

## 1. Definitions

### 1.1 In these conditions

- a. "the Buyer" means the person, firm, or company stated on the Contract
- b. "the Company" means Pride Shopfitting Limited, a company registered in Scotland with company number SC244649 and having its registered office at 10 Abbey Park Place, Dunfermline, Fife KY12 7NZ
- c. "Company's Premises" means the Company's premises as stated on the Contract.
- d. "Company's Quotation" means the Company's quotation for the Goods and includes any description of works, drawings, sample board or other information provided therewith.
- e. "Conditions" means the Standard Conditions of Trading set out in this document and (unless the context otherwise requires) includes any special Terms and Conditions agreed in writing between the Company and the Buyer.
- f. "The Contract" means the contract for the sale and purchase of the Goods normally comprising the Company's Quotation, these Conditions, and the Buyer's order for the Goods and the Company's acknowledgement thereof. If there shall be any inconsistency between such documents they shall have precedence in the order herein listed.
- g. "Goods" means the goods (including any installment of the goods or any parts for them) and services (if any) which the Company is to supply in accordance with the Contract.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, reenacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience of reference only and shall not affect their interpretation.

1.4 Unless the context otherwise requires, the singular shall include the plural and vice versa, and the masculine shall include the feminine.

## 2. General

2.1 These conditions shall govern and form part of the Contract and all order contracts for the sale of Goods by the Company and in the case of any inconsistency with the Buyer's order or otherwise irrespective of their dates, these conditions shall prevail unless expressly verified in writing and signed by a Director of the Company. Any waiver by the Company shall not affect the strict rights of the Company under the Contract.

2.2 If any provision of these conditions shall be held to be invalid or unenforceable in the whole or in part the other provisions of these conditions and the remainder of the provision in question shall continue in full force and effect.

2.3 No waiver by the Company of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

2.4 The Buyer and the Company agree that the Conditions contained in this Contract are fair and reasonable in all respects.

## 3. Orders

3.1 Notwithstanding that the Company may have given a detailed quotation, no order shall be deemed to have been accepted by the Company unless and until it has been accepted in writing by the Company.

3.2 The Buyer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.

3.3 The quantity, quality, description of and any specification for the Goods shall be those set out in the Company's Quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Company).

3.4 If the Goods are to be manufactured or any process is to be applied to the Goods by the Company in accordance with the specification submitted by the Buyer, the Buyer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent, copyright, design, trademark or other industrial or intellectual property rights of any other person which results from the Company's use of the Buyer's specification.

3.5 The Company reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable safety or statutory requirements or, where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.

3.6 No order which has been accepted by the Company may be cancelled by the Buyer except with the agreement in writing of the Company and where such cancellation is on the terms that the Buyer shall indemnify the Company in full against all loss (including loss of profit), cost, (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of the cancellation.

## 4. Prices

4.1 Unless stated to be fixed for a period, the Company's prices are subject to variation to take account of any increase in the cost to the Company which is due to a factor beyond the control of the Company such as (but not limited to) an increase in wages, materials or other costs since the date of the Company's Quotation. The Company reserves the right to adjust the invoice price accordingly.

4.2 Except as otherwise stated under the terms of a Company Quotation or in any price list of the Company, and unless otherwise agreed in writing between the Buyer and the Company, all prices are given by the Company on the ex-works basis, and where the Company agrees to deliver the Goods otherwise than at the Company's premises, the Buyer shall be liable to pay the Company's charges for transport, packaging and insurance.

4.2 All prices are exclusive of Value Added Tax which will be charged at the appropriate rate.

## 5. Additional Costs

The Buyer agrees to pay for any loss or extra costs incurred by the Company through the Buyer's instructions or lack of instruction or through failure or delay in taking delivery or any other act or default on the part of the Buyer, its agents or employees.

## 6. Terms of Payment

6.1 Subject to any special terms agreed in writing between the Buyer and the Company, the Company shall be entitled to invoice the Buyer 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 Buyer, in which event the Company shall be entitled to invoice the Buyer for the price at any time after the Company has notified the Buyer that the Goods are ready for collection.

6.2 Unless otherwise agreed, payment in full shall be due within 30 days of the date of invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. Said payment shall become due forthwith upon the occurrence of any event referred to in Condition 13.

6.3 If the Goods are delivered in instalments, the Company shall be entitled to invoice each instalment on delivery.

6.4 The Buyer shall not be entitled to exercise any set off lien or any other similar right or claim.

6.5 If the Buyer fails to make any payment on the due date then, without prejudice to any other rights, the Company is entitled to:

- 6.5.1 charge interest at 8% above the then current Base Rate of the Royal Bank of Scotland plc on all overdue payments until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);
- 6.5.2 cancel the Contract and suspend any further deliveries to the Buyer; and
- 6.5.3 ascribe any payment made by the Buyer to such of the Goods (or the Goods supplied under any other Contract between the Buyer and the Company) as the Buyer may think fit.

## 7. Delivery

7.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Company's premises at any time after the Company has notified the Buyer that the Goods are ready for collection or (if some other place for delivery is agreed by the Company), by the Company delivering the Goods to that place.

7.2 The period for delivery shall be calculated from the time of the receipt of the Buyer's order or of all the necessary information to enable the Company to supply the Goods, whichever shall be later.

7.3 All times or dates given for delivery are given in good faith but without any responsibility on the part of the Company. Time of Delivery shall not be the essence of the Contract. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

7.4 The Company may delay or cancel delivery or reduce the amount delivered if it is prevented from or delayed in manufacturing, obtaining or delivering the Goods by industrial dispute or any cause whatsoever beyond its reasonable control.

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

7.6 Where the Goods are handed to a carrier for carriage to the Buyer or to a United Kingdom port for export, any such carrier shall be deemed to be the agent for the Company and not of the Buyer for purposes of sections 44, 45 and 46 of the sale of Goods Act 1979 (as amended).

7.7 The Company shall not be required to give the Buyer any notice relating to insurance provided for in Section 32(3) of the Sale of Goods Act 1979 (as amended).

7.8 No liability for non delivery, loss of or damage to the Goods occurring prior to delivery or for any claim that the Goods are not in accordance with the Contract will attach to the Company unless a claim to that effect is notified in writing to the Company (with a copy to the carrier where appropriate) within seven days of delivery or seven days of the invoice for non delivery. In the event of a valid claim the Company undertakes at its option either to repair or replace the Goods at its expense but shall not be under any further liability to any person in connection therewith.

7.9 If the Buyer is unable to accept delivery of the Goods when they are due and ready for delivery, the Company may, without prejudice to its other rights, store the Goods at the risk of the Buyer and take all reasonable steps to safeguard and insure them at the cost of the Buyer.

7.10 The Company may deliver by instalments and any express provisions as to instalments in the Contract shall be in addition to and not in derogation of this right. Each delivery of an instalment shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions shall not entitle the Buyer to treat the Contract as a whole as repudiated.

## 8. Returns

Goods supplied in accordance with the Contract cannot be returned without the Company's prior written authorisation. Authorised returns shall be sent to the Company's Premises at the Buyer's expense.

## 9. Passing Title & Risk

9.1 From the time of delivery, the Goods shall be at risk of the Buyer who shall be responsible for their custody, maintenance and insurance but, unless otherwise expressly agreed in writing, the Goods shall remain the property of the Company until all payments under the Contract have been made in full. Whilst ownership of the Goods by the Company continues, the Buyer shall as custodian for the Company, keep the Goods separate and clearly identifiable as the Company's property.

9.2 If the Buyer refuses or fails to take delivery of the Goods, risk of damage to or loss of the Goods shall pass to the Buyer at the time when the Company has tendered delivery of the Goods.

9.3 If the Buyer sells the Goods or allows them to be sold, the Company's beneficial interest therein shall attach to the proceeds of sale.

9.4 The Company reserves the right at any time to terminate the Buyer's of sale of the Goods by notice to the Buyer in writing.

9.5 The Buyer's power of sale of the Goods shall automatically terminate if the Buyer becomes a subject of Liquidation, Bankruptcy or other insolvency proceedings or a Receiver or Administrator is appointed over any of the assets of the undertaking of the Buyer or if the Buyer makes any arrangement or composition with creditors.

9.6 If the Buyer's power of sale is terminated the Buyer shall immediately make the Goods available for collection by the Company and the Buyer hereby authorizes the Company to enter into any premises belonging to the Buyer for the purposes of recovering the Goods.

9.7 In the event of failure to pay the price or any part thereof, the Company shall be entitled to and the Buyer hereby authorises the Company to resell the Goods for part thereof; such power being additional to and not in substitution for any other right and the Company, its employees and agents may forthwith enter into any premises belonging to the Buyer to remove any such Goods.

## 10. Defective Goods

10.1 In substitution for all rights which the Buyer would or might have but for these conditions, the Company undertakes in the case of Goods manufactured by the Company that if within three months of delivery the Company is notified in writing of a serious defect in materials or workmanship, it will at its discretion either credit in full the price paid by the Buyer for such item (or a proportion as part of the price) or repair the item (or the part in question) or supply a replacement free of charge provided that the Goods have been accepted and paid for but the Company shall have no further liability to the Buyer.

10.2 If delivery is not refused and the Buyer does not notify the Company of any defect or failure in accordance with Condition 10.1 above, the Buyer shall not be entitled to reject the Goods and the Company shall have no liability for such defect or failure, and the Goods have been delivered in accordance with this Contract.

- 10.3 The Company shall not be liable to the Buyer or be deemed to be in breach of the Contract by reason in any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control.
- 10.3 Where the Goods are delivery by instalments, any defect in any instalment shall not be a ground for cancellation of the remainder of the instalments and the Buyer shall be bound to accept delivery.
- 10.4 Where the Goods are sold under a consumer transaction (as defined by the sale of Goods Act 1979 (as amended) the statutory rights of the Buyer are not affected by these conditions.

11. **Buyer Drawings**

The Company shall not be liable for imperfect work caused by any inaccuracies in any drawings, bill of quantities, specifications or any other documents supplied by the Buyer.

12. **Consequential Loss**

Except in respect of death or personal injury caused by the Company's negligence, the Company shall not be liable for any consequential loss or damage (whether for loss of profit or otherwise), costs expenses or other claims for consequential compensation whatsoever (whether caused by negligence of the Company, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or any use or resale of the Goods, except as expressly provided in these Conditions.

13. **Default or Insolvency of Buyer**

- 13.1 If the Buyer shall be in breach of any of its obligations under the Contract or if any distress or execution shall be levied on the Buyer's property or assets or if the Buyer shall make or offer to make any arrangement or composition with his creditors or commit any act of bankruptcy or if any bankruptcy petition be presented against the Buyer or if any resolution or petition to wind up such a company shall be passed or presented or if a receiver, administrative receiver or administrator of the whole or part of such company's undertaking property or assets shall be appointed, the company in its discretion and without prejudice to any other right or claim may by notice in writing determine wholly or in part this Contract and any other contract between the Company and the Buyer or may (without prejudice to the Company's right subsequently to determine the Contract for the same cause should it so decide) by notice in writing suspend further deliveries of Goods under the Contract without any liability to the Buyer until any default by the Buyer be remedied.
- 13.2 If this Condition 13 applies and the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

14. **Limitation of Liability**

The Company's liability to the Buyer for any loss or damage of whatsoever nature and howsoever caused shall be limited to and shall in no circumstances exceed the price of the Goods.

15. **Insurance**

The Company shall insure to a value of Five Million Pounds (£5,000,000) against all Employers Liability and Third party risks arising out of the Contract. The Buyer shall adequately insure against injury to the Company's employees and any damage caused whatsoever to the Company's workmanship, plant and materials arising out of the Buyer's operations within the confines of the Buyer's premises.

16. **Representations**

No statement, description, information, condition or recommendation contained in any catalogue price list, advertisement or communication or made verbally by any of the agents or employees of the Company shall be construed to enlarge, vary or override in any way any of these conditions.

17. **Cancellation**

Save as provided in Conditions 7 and 13 any order for Goods may not be cancelled except as agreed in writing by the Company and upon payment to the Company of any amount to indemnify the Company against any loss resulting there from.

18. **Sub Contracting**

The Company may assign the Contract or Sub-Contract the whole or any part thereof to any person, firm or company.

19. **Notices**

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; principal place of business, residential address or such other address as may at the relevant time have been notified pursuant to the party giving notice.

20. **Building Fitting Out or Refurbishment Works**

- (i) **The Works** The works shall be those specified in the Company's Quotation
- (ii) **Additional Works** Payment for additional works instructed by the Buyer, whether verbally, in writing or by signature on the Companies prescribed variation sheets, shall be computed based on labour, time and materials plus the Company's overhead percentage and Profit Percentage in force at that time.
- (iii) **Defective Works** On completion of the works the Company will complete all defective works identified by the Company's representative. Thereafter a defect report will be supplied to the Buyer for noting any further defects. In addition to the defect report the Buyer may advise the Company of further defects within 12 months of Completion.
- (iv) **Building Control and Planning Approvals** Where the Contract requires the procurement of approvals from Building Control and or the Planning Department, then where additional works outwith those specified in the Company's Quotation are required to secure approvals, the procurement of such works will be the responsibility of the Buyer.  
The Company shall not be held liable for obtaining such Consents unless otherwise agreed in writing.
- (v) **Landlord's Consent** Unless otherwise agreed in writing, where the Buyer is the tenant of the building undergoing works, the Buyer shall be responsible for the procurement of Landlord's consents. Where additional works are required by the Landlord these will only be carried out by the Company on the written instruction of the Buyer and at a cost to the Buyer calculated in the manner stated in (ii) above.

(vi)

**Authority to Substitute Materials** The Company reserves the right to substitute materials where such materials are not available when the Buyer instructs the Company to proceed with the works.

(vii)

**Overtime Working** Unless otherwise stated in the Company's quotation, all works shall be scheduled to be carried out between 8.00am and 4.30pm Monday to Friday. A premium payment will apply to works requested outwith these hours and be added to the Company's Final Account.

(viii)

**Site Facilities** The Company will have the use of the Buyer's electrical power, water supply, accesses and access routes, elevators, stairs, toilet and messing facilities and other services free of charge.

21 **Proper Law**

The construction, validity and performance of this Contract shall be governed by and construed in accordance with Scots Law and the Company and the Buyer hereby agree to submit to the exclusive jurisdiction of the Scottish Courts.