



General Business Terms and Conditions for Sale of Goods 2017

We trade on the trust and the goodwill of our customer and suppliers, however as everyone knows, somewhere there has to be some small print to protect our business and your rights, so here is ours – please read carefully and feel free to ask any questions.

Your attention is drawn in particular to the provisions of clause 10.

1. INTERPRETATION

1.1 Definitions.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time.

Contract: the contract between you and us for the sale and purchase of the Goods in accordance with these Conditions.

Force Majeure Event: an event or circumstance beyond a party's reasonable control.

Goods: the goods (or any part of them) set out in the Order.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: Your order for the Goods, as set out in the Sales Proforma or the Invoice.

Specification: any specification for the Goods, usually listed within the Sales Proforma, including any related plans and drawings that are agreed in writing by us.

1.2 Interpretation:

- (a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (b) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (c) a reference to **writing** or **written** includes faxes and emails.
- (d) the headings in this agreement are inserted for convenience only and shall not affect its construction.

2. BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that you may seek to impose or incorporate including those that may be implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by you to purchase the Goods in accordance with these Conditions and you are responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.3 The Order will only be accepted by us once we have received a minimum deposit of 50%, at which point the Contract shall come into existence.
- 2.4 You agree to waive any right you may otherwise have to rely on any term endorsed upon, delivered with or contained in any documents that is inconsistent with these Conditions.
- 2.5 You agree that any samples, drawings, descriptive matter or advertising produced by us and any descriptions or illustrations contained in our brochures or website are produced for the sole purpose of giving an approximate idea of the Goods referred to in them and they do not form part of the Contract nor have any contractual force.
- 2.6 You agree that a quotation does not constitute an offer by us to sell the Goods and that it shall only be valid for a period of 30 days from its date of issue or the date specified on the Proforma, whichever is earliest.

3. GOODS

- 3.1 The Goods are described in the Specification.
- 3.2 As the Goods you are purchasing are made from raw materials where varying degrees of imperfections and slight variations in size, colour and shape may occur, you accept that we do not guarantee that the Goods will have a completely uniformed appearance or that they will be similar to other items as seen in our brochure, on our website, at any exhibitions, marketing materials or within periodical publications. You also accept that the Goods are intended for decorative purposes only.
- 3.3 To the extent that the Goods are to be manufactured in accordance with a Specification supplied by you, you agree that we shall not be responsible (and you shall indemnify us) for any liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by us in connection with any claim made against us for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with our use of the Specification. This clause 3.3 shall survive termination of the Contract.
- 3.4 You agree that we can amend the Specification if required by any applicable statutory or regulatory requirements.
- 3.5 You agree to ensure that any lighting Goods are installed by a qualified and registered electrician in accordance with British Standards 7671 (or its international equivalent) and that you will use the correct specification of light bulb in the Goods.
- 3.6 You agree to only install the Goods in accordance with the instructions provided by us and, in the case of our chandeliers, to use our 'proof load kit' to carry out a physical test of any fittings prior to installation, where applicable.
- 3.7 You agree that any alteration to the suspension method (in the case of our chandeliers) or the Goods may affect the safety of the design and should only take place following expert advice.

4. DELIVERY

- 4.1 We will ensure that each delivery of the Goods is accompanied by a Delivery Note that shows the date of the Order, the project number for you and us and any relevant reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- 4.2 We will deliver the Goods to the location set out in the Order or such other location as we may agree with you (**Delivery Location**) after we have received full payment for the Goods.
- 4.3 Unless expressly agreed with us in writing in the Order, if we are delivering Goods outside of the UK, you will be solely responsible for the collection, remittance and payments of any or all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in respect of the purchase, and importation of the Goods.
- 4.4 Delivery is completed on the completion of unloading of the Goods at the Delivery Location.
- 4.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We will endeavour to deliver the Goods within 12 weeks from receipt of your deposit but cannot guarantee in all cases that we will be able to do so. Requests for a delivery in less than 12 weeks will be considered but cannot be guaranteed.
- 4.6 We will not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or your failure to provide us with payment in full, adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.7 We will have no liability to you for any failure to deliver the Goods if this was caused by a Force Majeure Event or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
- 4.8 If you fail to take delivery of the Goods within 3 months of us notifying you that they are ready, then, except where

such failure or delay is caused by a Force Majeure Event or our failure to comply with our obligations under the Contract, we will store the Goods until delivery takes place but may charge you for all related costs and expenses (including insurance).

- 4.9 If you fail to take delivery of the Goods within one year after the day on which we notify you that the Goods were ready for delivery, ownership of the work will revert to us, unless expressly agreed otherwise with you in writing. In such circumstances, we may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to you for any excess over the price of the Goods or charge you for any shortfall below the price of the Goods.
- 4.10 We may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.

5. QUALITY

- 5.1 We confirm that on delivery, the Goods will conform with their description and the Specification; and be free from material defects in design, material and workmanship. They will also be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and be fit for any purpose held out by us.
- 5.2 Subject to clause 5.3, if you notify us within 7 days of the date of delivery that some or all of the Goods do not comply with the warranty set out in clause 5.1 and allow us a reasonable opportunity of examining such Goods (which includes returning the Goods to us at our expense if requested to do so) we will, at our absolute discretion, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- 5.3 We will not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 if:
- (a) you make any further use of such Goods after giving notice in accordance with clause 5.2;
 - (b) the defect arises because you failed to follow our verbal or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
 - (c) the defect arises as a result of us following any drawing, design or specification supplied by you;
 - (d) you alter or repair such Goods without our consent;
 - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - (f) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.4 Except as provided in this clause 5, we have no liability to you in respect of the Goods' failure to comply with the warranty set out in clause 5.1.
- 5.5 We specifically exclude the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law. You can access this legislation via this website: <http://www.legislation.gov.uk> or by clicking the following link: [Sales of Goods Act 1979](#)
- 5.6 These Conditions shall also apply to any repaired or replacement Goods supplied by us.

6. TITLE AND RISK

- 6.1 The risk in the Goods shall pass to you on completion of delivery.
- 6.2 Title to the Goods will not pass to you until we have received payment in full (in cash or cleared funds) for the Goods and any other goods or services (such as installation), that we have supplied to you in respect of which payment has become due. Title to the Goods will only pass at the time of payment of all such sums.
- 6.3 Until title to the Goods has passed to you, you agree to store the Goods separately from all other goods held by you so that they remain readily identifiable as our property and not remove, deface or obscure any identifying mark or packaging on or relating to the Goods. You also agree to maintain the Goods in satisfactory condition

and keep them insured against all risks for their full price from the date of delivery.

- 6.4 If before title to the Goods passes to you, you become subject to any of the events listed in clause 9.1, you agree to notify us immediately and deliver up all Goods in your possession that have not been irrevocably incorporated into another product. If you fail to do so promptly, you agree that we can enter any premises owned or occupied by you or any third party where the Goods are stored in order to recover them.

7. INTELLECTUAL PROPERTY RIGHTS

You acknowledge that all Intellectual Property Rights in or arising out of or in connection with the Goods shall be owned by us.

8. PRICE AND PAYMENT

- 8.1 The price of the Goods shall be the price set out in the Order. The price of the Goods excludes value-added tax (VAT), which you will pay to us at the prevailing rate, and includes the costs and charges of insurance and transport of the Goods, and any installation fees applicable, which shall be invoiced to you.
- 8.2 We will inform you before we make delivery, if we need to increase the price of the Goods to reflect any increase in the cost of the Goods that is due to foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs. The price may also increase because you have changed the delivery date(s), location, quantities or types of Goods ordered, or the Specification; or you have caused a delay caused due to instructions you have given or a failure by you to give us adequate or accurate information or instructions.
- 8.3 You agree to pay a minimum 50% of the price of Goods on acceptance of the Order.
- 8.4 You agree to pay the balance of the price of the Goods, VAT and delivery charges in full and in cleared funds before the Goods are despatched and in any event within 30 days of the date that we inform you that the Goods are ready for delivery, or by the date specified on the payment request (if different). Payment shall be made to the bank account nominated by us or by credit card when a 5% surcharge required. Time of payment is of the essence.
- 8.5 We will send you an invoice for the Goods on or at any time after the completion of delivery.
- 8.6 You agree to pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Without limiting any other rights or remedies we may have, we can set off any amount owing to us by you against any amount payable by us to you.

9. TERMINATION

- 9.1 Without limiting our other rights or remedies, we can terminate this Contract with immediate effect by giving you written notice if:
- (a) you commit a material breach of any term of the Contract and (if such a breach is remediable) fail to remedy that breach within 14 days of being notified in writing to do so;
 - (b) you take any step or action in connection with your entering administration, provisional liquidation or any arrangement with its creditors, being wound up, having a receiver appointed to any of your assets or ceasing to carry on business (whether in this jurisdiction or another);
 - (c) you suspend, threaten to suspend, cease or threaten to cease to carry on all or a substantial part of your business; or
 - (d) your financial position deteriorates to such an extent that in our opinion your capability to pay for the Goods has been placed in jeopardy.
- 9.2 Without limiting its other rights or remedies, we may suspend delivery of the Goods under the Contract or any other contract between us if you become subject to any of the events listed in clause 9.1(a) to clause 9.1(d), or

we reasonably believe that the you are about to become subject to any of them, or if you fail to pay any amount due under this Contract on the due date.

- 9.3 Without limiting our other rights or remedies, we can also terminate the Contract immediately if you fail to pay any amount due under the Contract on the due date and remain in default not less than 14 days after being notified in writing to make such payment.
- 9.4 We agree that you can terminate the Contract at any time prior to delivery on giving us at least 7 days' notice. We will refund the deposit you have paid to us but we will deduct from the deposit a reasonable amount in compensation for the net costs we have incurred as a result of work undertaken up to the date we receive notice to terminate. This may result in no money being refunded to you.
- 9.5 On termination of the Contract for any reason you will immediately pay us all outstanding unpaid invoices and interest.
- 9.6 Termination of the Contract shall not affect the rights and remedies that have accrued to each of us as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- 9.7 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

10. LIMITATION OF LIABILITY

- 10.1 Nothing in these Conditions shall limit or exclude our liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable); fraud or fraudulent misrepresentation; breach of the terms implied by section 12 of the Sale of Goods Act 1979; or defective products under the Consumer Protection Act 1987; any matter in respect of which it would be unlawful for us to exclude or restrict liability.
- 10.2 Subject to clause 10.1 we will not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and our total liability in relation to any losses arising under or in connection with the Contract for any reason shall in no circumstances exceed 50% of the price of the Goods.

11. FORCE MAJEURE

Neither of us shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of our obligations if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 3 months, the party not affected may terminate this Contract by giving 14 days' written notice to the affected party.

12. GENERAL

12.1 Assignment and other dealings:

- (a) we may assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of our rights or obligations under the Contract.
- (b) you may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of your rights or obligations under the Contract without our prior written consent.

12.2 Entire Agreement:

Subject to clause 12.3 below, the Contract represents the entire agreement between you and us. No other written or verbal correspondence or documentation or their contents is included or affects its contents, including the rights and remedies described here.

12.3 Variation:

To vary the terms of the Contract, all we need to do is put the change into writing and ensure that both of our

authorised representatives sign it and send copies to each other. We both agree that a change can be agreed in principle by email by an authorised representative. Where this is the case the content of those emails must subsequently be recorded in a document of variation that is signed and exchanged by both parties within 14 days of the email agreement.

12.4 Waiver:

We both agree that we will work together to resolve any breach or default which gives rise to the need for a waiver. We also agree that any one waiver of any right or remedy under these Conditions shall not be deemed a waiver of any subsequent breach or default. We both agree that should a breach or default situation arise and one of us fails and/or delays exercising the rights given under these Conditions, this does not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.

12.5 Severance:

If any provision or part of a provision of these Conditions is or becomes invalid, illegal or unenforceable, the rest of the Conditions will stay intact and will be automatically regarded as modified to the minimum extent needed to make it valid, legal and enforceable.

12.6 Notices:

- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in the Order; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

12.7 Third party rights:

Anyone that is not a party to this agreement cannot claim any rights in respect of it, including the ability to enforce any of its provisions under The Agreements (Rights of Third Parties) Act 1999.

12.8 Governing law:

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

12.9 Jurisdiction:

We both irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

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