

Showroom Display Products Agreement

1. AGREEMENT TO DISPLAY SHOWROOM ITEMS

1.1. In consideration for OfficeMax New Zealand Limited (**OfficeMax**) displaying the Supplier's products (**Display Item(s)**) referred to in Schedule 1), in its showrooms at the specified location(s) (**Location(s)**). The Supplier will provide these Display Items either free or on consignment to OfficeMax (as specified in Schedule 1) on the terms set out below (**Agreement**).

2. TERM

2.1. **Term:** The terms of this Agreement shall apply for so long a period as Schedule 1 (the **OfficeMax Showroom Display Items Register**) remains in effect and there is a Display Item at a Location. The OfficeMax Showroom Display Items Register sets out the delivery date (**Delivery Date**) of each Display Item. The term for each Display Item shall begin on the Delivery Date for the respective Display Item until the end of the Product Lifecycle (the **Term**). The OfficeMax Showroom Display Items Register may be amended from time to time in accordance with clause 5.

2.2. **Termination:** Either party may terminate this Agreement by giving the other party one month's prior written notice. Otherwise, this Agreement shall continue for so long as the Term remains in relation to any Display Item listed in the OfficeMax Showroom Display Items Register.

3. NO CHARGES APPLY

3.1. In consideration of the Supplier using OfficeMax's Location(s) to showcase the Display Items to customers and OfficeMax complying with clause 7, the Display Items will be provided to OfficeMax free of charge.

3.2. **Agreement to waive service and maintenance charges:** Supplier shall waive the service and maintenance charges for the Term, in consideration of OfficeMax fulfilling its obligations under clause 7.

4. SERVICES: INSTALLATION AND MAINTENANCE OF DISPLAY ITEMS

4.1 Supplier shall:

- 4.1.1 supply and install the Display Items; and
- 4.1.2 maintain and service the Display Items throughout the Term.

5 ADDITION OR REMOVAL OF DISPLAY ITEMS

5.1 The range of showroom products on display will be refreshed from time to time at the discretion of OfficeMax. The parties are to update the OfficeMax Showroom Display Items Register to reflect any such changes under this clause. Any update sent to OfficeMax shall be deemed to replace the original OfficeMax Showroom Display Items Register and shall be subject to the terms of this Agreement. OfficeMax must acknowledge and accept each OfficeMax Showroom Display Items Register by signing and returning the emailed copy to the Supplier.

6 OWNERSHIP, RISK AND INSURANCE

6.1 **Ownership:** At all times the Display Items remains the property of the Supplier.

6.2 **Risk:** Risk in the Display Items will remain with the Supplier on delivery of the Display Item to OfficeMax.

6.3 **Insurance:** The Supplier shall include the supplied Display Items under its overall insurance policy against any act of fire, burglary, theft, vandalism, accidental damage, general liability against loss arising out of installation, service, operation and removal of the Display Items or other event causing damage or removal of the Display Items.

7 OFFICEMAX'S OBLIGATIONS

7.1 OfficeMax agrees to:

- 7.1.1 take all reasonable precautions to prevent damage or theft of the Display Items and immediately notify the Supplier of loss, theft or damage;
- 7.1.2 not make any alteration to the Display Items; and
- 7.1.3 (subject to clause 10) not sell the Display Items.

8 DEFAULT AND TERMINATION

8.1 A party (the **defaulting party**) will be considered to be in default of this Agreement if that party (each an **Event of Default**):

- 8.1.1 Fails within seven days after receipt of notice, to remedy any breach of its obligations under this Agreement which is capable of remedy;
- 8.1.2 Commits any breach of any of its obligations under this Agreement, which is incapable of remedy;
- 8.1.3 Becomes insolvent;
- 8.1.4 (in the case of the Supplier only), fails to insure the Display Items in accordance with clause 6.3;

and the other party (the non-defaulting party) shall be entitled in an Event of Default to immediately terminate this Agreement.

9 END OF PRODUCT LIFECYCLE – FREE PRODUCTS

9.1 If a Display Item is marked as 'Free' in Schedule 1, at the end of its Product Lifecycle, OfficeMax can either:

- (a) keep the Display Item whereby Ownership and Risk will pass to OfficeMax; or
- (b) donate the Display Item to a charity of its choosing.

10 END OF PRODUCT LIFECYCLE – CONSIGNMENT PRODUCTS

10.1 If a Display Item is marked as 'Consignment' in Schedule 1, at the end of its Product Lifecycle, OfficeMax can either:

- a) Purchase the Display Item from the Supplier at the Value referred to in Schedule 1 whereby Ownership and Risk will pass to OfficeMax; or
 - b) Request the Supplier to remove the Display Items from its Location
- 10.2 OfficeMax reserves the right to dispose of a Display Item if the Supplier does not collect the Display Item within 30 days from a request made by OfficeMax in accordance with clause 10.1(b) of this Agreement.

11 LIABILITY AND INDEMNITY

11.1 **Third Party Warranty:** Supplier will pass on to OfficeMax the benefit of any warranty or other assurance from any other person in respect of the Display Items supplied to OfficeMax (for example, a manufacturer).

11.2 **Indemnity:** The Supplier indemnifies OfficeMax against all losses, costs and expenses incurred by OfficeMax or which OfficeMax is liable for, arising directly out of:

- 11.2.1 any breach of this Agreement by the Supplier, its employees or agents;
- 11.2.2 any:
 - (a) damage to or loss of property (other than a Display Item);
 - (b) use, operation or possession of a Display Item; and
 - (c) injury to or death of any person,arising from the performance of the Supplier's obligations or the exercise of its rights under this Agreement.

11.3 **Exclusion of Liability:** Neither party is liable to the other party for indirect or consequential loss or damage, including but not limited to, lost profits suffered by a party arising out of a breach by the other party of this Agreement.

12 EVENTS BEYOND A PARTY'S REASONABLE CONTROL

12.1 **No liability:** Neither party shall be liable for any delay or failure to perform its obligations pursuant to this Agreement if such delay is due to an event beyond that party's reasonable control.

12.2 **Suspension of Obligations:** If a delay or failure of a party to perform its obligations is caused or anticipated due to an event beyond a party's reasonable control, the performance of that party's obligations will be suspended.

12.3 **Termination Right:** If a delay or failure by a party to perform its obligations due to an event beyond a party's reasonable control exceeds sixty (60) days, either party may immediately terminate this Agreement.

13 GENERAL

13.1 **Severability:** If any of the provisions of this Agreement are deemed invalid or unenforceable, this shall not make the entire Agreement or the remaining provisions of the Agreement unenforceable or invalid.

13.2 **No Waiver:** A failure, delay, relaxation or indulgence on the part of a party in exercising any right conferred upon that party by this Agreement does not operate as a waiver of that right. No right under this Agreement shall be deemed to be waived except by notice in writing signed by each party.

13.3 **Amendment to Agreement:** No amendment or variation of this Agreement is valid or binding on a party to this Agreement unless made in writing and signed by both parties.

13.4 **Notices:** All notices and other communications contemplated under this Agreement shall be in writing and delivered personally or sent by post, or email to the addresses detailed above.

13.5 **Authority:** Each party is duly constituted under the laws of New Zealand and has the full valid power and authority to enter into and perform the obligations under this Agreement, and the person signing this Agreement on behalf of each has been properly authorised to enter into this Agreement.