

## AGREEMENT TO TRADE

**THIS AGREEMENT** is made on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

### **PARTIES**

1. SEVENTH-DAY ADVENTIST CHURCH (SPD) LIMITED trading as ADVENTIST MEDIA ABN 59 093 117 689 incorporated in New South Wales and having its registered office at 150 Fox Valley Road, Wahroonga, New South Wales ("seller")
2. The person named in Item 1 of the Schedule as the ("buyer")

### **RECITALS**

- A. The seller is a distributor and publisher of products as described in Item 2 of the Schedule. ("product")
- B. From time to time the buyer purchases products from the seller and the seller supplies the buyer, products for the purpose of distribution.
- C. The parties agree and acknowledge that it is in their mutual interests for the product to be distributed by persons who: -
  - i. are familiar with the content of the product;
  - ii. conduct their activities and present the product in a manner that is consistent with the beliefs of the seller.
- D. The terms and conditions of this supply are set out in this agreement .

### **THE PARTIES AGREE**

#### ***Supply of Product***

1. The seller agrees to supply product to the buyer in accordance with this agreement and at the price described in item 3 of the schedule, subject to:
  - a. the right of the seller to change the prices specified by it in relation to the products at any time without notice;
  - b. the buyer having fully paid for the product prior to supply;
  - c. the product being in stock; and
  - d. the seller being under no obligation to sell to the buyer if it considers, in its absolute discretion, that the value of any single order, or the overall level of sales orders from the buyer, is not commercially reasonable, or less than the minimum acceptable amount from time to time.
2. In the event that the seller has previously entered into a contract to supply the buyer with any subject matter, which if supplied after the date hereof would fall within the definition of product, the parties agree that this agreement shall replace that previous agreement in all respects and every supply previously made shall be or be deemed to have been made as if this agreement were the then applicable agreement.

### ***Placement of orders***

3. The buyer must order product from the seller in writing, or from the seller's designated website; and when in writing each order must specify:
  - a. the date of the placement of the order;
  - b. the quantity and description of the product ordered and the price applicable at that time;
  - c. a preferred delivery date for the product being not less than 7 days from the date of the placement of the order.

### ***Acceptance of orders***

4. The seller may decline any order received from the buyer by written notice to the buyer within 10 business days of receipt of the order by the seller. Any order not declined pursuant to this clause binds the seller. Any order accepted by the seller shall be subject to receipt of the price prior to the seller consigning the order to the buyer or releasing it to the buyer's agent, a courier or as the case may be.

### ***Unavailable stock***

5. Whilst the seller will make reasonable endeavours to ensure that any order received from the buyer is supplied, there may be times when products are unavailable because the products are out of stock or a deleted line. If products ordered by the buyer are deemed unavailable by the seller, then the seller may cancel the out of stock item/s included in the buyer's order and is to refund, to the buyer, any payment made by the buyer for the cancelled order item/s.

### ***Delivery of orders***

6. Unless required to be collected by the buyer, the seller must arrange for the delivery of each order to the location specified in item 1 of the schedule. The cost of the delivery to the buyer, whether by postage or other transport service, shall be paid by the buyer, unless otherwise agreed

### ***Payment***

7. Unless stated otherwise the price is exclusive of GST. The buyer must pay the price, and any dispatch or delivery expenses, plus the requisite GST, as notified in writing or as invoiced by the seller to the buyer, in relation to each order to the seller prior to despatch of the product.

### ***Conduct standards***

8. In order to increase the distribution prospects for the product to retail customers, and to otherwise enhance the reputation of the seller, the buyer agrees: -
  - a. to study and be thoroughly familiar with the product;
  - b. to participate in such sales training as the seller may reasonably require from time to time;
  - c. conduct it's affairs in a good and businessman like manner with due diligence and in a sober, competent, careful and courteous manner with due regard to the promotion and protection of the reputation of the seller and the Seventh-day Adventist Church;
  - d. in endeavouring to distribute the product the buyer will at all times:

observe and comply with and will ensure that the buyer's employees, agents or subcontractors observe and comply with the provisions of every Act of Parliament and any by-laws, ordinances or regulations made thereunder and any other regulations and/or by-laws, municipal or otherwise and all orders, directions or recommendations which may be made or given by a competent authority in relation to the buyer's activities and without restricting the generality of the foregoing the buyer shall in particular have regard to and observe every provision of:

- i. the Australian Consumer Law (located at Schedule 2 to the Competition and Consumer Act 2010) including its provisions dealing with unsolicited goods and services and door-to-door sales;
  - ii. the Competition and Consumer Regulations 2010 including their provisions dealing with unsolicited goods and services and door-to-door sales;
  - iii. the Privacy Act 1988;
  - iv. the Work Health and Safety Act 2011 and regulations (Commonwealth) and their state and territory counterparts establishing work health and safety duties of employers, employees and self-employed persons as they apply in the geographical location/s where the buyer endeavours to distribute the product;
- and every amendment or replacement enactment thereof;
- e. not to sell other products or services that are inconsistent with the principles of, or are injurious to the reputation of the seller;
  - f. to conduct business and activities in accordance with the seller's Code of Ethics, as amended from time to time, a current copy of which is annexed to this agreement; and
  - g. to provide the seller with a police check and to advise if any changes to the status of that police check.

### ***Covenants as to Distribution***

9. The buyer acknowledges and covenants that:
  - a. it is the seller's desire to, spread and otherwise propagate through the distribution of the product the beliefs of the Seventh-day Adventist Church;
  - b. it is fundamental that whoever distributes product be conversant with the beliefs of the Seventh-day Adventist church and in particular the product;
  - c. they shall be a practising members of the Seventh-day Adventist Church;
  - d. they shall at all times conduct themselves in accordance with the principles of the Seventh-day Adventist Church;
  - e. in the event that a customer requests medical advice state that the buyer is not qualified to provide such advice and that the customer should seek the advice of a medical practitioner;

### ***Confidentiality***

10. The buyer agrees to keep confidential all Confidential Information and not to disclose or permit the disclosure of any Confidential Information to any third party and not to use the Confidential Information except for the purpose of carrying out its obligations under this Agreement.
11. The buyer agrees to adhere to the The Privacy Act 1988 (the Privacy Act). The buyer will ensure the collection and storage of personal information of its clients is done securely and in accordance with the Privacy Act.
12. The buyer must:
  - a. notify the seller immediately if it becomes aware of a suspected or actual breach of confidentiality or the Privacy act; and
  - b. take all steps at its own cost to prevent or stop a suspected or actual breach of confidentiality or the Privacy act.
  - c. Upon termination of this agreement for any reason whatsoever, the buyer shall:
    - i. return the Manual and any other training material that may have been supplied to it by the seller;
    - ii. continue to hold confidential the Confidential Information.
    - iii. securely and in accordance with the Privacy Act, destroy any personal information it may have collected and stored in the process of distributing product.

### ***Purchase incentive scheme***

13. The seller may establish a purchase incentive scheme to provide benefits to the buyer upon the achievement of specified purchase targets.
14. The buyer understands, consents and agrees that the seller will issue to each buyer within Australia and New Zealand a monthly Signs Publishing Company Sales Report including (i) a list of buyers who have consented and agreed to this clause and (ii) each listed buyer's Signs Publishing Company purchase values for the month to which the report relates.
15. The buyer acknowledges and agrees that each buyers purchase values is personal information protected by the Privacy Act 1988 and that therefore is prohibited from disclosing any buyer's purchase values to anyone who is not a signatory to this agreement.

### ***Marketing materials***

16. The buyer agrees to obtain the consent of the seller in regard to all marketing materials and methods that the buyer intends to use to promote the product. The seller shall not unreasonably withhold its consent to such marketing materials provided that they are consistent with the conduct standards of the seller and are printed and designed to a good and professional standard that represents the seller and the product in a positive and professional manner.

***Passing of title***

17. Title to product constituting an order free of encumbrances and all other adverse interests shall pass to the buyer on receipt of payment for the relevant order or upon delivery of the product to the buyer, nominated agent or courier, as the case may be.

***Passing of risk***

18. Risk in each order passes to the buyer upon delivery of that order to the buyer or collection of that order by the buyer's agent or courier as the case may be.

***Term***

19. This agreement commences on the date it is signed by both parties and ends twelve (12) months after commencement.

20. Either party may terminate this agreement by giving notice to the other party. Such notice will be in writing and will specify a period of time being not less than one calendar month, at the expiration of which this Agreement is to terminate (without prejudice however to any rights of either party) and may be given by actual delivery or by posting it to the address of the other party specified in this Agreement by prepaid registered post in which case it will be deemed to have been given at the expiration of two clear business days after posting.

21. Notwithstanding the foregoing, the seller may terminate this agreement immediately and without notice at any time (without prejudice to any rights of either party) if

- a. acting reasonably the seller believes that the buyer, or any employees, agents or subcontractors of the buyer has breached any term of this agreement;
- b. the buyer breaches one or more of the covenants listed in clause 9;
- c. In the event of the buyer being in breach of clause 9 and the seller has in some manner, directly or indirectly, been held accountable and been fined, penalised and/or suffered other loss, expense, and/or cost whatsoever in remedying that breach or otherwise, the buyer shall to the fullest extent permitted by law forthwith compensate the seller in full for and indemnify the seller against every such fine, penalty, loss, expense and/or cost whatsoever, howsoever incurred;
- d. the buyer makes any voluntary arrangement with its creditors;
- e. the buyer becomes insolvent or goes into liquidation;
- f. the buyer ceases, or threatens to cease, to carry on business;
- g. judgement shall be given against the buyer in any Court for a sum in excess of five thousand dollars (\$5,000.00);
- h. the buyer shall be found guilty of any criminal offence.

***Relationship of parties***

22. The buyer and seller are independent contractors.

23. Nothing in this Agreement will or is intended to establish a relationship of partnership, agency, employment between the parties and it is the intention of this Agreement and the parties that any such relationship is expressly denied.
24. The buyer acknowledges that it has no right to assume or create any obligations of any kind whatsoever or to make any representations or warranties, whether express or implied on behalf of the seller or to bind the seller in any respect.
25. Without in any way restricting the generality of the foregoing the parties acknowledge and agree that the buyer shall:
- a. pay and indemnify the seller in respect of all costs and expenses incurred by the buyer or on their behalf in connection with the buyer's activities hereunder;
  - b. pay (and indemnify the seller in respect of) all taxes and other payments due at law including, but not necessarily restricted to all income taxes, goods and services taxes, customs duties, and any other levies payable either in connection with this agreement or pursuant to the on-sale of the product;
  - c. indemnify and keep indemnified the seller against all claims by any other person and all liabilities of whatsoever nature and howsoever arising in connection with the activities of the buyer hereunder;
  - d. take out and maintain any insurances required by the seller or by law, and provide proof of such insurances to the seller, with such insurances to include:
    - i. accident and sickness insurance;
    - ii. third party public liability insurance (\$5,000,000 minimum); and
    - iii. any worker's compensation insurance payments, if applicable, with respect to the employees, subcontractors or agents of the buyer.
  - e. upon request by the seller, provide evidence of its registration for GST purposes (where applicable);
  - f. not be entitled to any payments, fees, allowances or reimbursements other than those specified in this agreement (if any) and without restricting the generality of the foregoing will not be entitled to any payments for or by way of salary, wages, commission, sickness benefit, superannuation, holidays, redundancy or otherwise whatsoever howsoever;
  - g. conduct its business affairs separately to those of the seller and in every respect carry on business on its own account.

### ***Training and Assistance***

26. Nothing in this Agreement shall be deemed or construed so as to entitle or require the buyer to:
- a. use any of the seller's premises and/or facility and/or equipment;
  - b. undertake or have access to any training know-how and/or other information whatsoever;
  - c. work any particular hours or days;
  - d. be under the direction or control of the seller howsoever whatsoever;
  - e. constitute any representation and/or warranty as to marketability and/or income (if any) reasonably or otherwise attainable or sustainable by the buyer in relation to or as a result of the distribution of the product, all profit

and loss made by the buyer from the distributions contemplated herein being entirely the buyers responsibility;

27. The seller may in its sole discretion arrange for training in:

- a. the teachings of the Seventh-day Adventist church;
- b. promoting and selling the product;

28. Every such training will unless agreed by the seller to the contrary:

- a. be at such time, place and of such regularity as the seller shall at its absolute discretion determine;
- b. be at the buyer's sole cost and expense in every respect, unless otherwise specified by the seller;
- c. at the seller's absolute discretion take the form of "on the job training" seminars and/or the provisions of the Manual.

***Amendment***

29. This agreement may only be modified or amended by a further agreement in writing and executed by the parties.

***Acknowledgment***

30. I acknowledge that:

- a. I have had an opportunity to read the Agreement to Trade and obtain independent professional advice prior to signing it.
- b. The Agreement to Trade provides me with the right to purchase goods from Adventist Media, to sell to others.

It does not:

- i. Provide any exclusive territory rights. This means that others may make sales within areas in which I intend to operate and this may have a negative impact on the profitability of my business.
- ii. Limit the rights of Adventist Media to amend the goods that it offers for sale; nor
- iii. Create any relationship of employment. This means that I will be conducting my own business of the sale of goods I have purchased from Adventist Media and that it is my responsibility to arrange and maintain adequate insurances with respect to my business.
- c. I am aware that laws exist relating to door-to-door sales and unsolicited consumer agreements and of the need to comply with them, and that a change in those laws may have a negative impact on my business.
- d. Any business venture involves a degree of risk.
- e. The earnings I will achieve from my self-employed work under this Agreement to Trade will vary according to a range of factors including my geographic location, my personal skills and the time and effort that I apply to my work.

- f. Few self-employed people working under an Agreement to Trade with Adventist Media achieve high financial returns.
  
- g. No one representing Adventist Media has mentioned to me a guaranteed income or said anything to me about the earnings I can expect from my work under this Agreement to Trade, [other than the guarantee/s and/or statement/s listed below, or as set out in the Agreement to Trade (if any)] *[Set out the details of the guarantee/s or statement/s, their date/s and the name of the person/s who provided the guarantee/s or made the statement/s to you, **OR** delete these words in brackets if inapplicable].*

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***Proper law***

- 31. The law of New South Wales governs this Agreement.
- 32. The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and of the Commonwealth of Australia.

***Counterparts***

- 33. This agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument. A counterpart shall, as between the parties, be binding on each of them once each of them has executed a counterpart. The parties agree to accept facsimile or email signed copies of this agreement as duly executed, and agree to be bound by their signatures as appearing on the facsimile or email copies.

***Entire Understanding***

- 34. This Agreement:
  - a. is the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement; and
  - b. supersedes any prior agreement or understanding on anything connected with that subject matter.

***Severance***

- 35. If anything in this Agreement is unenforceable, illegal or void then it is severed and the rest of this Agreement remains in force. To the extent that it is appropriate, a new clause will if possible be substituted and be equivalent in its economic purpose to the ineffective clause.

***Assignment***

36. The buyer shall not assign, purport to assign or transfer any rights under this agreement without the written consent of the seller, which may be given or withheld in the seller's absolute discretion.

## SCHEDULE

**Item 1:** Buyer Details

Name \_\_\_\_\_  
ABN \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_

**Item 2:** Product: The list of products distributed and published by the seller from time to time

**Item 3:** Price The list of prices published by or advised by the seller to the buyer from time to time.

**Item 4:** Annexure Code of Ethics

## **Annexure – Code of Ethics**

### **Code of Ethics of Buyers of Adventist Media products:**

1. I will always conduct myself in a professional manner seeking the best interests of my prospects or customers and respecting their opinions and feelings.
2. I will always honour my promises and legal obligations to my prospects or customers delivering product(s) in accordance with what I have contracted to do in the purchase agreement in accordance with my customer's expectations.
3. I will always maintain the confidentiality of my prospects or customers and never abuse their trust or share images or information about them to anyone or any organization without their express written permission.
4. I will always securely store the personal information of my prospects or customers in accordance with the Privacy act 1993.
5. I will never exploit a person's age, sex, illness, handicap, ignorance, or language barrier to my advantage.
6. I will always maintain the highest Christian moral standards never engaging in any immoral, deceptive, false, unethical or unlawful practice or behavior.
7. I recognize that as an Buyer I have a legal responsibility to comply with my country's taxation laws and be insured against any public risk or liability I could incur.
8. I will never provide any direct health or medical advice to any prospect or customer.
9. I agree to keep distributorship price lists and commission amounts and percentages confidential.
10. I will only deliver products in new condition unless expressly agreed beforehand with my customer.
11. I will not make any false or misleading claims about the products or guarantees that I am unable to honour. I will do all I can to thoroughly understand the product features and customer benefits.

**EXECUTED AS AN AGREEMENT**

SIGNED by [name of buyer] )

.....  
[Signature of buyer]

in the presence of [name of witness] )

.....  
[Signature of witness]

Executed by SEVENTH-DAY  
ADVENTIST CHURCH (SPD) LIMITED  
trading as ADVENTIST MEDIA

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director/Secretary

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Print name