

1. Definitions

- 1.1 “Mouldmen” means Mouldmen Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Mouldmen Pty Ltd.
- 1.2 “Client” means the person/s purchasing the Services as specified in this Agreement, Quotation or any other document, and:
- (a) if there is more than one Client is a reference to each Client jointly and severally;
 - (b) shall include the Clients representatives, officers, employees, agents, customers, users of the website, owner, property manager, occupier subcontractors and any person appointed by the Client to represent the Client for the purposes of this Agreement and so identified thereby, or such person as may subsequently be appointed by the Client and notified to Mouldmen in writing.
- 1.3 “Agreement” means this document, comprising of these terms and conditions, and provided with the Quotation.
- 1.4 “Confidential Information” means:
- (a) the terms of the Quotation, this Agreement and their subject matter;
 - (b) any information, statements, contracts, agreements, specifications, drawings, reports, accounts, knowledge, information concerning the affairs of Mouldmen; or
 - (c) information which by its nature or by the circumstances of its disclosure, is or would reasonably be expected to be regarded as Confidential Information at any time disclosed (whether in writing or orally); but
 - (d) does not include information that is in the public domain otherwise than as a result other than by a breach of the Quotation or this Agreement by the Client or their agents.
- 1.5 “Services” means all Services supplied by Mouldmen to the Client at the Client’s request from time to time.
- 1.6 Call-Out Fee shall mean all costs (including, but not limited to, hourly rates) incurred by Mouldmen due to:
- (a) Mouldmen not being able to access the worksite at the prescribed time; or
 - (b) the Client failing to notify Mouldmen at least 48 hours before the day on which the service are to be provided, of a request to change the time or date of the treatment or installation.
- 1.7 “Price” means the Price payable (plus any GST where applicable) for the Services as agreed between Mouldmen and the Client in accordance with clause 4 below.
- 1.8 “GST” means Goods and Services Tax (GST) as defined within the “A New Tax System (Goods and Services Tax) Act 1999”.

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of the Services.
- 2.2 These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or Agreement between the Client and Mouldmen.
- 2.3 Where the Client is a tenant (and therefore not the owner of the site where Services are to be provided) then the Client warrants that the Client has obtained the full consent of the owner for Mouldmen to provide the Services at the owner’s site. The Client acknowledges and agrees that they shall:
- (a) upon request from Mouldmen provide evidence that they have such consent; and
 - (b) be personally liable for full payment of the Price for all Services provided under this contract and to indemnify Mouldmen against any claim made by the owner of the site (howsoever arising) in relation to the provision of any Services by Mouldmen, except where such claim has arisen because of the negligence of Mouldmen when providing the Services.
- 2.4 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 14 of the Electronic Transactions (Queensland) Act 2001 or any other applicable provisions of that Act or any Regulations referred to in that Act.
- 2.5 These terms and conditions are meant to be read in conjunction with the Terms and Conditions posted on Mouldmen’s website. If there are any inconsistencies between these documents then the terms and conditions contained in this document shall prevail.
- 2.6 These terms and conditions may be meant to be read in conjunction with Mouldmen’s Hire Form, and:
- (a) where the context so permits, the terms ‘Services’ shall include any supply of Equipment, as defined therein; and
 - (b) if there are any inconsistencies between the two documents then the terms and conditions contained therein shall prevail.
- 2.7 The Client acknowledges that when entering into a contract with Mouldmen that the Client warrants that there are sufficient funds available to honour the Clients obligations of payment to Mouldmen when due and will upon request by Mouldmen provide Mouldmen with notification verifying the designated funds by way of a letter of credit from the Client’s banking institute.

3. Change in Control

- 3.1 The Client shall give Mouldmen not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client’s details (including but not limited to, changes in the Client’s name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by Mouldmen as a result of the Client’s failure to comply with this clause.

4. Authorised Representatives

- 4.1 Unless otherwise limited as per clause 4.2, the Client agrees that should the Client introduce any third party to Mouldmen as the Client's duly authorised representative, that once introduced that person shall have the full authority of the Client to order any Services and/or to request any variation thereto, on the Client's behalf (such authority to continue until all requested Services have been completed or the Client otherwise notifies Mouldmen in writing that said person is no longer the Client's duly authorised representative).
- 4.2 In the event that the Client's duly authorised representative (as per clause 4.1) is to have only limited authority to act on the Client's behalf then the Client must specifically and clearly advise Mouldmen in writing of the parameters of the limited authority granted to their representative.
- 4.3 The Client specifically acknowledges and accepts that they will be solely liable to Mouldmen for all additional costs incurred by Mouldmen (including Mouldmen's profit margin) in providing any Services, or variation/s thereto, requested by the Client's duly authorised representative (subject always to the limitations imposed under clause 4.2 (if any)).

5. Services

- 5.1 Mouldmen treat and remove mould (the 'Services'), Mouldmen do not clean dust, dirt, grease, grime, cigarette stains or any other substance identified to not be mould. Mouldmen may, but are under no obligation to advise the Client if another cleaning process may be required.
- 5.2 The Services do include where necessary, cutting, removal or destroying of any section of wall, ceiling, cornice, skirting board or any other surface or fitting in order to access and inspect internal cavities, (including but not limited to internal wall cavities, subflooring cavities and internal roof cavities). Upon written acceptance of a quote, the express statements about cutting of any section of wall, ceiling, cornice, skirting board or any other surface or otherwise shall be deemed acceptable of same. Mouldmen is not responsible for the repair of any part of the surface subject to this clause.
- 5.3 Mouldmen will not be responsible for:
- (a) removing, moving, shifting or re-arranging furniture or possessions on the premises. If Mouldmen do move, remove, shift or re-arrange any furniture Mouldmen will only do so in the presence of the Client or the owner of such furniture or possessions with their permissions and Mouldmen does not accept liability for any damage to such furniture or possessions as a result of such action;
 - (b) any existing defects revealed by Mouldmen during the provision of the Services to any surfaces where the Services are rendered, worsening or resulting in more damage to the surface from the Services. Any existing defects revealed shall be reported to the Client by Mouldmen on completion of the Services;
 - (c) any harm, including death, which may come to any pets or animals on the premises while the Services are conducted or immediately after the Services are completed;
 - (d) any damage to the site caused by any third party (including, but not limited to, pets or tradesmen);
 - (e) any damage to any paint, where the surface has been treated for mould and painted over prior to the recommended specified seventy-two (72) hours wait period or where appropriate preparation such as cleaning and sanding of the surface is not completed prior to painting after treatment by a qualified tradesperson;
 - (f) any imperfections or discrepancies of painting works completed after the Services by any party at any time even after the seventy-two (72) hour time frame.
- 5.4 The Client acknowledges and accepts that where a surface has had mould which has been painted over, Mouldmen cannot offer any guarantee for the Services on that particular surface. Mouldmen will not be responsible for eliminating mould which has been painted over or is found beneath paint. Mouldmen will communicate with the Client on different methods to effectively eliminate all painted over mould if any is found during the Services.

6. Price and Payment

- 6.1 At Mouldmen's sole discretion, the Price shall be either:
- (a) as indicated on any invoice provided by Mouldmen to the Client; or
 - (b) Mouldmen's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 6.2 Mouldmen reserves the right to change the Price:
- (a) if a variation to the Services are requested by the Client or required upon inspection of the site (including, but not limited to, quantity and sizes of rooms, where the site includes stairs, unavailability of parking at the site or difficult access to the site, the site is excessively unclean, etc.); or
 - (b) in the event the site is not as was stated by the Client, or Mouldmen suffers interruptions from any third party occupying the site which causes delays; or
 - (c) as a result of increases to Mouldmen in the cost of labour and/or materials which are beyond the control of Mouldmen.
- 6.3 Variations will be charged for on the basis of Mouldmen's quotation, and will be detailed in writing, and shown as variations on Mouldmen's invoice. The Client shall be required to respond to any variation submitted by Mouldmen within ten (10) working days. Failure to do so will entitle Mouldmen to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 6.4 The Client acknowledges and agrees that in the event that the Client requests Mouldmen to make a Call-Out to carry out the Services, then Mouldmen reserves the right to charge a minimum Call-Out Fee of ninety-nine dollars (\$99.00).
- 6.5 At Mouldmen's sole discretion, a non-refundable deposit may be required.
- 6.6 Time for payment for the Services being of the essence, the Price will be payable by the Client on the date/s determined by Mouldmen, which may be:
- (a) on delivery of the Services;

- (b) before delivery of the Services;
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by Mouldmen.
- 6.7 Payment may be made by cash, bank cheque, electronic/on-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed to between the Client and Mouldmen.
 - 6.8 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Mouldmen nor to withhold payment of any invoice because part of that invoice is in dispute.
 - 6.9 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
 - 6.10 Receipt by Mouldmen of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then Mouldmen's ownership or rights in respect of the Services and this agreement, shall continue.

7. Provision of the Services

7.1 Mouldmen shall:

- (a) provide the Services, which shall conform to the standards and meet all other requirements set out in the Quotation;
 - (b) carry out their obligations and duties and provide the Services to the reasonable satisfaction of the Client, and shall exercise all due care skill and judgement and work diligently, effectively and to a high standard and at all times act in accordance with the applicable professional standards, principles and practices;
 - (c) have regard to such requirements as may be conveyed to it by the Client and shall comply with all reasonable directions thereof; (d) ensure that they and any person employed or engaged to work on the Services does not:
 - (i) engage in unethical work practices; or
 - (ii) engage employees or subcontracted workers upon terms and conditions that will not meet industrial standards generally applicable in the State.
- 7.2 Both parties shall make all reasonable effort to ensure the Services are completed in accordance with this Agreement and take all necessary reasonable steps to minimise any possible delay thereto. However, any time specified by Mouldmen for provision of the Services is an estimate only, and Mouldmen will not be liable for any loss or damage incurred by the Client as a result of any delay. In the event that Mouldmen is unable to provide the Services as agreed solely due to any action or inaction of the Client, then Mouldmen shall be entitled to charge a reasonable fee for re-providing the Services at a later time and date.
 - 7.3 Commencement of the Services will be put back and/or completion thereof extended by whatever time is reasonable in the event that Mouldmen claims an extension of time (by giving the Client written notice as per clause 7.4) where completion is delayed by an event beyond Mouldmen's control, including but not limited to any Force Majeure event, or any failure by the Client to:
 - (a) provide clear and adequate specifications and/or instructions to Mouldmen; or
 - (b) have the site ready for the Services (including any delay caused by the non-completion of prerequisite work performed by third parties); or (c) notify Mouldmen that the site is ready.
 - 7.4 Notwithstanding clause 7.3, if Mouldmen becomes aware that they will be delayed in commencing or completing the Services in accordance with this Agreement, Mouldmen must immediately notify the Client in writing of the cause and nature of the delay. Mouldmen is to detail in the notice the steps they will take to contain the delay and the anticipated duration of the delay.
 - 7.5 The Services shall be provided within Mouldmen's normal trading hours. Where the Client requests Mouldmen to provide Services outside of these hours the Client shall be charged in accordance with Mouldmen's current overtime rates, which are available on request.

8. Client's Responsibilities

- 8.1 The Client acknowledges and agrees that it is their responsibility to:
 - (a) ensure that Mouldmen has clear and free access to the site at all times to enable them to provide the Services. Mouldmen shall not be liable for any loss or damage to the site, unless due to the negligence of Mouldmen; and
 - (b) provide Mouldmen with an adequate free source of water and power at all times to enable Mouldmen to provide the Services.
- 8.2 In the event provision of the Services are delayed due to inadequate access to the site, or water and power facilities, then Mouldmen reserves the right to charge a reasonable fee for re-providing the Services at a later time and date in accordance with clause 6.2.
- 8.3 It shall be the Client's responsibility to ensure that the site is reasonably ready for Mouldmen to commence the Services, with minimal tradespersons and works in progress.
- 8.4 It shall be the responsibility of the Client to fulfil any special conditions / requirements that may affect Mouldmen providing the Services at the site (including, but not limited to, health and safety equipment and/or work site inductions).

9. Personal Property Securities Act 2009 ("PPSA")

Mouldmen Pty Ltd – Terms & Conditions of Trade

- 9.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 9.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in:
- (a) all Incidental Items previously supplied by Mouldmen to the Client;
 - (b) all Incidental Items will be supplied in the future by Mouldmen to the Client; and
 - (c) all the Client's present and after acquired property being a charge, including anything in respect of which the Client has at any time a sufficient right, interest or power to grant a security interest in for the purposes of securing repayment of all monetary obligations of the Client to Mouldmen for Services – that have previously been provided and that will be provided in the future by Mouldmen to the Client.
- 9.3 The Client undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Mouldmen may reasonably require to;
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 9.3(a)(i) or 9.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, Mouldmen for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Incidental Items charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of Mouldmen;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Incidental Items in favour of a third party without the prior written consent of Mouldmen.
- 9.4 Mouldmen and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 9.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 9.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 9.7 Unless otherwise agreed to in writing by Mouldmen, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 9.8 The Client must unconditionally ratify any actions taken by Mouldmen under clauses 9.3 to 9.5.
- 9.9 Subject to any express provisions to the contrary (including those contained in this clause 9) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

10. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 10.1 The Client must inspect Mouldmen's Services on completion and must within five (5) days of such time notify Mouldmen in writing of any evident defect, error or omission in the Services provided or of any other failure by Mouldmen to comply with the description of, or quote for, the Services which Mouldmen was to provide. The Client must notify any other alleged defect in Mouldmen's Services as soon as is reasonably possible after any such defect becomes evident. Upon such notification the Client must allow Mouldmen to inspect/review the Services that were provided.
- 10.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).
- 10.3 Mouldmen acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 10.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Mouldmen makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services. Mouldmen's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 10.5 If the Client is a consumer within the meaning of the CCA, Mouldmen's liability is limited to the extent permitted by section 64A of Schedule 2.
- 10.6 If Mouldmen is required to rectify, re-provide, or pay the cost of re-providing the Services under this clause or the CCA, but is unable to do so, then Mouldmen refund any money the Client has paid for the Services but only to the extent that such refund shall take into account the value of Services which have been provided to the Client which were not defective.

11. Intellectual Property

- 11.1 The Client agrees that Mouldmen may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Services which Mouldmen has created for the Client.

12. Default and Consequences of Default

- 12.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Mouldmen's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 12.2 If the Client owes Mouldmen any money the Client shall indemnify Mouldmen from and against all costs and disbursements incurred by Mouldmen in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Mouldmen's contract default fee, and bank dishonour fees).
- 12.3 Further to any other rights or remedies Mouldmen may have under this contract, if a Client has made payment to Mouldmen, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Mouldmen under this clause 12 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Agreement.
- 12.4 Without prejudice to Mouldmen's other remedies at law Mouldmen shall be entitled to cancel all or any part of the Services to be supplied to the Client which remains unfulfilled and all amounts owing to Mouldmen shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Mouldmen becomes overdue, or in Mouldmen's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client has exceeded any applicable credit limit provided by Mouldmen;
 - (c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

13. Cancellation

- 13.1 Without prejudice to any other remedies Mouldmen may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions, Mouldmen may suspend or terminate the supply of Services to the Client. Mouldmen will not be liable to the Client for any loss or damage the Client suffers because Mouldmen has exercised its rights under this clause.
- 13.2 Mouldmen may cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are delivered by giving written notice to the Client. On giving such notice, Mouldmen shall repay to the Client any money paid by the Client for the Services. Mouldmen shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 13.3 In the event that the Client cancels delivery of Services within 48 business hours prior to the scheduled provision of the Services (between Mon-Fri 7am-5pm), the Client shall be liable to Mouldmen for any direct loss or costs incurred by Mouldmen (including, but not limited to, any loss of profits). At Mouldmen's sole discretion, a cancellation fee will apply as follows:
- Minimum cancellation fee: \$330 (for cancellations within 48 hours of scheduled attendance)
 - For jobs over \$880: 50% of the total quoted price will be charged as a cancellation fee
 - In addition, 10% of the total quoted price may be forfeited from the deposit paid by the Client, and any remainder of the deposit will be refunded.

14. Indemnity

- 14.1 Both parties release and indemnify the other, and their servants and agents, from and against all Claims, and costs or expenses which they may incur or sustain, whatsoever which may be brought or made against them by any person in respect of or by reason of or arising out of:
- (a) any negligence or other wrongful act or omission of the other party or their employees or contractors or of any other person/s for whose acts or omissions the affected party is vicariously liable;
 - (b) any negligence or other wrongful act or omission of the other party's visitors, invitees or licensees;
 - (c) death, injury, loss of or damage to the other party, their staff or other employees, agents, contractors, sub-contractors, licensees, invitees or visitors; and
 - (d) any breach of this Agreement by the other party; and
 - (e) furthermore, this indemnity extends to the performance by or on behalf of Mouldmen of the Services.
- 14.2 These indemnities are not restricted, limited or waived by a provision of this Agreement with regards to insurance or by any approval of insurance policies.
- 14.3 In so far as permitted by law, either party's liability to indemnify the other will be reduced proportionately to the extent that any negligent or reckless act or omission of that party, or the employees, agents or other contractors thereof contributed to the damages, cost, expense, loss or damage or actions, proceedings, claims or demands.

15. Privacy Act 1988

- 15.1 The Client agrees for Mouldmen to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by Mouldmen.
- 15.2 The Client agrees that Mouldmen may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Client; and/or
 - (b) to notify other credit providers of a default by the Client; and/or

- (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
- (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two years.
- 15.3 The Client consents to Mouldmen being given a consumer credit report to collect overdue payment on commercial credit.
- 15.4 The Client agrees that personal credit information provided may be used and retained by Mouldmen for the following purposes (and for other agreed purposes or required by):
 - (a) the provision of Services; and/or
 - (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or (d) enabling the collection of amounts outstanding in relation to the Services.
- 15.5 Mouldmen may give information about the Client to a CRB for the following purposes:
 - (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 15.6 The information given to the CRB may include:
 - (a) personal information as outlined in 15.1 above;
 - (b) name of the credit provider and that Mouldmen is a current credit provider to the Client; (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and Mouldmen has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of Mouldmen, the Client has committed a serious credit infringement;
 - (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 15.7 The Client shall have the right to request (by e-mail) from Mouldmen:
 - (a) a copy of the information about the Client retained by Mouldmen and the right to request that Mouldmen correct any incorrect information; and
 - (b) that Mouldmen does not disclose any personal information about the Client for the purpose of direct marketing.
- 15.8 Mouldmen will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Agreement or is required to be maintained and/or stored in accordance with the law.
- 15.9 The Client can make a privacy complaint by contacting Mouldmen via e-mail. Mouldmen will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

16. General

- 16.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 16.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland in which Mouldmen has its principal place of business, and are subject to the jurisdiction of the Southport Courts in Queensland.
- 16.3 Subject to clause 10 Mouldmen shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Mouldmen of these terms and conditions (alternatively Mouldmen's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).
- 16.4 Neither party shall assign or sub-contract all or any part of their rights and obligations under this Agreement without the written consent of the other party.
- 16.5 The Client agrees that Mouldmen may amend these terms and conditions by notifying the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for Mouldmen to provide Services to the Client.
- 16.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 16.7 Both parties warrant that they have the power to enter into this Agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Agreement creates binding and valid legal obligations on them.