

Active Display Group – Terms & Conditions of Sale

Active Sites Alive Pty Ltd t/a **Active Display Group** (“We” or “us” or “ASA”) and the purchaser of goods and / or services from ASA (“you” or “Purchaser”) AGREE to the following Conditions of Sale:

Conditions of Sale :-

Sale and Purchase

1. You may place an order for the purchase of goods and/or services (**goods**) from us; however we are not obliged to supply goods to you when requested in an order. Where we agree to supply goods to you, you agree to purchase the goods from us and we agree to supply the goods to you on the terms and conditions contained in these Conditions of Sale. Any order document prepared by us and provided to you forms part of these Conditions of Sale.
2. Our acceptance of your order for goods constitutes a binding contract for the sale of those goods on the terms and conditions contained in these Conditions of Sale. In addition to these Conditions of Sale, we may notify you in writing of additional terms and conditions which may apply to a particular supply of goods to you. You agree that these Conditions of Sale, together with any additional terms and conditions notified to you in writing, apply to the supply of goods and:
 - a. constitute a complete and exclusive statement of the agreements, understandings, terms and conditions between the parties for the supply of goods by us to you, notwithstanding any conditions to the contrary expressed in any order form, purchase order or other similar document prepared by you;
 - b. supersede all prior arrangements, whether written or oral, in respect of the supply of goods; and
 - c. if the Purchaser includes more than one entity, binds each entity jointly and severally.
3. Any addition or modification to these Conditions of Sale must be in writing and signed by a director of ASA or it will be deemed to be void and of no effect. No employee of ASA other than a director is authorized to agree to any addition or modification to these Conditions of Sale.

Payment

4. In consideration of the supply and delivery of the goods ordered by you, you agree to pay to us the full amount owing in respect of those goods (“**Payment**”). We will issue you with an invoice for the Payment in respect of each order for goods and you agree to pay the Payment in accordance with the terms of payment stated on the invoice or as agreed with us in writing. Where no terms of payment are stated on the invoice or otherwise agreed with us in writing, you agree that the Payment is due upon delivery of the goods.

5. You agree to refer to the relevant invoice number when making the Payment. In the event that you do not refer to the relevant invoice number, you acknowledge and agree that your Payment will be applied to the earliest outstanding invoice issued to and payable by you.
6. If you fail to pay any invoice by the applicable due date, you agree that compounding interest will accrue on the outstanding amount, calculated on daily balances. The rate of interest to be applied to each daily balance is the rate of 1% over the base rate quoted by the Westpac Banking Group Limited in Sydney (\$100,000 + overdrafts or any similar Westpac loan product identified by us) on and from the date the payment becomes due.

Delivery, Risk and Title

7. We will deliver the goods to you in accordance with the dates specified in your order (as agreed by us) or as otherwise agreed between the parties in writing. You acknowledge and agree that we will not be responsible for any non-delivery or delay in delivery of any goods that is due to any cause beyond our reasonable control, notwithstanding that the cause may be operative at the time of entering into the contract of sale. Where such non-delivery or delay occurs, we may deliver the goods not delivered or delayed at any subsequent time and you acknowledge and agree that you must accept and pay for those goods.
8. You will not be deemed to have accepted the goods until you have had a reasonable time to inspect them following delivery (such time not exceeding seven (7) calendar days). You shall have the right to reject goods only where any latent defect in the goods becomes apparent upon inspection and such defect is notified to us in writing. Unless you notify us in writing of any latent defect within seven (7) days of delivery, you acknowledge and agree that you will be deemed to have accepted and must pay for those goods. Any claim for credit for rejected goods will be treated on an individual transaction basis and latent defects in a portion of the goods delivered pursuant to an order will give rise to a right to reject only those goods affected by the defect, not the entire order.
9. In the event that an order involves more than one delivery, our failure to make any one or more of these deliveries in accordance with the order, or any defects in any one or more of the deliveries, will not give rise to a right to cancel any other deliveries or operate as a breach of any contract by us in respect of all or any of the other deliveries.
10. You acknowledge and agree that where we advise you of a date of intended delivery, such date will be subject to the goods ordered being available before that date and our being able to make the delivery on that date.

11. Unless otherwise agreed in writing, risk of any loss, damage or destruction to the goods passes from us to you at the same time as possession passes, whether that be through our delivery of the goods to you or collection of the goods by you or your carrier from us (as the case may be).
12. You acknowledge and agree that any agreement to continue to deliver or sell goods to you is always conditional upon our being satisfied, in our absolute discretion, of your ability to pay for the goods and comply with these Conditions of Sale. If we cease to be so satisfied we may suspend and/or terminate deliveries and shall not be liable in any way for any claim, damage, expense, or cost suffered by you as a result of such suspension or termination.
13. You acknowledge and agree that you will, at your own expense, obtain appropriate insurance for the goods against loss or damage, however caused, from the time risk passes to you (in accordance with clause 11) until title passes to you (in accordance with clause 14).
14. You acknowledge and agree that, notwithstanding anything else in these Conditions of Sale, title to the goods does not pass from us to you until the later of:
 - a. payment to us in full of the Payment for those goods; and
 - b. payment in full of any other moneys owing to us or unpaid by you, including in respect of goods previously or subsequently supplied to you by us.
15. In the event that title in the goods has not passed to you in accordance with clause 14, you acknowledge and agree that:
 - a. the relationship between you and us shall be fiduciary in nature;
 - b. you will hold the goods as bailee for us;
 - c. where you enter into an agreement for the sale of the goods to a third party, you will do so as principal and have no power to commit us to any contract or liability, but, as between you and us, you will sell the goods as fiduciary agent;
 - d. we will be given full title and interest in any new goods or object created or formed if you transform our goods into other products or affix our goods to other objects;
 - e. where our goods or those other goods are disposed of or sold, any moneys resulting from such disposal or sale and all other proceeds of such disposal or sale (whether tangible or intangible), including insurance proceeds (if any), will be kept separately on trust for us;
 - f. where our goods are disposed of or sold, you will only dispose of or sell the goods in the ordinary course of your business on commercially reasonable terms;
 - g. you will keep records of the disposal of or sale of those goods and;
 - h. you will store those goods separately from your own goods until they are disposed of or sold.
16. In the event that you:
 - a. fail to pay for any goods on the due date;
 - b. commit an act of bankruptcy;
 - c. allow a trustee in bankruptcy or receiver or receiver and manager to be appointed to you or any of your property;
 - d. allow distress to be levied or a judgment, order or security to be enforced or to become enforceable against your property;
 - e. are a company and proceedings are commenced to wind you up or to wind up any of your subsidiaries or a controller is appointed in respect of any part of your property or that of your subsidiaries,

then you acknowledge and agree that we and our agents may, at our option, enter upon your premises (doing all that is necessary to gain access) where goods supplied under these Conditions of Sale (or as otherwise agreed between the parties in accordance with these Conditions of Sale) are situated at any time, at our discretion, and take possession of all or any of those goods we have supplied to you.

17. To identify our goods, we may mark or label them in any manner.

Intellectual Property

18. Unless otherwise agreed by us in writing, no copyright, design rights or any other intellectual property rights in:
 - a. in any unique materials or documents created by us (or on our behalf) as part of or as a result of the provision of our services (**Services Materials**); or
 - b. any materials or documents owned or developed by us prior to or independently of an order (**Background Materials**), will be transferred to you. Nothing in these Conditions of Sale transfers any ownership rights in Services Materials and/or Background Materials from us to you. Subject to you paying in full all Payments, we grant to you a non-transferable, unassignable, revocable, non-exclusive licence to use the Services Materials and Background Materials for the purpose contemplated in your order and to the extent necessary to allow you to obtain the benefit of the goods provided.

Resale of the Goods

19. In the event that you fail to make a Payment on the applicable due date, cancel delivery of goods, or we withhold the delivery of goods for any reason or re-take possession of any goods in accordance with this agreement, we reserve the right to resell those goods to any other party in our sole discretion. You acknowledge and agree that we may conduct any such re-sale at our own premises or elsewhere and that any such re-sale may be by private or public sale or in fulfilment of one or more of our existing contracts.
20. In the event of a re-sale in accordance with clause 19 above, we may recover from you, as liquidated damages for our loss of bargain, the difference between the re-sale price and the unpaid contract price for the supply of the goods to you, together with any other incidental damages, such as holding expenses and charges and costs and expenses of sale (but less expenses saved as a result of your breach of contract). If the applicable goods cannot be re-sold within eight (8) months of our first attempted re-sale, those goods will be deemed to have a re-sale price of nil (\$0).
21. You acknowledge and agree that we shall be entitled in our sole discretion to register our interest in any goods to be delivered to you under these Conditions of Sale on the Personal Property Securities Register. Registration will be in the form prescribed by the *Personal Property Securities Act 2009* (PPSA).
22. You acknowledge and agree that you must, upon request from us, do all things necessary in order for us to register on the Personal Property Securities Register our interest in any goods to be supplied to you under these Conditions of Sale and you must not change your company name, ABN, or other details required in respect of registration or maintenance of registration of our interest in such goods without first notifying us in writing.

Terms of Credit

23. Where we offer you terms of credit or goods are supplied to you on credit, you irrevocably authorize us, our employees and agents to make such enquiries as we deem necessary to investigate your credit worthiness, including (without limitation) making enquiries from persons nominated as trade referees, your bankers or any other credit providers ("Information Sources") and you hereby authorise such Information Sources to disclose to us or our agents all information about you which is within their possession and which is requested by us for the purpose of assessing whether or not to supply goods or services to you on credit.
24. You acknowledge that any terms of credit offered by us can be varied in our sole discretion and advised to you. Where credit is offered, our standard payment terms are "Net 30 Days", full settlement of your account being due within 30 days from the date of invoice (unless otherwise agreed in writing).

Disclaimer

25. You have the benefit of conditions and warranties implied by the *Competition and Consumer Act 2010* ("Act") and nothing in these terms and conditions is intended to exclude, restrict or modify any statutory obligation we have if such obligation cannot lawfully be excluded. References to specific provisions of and circumstances arising under the Act are intended to include reference to equivalent or similar provisions of and circumstances arising under any State or Territory enactment.
26. All statutory warranties apply to this sale except to the extent that they can be expressly excluded. To the extent that any statutory warranties can be expressly excluded you hereby expressly exclude those warranties.
27. For the purposes of s64A of Act, where the goods are of a kind not ordinarily acquired for personal domestic or household use or consumption then our liability for any breach by us of any condition or warranty (other than warranties contained in Part 3-2 Division 1 of the Act) is limited at our discretion to replacing the goods, repairing the goods or payment of the cost of replacing or repairing the goods.
28. All warranties as to fitness for purpose, as to quality and merchantable quality that would otherwise be implied into these Conditions of Sale by any law which can be expressly excluded by agreement between the parties are hereby expressly excluded.
29. Subject to any legislation to the contrary, to the full extent permitted by law, we are not liable for any injury to or death of any person or loss (including loss of profits or consequential loss) or damage to property arising from any act or omission of you, us or any other person (including any loss or damage arising from our negligence).

Purchaser Indemnity

30. You hereby hold harmless and indemnify us, our directors, servants and against any claims made against us, our directors servants or agents by any third party in respect of any loss, damage, death or injury as set out in clause 28 and all losses and expenses which we may suffer or incur due to your failure to observe fully your obligations under the contract for sale incorporating these Conditions of Sale.

31. You acknowledge and agree that we have not made or given any representation, warranty or undertaking about the compliance of the goods with any statutory requirements relating to the marketing of goods of that nature and that you alone are responsible for compliance with any such statutory requirements.

General

32. The parties agree that the terms of any supply of goods to you by us are confidential and the details of the goods and price are provided on a commercial-in-confidence basis. A party will not, without the prior written approval of the other party, disclose such information to any third party.
33. Should any part of these Conditions of Sale be held to be void or unlawful, these terms and conditions will be read and enforced as if the void or unlawful provisions had been deleted.
34. Our rights accumulated under these Conditions or Sale are in addition to and do not limit in any way whatever other rights or remedies we may have in law or equity.
35. Each contact of sale between you and us will be governed by the laws of the State or Territory in which our branch with which you are dealing is located.
36. We reserve the right to increase quoted prices where a significant part of your order must be sourced from overseas and the Australian dollar (AUD) has lost 5% or more of its value on global money markets since the quote was prepared.