \$100,000, WHICHEVER IS MORE. NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS SET FORTH ABOVE SHALL NOT APPLY TO A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR INDEMNIFICATION OBLIGATIONS.

11. GRANT OF SECURITY INTEREST

In this clause 11:

- (a) "PPSA" means:
- (i) if the governing law of this Agreement is New Zealand law, the *Personal Property Securities Act 1999 (NZ)*;
 - (ii) if the governing law of this Agreement is Australia law, the *Personal Property Securities Act 2009 (Cth)*;
- (b) A word or expression used in this clause 11 which is defined in (or used in the context of) the PPSA has the same meaning in this clause 11, unless the context otherwise requires.
- (c) The Buyer grants MCC a security interest in all Products supplied by MCC as security for all indebtedness owed by the Buyer to MCC, regardless of whether title in any or all of the Products may have passed to the Buyer.
- (d) MCC is entitled to apply any payment received from or on behalf of the Buyer towards any of the Products supplied to the Buyer.
- (e) The Buyer agrees, to the extent permitted by law:
- (i) that, to the extent the security interest granted by the Buyer to the MCC secures all or part of the purchase price of the Products, the security interest will be a purchase money security interest;
 - (ii) to promptly give MCC all assistance and information (including signing any documents) as MCC requests to ensure that MCC has a perfected first ranking security interest in all Products (and the proceeds thereof) supplied by MCC;
 - (iii) that MCC may register a financing statement on the Personal Property Securities Register against the Buyer;
 - (iv) that notices or documents required or permitted to be given to MCC under the PPSA may be given in accordance with the PPSA;
 - (v) not to change its name, address for service or contact details or any other of its data used by MCC to register a financing statement without notifying MCC in writing of the Buyer's intention to change its name at least 10 business days prior to doing so;
 - (vi) that it waives its rights to receive a copy of any verification statement under the PPSA; and
 - (vii) if the governing law of this Agreement is New Zealand law:
 - a. the parties agree that nothing in sections 114(1)(a) (Notice of sale of collateral), 133 (Debtor may reinstate security agreement) and 134 (Limit on reinstatement of security agreement) of the PPSA shall apply to this Agreement; and
 - b. the Buyer agrees that its rights as debtor in sections 116 (Secured party to give statement of account to debtor, etc), 120(2) (Proposal of secured party to retain collateral), 121 (Persons entitled to notice may object to proposal), 125 (Secured party must not damage goods when removing accession), 126 (Person with interest in other goods entitled to reimbursement for damage caused by removal of accession), 127 (Person entitled to reimbursement may refuse permission to remove accession) 129 (Secured party must give notice of removal of

accession), and 131 (Court may make order concerning removal of accession) of the PPSA shall not apply to this Agreement;

- (viii) if the governing law of this Agreement is Australia law the parties contract out of the Buyer's rights, and the Buyer waives its rights, under sections 95 (Secured party must give notice of removal of accession), 118 (Enforcing Security in accordance with land law decisions), 121 (Enforcement of security interests in liquid assets), 125 (Obligation to dispose of or retain collateral), 130 (Notice of disposal of collateral), 132 (Secured party to give statement of account), 135 (Notice of retention of collateral), 142 (Entitled persons may redeem collateral) and 143 (Entitled persons may reinstate security agreement) of the PPSA.

12. TERMINATION

In addition to any remedies that may be provided under these Terms, MCC may terminate this Agreement and any Order with immediate effect upon written notice to Buyer, if Buyer fails to pay any amount when due under this Agreement and such failure continues for five (5) days after Buyer's receipt of written notice of nonpayment. Either party may terminate this Agreement effective thirty (30) days following notice in the event that the other party(i) has not otherwise performed or complied with any of these Terms, in whole or in part; or (ii) refuses or is unable to provide adequate assurances of performance or becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

13. FORCE MAJEURE

MCC shall not be liable or responsible to Buyer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of MCC including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions or lockdowns, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic or pandemic, lockouts, strikes, or other labor disputes or shortages (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies, materials or telecommunication breakdown or power outage.

14. MISCELLANEOUS

- (a) Buyer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of MCC. Any attempted assignment or delegation in violation of this clause 13(a) shall be void and of no effect.
- (b) No waiver by MCC of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by MCC.
- (c) The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
- (d) Buyer certifies that it will comply with all applicable import laws and regulations, including those administered by U.S. Customs and Border Protection.
- (e) Any notice given pursuant to the Agreement shall be in writing and sent by certified mail, postage prepaid, return receipt requested, to the appropriate party at the address set forth in the purchase Order, contract or agreement or at such other address as such party may provide in writing to the other party. Any such notice shall be effective upon the receipt thereof.
- (f) Provisions of these Terms which by their nature should apply beyond their terms will remain in force after any termination or



TERMS AND CONDITIONS OF SALE AUSTRALIA / NEW ZEALAND

expiration of this including, but not limited to, the following Sections:
3, 5(c), 6, 8, 9, 10, 11, 12, 13, 14 and 15.

15. GOVERNING LAW

(a) Where the parties intend, at the time of this Agreement, that Products are to be supplied in, or moved to, New Zealand, this Agreement will be governed by and construed in accordance with New Zealand Law and the parties unconditionally submit to the non-exclusive jurisdiction of the courts of New Zealand;

(b) In all other circumstances, this Agreement will be governed by and construed in accordance with the internal laws of South Australia without regard to the conflicts of law principles thereof and excluding the United Nations Convention on the International Sale of Products of 1980 (and any amendments or successors thereto). The parties unconditionally submit to the exclusive jurisdiction of the courts in South Australia.