

1. Definitions

- 1.1 'Seller' shall mean Stadium Signs Pty Ltd and its successors and assigns.
- 1.2 'Buyer' shall mean the Buyer or any person acting on behalf of and with the authority of the Buyer.
- 1.3 'Guarantor' means that person (or persons), or entity who agrees herein to be liable for the debts of the Buyer.
- 1.4 'Goods' shall mean Goods supplied by the Seller to the Buyer.
- 1.5 'Services' shall mean all services supplied by the Seller to the Buyer and includes any advice or recommendations.
- 1.6 'Price' shall mean the cost of the Goods as agreed between the Seller and the Buyer subject to clause 4 of this contract.

2. Offer & Acceptance

- 2.1 Any quotation made by the Seller is not an offer to sell or to provide Goods. The Seller shall not be bound by any order given in pursuance of any quotation until it is accepted in writing. All orders are subject to acceptance by the Seller within thirty (30) days of receipt by the Seller of the order. These terms and conditions shall be deemed to be incorporated into any agreement between the Seller and the Buyer. Any terms and conditions contained in any order, offer, acceptance or other document of the Buyer and all representations, statements, terms and conditions and warranties (whether implied by statute or otherwise not embodied herein) are expressly excluded to the fullest extent permitted by law.
- 2.2 Insofar as Goods or Services supplied by the Seller are not of a kind ordinarily acquired for personal, domestic or household consumption, the liability for breach of a condition or warranty, implied into this contract by the Sale Of Goods Act or the Competition and Consumer Act 2010 Act is limited to the extent permitted by law:
- (a) in the case of Goods to any one of the following as determined by the Seller:
- (i) the refund of the Price by the Buyer for the Goods or the issue of a credit note for such amount; or
 - (ii) the replacement of the Goods or the supply of equivalent Goods; or
 - (iii) the repair of the Goods; or
 - (iv) the payment of the cost of replacing the Goods or at acquiring equivalent Goods; or
 - (v) the payment of the costs of having the Goods repaired;
- (b) in the case of Services to any one of the following as determined by the Seller:
- (i) the supplying of the Services again; or
 - (ii) the payment of the cost of having the Services supplied again.

3. Goods & Services

The Goods and/or Services (as the case shall be) shall be as described on the invoices, quotation, work authorisation, sales order or any other work commencement forms as provided by the Seller to the Buyer.

4. Payment

- 4.1 Unless otherwise agreed in writing, payment terms are payment with order.
- 4.2 This term as to the payment shall be of the essence of the contract.
- 4.3 The Buyer shall pay the Price of any Goods supplied by the Seller and any GST in addition to the Price if applicable.
- 4.4 Payment will be made by cash or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Buyer and the Seller.

5. Delivery

- 5.1 Any date quoted for delivery ('the quoted date') is an estimate only and unless a guarantee shall be given by the Seller in writing providing for liquidated damages for failure to deliver by the quoted date, the Seller shall not be liable to the Buyer for any loss or damage howsoever arising even if arising out of the negligence or for failure to deliver on or before the quoted date. The Buyer shall accept and pay for Goods and any GST if and when tendered notwithstanding any failure by the Seller to deliver by the quoted date. Written advice to the Buyer that Goods are ready for delivery whether in whole or in part shall constitute tendering and the terms of payment shall apply.
- 5.2 The Seller shall not be liable to any Buyer or any other party for direct or indirect or consequential injury, loss or damage whatsoever by reason of any delay in delivery whether the same is due to the negligence of the Seller or any other party, strike or any other

industrial action be it of the Seller or other party or any other cause whatsoever.

- 5.3 It is agreed that the Seller shall not be responsible for the delay in delivery caused by or in any way incidental to a force majeure event, including but not limited to, an act of God, war, fire, breakages of machinery, strikes or arising out of any other unexpected exceptional cause, or any cause beyond reasonable control of the Seller.
- 5.4 It is agreed that the Seller may in its sole and absolute discretion delay delivery to the Buyer as reasonably required by it in order to affect registration of any security interest in the Goods, arising under either clause 5 or 11 of this agreement, on the Personal Property Securities Register and pursuant to the Personal Property Securities Act 2009.
- 6. Risk**
- 6.1 Unless otherwise agreed in writing, risk in the Goods shall pass to the Buyer at the time when the Goods have been placed on the vehicle which is to effect delivery from the Seller's premises. The Goods shall remain at the Buyer's risk at all times unless and until the Seller retakes possession of the Goods pursuant to these terms and conditions.
- 6.2 If the Goods are stored at premises controlled by the Seller then such Goods are stored at the sole risk and responsibility of the Buyer who shall be responsible for any theft, damage to, deterioration of the Goods and shall bear the risk of any and all damage to the Goods howsoever occasioned.
- 7. Defects/Return Of Goods**
- 7.1 The Buyer shall inspect the Goods on delivery and shall within forty eight (48) hours of delivery notify the Seller in writing of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Buyer shall afford the Seller an opportunity to inspect the Goods within a reasonable time following delivery. If the Buyer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.
- 7.2 For defective Goods which the Seller has agreed in writing that the Buyer is entitled to reject, the Seller's liability is limited to either (at the Seller's discretion) replacing the Goods or repairing the Goods provided that:
- (a) the Buyer has complied with the provisions of clause 7.1;
 - (b) the Goods are returned at the Buyers cost within seven (7) days of the delivery date;
 - (c) the Seller will not be liable for Goods which have not been stored or used in a proper manner;
 - (d) the Goods are returned in the condition in which they were delivered with all packaging material, as new condition as is reasonable possible in the circumstances.
- 8. Warranty**
- 8.1 The Seller does not warrant the Goods and/or Services are fit for any purpose whether or not made known by the Buyer or any third party to the Seller or any member of the Seller's personnel.
- 8.2 The Seller excludes all express and implied conditions and warranties in relation to the Goods and/or Services and this agreement except those conditions or warranties that cannot be excluded by law.
- 8.3 Nothing in these terms are intended to have effect or contracting out of any applicable provisions of the Competition and Consumer Act 2010 of any State or Territory of Australia except to the extent permitted by such Acts.
- 9. Intellectual Property**
- 9.1 Where the Seller has designed or drawn Goods for the Buyer, then the copyright in those designs and drawings shall remain vested in the Seller, and shall only be used by the Buyer at the Seller's discretion.
- 9.2 Conversely, in such a situation, where the Buyer has supplied drawings, the Seller in its sale conditions may look for an indemnity (the specifications and design of the Goods (including the copyright, design right or other intellectual property in them) shall as between the parties be the property of the Seller). Where any designs or specifications have been supplied by the Buyer for manufacture by or to the order of the Seller then the Buyer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party.
- 9.3 The Buyer warrants that all designs or instructions to the Seller will not cause the Seller to infringe any patent, registered design or trademark in the execution of the Buyers order.

10. Default

Upon the occurrence of default by the Buyer in compliance with the terms herein:

- (a) The Seller may at its sole and absolute discretion withhold further supplies of Goods to the Buyer, cancel or terminate this agreement, or vary the terms of this agreement without prejudice to its rights hereunder **PROVIDED HOWEVER** that the Seller may at any time and from time to time upon such terms as it may determine waive any of its rights under this clause, without prejudice to its rights thereafter of any of the events referred to herein or upon the continuation after any such waiver of any of the conduct the subject of such waiver.
- (b) The Buyer hereby authorises the Seller or its nominated agent to review the Buyer's books and records, including all bank statements and other bank records, in order to determine whether the Buyer is able to pay its debts as and when they fall due and the Buyer further irrevocably grants to the Seller a licence to enter upon the Buyer's premises for such purpose should the Seller believe in its sole discretion that such a review is reasonably required.
- (c) Without prejudice to any other right or remedy the Buyer shall indemnify the Seller against any costs, fees, charges and disbursements (inclusive of any GST) charged by any legal advisors engaged for the purpose of the collection or recovery of monies due and payable by the Buyer to the Seller on a full indemnity basis and all such costs shall be recoverable by the Seller as a liquidated debt.

11. Title

- 11.1 Notwithstanding the delivery of the Goods or part thereof, the Goods remain the sole and absolute property of the Seller as full legal and equitable owner until such time as the Buyer shall have paid the Seller the Price for the Goods delivered together with the Price of any Goods then the subject of any other contract with the Seller.
- 11.2 The Buyer acknowledges that it receives possession of and holds any and all Goods delivered by the Seller solely as bailee for the Seller until such time as the Price of the Goods including any GST thereof is paid to the Seller together with the Price including any GST of any Goods then the subject of any other contract with the Seller.
- 11.3 Until such time as the Buyer becomes the owner of the Goods, he will;
 - (a) store them on the premises separately;
 - (b) ensure that the Goods are kept in good and serviceable condition;
 - (c) secure the Goods from risk, damage, and theft; and
 - (d) keep the Goods fully insured against such risks that are usual or common to insure against in a business of a similar nature to that of the Buyer.
- 11.4 Until the Goods are paid for in full including any GST, the Seller authorises the Buyer to sell the Goods as its agent. However, the Buyer shall not represent to any third parties that it is acting in any way for the Seller. The Seller will not be bound by any contracts with third parties to whom the Buyer is a party.
- 11.5 The proceeds of any sale of the Goods shall be paid into a separate account and held on trust for the Seller. The Buyer shall account to the Seller from this fund for the Price of the Goods including any GST.
- 11.6 The Buyer may be entitled to a period of credit if agreed to by the Seller in its sole and absolute discretion, but if prior to the expiration of any such period of credit the Goods are sold and the proceeds of sale are received by the Buyer then the Buyer shall immediately account to the Seller for the Price of the Goods including any GST.
- 11.7 Should the Buyer die, stop payment or call a meeting of its creditors or become insolvent or subject to the bankruptcy laws, or being a company, appoints an administrator or calls a meeting for the purpose of or to go into liquidation or has a winding-up application presented against it or has a receiver appointed, the Seller may at its option notwithstanding its waiver of such default or failure and without prejudice to its other rights under this contract, suspend or cancel this contract or require payment in cash before or on delivery or tender of Goods notwithstanding the terms of payment previously specified, or may repossess and take over the Goods and dispose of the same in its own interest without prejudice to any claim it may have for damages for any loss resulting from such resale.
- 11.8 If the Buyer does not pay for any Goods on the due date for payment then the Seller is hereby irrevocably authorised by the Buyer to enter the Buyer's premises (or any premises under the control of the Buyer

or an agent of the Buyer in which the Goods are stored) and use reasonable force to take possession of the Goods without liability for the tort of trespass, negligence, assault and battery or payment of any compensation to the Buyer whatsoever.

- 11.9 On retaking possession of the Goods the Seller may in its sole and absolute discretion elect to refund to the Buyer any part payment that may have been made and to credit the Buyer's account with the value of the Goods less any charge for recovery of the Goods, or to resell the Goods.

12. Security & Charge

Notwithstanding anything to the contrary contained herein or any other rights which the Seller may have howsoever:

- (a) If the Seller grants credit terms to the Buyer, the Buyer agrees to grant the Seller a charge over the whole of the Buyer's present and future undertaking, property and assets (including, without limitation, all of the Customer's legal and beneficial interests in freehold and leasehold land) as security for any amount owed by the Buyer to the Seller and the Buyer acknowledges the Sellers may lodge caveats or take any other action to enforce the Seller's security over the charged property.
- (b) Where the Buyer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Buyer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Seller or the Seller's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Buyer and/or the Guarantor acknowledge and agree that the Seller (or the Seller's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.
- (c) Should the Seller elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Buyer and/or Guarantor shall indemnify the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own client basis.

13. Cancellation

The Seller may cancel these terms and conditions or cancel delivery of Goods at any time before the Goods are delivered by giving written notice. The Seller shall not be liable for any loss or damage whatever arising from such cancellation.

14. Jurisdiction

This agreement for the supply of the Goods is deemed to have been entered into in the State of Victoria. Any legal action arising out of or in respect of this agreement and/or the interpretation thereof shall be brought only in the State of Victoria, Australia and the Buyer irrevocably submits itself to the jurisdiction of the State of Victoria, Australia.

15. General

- 15.1 If any provision of these terms and conditions shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 15.2 The Seller shall be under no liability whatever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Seller of these terms and conditions.
- 15.3 In the event of any breach of this contract by the Seller the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Seller exceed the Price of the Goods.
- 15.4 The Buyer shall not set off against the Price amounts due from the Seller.
- 15.5 The Seller may license or sub-contract all or any part of its rights and obligations without the Buyer's consent.
- 15.6 The Seller reserves the right to review these terms and conditions at any time and from time to time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which the Seller notifies the Buyer of such change.
- 15.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.