

# Spectrum Architectural Signing Limited

## Conditions of sale

### Standard Terms of Trading

#### 1 Definitions

"Conditions" mean the Company's standard conditions of Sale set out in this document together with any other special conditions specified on the Quotation.

"the Contract" means the Quotation, the Order and the Company's acceptance thereof, together with the Conditions.

"the Goods" means the sign, and the design and/or installation services which are the subject of the Contract.

"the Order" means the written Order or letter of acceptance of the Quotation placed by the Customer on the Company for the provision of the Goods.

"the Quotation" means the quotation or tender submitted by the Company.

"the Customer" means the person of firm specified on the Quotation whose Order is accepted by the Company.

#### 2 Offer and Acceptance

2.1 All Quotations are made, Orders accepted and Contracts performed subject to the Conditions. These Conditions overrule any other terms, conditions or warranties which the Customer may subsequently seek to impose.

2.2 No variation waiver or supplement to the Conditions shall be binding on the Company unless expressly accepted by the Company in writing.

2.3 The Quotation is an estimate only and all descriptive matter, specifications, prices, drawings and particulars of wattages, weight, finishes, loadings, colours and dimensions and other data submitted by the Company (whether in the Quotation or in any catalogues, advertisements, or price lists), are deemed to be approximate only (except where expressly stated in writing to be exact) and are intended merely to present a general idea of the goods and/or services available from the Company. No Contract shall come into existence until the Customer's Order has been accepted by the Company as set out in Clause 3.1.

2.4 Quotations shall be available for acceptance for a maximum period of four weeks from the date thereof, and may be withdrawn by the Company within such time period at any time by written or oral notice.

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

2.6 The Company shall be at liberty to withdraw from any negotiations or otherwise until such time as the Contract shall have become binding without being under any liability whatsoever to the Customer.

#### 3 Orders and Specifications

3.1 All Orders placed by the Customer must be confirmed (either orally or in writing) by a duly authorised representative of the Company prior to commencement of work.

3.2 The Company at its sole discretion may waive the requirement for Orders to be written, and may confirm verbal Orders. However this is not to be taken as a waiver by the Company of any other of the Conditions whatsoever.

3.3 The Customer shall be responsible for ensuring the accuracy of the terms of the Order and shall give the Company any necessary information to enable the Company to proceed with the Contract. Any failure to do so will allow the Company to charge the Customer an additional price for any delay or to terminate the Contract immediately.

3.4 The Company reserves the right to make any changes in the specification of the Goods where the Goods are to be supplied to the Company's specification, which do not materially affect the quality or performance without notice.

3.5 The Customer shall indemnify the Company and its subcontractors against all claims, damages, costs, penalties and expenses incurred by the Company or its subcontractors to which the Company may become liable if any work done in accordance with the Customer's specifications involves an infringement of a registered design, trademark, patent or other intellectual property right.

3.6 No Order may be cancelled by the Customer except with the written agreement of the Company and on the terms that the Customer shall indemnify the Company 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 the Company as a result of cancellation.

#### 4 Price

4.1 All Quotations are exclusive of value added tax and similar taxes, levies or duties, which the Customer shall be additionally liable to pay to the Company.

4.2 The Company reserves the right, by giving notice to the Customer, at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Company in executing the Contract due to any factor beyond the control of the Company (such as, without limitation, any increase in the cost of labour, raw materials, overheads, or currency), any change in delivery dates, quantities, or specifications for the Goods arising as a result of any error or omission or changes deemed necessary by the Customer, or any delay or interruption on the Contract not attributable to the Company.

4.3 The signs are fully insured until completion of installation thereafter insurance is the responsibility of the Customer.

#### 5 Terms of Payment

5.1 Unless otherwise agreed in writing, the Company shall be entitled to invoice the Customer for the price of the goods 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 the Company shall be entitled to invoice the Customer for the price at any time after the Customer has been notified that the Goods are ready for collection, or the Company has tendered delivery of the Goods.

5.2 Subject to Clause 5.7, unless otherwise agreed by the Company in the Quotation the terms of payment shall be before the last day of the calendar month following the date of delivery. Receipts for payment will only be issued on request.

5.3 The time of payment of the price shall be of the essence of the Contract.

5.4 Where Goods are delivered by instalments the Company may invoice each instalment separately and the Customer shall pay such invoices in accordance with these Conditions.

5.5 No right of set-off shall exist in respect of any claims by the Customer against the Company unless and until such claims are accepted in full by the Company in writing and the Customer shall not withhold all or any part of any sum which has become due for payment under the Contract.

5.5.1 The right of set-off shall exist in respect of any claims the Company have against goods the Customer have provided and on written confirmation to the Customer any such sum maybe deducted under the Contract.

5.6 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

5.6.i. Cancel the Contract so far as any Goods remain to be delivered or services performed under it, or suspend any further delivery of the Goods or performance of any service; and

5.6.ii. charge the Customer interest (both before and after any judgement) on the amount unpaid, as per the Late Payment of Commercial Regulations act 2013 at an interest rate of 2% per annum above the Bank of England base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

5.7 THE COMPANY RESERVES THE RIGHT TO REQUIRE PAYMENTS IN ADVANCE OF SOME OR ALL OF THE TOTAL PRICE PAYABLE, AT ITS SOLE DISCRETION.

#### 6 Delivery

6.1 Delivery shall mean delivery of the Goods to the Customer at the Company's premises or delivery of the Goods to a carrier nominated by the Customer. In the absence of specific instructions, the Company may nominate a carrier.

6.2 If the Company fails to deliver the Goods for any reason other than any cause beyond the Company's reasonable Control or the Customer's fault, and the Company is accordingly liable to the Customer, the Company's liability shall be limited to the excess (if any) of the costs to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

6.3 The Customer is required to acknowledge receipt of all Goods by signing the delivery note supplied by the Company or its agents. The delivery note should then be returned to the Company.

6.4 If the Customer shall fail to accept delivery of the Goods as and when preferred by the Company then the Company shall be deemed to have tendered and the Customer to have refused delivery at that date.

6.5 If the Customer fails or refuses to take delivery of the Goods on the due date or fails to give the Company adequate instructions for delivery at the time stated then he shall be liable to the Company for any loss or costs arising from such failure or refusal. This provision shall be in addition to and not in substitution of any other payment or damages for which the Customer may become liable in respect of his failure to take delivery at the appropriate time.

6.6 Any dates quoted for the delivery of the Goods are approximate only and unless otherwise specifically agreed in writing the Company shall not be liable for any delay in despatch or delivery or any loss or damage thereby arising. Time of delivery shall not be the essence and the Customer shall not be able to Cancel the Contract, refuse delivery of the Goods or withhold payment on account of any delay howsoever caused.

6.7 The Company reserves the right to deliver the Goods in instalments and each such instalment shall constitute a separate Contract. Failure by the Company to deliver any one or more of the instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.

#### 7 Risk

7.1 The risk of damage to or loss of the Goods shall pass to the Customer or to the carrier when the Goods are delivered to the Customer in accordance with the terms of Clause 6.1

7.2 The Goods shall be deemed to have been delivered complete and in a satisfactory condition unless the Customer shall have notified the Company and the carrier in writing within three days of delivery of any alleged damage, defect or shortage in delivery, and time shall be the essence. The Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

7.3 Unless the condition in Clause 7.2 is strictly observed, the Company shall be under no liability whatsoever in respect of any loss or damage in transit (or non-delivery) of the whole or any part of the Goods.

#### 8 Title

8.1 Title in the Goods or any part of them or in any Goods of the Company (whether delivered under this Contract or otherwise) shall not pass to the Customer until the Customer shall have paid in full all monies owing under this or any other Contract.

8.2 If the Customer shall be in breach of the terms of this Contract then all monies owed by the Customer to the Company, whether under this Contract or otherwise, shall become immediately due and payable and the Customer hereby grants to the Company or its agents an irrevocable licence to enter upon the Customer's premises to recover and/or resell such Goods as the Company may deem necessary to recover all sums owing to it by the Customer together with any reasonable costs

of the Company so incurred.

8.3 Until all monies owing to the Company (whether under this Contract or otherwise) have been paid in full the Goods shall remain the absolute property of the Company and the Customer shall only be entitled to possession of the Goods on these Conditions, and shall hold the Goods in a fiduciary capacity as bailee; and any items affixed to the land and buildings may be detached and removed by the Company and shall not and are not intended to become part of any such property. The Company will not be held responsible for making good any fixing/cable hooks which would be required to fix the Signs in the event of the Signs being repossessed due to non-payment.

8.4 If Clause 8.1 is held to be invalid to reserve the Company's title to Goods delivered under this Contract by reason of the reservation of title until all Goods delivered to the customer by the Company have been paid for then nevertheless ownership of the Goods delivered under this Contract shall remain with the Company until those Goods themselves have been paid for.

#### 9 Guarantees

Any components or parts not of the Company's own manufacture incorporated in the Goods or sold by the Company are not guaranteed by the Company, but carry the maker's guarantee only.

#### 10 Liability

10.1 Subject to the remaining sub-clauses of this Clause, the Company warrants that the Goods (being the Company's design and manufacture or that part of the Goods which is of the Company's design and manufacture and in this Clause referred to as "the Company's Goods") will be of merchantable quality and reasonably fit for their purpose for the period of 6 months following delivery, ("the Warranty Period")

10.2 In the event that the Company's Goods or workmanship is proved to be defective, or in need of repair during the warranty period, then the Company undertakes at its sole discretion for the duration of the Warranty Period to replace, give credit for, repair or rectify the Company's Goods free of charge and subject to any intervening wear and tear to the Condition originally specified by the Customer

10.3 If such notice is not received and such proof not forthcoming within the Warranty Period then the Goods shall be deemed to be free from any defect. Should the Customer wish to have the Goods covered by a warranty greater than the Warranty Period, then it should enter into a separate maintenance contract with the Company under which the Goods will be maintained and repaired by the Company for periods in excess of 6 months.

10.4 Where the Customer provides a specification for Goods to be designed manufactured or assembled by the Company, the Company shall not be liable for any defect in the Goods caused by compliance with that specification.

10.5 Nothing in these Conditions shall have the effect of excluding or limiting liability to a person for death, personal injury or damage to property as defined in the Consumer Protection Act. Save that the Customer shall fully and effectively indemnify the Company against any and all claims, costs damages or other penalties whatsoever brought against the Company under that Act if the death personal injury or damage to property was caused primarily by a defect in the fabric of the Customer's property or the provision by the Customer of incorrect information concerning strength of electricity supplies or the position of cables.

10.6 Nothing in these conditions shall impose any liability upon the Company in respect of any loss liability damage consequential or otherwise in relation to or arising out of Goods found to be defective or attributable directly to the acts omissions negligence or default of the Customer or Customer's servants or agents, or form any defect to the fabric of the Customers property which could not have been reasonably ascertained by the Company's servants when erecting the Goods.

10.7 If the Company shall become legally liable to the Customer in any way whatsoever then the liability of the Company in respect of any or all courses of action shall in no circumstances exceed the invoiced cost of the Goods under the Contract.

10.8 The Company's liability does not cover defects arising from the Customer's negligence, wilful damage, faulty maintenance or from alterations carried out without the Company's written consent or from repairs carried out improperly by the Customer nor does it cover normal deterioration.

10.9 Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable to the Customer by reason of any representation, or any implied warranty condition or other term, or any duty of common law, or under this Contract, for any consequential loss or damage (whether loss of profit or otherwise), costs, or other expenses whatsoever which arise out of or in connection with the supply of Goods except as expressly provided in these Conditions.

#### 11 Indemnity

11.1 The Customer undertakes to indemnify the Company against all claims relating to or arising from Goods sold to the Customer by the Company in respect of any loss, damage, or expense sustained by any third party howsoever caused save for death or personal injury caused in whole or in part by the Company's negligence.

11.2 If any claim is made against the Customer that the Goods manufactured and sold by the Company infringe the patent, copyright, design, trademark or other industrial or intellectual property rights of any person, the Company shall indemnify the Customer against all loss, damage, costs and expenses of the Purchaser, in respect of such claim, provided that;

- 11.2.i the Goods have not been manufactured to a specification of the Customer.
- 11.2.ii The Company is given full control of any proceedings or negotiations in connection with any such claims;
- 11.2.iii except pursuant to a final award, the Customer shall not pay or accept any such claim, or compromise any such proceedings, without the consent of the Company (which shall not be unreasonably withheld).
- 11.2.iv without prejudice to any duty of the Customer at common law, the Company shall be entitled to require the Customer to take such steps as the Company may reasonably require to mitigate or reduce any loss, costs, damages or expenses for which the Company is liable to indemnify the Customer under this Clause.

#### 12 Default or Insolvency of Purchaser

12.1 This Clause applies if:-

12.1.i the Customer defaults in any of his commitments with the Company; or

12.1.ii the Customer makes any voluntary arrangement with his creditors or becomes subject to an administration order or becomes bankrupt; or (being a company) goes into liquidation (other than for the purposes of amalgamation or reconstruction); or an encumbrancer takes possession, or receiver is appointed, of any of the property and assets of the Customer; or

12.1.iii the Customer ceases, or threatens to cease, to carry on business; or

12.1.v the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Purchaser and notifies the Customer accordingly.

12.2 if this clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel any uncompleted Order or to withhold or suspend delivery.

12.3 in the event of an occurrence as outlined in Clause 12.1, then the Customer shall indemnify the Company against all loss including loss of profit, costs (including the costs of labour and materials used and overheads incurred) and all other expenses and damages connected with the Order and its cancellation (the Company giving credit to the value of any materials sold or utilised for other purposes).

12.4 if the Customer shall become aware that any of the circumstances mentioned in Clause 12.1 has or is likely to occur, then the Customer must inform the Company of the occurrence or likely occurrence of such an event immediately.

#### 13 Force Majeure

13.1 The Company 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 failure to perform, any of the Company's obligations in relation to the Contract if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:-

- 13.1.i Act of God, explosion, flood, gale-force winds, storms, tempest, fire or accident.
- 13.1.ii War or threat of war, sabotage, civil disturbance or requisition;
- 13.1.iii acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental parliamentary or local authority;
- 13.1.iv import or export regulations or embargoes;
- 13.1.v Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or a third party)
- 13.1.vi difficulties in obtaining raw materials or labour;
- 13.1.vii power failure or breakdown in machinery.

#### 14 Copyright

All artwork, designs, drawings, plans, logos or other intellectual property whatsoever prepared or executed by the Company in relation to the Goods or in performance of the Contract shall remain the sole and exclusive property of the Company and may not be copied given or used by the Customer or any third party without express written consent of the Company.

#### 15 Town and Country Planning Applications

Should the Goods require Town & Country Planning approval for their erection, then the Company and the Customer shall agree as to who shall be responsible for the application for such permission. The Company may at its sole discretion charge for the obtaining of such approval.

#### 16 General

16.1 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 such other address as may be at the relevant time have been notified pursuant to this provision to the party given the notice.

16.2 No waiver given by the Company of any breach of the Contract by the Customer shall be considered a waiver of any subsequent breach of the same or any other provision.

16.3 If any of the provisions of this Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions in question shall not be affected thereby.

16.4 The contract shall be governed by the laws of England and for purposes of settlement of any disputes arising out of or in conjunction with these Conditions or the Contract the parties hereby irrevocably submit themselves to the jurisdiction of the English Courts.

16.5 The Company reserves the right to subcontract the fulfillment of the Order of any part of it.

16.6 This Contract is between the Company and the Customer and is not assignable without the Consent of the Company.