

TERMS AND CONDITIONS

This document sets out the terms and conditions upon which MI Customs (Pty) Ltd (registration number 2024/330774/07) ("**MI Customs**") has agreed to provide its products and/or services to you, as the "**Client**". Your acceptance of any MI Customs estimate, quotation, invoice and/or product/service, or payment of any sum to and in favour of MI Customs, indicates your explicit and/or tacit acceptance of the terms and conditions listed herein, and any annexures attached hereto ("**Terms**"). Any reference herein to "you" or "your" shall refer to the Client, and any reference herein to "us", "we" or "our" shall refer to MI Customs. MI Customs shall not be bound to any terms or conditions other than these Terms, or any variation or amendment of these Terms, unless agreed in writing and signed by MI Customs.

The units designed and manufactured by us constitute special-order goods as contemplated in the Consumer Protection Act 68 of 2008 (as amended) ("**the CPA**")

MI Customs contact details:

Address: Unit 18, 63 Russom Street, Verulam, KwaZulu-Natal, 4339

Contact number: 065 8194623

E-mail: info@micustoms.co.za

1. ORDERS, PAYMENT, AND MANUFACTURING

- 1.1. Following receipt of your enquiry telephonically, through our website, on our social media pages, or via WhatsApp, a representative of MI Customs will contact you to arrange a suitable date and time for attending to measurements of your desired installation area, as well as the style, colour, and design of our custom units.
- 1.2. After the enquiry and any initial discussions with you, we will provide you with a quotation including the costs of design, manufacture, delivery, installation, and any other costs that may apply. The quotation may also specify any additional terms and conditions that may apply to the order.
- 1.3. Quotations are valid and open for acceptance for 30 calendar days from the date of issue only. In the event of any conflict between any quotation and these Terms, the terms of the quotation shall prevail.
- 1.4. Once we receive your written acceptance of our quotation via email or in other written format (including, without limitation, via email, WhatsApp, or other instant messaging or social media platform), we will issue you with an associated invoice.
- 1.5. Upon our receipt of payment of a deposit equal to 50% (fifty percent) of the full invoiced amount, we will commence with ordering the necessary materials, and manufacturing your unit. Please provide proof of payment by email to MI Customs.
- 1.6. Please allow for an order/manufacturing period of 2 to 4 weeks from receipt of payment. During this period, we will contact you to communicate any issues that we may experience in the manufacturing process. Should our suppliers be out of stock, or there are any other considerations that need to be taken into account, we will contact you to discuss suitable alternatives.
- 1.7. There may be extended production or delivery time on some designs, but this will be communicated and clarified when ordering. On special occasions, such as holidays etc., there will be an extended lead time. We will inform you about current lead time upon ordering.
- 1.8. Once the manufacturing process is complete and the unit/s are ready for delivery, we will contact you to confirm a suitable and convenient delivery date and time. Terms and conditions relating to delivery and installation are set out in clauses 4 and 5 below.

- 1.9. We will also issue an invoice to you for payment of the remainder of the invoiced amount. This amount is payable prior to delivery and installation of the manufactured unit/s.
- 1.10. All amounts payable to MI Customs shall be paid by way of electronic funds transfer, free of deduction, set-off or charges, into the bank account specified in the invoices.
- 1.11. Unless otherwise specified in any quote, all amounts shall be exclusive of value-added tax (VAT).
- 1.12. Any late payments shall attract interest at a rate of 2% per month (being 24% per year), calculated daily and compounded monthly, from due date to date of final payment (both dates inclusive).
- 1.13. Your acceptance of any quotation confirms that all plans/designs have been thoroughly reviewed and approved by you. Without limitation to the foregoing, by accepting any quotation you confirm that all patterns, profiles, styles and other materials are correctly specified on the quotation and that all extras/add-ons/accessories are specified in the quotation. Should any additional products/accessories/items/services be required, an additional quotation will need to be issued and such quotation will constitute a separate order.
- 1.14. Any changes or modifications to the plan/design of any unit/s quoted will affect the final price.
- 1.15. Costing is subject to material and product availability and price fluctuations.
- 1.16. MI Customs is not responsible for any misprints in any quotation.

2. DELIVERY

- 2.1. The Client is responsible for providing the correct delivery address. Any additional transport costs incurred from an incorrectly stated delivery address are the sole responsibility of the Client.
- 2.2. If nobody is home at the specified address at the time of delivery, we take the unit with us unless otherwise agreed. Any cost connected with a failed delivery will be charged to the Client.
- 2.3. All risk in any units sold by MI Customs pursuant to these Terms transfers to the Client on delivery to the designated delivery address. MI Customs assumes only the risk of transportation to the correct delivery address. The Client assumes full responsibility for securing and maintaining the units after collection or delivery, as well as the burden of proof if any claim is made that the units were not delivered or had any existing damage. Notwithstanding delivery to a Client, MI Customs remains the owner of all such units until all amounts owing to MI Customs by the Client have been received. The Client agrees that the units remain movable and removable and do not accede to the immovable property.
- 2.4. We assume no further liability than as imposed by the CPA in the case of late delivery.

3. INSTALLATION

- 3.1. The Client specifically agrees that MI Customs may either use its own employees, or a subcontractor of its choice to perform any installation. The Client shall engage directly with MI Customs only regarding any installation through its subcontractor(s). MI Customs shall manage such installation. MI Customs shall not be liable for any additional work requested from or agreed to by any subcontractor or other installer unless MI Customs has agreed thereto in writing.
- 3.2. All installations will require access to an electrical plug point and adequate electricity supply.

- 3.3. While MI Customs (and its subcontractors) follow industry standards and supplier advice and guidance in installing any products, Client acknowledges and agrees that installation is at its sole risk. Neither MI Customs nor any of its subcontractors shall be liable for any loss or damage (including, for the avoidance of doubt and without limitation, injury or death) caused during any installation. The Client indemnifies and holds harmless MI Customs, its shareholders, directors, officers, employees, contractors and agents in respect of any such loss, damage, injury or death.
- 3.4. The Client shall ensure that the site is ready for installation on the agreed date and time. Any additional transport costs incurred from the site not being ready are the sole responsibility of the Client. MI Customs shall not be liable for any such delays in delivery or installation.
- 3.5. If MI Customs finds that the structure is defective or does not conform to applicable standards, we reserve the right to suspend the installation until such time as the site is made ready by the Client, or alternatively to amend the quotation to allow for the installation to accommodate such defects, in the event that this is possible.
- 3.6. MI Customs shall under no circumstances be liable for any measurements not taken by itself.
- 3.7. Once installation has been completed, MI Customs shall require the Client to sign an installation document confirming that the installation has been completed.
- 3.8. It is the Client's responsibility to ensure that all water pipes, electrical cables and electrical points are clearly identified during measurement and installation. MI Customs and its staff or sub-contractors will not be held responsible for any damage caused by drilling into water supply piping and/or electrical circuit/wiring that are inside the walls during installation.
- 3.9. For the avoidance of doubt, MI Customs shall under no circumstances be liable for any loss, damage or liability caused by (or any act or omission of) any installer appointed by the Client.

4. CANCELLATIONS

- 4.1. As soon as the payment of the initial deposit has been received, the order is put into production and therefore no changes can be made to the order. Our units are specially made and produced to order. The order is initiated as soon as payment is received after which you cannot cancel your order or receive any refunds or return any such units.
- 4.2. Unless otherwise expressly provided in these Terms, all deposits and payments by you are non-refundable and no units may be returned after delivery.
- 4.3. Client acknowledges that products ordered in terms of these Terms are "special order goods" as contemplated in the CPA.
- 4.4. MI Customs may, in its sole and absolute discretion, suspend deliveries or cancel any order in whole or in part, if:
 - 4.4.1. Client commits any breach of these Terms;
 - 4.4.2. Client, being an individual, dies or is provisionally or finally sequestered or surrenders his/her estate;
 - 4.4.3. Client, being a company, a close corporation or a trust is placed under provisional or final liquidation or business rescue proceedings or is wound up;
 - 4.4.4. Client attempts to compromise generally with its creditors or has a court judgement against it which it does not pay within 7 (seven) calendar days; and/or

4.4.5. Client limits or fails to provide reasonable access to the installation site.

4.5. In the event of legal action being instituted by MI Customs against Client, Client shall be liable to pay the legal costs incurred by MI Customs on the scale as between attorney and own client, collection commission, tracing costs and all other ancillary charges or expenses relation to such action. A certificate issued under the hand of any manager/director of MI Customs, whose appointment and authority it shall not be necessary to prove, will be *prima facie* evidence of the amount due by the Client to MI Customs and the interest applicable.

5. PRODUCTS AND DISCREPANCIES

5.1. All MI Customs units are made-to-order. Some designs that are manufactured in natural and special materials may vary in appearance from item to item. We cannot guarantee that the finish of your product is identical with any sample product and showroom models. For example, veneered products may vary in grain and shades. In general, all designs manufactured from natural materials may vary and show differences in appearance and finish. The Client indemnifies and holds harmless MI Customs, its shareholders, directors, officers, employees, contractors and agents in respect of any such discrepancies in appearance.

5.2. On receipt of your units and after completion of any installation, you are obliged to examine the received order within 72 (seventy-two) hours to ensure that they correspond to what has been ordered. If there is a discrepancy or error for which we are liable, we will make every attempt to correct the error as soon as possible.

6. WARRANTIES

6.1. Other than as provided for in the CPA, MI Customs does not give any warranty of any nature in respect of any units sold, delivered or installed (or in respect of such installation), all of which are expressly disclaimed.

6.2. The foregoing warranties shall be void and shall not apply in respect of any products that have been exposed to excess weather, moisture, heat, force, misuse, overload, inadequate/incorrect maintenance, incorrect storage or wrong installation.

6.3. No warranty under these Terms shall cover any operating loss, loss of time or any other indirect, consequential or special loss or damage (including, without limitation, any loss of profit, or damage to electronics or other items stored in, on, or around the units).

6.4. MI Customs shall only be required to perform any maintenance or repairs in respect of any products if MI Customs agrees to do so in writing.

6.5. Upon any breach of a warranty hereunder, MI Customs shall have the option (at its election) to repair, reinstall, or replace the relevant product or to refund the price thereof.

7. LIMITATION OF LIABILITY

7.1. The Client indemnifies and holds harmless MI Customs, its shareholders, directors, officers, employees, contractors and agents from and against any and all actions, claims, demands, proceedings or judgments (collectively "**claims**") and any and all losses, liabilities, damages, costs, charges and expenses (collectively "**losses**") of whatever nature and in whichever jurisdiction, which may be instituted, made or alleged against, or are suffered or incurred by it as a result of a breach by the Client of any of their obligations under these Terms.

7.2. Notwithstanding anything to the contrary, should MI Customs for any reason incur any liability hereunder or in respect of any product, delivery or installation or otherwise, MI Customs's total liability shall be limited to a maximum of the amount payable to it under the relevant invoice.

- 7.3. Under no circumstances shall MI Customs be liable for any indirect, consequential or special loss or damage (including, without limitation, any loss of profit).
- 7.4. The Client shall be solely responsible for complying with any laws or regulations in force in respect of the installation and use of any products hereunder.

8. PERSONAL INFORMATION AND DATA PROTECTION

- 8.1. In performing our obligations hereunder, we shall:
 - 8.1.1. comply with the provisions of applicable privacy and data protection laws governing the collection, use and processing of personal information;
 - 8.1.2. not disclose or otherwise make available the personal information to any third party other than as provided for herein and/or to authorised staff or suppliers/contractors who require access thereto strictly in order for us to carry out our obligations hereunder, and to ensure that such staff and any other persons that have access to the personal information are bound by appropriate and legally binding confidentiality and non-use obligations in relation thereto; and
 - 8.1.3. take appropriate, reasonable technical and organisational measures to ensure that the integrity and confidentiality of the personal information in our possession or under our control is secure and that such personal information is protected against accidental loss, destruction, damage, unlawful access or processing.
- 8.2. By accepting these Terms, you consent that we may, to the extent permitted by law, receive or disclose your personal information from or to:
 - 8.2.1. any law enforcement agencies that require the information for the prevention or investigation of criminal activities;
 - 8.2.2. any of our shareholders, affiliated entities, suppliers, contractors, agents and/or professional advisors for marketing and/or statistical purposes, subject to your right to restrict receipt of unwanted marketing material or other rights in terms of the CPA or the Protection of Personal Information Act No. 4 of 2013; and/or
 - 8.2.3. any of our shareholders, affiliated entities, suppliers, contractors, agents and/or professional advisors for reporting, accounting, product supply and service and/or auditing purposes.
- 8.3. The Client hereby indemnifies and holds harmless MI Customs, its affiliates, their respective staff, successors, cessionaries, and assigns, from any and all losses, costs, expenses and damage, including consequential losses and damage as well as penalties and fines arising from any such processing of its personal information.
- 8.4. Please see our Privacy Policy for more details on how we use and process your personal data.

9. GENERAL

- 9.1. **Assignment:** MI Customs is entitled, without consent from, but by written notice to, the Client to cede any of its rights or delegate any of its obligations in terms of these Terms or any order hereunder to any third party. Client shall not be entitled, without the prior written consent of MI Customs, to cede any of its rights or delegate any of its obligations in terms of these Terms or any order hereunder to any third party.
- 9.2. **No expert advice:** Any advice given by MI Customs to Client will not be expert advice and we will not be liable in respect thereof.
- 9.3. **Third party benefits:** Any benefit stipulated herein for a third party may be accepted by such third party at any time by providing written notice to the parties hereto,

whereupon a binding agreement shall arise between such parties and such third party in respect of the benefit.

9.4. **Service address:** Each of the parties choose *domicilium citandi et executandi* for the purposes of the giving of any notice, the payment of any sum, the serving of any process and for any other purposes arising from the Terms at their respective addresses as nominated to each other in writing from time to time.

9.5. **Force majeure:** If either party is prevented from or hindered or delayed in performing any obligations under these Terms or any order hereunder by reason of any circumstances beyond its reasonable control (including but not limited to acts of god, governmental restraints, epidemic, pandemic, widespread disease, strikes, labour disputes (other than strikes or labour disputes by its own staff), war, extreme weather, fire, flood, riot, sabotage and terrorism) it shall be excused from performance to the extent affected by the circumstances concerned so long as it shall both give notice to the other party of those circumstances promptly after they first affected performance and use all reasonable commercial endeavours to remove or avoid their cause or effect. If MI Customs is prevented from performing any of its obligations hereunder as a result of such force majeure, it shall be entitled, in its sole and absolute discretion, to suspend or cancel any order hereunder.

9.6. **Entire Agreement and Variation:** No alteration, consensual cancellation, variation of, or addition to these Terms shall be of any force or effect unless reduced to writing and signed by MI Customs. These Terms contains the entire agreement between the parties and neither party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein.

9.7. **Further Assurance:** The parties shall co-operate with each other and execute and deliver to the other of them such other instruments and documents and take such other actions as may be reasonably requested of either of the parties from time to time in order to carry out, evidence and confirm its rights and the intended purpose of these Terms.

9.8. **Cumulative Rights and Remedies:** The rights and remedies of the parties under these Terms are cumulative and in addition to any rights and remedies provided by law.

9.9. **Indulgences:** No indulgence, leniency or extension of time which any party ("the grantor") may grant or show to the other shall operate as an estoppel or in any way prejudice the grantor or preclude the grantor from exercising any of its rights in the future.

9.10. **Invalidity:** Any provision of these Terms which is held invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

9.11. **Severability:** Each undertaking in these Terms shall be construed as a separate undertaking and if one or more of the undertakings contained in these Terms is found to be unenforceable or in any way unreasonable (including, without limitation, in terms of the CPA) the remaining undertakings shall continue to bind the parties. To the extent possible in any jurisdiction to which these Terms may apply or in which these Terms may be enforced, if any undertaking contained in these Terms is found to be void but would be valid if the period of application thereof were reduced or if some parts of the undertaking were deleted, the undertaking in question shall apply with such modification as may be necessary to make it valid and effective.

9.12. **Reliance:** Each of the parties acknowledges and agrees that in entering into these Terms and/or any order hereunder, and any documents referred to in it, it does not

rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party thereto or not) other than as expressly set out in these Terms as a warranty or representation. The only remedy available to it for breach of such warranties or representations shall be for breach of contract under these Terms. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

- 9.13. **Governing Law:** These Terms and any orders hereunder shall be governed by and interpreted in accordance with the law of South Africa. All disputes, actions and other matters in connection therewith shall be determined in accordance with such law.
- 9.14. **Jurisdiction:** The parties hereby consent and submit to the non-exclusive jurisdiction of the KwaZulu-Natal Division of the High Court, held in Durban, in any dispute arising from or in connection with these Terms and any orders hereunder.
- 9.15. **Survival of Rights, Duties and Obligations:** Termination of these Terms and/or any orders hereunder for any cause whatsoever shall not release either party from any liability which at the time of termination has already accrued to the other or which thereafter may accrue in respect of any act or omission prior to such termination.
- 9.16. **Confidentiality:** Neither party shall, during or after the provision of the products or services hereunder or the operation of these Terms, use to the prejudice or detriment of the other party, or divulge to any person any material, trade secret or any other confidential information concerning the business affairs of the other party which may have come into its possession or knowledge during the course of these Terms or pursuant to the provision of the products or services.
- 9.17. **Sub-contractors:** MI Customs shall be entitled to utilise sub-contractors for any of the rights or obligations contained in these Terms.
- 9.18. **Intellectual Property:** All of MI Customs's intellectual property rights shall remain vested solely in MI Customs. Nothing herein constitutes an assignment or licence of any intellectual property rights whatsoever.