Standard Terms and Conditions

Introduction

These Terms and Conditions have been prepared to assist our customers, staff and contractors develop a better understanding of the most efficient and rewarding ways of conducting business.

Their objective is to eliminate ambiguity, reduce avoidable anomalies and define the most rewarding commercial terms for all involved with SIGNWAVE Osborne Park ABN 62623149244

To best simplify these terms they are divided logically into 12 sections:

1. Interpretation: Identifies common words used within these Terms & Conditions.

2. Basis of the contract: Defines the purpose of the commercial contract entered into.

3. Orders and specifications: Covers documented instructions and intellectual property rights.
4. Price of the goods: Specifies applicable charges, variance terms and GST liability.
5. Terms of payment: Covers deposits required, balance settlements and transfer of property.
6. Risk and property: Defines situations effecting property in the goods passing to the customer.
7. Warranties and liability: Defines quality assurance types and where liability is limited.
8. Indemnity: Customer responsibility ensuring SIGNWAVE never infringe another's rights.
9. Delivery: Unless otherwise agreed is determined to be ex SIGNWAVE works.
10. Installation: Determines responsibilities where installation is an addition under the contract.
11. Contract termination: Explains breach of contract provisions and cancelation rights.
12. General: A collective of related contract provisions not requiring a collective heading.

The preceding introductory statement has no bearing on the application or interpretation of the following trading terms & conditions.

1. Interpretation
1.1 In these conditions:

'Customer' means the person or company whose order for the purchase of the goods or installation is accepted by SIGNWAVE;

'Conditions' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing by a duly authorised signatory of SIGNWAVE;

'Contract' means the contract for the purchase and sale of the goods, and/or installation;

'Goods' means the goods (including any instalment of the goods or any parts for them) which SIGNWAVE is to supply in accordance with these conditions;
"Installation" means the installation of the goods by SIGNWAVE at the premises; **"Premises"** the premises at which the goods are to be installed by SIGNWAVE;
"Business Day" means any day which is not a Saturday or a Sunday, nor a public holiday in Australia.

'SIGNWAVE' means BARRY BOYD Pty Ltd t/as SIGNWAVE Osborne Park (ABN 62623149244) whose principal place of business is at 34 HUTTON STREET, OSBORNE PARK 6021 (address).

'Writing' includes email, letter, facsimile and comparable means of direct communication.

1.2 Any reference in these conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these conditions are for convenience only and shall not affect their interpretation.

1.4 In these conditions, references to the masculine include the feminine and references to the singular include the plural and vice versa as the context admits or requires.

2. Basis of the contract

2.1 SIGNWAVE shall sell and the customer shall purchase the goods, and/or (if relevant) installation shall be carried out in accordance with any written estimate of SIGNWAVE which is accepted by the customer, and subsequently confirmed by SIGNWAVE or any written order of the customer which is accepted by SIGNWAVE, subject in either case to these conditions, which shall govern the contract to the exclusion of all other terms and conditions whether of the customer or otherwise.

These conditions apply to all SIGNWAVE sales, or installations. Where the customer has requested that SIGNWAVE carry out the installation, then Clause 10 (Installation) shall also apply to the contract.

If no installation is to take place, clause 10 shall not apply to the contract.

2.2 No variation to these conditions shall be binding unless agreed in writing between the authorised representatives of the customer and SIGNWAVE.

2.3 SIGNWAVE employees or agents are not authorised to make any representations, warranties or undertakings (verbal or otherwise) concerning the goods, or the installation or otherwise unless confirmed by an authorised representative of SIGNWAVE in writing.

In entering into the contract the customer acknowledges that it does not rely on any such representations, warranties or undertakings which are not so confirmed.

2.4 Any advice or recommendation given by SIGNWAVE or its employees or agents to the customer or its employees or agents as to the storage, application or use of the goods and which is not confirmed in writing by SIGNWAVE is followed or acted upon entirely at the customer's own risk, and accordingly SIGNWAVE shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of the offer, invoice or other document or information issued by SIGNWAVE shall be subject to correction without any liability on the part of SIGNWAVE.

2.6 SIGNWAVE catalogues, technical circulars, sales literature, price lists and other such documents are for the customer's general guidance only and the particulars contained in such documents shall not constitute representations by SIGNWAVE and SIGNWAVE shall not be bound thereby, nor shall they form part of the contract.

Design & Artwork

2.7 Where technically possible and within the tolerance of materials used the customer's colour balance requirements will be taken into account. In the absence of specific instructions in regard to Pantone numbers or the customer's supplied match samples colour balance will be at the discretion of SIGNWAVE.

2.8.When SIGNWAVE utilising either customer supplied artwork, proofs, photography or typographical design components the customer takes sole responsibility for the supplied components' accuracy and

technical suitability for purposes of completing the contract. Where SIGNWAVE determines that any customer supplied design component is, for any reason, unsuitable for its contracted purpose SIGNWAVE may recreate it at the expense of the customer.

2.8.1 All customer supplied artwork must be print ready in the format specified in our Digital Print Specifications document in the link below unless the Customer has been charged for artwork and design in the supplied quotation or order. Digital Print Specifications

2.9 Where the customer requests alterations to any signage specification alterations to suit the revised specifications will be undertaken by SIGNWAVE as a variation to the contract. Contract variations requested or mandated by the customer or any third party will incur additional SIGNWAVE design costs.

2.9.1 Design or specification alterations may require variation to the quoted or ordered price. The Customer agrees to accept these price variations as part of the contract.

2.10 Artist impressions and design renderings created for the purpose of illustrating how proposed signage may appear in-situ are not to be considered either accurate or permissible under the terms of the contract.

2.11 SIGNWAVE designs and proofs are two dimensional and presented on a flat surface to be viewed by the customer at a relatively small size. Traditional signage installation is made onto a far larger flat two-dimensional surface. In an event when the signage application
surface is neither flat nor two dimensional (as in the case of a vehicle wrap), there may be minor variations between the two-dimensional design and proof and the three-dimensional curved installation. On curved and uneven surfaces SIGNWAVE at their own discretion may make minor adjustments to optimise readability or alignment.

2.12 All SIGNWAVE quotations exclude the following unless expressly stated and agreed in writing:
(i) Transportation of equipment, goods and SIGNWAVE personnel to and from the installation premises
(ii) Packing the goods for transportation to the customers installation premises (iii) Crating
(iv) Insurance of the goods or any hire equipment whilst in transit storage or at the customers premises.
(v) Delivery
(vi) Power supply; fees and charges associated with the power supply or connection of power supply.
(vii) Any fees and charges associated with traffic control or third party property access to site.
(viii) Any required special permits or engineer calculations including Dial Before You Dig locator service.

2.13 Any estimate or quotation is given by SIGNWAVE on the basis that no contract will come into existence until SIGNWAVE dispatches an acknowledgement of order (whether in writing or by phone by an authorised representative of SIGNWAVE) to the Customer, or a deposit is received and the estimate or quotation is converted to an order by SIGNWAVE.

3. Orders and specifications

3.1 No order submitted by the customer shall be deemed to be accepted by SIGNWAVE unless and until confirmed in writing by SIGNWAVE authorised representative.

3.2 The customer shall be responsible to SIGNWAVE for ensuring the accuracy of the terms of any order (including any applicable specification) which the customer is responsible for ensuring is submitted by the customer, and for giving SIGNWAVE any necessary information relating to the goods or installation within a sufficient time to enable SIGNWAVE to perform the contract in accordance with its terms. Where artwork proofs are submitted to the customer for the customer's approval, SIGNWAVE shall incur no liability for errors which should reasonably be identified by the customer which are not so identified.

3.2.1 SIGNWAVE will supply an electronic artwork proof for approval by the customer. Artwork approvals

must be submitted via the electronic approval system or in writing via email.

3.2.2 The Customer acknowledges that any delay by the Customer in proofing and approving the artwork will result in a similar delay in the production of the order. Production of the order will not commence until approval of the artwork by the customer in the required form.
3.3 The quantity, quality, and description of and any specification shall be those set out in SIGNWAVE estimate (if accepted by the customer) or the customer's order (if accepted by SIGNWAVE). Unless confirmed in writing by SIGNWAVE, all specifications, drawings and particulars of weights, dimensions and performance issued by SIGNWAVE are approximate only and SIGNWAVE gives no warranty or representation that the goods will conform to such specification.

3.3.1 The customer acknowledges that differences in material, equipment and ink may cause variation in colour and such variations will be accepted by the customer. If requested by the Customer, a sample of the finished product may be requested and the Customer agrees to pay the cost of the production of the sample.

3.4 If the goods are to be manufactured or any process is to be applied to the goods in accordance with a specification submitted by the customer, the customer warrants to SIGNWAVE that the intellectual property rights in such specification belong to the customer or that the customer is licensed or otherwise authorised to use such specification by the actual owner.

3.4.1 Copyright in all artistic and literary works authored by SIGNWAVE shall remain the property of SIGNWAVE unless there is a written agreement with the customer to the contrary.

3.4.2 The customer shall indemnify SIGNWAVE on demand against all loss, damages, costs and expenses awarded against or incurred by SIGNWAVE in connection with or paid or agreed to be paid by SIGNWAVE in settlement of any claim arising out of:-

(i) infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from SIGNWAVE use of the customer's specification; and/or

(ii) any impracticality, inefficiency or lack of safety or other defect in the goods where such defect is due (whether in whole or in part) to faults or omissions in information, drawings, designs, instructions, or specifications of the customer.

3.5 SIGNWAVE reserves the right to make any changes in the specification of the goods which are (in SIGNWAVE opinion) required to conform to any applicable statutory or signage compliance requirements or, where the goods and/or hire equipment are to be supplied to SIGNWAVE specification that does not materially affect their quality or performance.

3.6 No order which has been accepted by SIGNWAVE may be cancelled by the customer except with the agreement in writing of SIGNWAVE and on terms that the customer shall indemnify SIGNWAVE in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by SIGNWAVE as a result of cancellation.

3.7 SIGNWAVE shall not be required to process any order which in its opinion is or may be of an illegal or defamatory nature and the customer shall indemnify SIGNWAVE on demand
against any loss, damages, costs and expenses awarded against or incurred by SIGNWAVE in connection therewith.

3.8 The customer hereby gives such consent and permission to SIGNWAVE as may be required to enable SIGNWAVE to use copies of the goods supplied to the customer for the purposes of SIGNWAVE own marketing requirements, including consenting to the reproduction of any name, logo, trademark or other intellectual property right included in the goods. This is without prejudice to SIGNWAVE other rights under these conditions.

4. Price of the goods

4.1 Unless otherwise agreed between the parties in writing the price of the goods ("the price") shall be SIGNWAVE quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in SIGNWAVE price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only from the date of the quotation (or until earlier acceptance by the customer or earlier withdrawal by SIGNWAVE before the customer's acceptance), after which time they may be altered by SIGNWAVE without giving notice to the customer.

Where installation is to occur the price for such installation shall (in the absence of manifest error) be included in the price quoted for the goods or SIGNWAVE separate list price for the installation.

4.2 SIGNWAVE reserves the right, by giving notice to the customer at any time before delivery, to increase the price to reflect any increase in the cost to SIGNWAVE which is due to any factor beyond the control of SIGNWAVE (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the goods which is requested by the customer, or any delay caused by any instructions of the customer or failure of the customer to give SIGNWAVE adequate information or instructions.

4.3 Except as otherwise stated under the terms of any quotation or in any price list of SIGNWAVE, and unless otherwise agreed in writing between the customer and SIGNWAVE, all prices are given by SIGNWAVE on an ex works basis, and where SIGNWAVE agrees to deliver the goods otherwise than at SIGNWAVE premises, the customer shall be liable to pay SIGNWAVE charges for transport, packaging and insurance.

4.4 Unless specifically stated all prices are exclusive of any applicable Goods and Services Tax (GST), which the customer shall be additionally liable to pay to SIGNWAVE.

4.5 The cost of pallets and returnable containers will be charged to the customer in addition to the price, but credit will be given to the customer provided they are returned undamaged to SIGNWAVE before the due payment date.

5. Terms of payment

5.1 SIGNWAVE reserves the right to require that a sum equal to the price be paid in advance by the customer on commencement of the contract, unless otherwise agreed in writing by an authorised representative of SIGNWAVE. If the price is $500 or more, an advance payment representing 50% of the price is required on acceptance of the customer's order and prior to commencement of any work or services by SIGNWAVE.

Any monies agreed to be paid by the customer to SIGNWAVE on account of any price or fee payable under the contract prior to the commencement of the contract, or prior to delivery of the goods, the sum paid may be applied by SIGNWAVE against any invoice rendered by SIGNWAVE under the contract in SIGNWAVE discretion, not necessarily in chronological order of invoice rendered.

The sum will not be refunded to the customer unless the goods are majorly faulty, in which case a replacement or refund will be offered to the customer. In cases of a minor fault, a repair will be offered to the customer.

SIGNWAVE may also apply such sum to any other amount owing to SIGNWAVE by the customer whether under the contract or otherwise.

5.2 Subject to any special terms agreed in writing between the customer and SIGNWAVE, SIGNWAVE shall be entitled to invoice the customer for the price (or where an advance payment on account of the price has been paid, the balance of the price) on or at any time after delivery of the goods, unless the goods are to be

collected by the customer or the customer wrongfully fails to take delivery of the goods, in which event SIGNWAVE shall be entitled to invoice the customer for the price at any time after SIGNWAVE has notified the customer that the goods are ready for collection or (as the case may be) SIGNWAVE has tendered delivery of the goods. SIGNWAVE reserves the right to submit interim invoices if, in SIGNWAVE discretion, the circumstances in respect of a particular order mean that it would be unreasonable for SIGNWAVE to await invoicing at the time of delivery or when notifying the customer that the goods are available for collection or otherwise.

5.3 The customer shall pay the price (or where an advance payment on account of the price has been paid, the balance of the price) due under the contract (less any discount to which the customer is entitled, but without any other set off deduction, counterclaim, abatement or otherwise) within 7 business days of the date of SIGNWAVE invoice, and SIGNWAVE shall be
entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the goods has not passed to the customer.

The time of payment of the price shall be of the essence of the contract. Receipts for payment will be issued only upon request.

No payment shall be deemed to have been received by SIGNWAVE until SIGNWAVE has received cleared funds.

5.4 Where SIGNWAVE agree in writing with the customer to any rebate or reduction on the fees or price payable under the contract in return for the customer paying invoices rendered by SIGNWAVE within agreed timescales, where such timescales are not adhered to by the customer, SIGNWAVE shall be entitled to withdraw any such rebate or reduction arrangement without notice to the customer and the customer shall pay the full amount of the relevant invoice as increased to take into account the loss of the agreed rebate or reduction, with SIGNWAVE having the benefit of such other rights set out in these conditions (including the right to charge interest) in respect of any sum so unpaid by the customer.

5.5 If the customer fails to make any payment in full on the relevant due date then, without prejudice to any other right or remedy available to SIGNWAVE, SIGNWAVE shall be entitled to:

5.5.1 Cancel the contract or suspend any further deliveries or services (including installation if relevant) to the customer;

5.5.2 The immediate payment of all payments outstanding in respect of the goods and of any other goods, works or services provided by SIGNWAVE to the customer under any other contract notwithstanding the fact that the date for payment may not yet have fallen due;

5.5.3 Appropriate any payment made by the customer to such of the goods, and/or installation (or the goods supplied under any other contract between the customer and SIGNWAVE) as SIGNWAVE may think fit (notwithstanding any purported appropriation by the customer);

5.5.4 Charge the customer interest (both before and after any judgement) on the amount unpaid, at the rate of 3 per cent per annum above The Commonwealth Bank of Australia's base rate at the time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest). SIGNWAVE reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Bill 2003; and

5.5.5 Charge the customer the cost of recovery of any unpaid amount including any legal costs, disbursements and bank charges incurred.

5.6 SIGNWAVE reserves the right (in its entire discretion) at any time by notice in writing to the customer to set off any monies owed by SIGNWAVE to the customer against any monies owed to SIGNWAVE by the

Customer under the contract.

6. Risk and property

6.1 Risk of damage to or loss of the goods shall pass to the customer:

6.1.1 In the case of goods to be delivered at SIGNWAVE premises, at the time when SIGNWAVE notifies the customer that the goods are available for collection; or

6.1.2 In the case of goods to be delivered otherwise than at SIGNWAVE premises, at the time of delivery or, if the customer wrongfully fails to take delivery of the goods, the time when SIGNWAVE has tendered delivery of the goods. Where title/property in the goods has not passed to the customer but risk has passed to the customer, the customer shall ensure that
the goods are adequately insured with a reputable insurer and that SIGNWAVE interest in the goods is noted on the said insurance policy.

6.2 Notwithstanding delivery and the passing of risk in the goods, or any other provision of these conditions, the property in the goods shall not pass to the customer until SIGNWAVE has received in cash or cleared funds payment in full of the price of the goods and all other goods agreed to be sold by SIGNWAVE to the customer for which payment is then due.

6.3 Until such time as the property in the goods passes to the customer, the Customer shall hold the goods as SIGNWAVE fiduciary agent and bailee, and shall keep the goods separate from those of the customer and third parties and properly stored, protected and insured and identified as SIGNWAVE property, but shall be entitled to resell or use the goods in the ordinary course of its business.

6.4 Until such time as the property in the goods passes to the customer (and provided the goods are still in existence and have not been resold), SIGNWAVE shall be entitled at any time to require the customer to deliver up the goods to SIGNWAVE and, if the customer fails to do so forthwith, to enter upon any premises of the customer or any third party where the goods are stored and repossess the goods.

6.5 The customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the goods which remain the property of SIGNWAVE, but if the customer does so all moneys owing by the customer to SIGNWAVE shall (without prejudice to any other right or remedy of SIGNWAVE) forthwith become due and payable.

6.6 The customer's right to possession of the goods prior to payment of all sums due to SIGNWAVE in full shall terminate immediately if:

6.6.1 The customer has a bankruptcy order made against the customer or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any Act for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or a resolution is passed or a petition presented to the court for the winding up of the customer or for the granting of an administration order in respect of the customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the customer; or

6.6.2 The customer suffers or allows an execution, whether legal or equitable, to be levied on its property or obtained against it, or fails to observe/perform any of its obligations under the contract or any other contract between SIGNWAVE and the customer, or is unable to pay its debts within the meaning of the Insolvency Law Reform Act 2016 or the customer ceases to trade; or

6.6.3 The customer encumbers pledges or in any way charges any of the goods.
6.7 The customer grants SIGNWAVE, its agents and employees an irrevocable license at any time to enter any premises where the goods are or may be stored in order to inspect them, or, where the customer's right to possession and/or power of sale has terminated, to recover them in either of which case the customer shall place the goods at the disposal of SIGNWAVE.

7. Warranties and liability

7.1 Subject to the conditions set out below SIGNWAVE warrants that the goods will be free from defects in material and workmanship for a period where SIGNWAVE manufactured the goods, or 12 months from delivery.

In all other cases, SIGNWAVE shall endeavour to pass on to the customer such manufacturer's warranty or guarantees as may be afforded to BARRY BOYD Pty Ltd (and is capable of being passed on to the customer (without involving SIGNWAVE paying any extra premium or fee to any party) by the manufacturer or supplier of the goods to SIGNWAVE when such items were purchased by SIGNWAVE itself.

7.2 The above warranty is given by SIGNWAVE subject to the following conditions: 7.2.1 For the avoidance of doubt, the warranty does not apply to the installation.
7.2.2 SIGNWAVE shall be under no liability in respect of any defect in the goods arising from any information, drawing, design, instruction or specification supplied by the customer;

7.2.3 SIGNWAVE shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow SIGNWAVE instructions (whether oral or in writing), improper installation (other than by SIGNWAVE) misuse or alteration or repair of the goods without SIGNWAVE approval;

7.2.4 SIGNWAVE shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the goods (and/or the installation) has not been paid by the due date for payment or if the customer is otherwise in breach of this contract or any other contract with BARRY BOYD Pty Ltd;

7.2.5 The above warranty does not extend to parts, materials or equipment not manufactured by SIGNWAVE, in respect of which the customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to SIGNWAVE; and

7.2.6 The warranty shall be invalidated if the customer attempts to effect repairs to the goods itself or through a third party during the warranty period.

7.3 Subject as expressly provided in these conditions, and except where the goods are sold to a person dealing as a consumer (within the meaning of the Australian Competition & Consumer Commission's Unfair Contract Terms), all warranties, conditions or other terms implied by statute or common law are excluded in the contract to the fullest extent permitted by law.
7.4 SIGNWAVE shall not be liable to the customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of SIGNWAVE, its employees or agents or otherwise) which arise out of or in connection with the supply of the goods or their use or resale by the customer the installation, and the entire liability of SIGNWAVE under or in connection with the contract shall not exceed 100% of the price payable under the contract, except as expressly provided in these conditions.

7.5 SIGNWAVE shall not be liable to the customer or be deemed to be in breach of the contract by reason of

any delay in performing, or any failure to perform, any of SIGNWAVE obligations in relation to the contract, if the delay or failure was due to any cause beyond SIGNWAVE reasonable control and such failure or delay shall entitle either party to terminate the contract if it persists for more than three months but the customer shall remain liable to pay the price under the contract in respect of items delivered prior to the date of such cancellation.

Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond SIGNWAVE reasonable control:

7.6.1 Act of God, explosion, flood, tempest, fire or accident;

7.6.2 War or threat of war, sabotage, insurrection, civil disturbance or requisition;

7.6.3 Treaties, directives, acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any Commonwealth, State or Territory governmental or local authority or other body or competent authority;

7.6.4 Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of SIGNWAVE or of a third party);

7.6.5 Difficulties in obtaining raw materials, labour, fuel, parts or machinery; and/or 7.6.6 Power failure or breakdown in machinery;

7.6.7 Import or export regulations or embargoes.

7.7 Notwithstanding the other provisions of this Clause 7, SIGNWAVE may in its entire discretion once notice of any defect or fault in the goods has been notified in writing to SIGNWAVE and accepted by SIGNWAVE, elect to repair and/or replace the goods and if so, the replacement of the goods shall be the full extent of SIGNWAVE liability to the customer under the contract. Alternatively, the customer can request a refund.

If the goods are unavailable or not in stock, and the replacement option is elected by SIGNWAVE, SIGNWAVE may provide an identical replacement to the goods even if made by a different manufacturer.

7.8 Nothing in this Clause 7 shall restrict SIGNWAVE liability for death or personal injury caused by SIGNWAVE negligence or fraudulent misrepresentation.

7.9 Without prejudice to the other rights of SIGNWAVE under the contract, any claim made against SIGNWAVE under the contract must be brought within 3 months of the date on which the cause of action on the party of the customer arose.

7.10 Where applicable, the limitations of SIGNWAVE liability set out in this Clause 7 and elsewhere in these conditions apply mutatis mutandis to any liability of SIGNWAVE under the contract in respect of the installation.

8. Delivery

8.1 Delivery of the goods shall be made by the customer collecting the goods at SIGNWAVE premises at any time after SIGNWAVE has notified the customer that the goods are ready for collection or, if some other place for delivery is agreed in writing by SIGNWAVE, by SIGNWAVE delivering the goods to that place within the agreed timeframe.

8.2 Any dates quoted for delivery of the goods are approximate only and not binding on SIGNWAVE, and SIGNWAVE shall not be liable for any delay in delivery of the goods howsoever caused.

Time for delivery shall not be of the essence of the contract unless previously agreed by SIGNWAVE in writing by an authorised signatory of SIGNWAVE. The goods may be delivered by SIGNWAVE in advance of the quoted delivery date upon giving reasonable notice to the customer.

8.3 Where the goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by SIGNWAVE to deliver any one or more of the instalments in accordance with these conditions or any claim by the customer in respect of any one or more instalments shall not entitle the customer to treat the contract as a whole as repudiated.

8.4 If SIGNWAVE fails to deliver the goods (or any instalment) for any reason other than any cause beyond SIGNWAVE reasonable control or the customer's fault, and SIGNWAVE is accordingly liable to the customer, SIGNWAVE liability shall be limited to the excess (if any) of the cost to the customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the goods.

In no circumstances shall SIGNWAVE be responsible for any other loss (including loss of profit) whether direct or indirect or consequential costs, damages, charges or expenses arising out of such late delivery.

8.5 If the customer fails to take delivery of the goods or fails to give SIGNWAVE adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of SIGNWAVE fault) then, without prejudice to any other right or remedy available to SIGNWAVE, SIGNWAVE may:

8.5.1 Elect that the goods are deemed delivered; or

8.5.2 Store the goods until actual delivery and charge the customer for the reasonable costs (including insurance) of storage; or

8.5.3 Sell the goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the customer for the excess over the price under the contract or charge the customer for any shortfall below the price under the contract.

8.6 Save where the customer signs a delivery note accepting delivery of the goods in satisfactory condition, in which case the customer will be deemed to have accepted the goods as being free of all defects or faults, all defects in the goods must be notified in writing (giving full details of the alleged defects and affording SIGNWAVE a reasonable opportunity to inspect the alleged defects, failing which the notice shall be deemed to be invalid) by the customer to SIGNWAVE within 7 days of delivery of the goods otherwise the goods will have been deemed to have been accepted and to have been delivered to the customer free of all defects or faults and the customer shall have no further right to reject the goods or recover any compensation.

8.7 Notwithstanding any other clause in the conditions, if any goods are used after delivery or installation by the customer, then the customer shall be deemed to have accepted the goods as being in all respects in accordance with the contract.

9. Indemnity

9.1 It is the customer's responsibility to ensure that the goods do not infringe or that their use or resale does not infringe the patent copyright design trademark or other industrial or intellectual property rights of any other person and the customer shall indemnify SIGNWAVE
against all loss, damages, costs and expenses awarded against or incurred by SIGNWAVE in connection with any claim paid or agreed to be paid by SIGNWAVE in settlement of any claim.

10. Installation

10.1 Installation at a fixed site

10.2 Where installation is required pursuant to the contract, SIGNWAVE shall install the goods on the terms and conditions set out in this Clause and the contract generally.

10.3 SIGNWAVE is not responsible for any delay in installation directly or indirectly arising out of the actions or omissions of the customer (including any employee, officer or contractor of the customer) or any third party.

10.4 The customer shall: –
10.4.1 Make any necessary agreement with relevant regulatory, governmental or other authorities or other relevant third parties and obtain any consent or authorisation required in respect of the installation;

10.4.2 Provide any information SIGNWAVE may reasonably require in connection with the installation;

10.4.3 Pay for any relevant approval or permission;

10.4.4 Meet the requirements of any of these authorities at all times to maintain their approval;

10.4.5 Tell SIGNWAVE if any information the customer has given to SIGNWAVE changes; and

10.4.6 If any approval, consent or authorisation is amended or ends, the customer must advise SIGNWAVE in writing as soon as the customer learns of any amened or terminated approval, consent or authorisation.

10.5 The customer must during installation: –

10.5.1 Give SIGNWAVE access to the premises so that SIGNWAVE may perform the installation and provide all such assistance as may be reasonably requested by SIGNWAVE promptly and without cost to SIGNWAVE. The customer shall move any materials, and other objects obstructing or preventing installation in advance of the agreed installation date;

10.5.2 Use best efforts to make sure that the premises and any equipment provided are safe and without risk for SIGNWAVE employees and agents. The customer must tell the SIGNWAVE the location of any concealed pipes and wires which may affect the installation and about any known risks and any hazardous materials at the premises, provided that SIGNWAVE may decline to carry out the installation if it considers that the installation in accordance with the customer's instructions nevertheless presents a risk to SIGNWAVE employees and agents (without prejudice to any remedy that SIGNWAVE may have in this regard).

10.5.3 The customer warrants that they have unencumbered title to any materials (such as old signs) to be removed from any location at which goods are delivered or to be installed, and that the customer is properly authorised to dispose of them without the consent of any third party. The customer also warrants that said materials are safe to remove, that are not contaminated or contain dangerous components.

10.5.4 Provide information about the customer, the premises and any other relevant information so that SIGNWAVE can perform the installation. The customer must write to SIGNWAVE to tell them of any changes to this information;

10.5.5 Ensure that SIGNWAVE staff and contractors have adequate welfare facilities (toilet and washing facilities).

10.6 References in these conditions to the goods shall (unless the contract otherwise requires and include where relevant and applicable) reference to the installation and the relevant

provisions of the Agreement shall accordingly apply once the necessary changes having been made to the installation.

10.7 Vehicle Wrap Installation

10.7.1 It is the customer's responsibility to ensure vehicle suitability and that the existing surface to be vinyl wrapped are clean, dry and free from grease, dirt, wax, oil, and free from any existing graphics and decals upon delivery to SIGNWAVE premises. An exterior vehicle detailing charge will be applied in addition to the installation fee when, in the opinion of SIGNWAVE, any vehicle is not in a satisfactory condition suitable for a quality wrap installation.

10.7.2 SIGNWAVE vehicle preparation does not include paint chip repairs or the removal of dents, scrapes and paintwork scuffs.

10.7.3 Should badges need to be removed SIGNWAVE will at all times use the very best care. Any resulting damage to the badge or marks on the paintwork surface may require remedial work when the Signage is removed later. SIGNWAVE holds no liability for any future remedial work following removal of the badge.

10.7.4 In the event that a customer requests that SIGNWAVE remove a pre-installed vinyl wrap, applied by a company other than SIGNWAVE, SIGNWAVE will make every effort to remove the existing vinyl, but will not be held responsible for any damage they may occur to the vehicle surface during the wrap removal.

10.7.5 SIGNWAVE prefers to use our premises for installation. If the customer elects to have vinyl wrap installation performed at non SIGNWAVE premises, SIGNWAVE will not be held liable for any issues related to improper installation conditions.

10.7.6 Vehicle delivery to and retrieval from an appointed installation premises is the customers responsibility and must be undertaken within a reasonable and mutually agreed time frame with SIGNWAVE.

10.7.7 All applied vinyl wrap remains the property of SIGNWAVE until paid for in full. Pending payment for goods supplied, the customer holds the goods as the property of SIGNWAVE and the goods must be kept identified as belonging SIGNWAVE. In the event that the customer fails to make payment, the customer irrevocably authorizes SIGNWAVE to remove the vinyl wrap.

10.7.8 Vehicles Storage Fee: Vehicles or trailers left at SIGNWAVE premises will be charged a daily storage fee. Fee will be assessed three days after the installation has been completed. Vehicle or trailers left at SIGNWAVE premises more than thirty days will be subject to a lien sale.

11. Contract termination
11.1 This clause applies if:

11.1.1 The customer makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

11.1.2 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the customer; or

11.2.1.3 The customer ceases, or threatens to cease, to carry on business; or

11.1.4 SIGNWAVE reasonably understand or perceives that any of the events mentioned above is about to occur in relation to the customer and notifies the customer accordingly.

11.1.5 The customer is in breach of the provisions of the contract and fails to remedy the same (if capable of remedy) within 5 Business days of SIGNWAVE notifying the customer of such breach.

11.2 If this clause applies then, without prejudice to any other right or remedy available to SIGNWAVE, SIGNWAVE shall be entitled to cancel the contract or suspend any further deliveries under the contract without any liability to the customer, and if the price has not been paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12. General

12.1 Any notice required or permitted to be given by either party to the other under these conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

12.2 No waiver by SIGNWAVE of any breach of the contract by the customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

12.3 If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected.

12.4 Each right or remedy of SIGNWAVE under the contract is without prejudice to any other right or remedy of SIGNWAVE whether under the contract or not.

12.5 Failure or delay by SIGNWAVE in enforcing or partially enforcing any provision of the contract will not be construed as a waiver of any of its rights under the contract and any waiver by SIGNWAVE of any breach of, or any default under any provision of the contract by the customer will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the contract.
12.6 The contract and any documents referred to in it constitute the entire agreement between the parties.

12.7 The customer must keep confidential and must not (without SIGNWAVE's written consent) use any ideas, systems or processes communicated or made available by SIGNWAVE to the customer.

12.8 All electronic media (other than the media supplied by the customer) used by SIGNWAVE to store data for the purposes of completing the contract remain the sole property of SIGNWAVE. The customer cannot require SIGNWAVE to supply to the customer any such data. SIGNWAVE may charge the customer for supplying such data where it chooses to supply such data to the customer.

12.9 SIGNWAVE may assign and/or subcontract the contract or any part of it to any person, firm or company. The customer shall not be entitled to assign the contract or any party of it without the prior written consent of SIGNWAVE.

12.10 A person who is not a party to the contract or any other contract between SIGNWAVE and the customer shall have no rights under the contracts (Privity of Contract) to enforce any of its terms. Any rescission, variation, amendment or waiver to or of this contract or any other contract between SIGNWAVE and the customer shall not require the consent or approval of any person who is not a party to such a contract.

12.11 Words in the singular include the plural and in the plural include the singular. A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

12.12 The contract shall be governed by and construed in accordance with the laws of Victoria and the customer agrees to submit to the exclusive jurisdiction of the Australian courts.