

Portable Partitions Australia Pty Ltd

Licence Agreement

(OPSX3P)

Your order of products to licence from us, and our licence of those products to you, are subject to the following terms and conditions (**Licence Agreement**).

In this Licence Agreement, a reference to **we, us** or **our** is a reference to Portable Partitions Australia Pty Ltd ACN 626 692 546.

1. **Accepting the terms and conditions of this Licence Agreement**

- (a) Please read this Licence Agreement carefully before ordering products to licence from us.
- (b) By placing orders to licence products from us (**Goods**), you acknowledge that you have read, understood and agree to be bound by this Licence Agreement.

2. **Licence**

- (a) We grant to you for the Term a non-transferrable licence to use the Goods in connection with your business (**Licence**).
- (b) You must not sub-licence the Goods without our prior written consent.

3. **Term**

This Licence Agreement applies, in respect of the Goods the subject of this Agreement, from the time you order the Goods, until this Licence Agreement is terminated in accordance with clause 15 (**Term**).

4. **Monthly Licence Fee**

- (a) Subject to clause 5, in consideration of the grant of the Licence, you must pay us a monthly licence fee of **AU\$100.00 including GST (Monthly Licence Fee)** in accordance with clause 4(b).
- (b) You must pay the Monthly Licence Fee monthly in advance, with the first payment of the Monthly Licence Fee (in respect of the first month of the Term) being due and payable on the date that you order the Goods from us.
- (c) Each Monthly Licence Fee you pay to us is non-refundable (even if this Licence Agreement is terminated before the expiry of the month to which the Monthly Licence Fee relates).
- (d) You must make all payments required to be made to us under this Licence Agreement as we direct and in immediately available funds.

5. **Option to purchase the Goods**

Once you have paid to us total Monthly Licence Fees of **AU\$600.00 including GST** in respect of the Goods under this Licence Agreement, you may elect, at your option:

- (a) to purchase the Goods from us for a price of **AU\$100.00 including GST**; or

- (b) for the amount of the further Monthly Licence Fees you are required to pay under this Licence Agreement in respect of the Goods to be reduced to **AU\$20.00 including GST** per month.

6. Direct debit authority

- (a) You may, or we may require you to, provide an executed direct debit authority authorising the financial institution specified in the direct debit authority to debit from your nominated account (**Designated Account**) the Monthly Licence Fees payable under this Licence Agreement as and when they fall due. If there are insufficient funds in the Designated Account to pay such amounts when due, you must pay the amount owing directly to us.
- (b) If clause 6(a) applies, and you wish to change the Designated Account, you must provide a new direct debit authority to us nominating the new Designated Account prior to any action terminating the then existing direct debit authority.

7. Delivery

- (a) You will be responsible for payment of all delivery and freight fees associated with delivery of the Goods by us to your premises at the start of the Licence, and delivery of the Goods by you to our premises at the end of the Licence.
- (b) You must pay to us in advance, at the time you order the Goods, all delivery and freight fees associated with delivery of the Goods both by us to your premises, and by you to our premises. You may use the freight calculator available on our website to determine the indicative amounts of these delivery and freight fees.
- (c) If you purchase the Goods pursuant to clause 5(a), the amount you pre-paid for delivery of the Goods by you to our premises will be credited to, and offset against, the price you have to pay to purchase the Goods.

8. Treatment of the Goods

You must:

- (a) use the Goods solely for your business and not for any other purpose;
- (b) keep the Goods in good repair and proper working order;
- (c) maintain the cleanliness of the Goods and ensure that the Goods are kept in a presentable condition;
- (d) not, and must not allow anyone to, do anything to endanger the safety or condition of the Goods;
- (e) immediately report to us any damage to, or loss of, the Goods; and
- (f) not alter any identifying names or marks on the Goods,

except to the extent specifically authorised in writing by us.

9. Compliance with laws

You must comply with all laws relating to your use of the Goods, including without limitation, all applicable occupational health and safety laws.

10. Notification on seizure

- (a) If any person seizes or attempts to seize or interfere with the Goods, you must immediately notify that person of our title to and rights in the Goods and immediately inform us by written notice of the seizure, attempted seizure, or interference.
- (b) You must indemnify us from and against any loss or damage to the Goods due to seizure, attempted seizure, or interference.

11. Security interest

You must not create or register a charge or security interest in respect of the Goods or your rights under this Licence Agreement.

12. Acknowledgments

1 You acknowledge and agree that:

- (a) this Licence does not confer on you any proprietary or other interest in the Goods or our intellectual property rights in or associated with the Goods;
- (b) you will not acquire or claim any title to any of the Goods by virtue of the rights granted to you by this Licence Agreement or through your use of the Goods; and
- (c) the Goods and our intellectual property rights in and associated with the Goods will remain our property.

13. Limitation of liability

You acknowledge and agree that:

- (a) we make no warranty (other than those expressly provided in this Licence Agreement) to any person (including to you) in relation to the Goods except those warranties which cannot be specifically excluded by law;
- (b) to the maximum extent permitted by law, we will not be liable to any person (including you) for any loss or damage arising from or in connection with the use of the Goods by any person; and
- (c) if we become liable to you for any reason, such liability is limited to, at our option, the resupply of the Goods or the cost of resupply.

14. Indemnity

2 To the extent permitted by law, you cannot and must not make any claim or demand against us, and you release and forever hold us harmless from and indemnify us against all claims and liability for damages, loss, injury or death arising from or in connection with:

- (a) the use of the Goods by you, or your employees, agents or contractors;
- (b) a breach of this agreement by you, or your employees, agents or contractors; or
- (c) misuse of the Goods,

3 except to the extent caused by the wilful act or omission of us, or our employees, agents or contractors.

15. Termination

- (a) We may terminate this Licence Agreement and the Licence with immediate effect by giving you written notice of termination if:

- (i) you breach any of your obligations under this Licence Agreement; or
 - (ii) you are wound up, dissolved or declared bankrupt; enter into administration, liquidation, receivership or bankruptcy; you have a receiver or other external administrator appointed to take possession or control of any of your assets; you become insolvent as defined in the *Corporations Act 2001* (Cth), state you are insolvent or are presumed to be insolvent at law; or anything occurs under the law of any jurisdiction which has a substantially similar effect to any of the events described in this clause 15(a)(ii).
- (b) Either party may terminate this Licence Agreement without cause by providing 5 business days' prior written notice to the other party.
- (c) If you purchase the Goods from us pursuant to clause 5(a), this deed will terminate on the date that purchase completes.

16. Consequences of termination

- (a) Immediately upon termination, you must:
- (i) unless you have purchased the Goods pursuant to clause 5(a), return the Goods to us by delivering the Goods to our premises (or as directed by us) and do all reasonable things as may be required by us to protect our rights and interest in the Goods; and
 - (ii) pay to us all outstanding sums due under this Licence Agreement, accrued to the date of termination.
- (b) Termination of this Licence Agreement will not affect any rights accruing to either party to the date of termination nor any obligation performed to the date of termination or any obligation which expressly or impliedly survives termination of this Licence Agreement.

17. GST

4 You must pay or reimburse us for any GST which is imposed or levied in respect of our licence of the Goods to you.

18. General Provisions

- (a) This Licence Agreement constitutes the entire agreement between us and you in relation to its subject matter. All prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to that subject matter are replaced by this agreement and have no further effect.
- (b) Part or all of any provision of this Licence Agreement that is illegal or unenforceable will be severed from this agreement and will not affect the continued operation of the remaining provisions of this agreement.
- (c) Waiver of any right under this Licence Agreement must be in writing signed by the party entitled to the benefit of that right and is effective only to the extent referred to in that written waiver.
- (d) An indemnity or any obligation under this Licence Agreement is independent and survives termination of this agreement. Any other term by its nature intended to survive termination of this agreement survives termination of this agreement.
- (e) This Licence Agreement will be governed by and construed in accordance with the laws in force in New South Wales and each party submits to the non-exclusive jurisdiction of the courts of that State.