

ACTIVE DISPLAY GROUP TERMS & CONDITIONS OF PURCHASE

Active Sites Alive Pty Ltd t/a **Active Display Group (ASA)** and the supplier to be identified in the Purchase Order (**Supplier**) AGREE to the following in consideration of ASA agreeing to accept the goods and/or services (whichever the case may be) identified in the Purchase Order:

1. General

- (a) ASA agrees to accept the supply of certain goods and/or services from the Supplier on and subject to the terms of this agreement. No additional supply agreement may be imposed on ASA unless agreed by ASA in writing. If any terms in any additional supply agreement are inconsistent with the terms of this agreement, this agreement shall prevail to the extent of any inconsistency. Any variation or cancellation of this agreement must be agreed in writing.
- (b) The Supplier acknowledges and agrees that the ASA Purchase Order is valid for seven (7) days from the date of the Purchase Order. ASA will not be considered to have placed a purchase order on any basis where product supplied is outside its specifications in any way, or supplied contrary to THESE Terms & Conditions of Purchase.
- (c) Nothing in this agreement or any other supply agreement is intended to or does create a partnership, agency, joint venture, fiduciary relationship or create a relationship of employer and employee between ASA and the Supplier.

2. Prices

There shall be no increase in the price quoted by the Supplier and stated in the Purchase Order provided for any reason whatsoever unless agreed to by ASA in writing. Price increases to ASA inventory code items must be approved in writing by ASA Group Purchasing Manager. All prices are free into store unless otherwise stated in the Purchase Order and are inclusive of sales taxes, goods and services taxes and any other tax payable.

3. Terms of payment

Subject to Condition 9 and unless otherwise agreed by ASA in writing, payments will be made on the terms agreed to at the time of approval of the ASA New Supplier Form or otherwise stated in the Purchase Order provided, or as determined through prior trading with ASA. All invoices MUST be sent via email to payables@activedisplay.com.au and include ASA's P/o number.

4. Written Orders

ASA will not be responsible for goods delivered or services provided by the Supplier unless such goods or services are authorised by a written Purchase Order.

5. Delivery and Description

- (a) The Supplier will comply with all Commonwealth, State and local laws and regulations relating to the provision and delivery of the goods or services.
- (b) The Supplier is not permitted to modify ASA's specifications for goods or services in any way whatsoever without ASA's prior written approval.
- (c) ASA may refuse to accept and refuse to pay for goods supplied or services provided by the Supplier if they do not conform with ASA's exact specifications, drawings, samples or descriptions.
- (d) The Supplier agrees to supply to ASA the exact goods and/or services identified in the Purchase Order provided, by the dates and times stated in the Purchase Order, the exact supply of the goods and/or services and the dates and times for supply and delivery of the goods and/or services are expressly agreed between ASA and the Supplier to be of the essence of this agreement. The Supplier agrees that it will seek clarification (if required) on any aspect of the Purchase Order provided, within twenty-four (24) hours of receiving the Purchase Order from ASA, or sooner if reasonably practicable.
- (e) ASA and the Supplier agree that if the Supplier for any reason is unable, or if ASA reasonably believes that the Supplier for any reason is likely to be unable, to supply the exact goods and/or services stated in the Purchase Order provided, or is unable to supply the goods and/or services stated in the Purchase Order by the date and time stated in the Purchase Order, ASA may (in its sole discretion) terminate this agreement, any additional supply agreement and its order forthwith without payment or other compensation to the

Supplier for goods and/or services not supplied to ASA as at the date of termination.

- (f) ASA and the Supplier agree that if ASA terminates this agreement in accordance with this agreement, ASA may set off and otherwise apply against all sums owing to the Supplier as at the date of termination the amount of any damages, costs and expenses reasonably incurred by ASA as a result of the acts, omissions or negligence of the Supplier that resulted in the termination by ASA. The Supplier will be liable for any loss or damage howsoever arising as a result or consequence of any failure to deliver or for delay in delivering the goods or services identified in the Purchase Order arising from any circumstances of whatsoever nature.
- (g) Standard hours for delivery are 8am to 4pm Monday to Friday unless agreed to by ASA in writing. Stacked pallet(s) should not exceed a size of 116cm (L) X 116cm (W) X 128cm (H) for items supplied for warehouse storage. Deliveries to 3rd Party sites require a copy of Delivery docket to be sent to ASA's buyer. All deliveries must include a delivery docket matching P/o description inclusive of ASA P/o number. Cartons weighing greater than 12kg must be labelled "Caution Heavy" or similar. Returnable (Chep; Loscam Etc.) pallets not accepted unless approved by ASA Warehouse Management.

6. Supplier's Warranty

- (a) The Supplier warrants that the goods and/or services will:
- (1) conform with the specifications, descriptions or samples (if any) provided to Supplier by ASA;
 - (2) be fit for any purpose expressly or impliedly made known to the Supplier by ASA;
 - (3) be of the highest quality;
 - (4) comply with any relevant Australian Standard or Regulation applicable to the goods, or if there is not an applicable Australian Standard of Regulation, any Standard or Regulation relating to goods of the same type in force in the United States of America; and
 - (5) be free of any defects.
- (b) These warranties are in addition to any warranty or guarantee given by the Supplier in respect of the goods and services or any warranty, guarantee or term implied by law. All express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description quality, suitability or fitness for purpose of any goods or services purchased from the Supplier apply to any purchase made by ASA from the Supplier and the Supplier shall be liable for any physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply of such goods or services whether by negligence or otherwise.

7. Inspection

ASA shall at its option have the right to inspect the goods during the manufacturing process. All goods provided by Supplier to ASA are received by ASA subject to its inspection and approval, such inspection to occur within a reasonable time after delivery by Supplier to ASA. ASA reserve the right for our FSC CoC Certifying firm "SCS Global Services" representative to audit any supplier contracted for supply of materials or services for FSC certified jobs.

8. Rejection

ASA reserves the right to reject goods which are found to be unsatisfactory, defective or of inferior quality or workmanship or fail to meet ASA's specifications or requirements in any way whatsoever or otherwise breach this agreement. In the event that ASA rejects goods in accordance with this agreement, ASA may at any time after receiving and rejecting such goods:

- (a) repair the goods so that they meet ASA's requirement, such repairs to be carried out at the Supplier's sole risk and expense as directed by ASA or
- (b) at Supplier's sole expense, return those goods to the Supplier or direct the Supplier to collect the goods, in which case ASA shall not be liable to make any payment in respect of those goods.

9. Cancellation

ASA may, at its option, vary, modify or cancel its order at any time prior to delivery and the Supplier shall immediately do everything to mitigate any cost incurred by it as a result of such variation, modification or cancellation. ASA's liability to Supplier shall be limited to the direct costs incurred by the Supplier up to the date of variation, modification or cancellation of ASA's order as stated in an applicable Purchase Order and ASA shall not be liable in any way whatsoever for any indirect or consequential loss, including any claim for loss of profit, as a result of the variation, modification, or cancellation of ASA's order.

10. Indemnity

The Supplier agrees to indemnify and keep ASA and its related corporations, directors, personnel, servants and agents indemnified at all times from and against any and all loss (including consequential loss and loss of profit), damage or liability (whether criminal or civil) suffered, legal fees and all other costs and expenses incurred by ASA or its related corporations (whether directly or indirectly) as a result of any breach of this agreement or any Purchase Order by the Supplier or the neglect or default or any act or matter or thing permitted or omitted by the Supplier or its agents, employees or licensees arising from or connected with the supply of the goods or provision of the services or any part thereof provided hereunder or in a Purchase Order

11. Intellectual Property

- (a) All right, title and interest in all intellectual property rights (including copyright) in any material provided to Supplier by ASA or on ASA's behalf for the purposes of this agreement and/or any Purchase Order(s) (including without limitation ASA or ASA's clients' logos, trademarks or other indicia of identity, artwork, equipment, documents and information) will remain or be vested in ASA or the party who owns such material. Nothing in this agreement or any Purchase Order will be taken to constitute a transfer, assignment or grant of any ownership rights in any works or other material to Supplier. Upon demand by ASA at any time or upon expiration of this agreement Supplier agrees to return to ASA any works or other material of any nature provided by ASA to Supplier.
- (b) The Supplier warrants that the supply of goods or the provision of services under a Purchase Order shall not constitute an infringement of any patent, design trademark, copyright, intellectual property right, or Confidentiality/Non-Disclosure Agreement of Supplier or any third party. The Supplier shall indemnify and keep indemnified ASA and its subsidiaries from and against any and all loss (including consequential loss and loss of profit), claims, causes of action and judgments and related liabilities, damages, costs and expenses (including legal costs) suffered or incurred by ASA or its clients (whether directly or indirectly) as a result of any infringement, alleged infringement, unauthorised use or alleged unauthorized use of any Supplier or third party intellectual property rights, patents, trademarks, designs or copyright materials arising from the use or distribution out of the goods or services provided under this agreement and any Purchase Order.

12. Confidentiality

- (a) "**Confidential Information**" means any information provided by ASA to Supplier, including confidential or secret information relating to ASA, its products, clients, lists of clients and prospective clients and other information which by its nature or the circumstances of its disclosure could reasonably be expected to be regarded as confidential.
- (b) Except in the proper course of its duties as the Supplier, the Supplier will not disclose to any person, firm, company or entity or make use of for Supplier's own benefit any Confidential Information which may come into its knowledge or possession. Supplier will not be in breach of this clause in circumstances where it is legally compelled to disclose Confidential Information or where the Confidential Information: was in the public domain at the time of its provision; became part of the public domain after its provision, otherwise than through a disclosure by the Supplier or any person to whom the Supplier disclosed that information; is independently developed by the Supplier without the use of ASA's information; or came lawfully into the Supplier's possession otherwise than as a result of a disclosure in breach of an obligation of confidence.
- (c) Upon ASA's request or upon expiration of this agreement or an applicable Purchase Order, Supplier agrees to return to ASA any Confidential Information or copies of any Confidential Information in Supplier's possession.
- (d) Supplier expressly agrees not to disclose any costs and/or quotes provided by Supplier to ASA to any of ASA's clients, customers or competitors or to any other suppliers.
- (e) These obligations of confidentiality survive termination of this agreement and any Purchase Order.

13. Privacy

- (a) "**Personal Information**" means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not and whether the information or opinion is recorded in a material form or not.
- (b) Materials provided to Supplier may contain Personal Information. By accepting Personal Information, Supplier agrees to: (i) comply with any written directions given by ASA in relation to the collection, use and disclosure of the Personal Information; (ii) only collect, use, store or handle the Personal Information to comply with its obligations under this agreement or a Purchase Order and for no other purpose; (iii) not disclose any Personal Information without the prior written approval of ASA and only then for the purpose of fulfilling its obligations under this agreement or the applicable Purchase Order; (iv) comply with all privacy laws as may be in force from time to time in Australia, including the *Privacy Act 1988* (Cth) and any applicable State or Territory privacy legislation; (v) without limitation to item (iv) above, not do anything or omit to do anything that would cause ASA to breach its obligations under the *Privacy Act 1988* (Cth) or any applicable privacy law; (vi) ensure Personal Information held by it is protected against misuse, interference and loss and from unauthorized access, modification or disclosure; (vii) not transfer Personal Information overseas, or allow anyone overseas to have access to it, without ASA's prior written approval; (viii) promptly notify ASA in writing of any request made by an individual to access any Personal Information held by the Supplier; and (ix) reasonably cooperate with ASA in the resolution of any complaint under or relating to any privacy laws referred to herein.
- (c) On the termination of this agreement or an applicable Purchase Order, or on ASA's request, and at ASA's option, Supplier agrees to return to ASA all Personal Information provided to Supplier by ASA or to destroy or de-identify all Personal Information provided by ASA in the possession or control of the Supplier.
- (d) Supplier must immediately notify ASA if Supplier becomes aware of a breach or possible breach of its privacy obligations under this agreement, including a breach by any employee, agent or subcontractor of the Supplier.

14. Assignment and Sub-Contracting

This agreement and the Purchase Order provided are personal to the Supplier and must not be assigned to any third party. The Supplier must not without the prior written approval of ASA sub-contract the production, manufacture or supply of the whole or part of the goods or services to be supplied.

15. Authority

Notwithstanding anything herein contained, any approval or agreement required from ASA under this agreement, whether in respect of a variation of these terms and conditions or any other matter specified in this agreement to require such agreement or approval from ASA, shall not be effective or binding on ASA unless it is in writing and signed by either:

- (a) the person placing the order on behalf of ASA; or
 (b) a director of ASA.

16. Risk

Property in the goods and the risk of loss or damage to the goods shall not pass to ASA until the goods have been delivered into ASA's custody and control and accepted by ASA. Goods supplied to ASA shall not be subject to title reservation arrangements and title to goods shall pass to ASA on acceptance of delivery, irrespective of payment for the goods.

17. Governing Law

This agreement and any Purchase Order shall be governed and construed in accordance with the laws of Victoria.

18. Limits of Authority

The Supplier acknowledges and agrees that:

- (a) All orders are placed subject to ASA's internal limits of purchasing authority. Suppliers may obtain a copy of current limits by request, and hereby acknowledge that Supplier is aware of the limits of authority of ASA personnel. Orders placed by ASA personnel outside their limit of authority may be canceled or ratified by ASA at its discretion.
- (b) To be Valid, all orders exceeding \$15,000 value must be signed by a director of ASA.