

**Artastic – Terms & Conditions of Trade**

1.1	<b>Definitions</b>	(c)	The Seller will not be liable for Goods which have not been stored or used in a proper manner;	Seller's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Buyer and/or the Guarantor
1.2		(d)	The Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonable possible in the circumstances.	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.
1.3		8.3	The Seller may (in its discretion) accept the Goods for credit but this may incur a handling fee of 10% of the value of the returned Goods plus any freight.	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.
1.4		8.4	Whilst every care is taken by the seller to carry out the instructions of the Buyer, it is the Buyers responsibility to undertake a final proof reading of the Goods. The Seller shall be under no liability whatever for any errors (c) made by the Buyer in the final proof reading.	To give effect to the provisions of clause [14.1. (a) and (b)] inclusive hereof the Buyer and/or the Guarantor (if any) do hereby irrevocably nominate constitute and appoint the Seller or the Seller's nominee as the Buyer's and/or Guarantor's true and lawful attorney to execute mortgages and charges (whether registrable or not) including such other terms and conditions as the Seller and/or the Seller's nominee shall think fit in his/her/its/their absolute discretion against the joint and/or several interest of the Buyer and/or the Guarantor in any land, realty or asset in favour of the Seller and in the Buyer's and/or Guarantor's name as may be necessary to secure the said Buyer's and/or Guarantor's obligations and indebtedness to the Seller and further to do and perform all necessary and other acts including instituting any necessary legal proceedings, and further to execute all or any documents in the Seller's absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause.
1.5		8.5	While every effort will be taken by the Seller to match corporate colours/specifications, but the Seller will take no responsibility for any variation of said colours in digital printing and the final product.	
1.6		8.5	The Seller shall be under no liability whatsoever to the Buyer for any variation (beyond the reasonable control of the Seller) in colours between the approved prototype and the finished Goods.	
2.	<b>Acceptance</b>	9.	<b>Warranty</b> For Goods not manufactured by the Seller, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Seller shall be under no liability whatsoever, except for the express conditions as detailed and stipulated in the manufacturers warranty.	
2.1		9.1	In the case of second hand Goods, the Buyer acknowledges that he has had full opportunity to inspect the same and that he accepts the same with all faults and that no warranty is given by the Seller as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Seller shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.	
2.2		9.2	The Seller shall be under no liability whatsoever to the Buyer for any variation (beyond the reasonable control of the Seller) in colours between the approved prototype and the finished Goods.	
2.3		9.2	<b>10. The Commonwealth Trade Practices Act 1974 and Fair Trading Acts</b> Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Commonwealth Trade Practices Act 1974 or the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.	
2.4		9.2	<b>11. Intellectual Property</b> 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.	
2.5		9.3	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).	
2.6		9.3	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.	
3.	<b>Goods</b>	11.1	Sketches and dummies submitted by the Seller on a speculative basis shall remain the property of the Seller. They shall not be used for any purpose other than that nominated by the Seller and no ideas obtained there from may be used without the consent of the Seller. The Seller shall be entitled to compensation from the Buyer for any unauthorised use of such sketches and dummies.	
3.1		11.1	Where the Buyer supplies materials, equipment or specifications the Seller accepts no responsibility for imperfect work caused by defects in or unsuitability of such materials, equipment or specifications.	
4.	<b>Price And Payment</b>	11.2	<b>Default &amp; Consequences Of Default</b> Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and shall accrue at such a rate after as well as before any judgement.	
4.1		11.2	If the Buyer defaults in payment of any invoice when due, the Buyer shall indemnify the Seller from and against all the Seller's costs and disbursements including on a solicitor and own client basis and in addition all of the Seller's nominees costs of collection.	
4.2		11.2	Without prejudice to any other remedies the Seller may have, if at any time the Buyer is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Goods to the Buyer and any of its other obligations under the terms and conditions. The Seller will not be liable to the Buyer for any loss or damage the Buyer suffers because the Seller exercised its rights under this clause.	
4.3		11.2	If any account remains unpaid at the end of the second month after supply of the Goods or services the following shall apply: An immediate amount of the greater of \$20.00 or 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable.	
4.4		11.2	In the event that: any money payable to the Seller becomes overdue, or in the Seller's opinion the Buyer will be unable to meet its payments as they fall due; or the Buyer 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 a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer; then without prejudice to the Seller's other remedies at law the Seller shall be entitled to cancel all or any part of any order of the Buyer which remains unperformed in addition to and without prejudice to any other remedies; and all amounts owing to the Seller shall, whether or not due for payment, immediately become payable.	
4.5		11.5	<b>13. Title</b> It is the intention of the Seller and agreed by the Buyer that property in the Goods shall not pass until:	
4.6		12.	The Buyer has paid all amounts owing for the particular Goods, and the Buyer has met all other obligations due by the Buyer to the Seller in respect of all contracts between the Seller and the Buyer, and that the Goods shall be kept separate until the Seller shall have received payment and all other obligations of the Buyer are met.	
4.7		12.1	It is further agreed that: Until such time as ownership of the Goods shall pass from the Seller to the Buyer the Seller may give notice in writing to the Buyer to return the Goods or any of them to the Seller. Upon such notice the rights of the Buyer to obtain ownership or any other interest in the Goods shall cease. If the Buyer fails to return the Goods to the Seller then the Seller or the Seller's agent may enter upon and into land and premises owned, occupied or used by the Buyer, or any premises as the invitee of the Buyer, where the Goods are situated and take possession of the Goods, without being responsible for any damage thereby caused.	
4.8		12.2	The Buyer is only a bailee of the Goods and until such time as the Seller has received payment in full for the Goods then the Buyer shall hold any proceeds from the sale or disposal of the Goods on trust for the Seller.	
4.9		12.3	The Buyer shall not deal with the money of the Seller in any way which may be adverse to the Seller.	
5.	<b>Delivery Of Goods / Services</b>	12.4	Receipt by the Seller 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 the Seller's ownership of rights in respect of the Goods shall continue.	
5.1		12.4	The Buyer shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of the Seller. The Seller may require payment of the Price or the balance of the Price due together with any other amounts due from the Buyer to the Seller arising out of these terms and conditions, and the Seller may take any lawful steps to require payment of the amounts due and the Price.	
5.2		12.5	The Seller can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Buyer.	
5.3		12.5	<b>14. Security And Charge</b> Notwithstanding anything to the contrary contained herein or any other rights which the Seller may have however:	
5.4		12.5	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	
5.5		12.5	The Seller may give, information about the Buyer to a credit reporting agency for the following purposes: to obtain a consumer credit report about the Buyer; and to allow the credit reporting agency to create or maintain a credit information file containing information about the Buyer.	
5.6		12.5	<b>17. Unpaid Seller's Rights To Dispose Of Goods</b> In the event that: the Seller retains possession or control of the Goods; and payment of the Price is due to the Seller; and the Seller has made demand in writing of the Buyer for payment of the Price in terms of this contract; and the Seller has not received the Price of the Goods, then, whether the property in the Goods has passed to the Buyer or has remained with the Seller, the Seller may dispose of the Goods and may claim from the Buyer the loss to the Seller on such disposal.	
5.7		12.5	<b>18. Lien</b> Where the Seller has not received or been tendered the whole of the price, or the payment has been dishonoured, the Seller shall have: a lien on the Goods; the right to retain them for the price while the Seller is in possession of them; a right of stopping the Goods in transit whether or not delivery has been made or ownership has passed; and a right of resale.	
5.8		12.5	The foregoing right of disposal provided that the lien of the Seller shall continue despite the commencement of proceedings or judgement for the price having been obtained.	
5.9		12.5	<b>19. Buyers Responsibility</b> It is the intention of the Seller and agreed by the Buyer that it is the responsibility of both the Buyer and the Seller to comply with all Victorian occupational health and safety laws and any other relevant safety standards or legislation.	
6.	<b>Risk</b>	12.5	Where materials or equipment are supplied by the Buyer, the Seller accepts no responsibility for imperfect work caused by defects in or unsuitability of such materials or equipment.	
6.1		12.5	It is the Buyers responsibility to provide any permits required by any municipality or local authority to allow the installation of the Goods	
6.2		12.5	<b>20. General</b> 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.	
7.	<b>Buyer's Disclaimer</b>	12.5	All Goods supplied by the Seller are subject to the laws of New South Wales and the Seller takes no responsibility for changes in the law which affect the Goods supplied.	
7.1		12.5	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.	
8.	<b>Defect/Returns</b>	12.5	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 Services.	
8.1		12.5	The Buyer shall not set off against the Price amounts due from the Seller.	
8.2		12.5	The Seller may license or sub-contract all or any part of its rights and obligations without the Buyer's consent.	
8.3		12.5	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.	
8.4		12.5	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.	
8.5		12.5	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.	