

Sign Creations Limited – Terms & Conditions of Trade

1. Definitions	7.7	Whilst every care is taken by Sign Creations to carry out the instructions of the Client, it is the Client's responsibility to undertake a final proof reading of the Goods. Sign Creations shall accept no liability whatsoever for any errors not picked up and/or corrected by the Client in the final proof reading.	13.2	Goods/Equipment will not be accepted for return for any reason other than those specified in clause 13.1 above (or in the case of Equipment hire, normal termination of Equipment hire in accordance with the full terms and conditions herein).	
1.1 "Sign Creations" means Sign Creations Limited, its successors and assigns or any person acting on behalf of and with the authority of Sign Creations Limited.	7.8	When style, type or layout is left to Sign Creations' judgment, and the Client makes subsequent further alterations to the copy, this will be invoiced as an extra in accordance with clause 5.	14. Returns of Goods	14.1 Non-stocklist items or Goods made to the Client's specifications are under no circumstances acceptable for credit or return.	
1.2 "Client" means the person buying the Goods (and/or hiring Equipment) as specified in any invoice, document or order, and if there is more than one Client is a reference to each Client jointly and severally.	7.9	Where the Client has supplied materials for Sign Creations to complete the Services, the Client acknowledges that he accepts responsibility for the suitability of purpose, quality and any faults inherent in the materials. Sign Creations shall not be responsible for any defects in the Services, any loss or damage to the Goods (or any part thereof), howsoever arising from the use of materials supplied by the Client.	15. Intellectual Property	15.1 Where Sign Creations has designed, drawn or developed Goods/Equipment for the Client, then the copyright in any designs and drawings and documents shall remain the property of Sign Creations.	
1.3 "Goods" means all Goods or Services supplied by Sign Creations to the Client at the Client's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).	7.10	Where Sign Creations is required to install the Goods the Client warrants that the structure of the premises or equipment in or upon which these Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and Sign Creations shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto.	15.2 The Client warrants that all designs, specifications or instructions given to Sign Creations will not cause Sign Creations to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Sign Creations against any action taken by a third party against Sign Creations in respect of any such infringement.	15.3 The Client agrees that Sign Creations may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which Sign Creations has created for the Client, and/or any photographic images of the finished Goods.	
1.4 "Equipment" means all Equipment including any accessories supplied on hire by Sign Creations to the Client (and where the context so permits shall include any supply of Services). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation form provided by Sign Creations to the Client.	7.11	The Client acknowledges that Goods supplied may (a) exhibit variations in shade, colour, texture, surface, finish, and markings, and may fade or change colour over time; and (b) expand, contract or distort as a result of exposure to heat, cold, weather; and (c) mark or stain if exposed to certain substances; and (d) be damaged or disfigured by impact or scratching. Sign Creations shall not be liable for any damage to Goods resulting from chemical or environmental factors.	15.4 Sign Creations may also use any written or verbal communication from the Client as a reference on Sign Creations' social media sites, provided that Sign Creations notifies the Client in advance of its intention to do so.	16. Default and Consequences of Default	16.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Sign Creations' sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
1.5 "Price" means the Price payable for the Goods/Equipment hire as agreed between Sign Creations and the Client in accordance with clause 5 below.	7.12	Where the Client has supplied plans, specifications, plant, goods or materials of any kind these shall be held by Sign Creations at the Client's risk. Whilst all care will be taken by the seller, no responsibility is accepted for any damage to materials during such time, and Sign Creations reserves the right to dispose of materials if they are not collected by the Client within thirty (30) days after the work is completed.	16.2 If the Client owes Sign Creations any money the Client shall indemnify Sign Creations from and against all costs and disbursements incurred by Sign Creations in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Sign Creations' collection agency costs, and bank dishonour fees).	16.3 Without prejudice to any other remedies Sign Creations may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions Sign Creations may suspend or terminate the supply of Goods/Equipment to the Client. Sign Creations will not be liable to the Client for any loss or damage the Client suffers because Sign Creations has exercised its rights under this clause.	16.4 Without prejudice to Sign Creations' other remedies at law Sign Creations shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Sign Creations shall, whether or not due for payment, become immediately payable if: (a) any money payable to Sign Creations becomes overdue, or in Sign Creations' opinion the Client will be unable to make a payment when it falls due; (b) the Client 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 (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
2. Acceptance	7.13	Any advice, recommendation, information, assistance or service provided by Sign Creations in relation to Goods or Services supplied is given in good faith, is based on Sign Creations' own knowledge and experience and shall be accepted without liability on the part of Sign Creations and it shall be the responsibility of the Client to confirm the accuracy and reliability of the same in light of the use to which the Client makes or intends to make of the Goods or Services.	16.5 Without prejudice to Sign Creations' other remedies at law Sign Creations shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Sign Creations shall, whether or not due for payment, become immediately payable if: (a) any money payable to Sign Creations becomes overdue, or in Sign Creations' opinion the Client will be unable to make a payment when it falls due; (b) the Client 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 (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.	17. Cancellation	17.1 Sign Creations may cancel any contract to which these terms and conditions apply or cancel delivery of Goods/Equipment at any time before the Goods/Equipment are due to be delivered by giving written notice to the Client. On giving such notice Sign Creations shall repay to the Client any money paid by the Client for the Goods/Equipment. Sign Creations shall not be liable for any loss or damage whatsoever arising from such cancellation.
2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of the Goods/Equipment.	8. Access	8.1 The Client shall ensure that Sign Creations has clear and free access to the work site at all times to enable them to deliver the Services. Sign Creations shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or graded areas) unless due to the negligence of Sign Creations.	17.2 In the event that the Client cancels delivery of the Goods/Equipment the Client shall be liable for any and all losses (whether direct or indirect) by Sign Creations as a direct result of the cancellation (including, but not limited to, any loss of profits).	17.3 Cancellation of orders for Goods made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.	
2.2 These terms and conditions may only be amended with Sign Creations' consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and Sign Creations.	9. Title to Goods	9.1 Sign Creations and the Client agree that ownership of the Goods shall not pass until: (a) the Client has paid Sign Creations all amounts owing to Sign Creations; and (b) the Client has met all of its other obligations to Sign Creations.	17.4 Where the Client is an individual the authorities under clause 18.1 are authorities or consents for the purposes of the Privacy Act 1993.	18. Privacy Act 1993	18.1 The Client authorises Sign Creations or Sign Creations' agent to: (a) access, collect, retain and use any information about the Client: (i) (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or (ii) for the purpose of marketing products and services to the Client. (b) disclose information about the Client, whether collected by Sign Creations from the Client directly or obtained by Sign Creations from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.
2.3 The Client acknowledges and agrees that the Price is quoted on the condition that all signs are ordered, manufactured and delivered/installed at the same time.	9.2	Receipt by Sign Creations 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.	18.2 The Client shall have the right to request Sign Creations for a copy of the information about the Client related by Sign Creations and the right to request Sign Creations to correct any incorrect information about the Client held by Sign Creations.	19. Equipment Hire	19.1 Equipment shall at all times remain the property of Sign Creations and is returnable on demand by Sign Creations. In the event that Equipment is not returned to Sign Creations, the condition in which it was delivered Sign Creations retains the right to charge the Client the full cost of repairing the Equipment. In the event that Equipment is not returned at all Sign Creations shall have right to charge the Client the full cost of replacing the Equipment.
2.4 Quotations are only for work according to original specifications. If through the Client's error, or omission, work has to be redone or alterations or additions to specifications are required, then Sign Creations may make an additional charge. In the event that an order is cancelled or suspended by the Client, then Sign Creations may immediately require the Client to pay for work done to the date of cancellation or suspension.	9.3	It is further agreed that: (a) until ownership of the Goods passes to the Client in accordance with clause 9.1 that the Client is only a bailee of the Goods and must return the Goods to Sign Creations on request. (b) the Client holds the benefit of the Client's insurance of the Goods on trust for Sign Creations and must pay to Sign Creations the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed. (c) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for Sign Creations and must pay or deliver the proceeds to Sign Creations on demand. (d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of Sign Creations and must sell, dispose of or return the resulting product to Sign Creations as it so directs. (e) the Client irrevocably authorises Sign Creations to enter any premises where Sign Creations believes the Goods are kept and recover possession of the Goods. (f) Sign Creations may recover possession of any Goods in transit whether or not delivery has occurred. (g) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of Sign Creations. (h) Sign Creations may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.	19.2 The Client shall: (a) keep the Equipment in their own possession and control and shall not assign the benefit of the Equipment nor be entitled to a lien over the Equipment. (b) not alter or make any additions to the Equipment including but without limitation attaching, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment. (c) keep the Equipment, complete with all parts and accessories, clean and in good order as delivered, and shall comply with any maintenance schedule as advised by Sign Creations to the Client.	19.3 The Client accepts full responsibility for the safekeeping of the Equipment and the Client agrees to insure, or self insure, Sign Creations' interest in the Equipment and agrees to indemnify Sign Creations against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property or persons arising out of the use of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim. Immediately on request by Sign Creations the Client will pay any insurance excess payable in relation to a claim made by either the Client or Sign Creations in relation to any damage caused by, or to, the hire Equipment whilst the same is hired by the Client and irrespective of whether charged by the Client's insurers or Sign Creations'.	
2.5 Sign Creations reserves the right not to undertake any work which in its opinion is or may be unlawful, offensive, or otherwise inappropriate.	10. Personal Property Securities Act 1999 ("PPSA")	10.1 Upon agreeing to these terms and conditions in writing the Client acknowledges and agrees that: (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and (b) a security interest is taken in all Goods/Equipment previously supplied by Sign Creations to the Client (if any) and all Goods/Equipment that will be supplied in the future by Sign Creations to the Client.	19.4 The Client shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Sign Creations of these terms and conditions (alternatively Sign Creations' liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods/Equipment hire).	20. General	20.1 The failure by Sign Creations to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Sign Creations' right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
3. Authorised Representatives	10.2	The Client undertakes to: (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Sign Creations may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register; (b) indemnify, and upon demand reimburse, Sign Creations for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods/Equipment charged thereby; (c) register a financing change statement or a change demand without the prior written consent of Sign Creations; and (d) immediately advise Sign Creations of any material change in its business practices of selling Goods which would result in a change in the nature of proceeds derived from such sales.	20.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Tauranga Courts of New Zealand.	20.3 Sign Creations shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Sign Creations of these terms and conditions (alternatively Sign Creations' liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods/Equipment hire).	
3.1 Unless otherwise limited as per clause 3.2 the Client agrees that should the Client introduce any third party to Sign Creations as the Client's duly authorised representative, that once introduced that person shall have the full authority of the Client to order any Goods or Services on the Client's behalf and/or to request any variation to the Services on the Client's behalf (such authority to continue until all requested Services have been completed or the Client otherwise notifies Sign Creations in writing that said person is no longer the Client's duly authorised representative).	10.3	Sign Creations and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.	20.4 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Sign Creations nor to withhold payment of any invoice because part of that invoice is in dispute.	20.5 Sign Creations may license or sub-contract all or any part of its rights and obligations without the Client's consent.	
3.2 In the event that the Client's duly authorised representative as per clause 3.1 is to have only limited authority to act on the Client's behalf then the Client must specifically and clearly advise Sign Creations in writing of the parameters of the limited authority granted to their representative.	10.4	The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.	20.6 The Client agrees that Sign Creations may amend these terms and conditions at any time. If Sign Creations makes a change to these terms and conditions, then that change will take effect from the date on which Sign Creations notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for Sign Creations to provide Goods/Equipment to the Client.	20.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.	
3.3 The Client specifically acknowledges and accepts that they will be solely liable to Sign Creations for all additional costs incurred by Sign Creations (including Sign Creations' profit margin) in providing any Goods, Services or variations requested by the Client's duly authorised representative (subject always to the limitations imposed under clause 3.2 (if any)).	10.5	Unless otherwise agreed in writing by Sign Creations, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.	20.8 The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.		
4. Change in Control	11. Security and Charge	11.1 In consideration of Sign Creations agreeing to supply the Goods/Equipment, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).			
4.1 The Client shall give Sign Creations not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by Sign Creations as a result of the Client's failure to comply with this clause.	11.2	The Client indemnifies Sign Creations from and against all Sign Creations' costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Sign Creations' rights under this clause.			
5. Price and Payment	11.3	The Client irrevocably appoints Sign Creations and each director of Sign Creations as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Client's behalf.			
5.1 At Sign Creations' sole discretion the Price shall be either: (a) as indicated on any invoice provided by Sign Creations to the Client; or (b) Sign Creations' quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.	12. Client's Disclaimer	12.1 The Client hereby disclaims any right to rescind, or cancel any contract with Sign Creations or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Client by Sign Creations and the Client acknowledges that the Goods are bought relying solely upon the Client's skill and judgment.			
5.2 Sign Creations reserves the right to change the Price if a variation to Sign Creations' quotation is requested, and: (a) in addition to the Price, installation, vinyl and paint removal charges, which may in the first instance be an estimate based on information supplied at the time of quotation, may be adjusted to reflect the full cost incurred by Sign Creations once these aspects have been completed; (b) changes to specifications, roughs, layouts, samples and dummies or printed, typewritten or other good copy; (c) permit fees, site conditions which require the services of a crane, drawing and engineer's calculations, and other additional charges which may be necessarily incurred by Sign Creations to fill an order; (d) experimental work, preliminary sketches and designs and originations costs produced at the Client's request, which will be charged for, even if the job does not proceed further.	13. Defects	13.1 The Client shall inspect the Goods/Equipment on delivery and shall within three (3) days of the Goods being printed or ordered (time being of the essence) notify Sign Creations of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford Sign Creations an opportunity to inspect the Goods/Equipment within a reasonable time following delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods/Equipment shall be presumed to be free from any defect or damage. For defective Goods/Equipment, which Sign Creations has agreed in writing that the Client is entitled to reject, Sign Creations' liability is limited to either (at Sign Creations' discretion) replacing the Goods/Equipment or repairing the Goods/Equipment.			
5.3 At Sign Creations' sole discretion a non-refundable deposit may be required.					
5.4 Time for payment for the Goods/Equipment being of the essence, the Price will be payable by the Client on the date/s determined by Sign Creations, which may be: (a) on delivery of the Goods/Equipment; (b) before delivery of the Goods/Equipment; (c) for certain approved Client's, due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices; (d) the date specified on any invoice or other form as being the date for payment; or (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by Sign Creations.					
5.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge of up to three and a half percent (3.5%) of the Price), or by any other method as agreed to between the Client and Sign Creations.					
5.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to Sign Creations an amount equal to any GST Sign Creations must pay for any supply by Sign Creations under this or any other agreement for the sale of the Goods/hire of the Equipment. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.					
6. Delivery of Goods/Equipment					
6.1 Delivery ("Delivery") of the Goods/Equipment is taken to occur at the time that the Client or the Client's nominated carrier takes possession of the Goods/Equipment at Sign Creations' address.					
6.2 At Sign Creations' sole discretion the cost of delivery is in addition to the Price.					
6.3 The Client must take delivery by receipt or collection of the Goods/Equipment whenever either is tendered for delivery. In the event that the Client is unable to take delivery of the Goods/Equipment as arranged then Sign Creations shall be entitled to charge a reasonable fee for redelivery of the Goods/Equipment and/or the storage of the Goods.					
6.4 Sign Creations may deliver the Goods/Equipment in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.					
6.5 Any time or date given by Sign Creations to the Client is an estimate only. The Client must still accept delivery of the Goods/Equipment even if late and Sign Creations will not be liable for any loss or damage incurred by the Client as a result of the delivery being late.					
7. Risk					
7.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.					
7.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, Sign Creations is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Sign Creations is sufficient evidence of Sign Creations' rights to receive the insurance proceeds without the need for any person dealing with Sign Creations to make further enquiries.					
7.3 If the Client requests Sign Creations to leave Goods outside Sign Creations' premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk.					
7.4 Where colour matching is required, the Client agrees to supply information and samples regarding the correct colour.					
7.5 Sign Creations is under no obligation to provide samples of Goods ordered other than virtual (computerised) samples. Whilst every effort will be taken by Sign Creations to match virtual colours with physical colours, Sign Creations will take no responsibility for any variation between virtual sale samples and either the virtual sale sample displayed on the Client's computer and/or the final product. Should a physical sample be required this will be provided on request by the Client and will be charged for as an extra including return freight.					
7.6 Where Sign Creations is requested to design or commission signwriting Services using measurements or dimensions supplied by the Client or the Client's representatives, and these measurements are found to be incorrect, then the Client is liable for the costs for the re-creation of the signwriting as well as the original production costs.					