

# CONTRACT SIGN SYSTEMS LIMITED

## Standard Terms and Conditions of Sale

### DEFINITIONS

In these Standard Terms and Conditions of Sale the following expressions having the meanings respectively set out:

'the buyer'	the person, firm or company purchasing the Goods.
'the Conditions'	these Standard Terms and Conditions of Sale.
'Contract'	an agreement between the Seller and the Buyer by which the Seller agrees to sell or to supply the Goods to the Buyer.
'the Goods'	the goods or materials or any part of them which are the subject matter of a Contract.
'the seller'	Contract Sign Systems Ltd, who registered office is Jon Davey Drive, Treleigh Ind. Estate REDRUTH, Cornwall TR16 4AX or, as the case may require, such of the subsidiary holding or associate companies of Contract Sign Systems as has entered onto a Contract with the Buyer.
'the price'	shall mean the purchase price of the Goods.
'the Delivery Point'	means the location for delivery of Goods specified in the Seller's quotation or agreed with the Buyer.

### FORMATION OF THE CONTRACT

- 2.1 The Conditions apply to any Contract and prevail over any terms or conditions, whether in standard form or not, of the Buyer unless in any case any term or condition of the Buyer is expressly agreed in writing by the Seller to be a term of the Contract in that case.
- 2.2 No person has authority to make on behalf of the Seller any Contract, which does not incorporate the Conditions in full and unmodified form, or which does not incorporate any term other than one, which identifies the Goods, unless such Contract is made in writing.
- 2.3 No person has any authority to make on behalf of the Seller any representation concerning the Goods or otherwise in relation to a Contract and the Buyer acknowledges and warrants to the Seller, that he has not entered into a Contract to which the Conditions apply in reliance upon any representation made by anyone purporting to act on behalf of the Seller.
- 2.4 Any variation of a Contract shall be made in writing (and other than in the case of variations to clauses 3 and 5 signed by a director of the Seller) and the Buyer warrants to the Seller that in no circumstances will he seek to rely upon any alleged oral variation of a Contract.
- 2.5 The Buyer's order constitutes an offer by the Buyer to purchase the Goods from the Seller on these Conditions and the Contract between the Seller and Buyer is made by the Seller's acceptance of the Buyer's offer.

### PRICES

- 3.1 Unless otherwise stated in the Seller's quotation, the Price excludes packaging and delivery.
- 3.2 The price of the Goods is exclusive of VAT, if any, which shall be payable in addition at the rate prevailing at the tax point.
- 3.3 Where at any time before delivery of the Goods:-
  - 3.3.1 there is an increase in the cost of raw materials, transport, components or labour there are any currency fluctuations increasing the cost of raw materials or components the Seller may adjust the Price subject to giving to the Buyer notice of increase and the right to cancel the order without liability if the increase is in excess of ten per cent of the Price.

### MATERIALS

- 4.1 All orders are accepted by the Seller subject to materials and components being available to the Seller from its suppliers and by accepting an order the Seller does not give a warranty as to availability.
- 4.2 The Seller reserves the right to vary the agreed or previously published specification of materials used if, in its opinion, the Goods will be of an equivalent or higher standard.

### PAYMENT

- 5.1 Payment shall be due prior to the time of delivery except for Buyers who have an agreed credit facility.
- 5.2 Buyers with an agreed credit facility shall be invoiced at or following the date for delivery and payment shall be due no later than 30 days from the date of invoice.
- 5.3 The Seller's invoice in relation to the Goods referred to in clauses 5.2 constitutes for the purpose of Value Added Tax a tax invoice in relation to the Goods. A consignment or delivery note is not a tax invoice.
- 5.4 If the Buyer fails to pay for the Goods or commits any other breach of the Contract by the due the Seller may:-
  - 5.4.1 Charge interest on overdue invoices at the rate of two per cent per month calculated on a daily basis from the date due until date payment is made.
  - 5.4.2 Withhold supply of any goods due to the Buyer.
  - 5.4.3 Appropriate any payment made by the Buyer to such of the Goods (including goods supplied under any other contract with the Buyer) as the Seller may in its sole discretion think fit.
  - 5.4.4 Require immediate payment in respect of all other goods delivered to the Buyer notwithstanding any other payment terms that may have previously applied.
  - 5.4.5 Terminate any or all Contracts between the Seller and the Buyer.
- 5.5 The buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set off or counterclaim for any reason whatever.
- 5.6 The Seller shall have the right of set off for amounts owed to the Buyer against amounts owed by the Buyer.
- 5.7 The Seller will not accept return of Goods for credit other than in case of defects under clause 10.

### DELIVERY

- 6.1 Delivery shall be deemed to take place at the moment of discharge from the delivery vehicle of the Seller or Seller's agent at the Delivery Point or, in the event that the Buyer collects and/or transports the Goods from the Seller or Seller's agent, the moment of loading onto the Buyer's or Buyer's contractor's vehicle.
- 6.2 The Seller may deliver by separate instalments, each of which may at the Seller's option be invoiced and paid for a separate contract.
- 6.3 Statements as to the time(s) and date(s) for delivery of the Goods shall be treated as estimates only. Time shall not be of the essence of the Contract nor may be made so. The Seller does not guarantee to meet any quoted delivery dates and the Buyer shall not be entitled to refuse delivery or to compensation because of any delay.
- 6.4 In the event that the Goods are to be delivered by the Seller, the Seller's agent or authorised distributor on premises of the Buyer or the Buyer's agent the Buyer shall ensure that a safe and convenient access is available both to such premises and on such premises to the point at which delivery is to be made.
- 6.5 The Seller will refuse to deliver any Goods over roads or other ground with the Seller considers unsuitable and any resultant abortive costs incurred will be paid by the Buyer to the Seller.
- 6.6 The Buyer shall be solely responsible for the off-loading of the Goods, for the provision of suitable means and facilities for the reception of the Goods and for the storage of the Goods after delivery. The Seller accepts no liability for any charges incurred in off-loading including the hire of labour or lifting equipment.
- 6.7 If the Buyer refuses to accept delivery of the Goods or fails to give the Seller adequate delivery instructions, then the Seller may:-
  - 6.7.1 Store the Goods until actual delivery to the Buyer or until the Goods are disposed of under clause 6.7.2. The Buyer shall be liable to pay a charge for handling, transportation, storage and insurance of the Goods under this clause.
  - 6.7.2 Sell the Goods at the best price readily obtainable. The Buyer shall be liable to pay the costs of the sale. Further, if the Goods are sold for less than the price payable by the Buyer, the Buyer shall be liable to pay to the Seller the difference in price.This does not affect any other right or remedy the Seller may have.

### PROPERTY AND RISK

- 7.1 Ownership of the Goods remains with the Seller and will not pass to the Buyer until the Seller has paid for all of the Goods and no other amounts are owed by the Buyer to the Seller in respect of other goods supplied by the Seller.
- 7.2 If the Buyer is overdue in paying for the Goods or any other goods supplied by the Supplier, the Seller may, if still the owner, recover and resell them. The Buyer gives the Seller irrevocable authority to enter the premises or land owned, leased or occupied by the Buyer for this purpose. This does not affect any other right of the Seller.
- 7.3 Until the Buyer has paid the Seller for the Goods and all other goods which the Seller has supplied to the Buyer:-

- 7.3.1 The Buyer holds the Goods as the Seller's fiduciary agent and bailee for the Seller, shall take reasonable and proper care of the Goods and shall further store the Goods in such a way that it is clear the Goods remain the property of the Seller.
  - 7.3.2 The Buyer shall be entitled to resell or use the Goods but if the Buyer sells the Goods, the Buyer shall hold the proceeds of sale on trust for the Seller.
  - 7.3.3 The Seller may trace the proceeds of sale that the Buyer receives into any bank or other account, which the Buyer maintains.
  - 7.3.4 If the Buyer sells the Goods, the Seller may, by written demand, require the Buyer to assign to the Seller the Buyer's rights to recover the price from its purchaser.
  - 7.3.5 The Buyer must not assign to any other person any rights arising from a sale of the Goods without the Seller's written consent.
- 7.4 Risk in the Goods passes to the Buyer upon delivery.

CONTRACT SIGN SYSTEMS LIMITED, Jon Davey Drive, Treleigh Ind. Estate, REDRUTH Cornwall TR16 4AX

- 7.5 If the Goods are destroyed by an insured risk before the Buyer has paid for them, the Buyer shall hold the insurance proceeds as the Seller's trustee.
- 7.6 The Buyer's authority to sell or use the Goods pursuant to clause 7.3.2 shall immediately terminate upon any act of insolvency of the Buyer as specified in clause 12.

### ACCEPTANCE

The Buyer shall be deemed to have accepted the Goods upon delivery and it shall be conclusively agreed that the Goods are in accordance with the Contract unless:

- 8.1 Within three working days after delivery and prior to their use or resale the Buyer notifies the Seller in writing specifying the alleged defect in the quantity, quality or state of the Goods which would be apparent upon careful inspection or by such testing as it is reasonable in all the circumstances for the Buyer to undertake and thereafter provides the Seller with a reasonable opportunity of inspecting or testing the Goods before they are used or resold.
- 8.2 If the alleged defect in the quality or state of the Goods would not be apparent upon careful inspection or reasonable testing the Buyer gives the Seller written notice of such defect forthwith upon its discovery, and in any event not more than 3 months after delivery, specifying the matters complained of and affording the Seller a reasonable opportunity of inspecting or testing the Goods.

### SPECIFICATION AND WARRANTY

- 9.1 In addition or subject to any other warranty or condition previously agreed in writing, the Seller warrants that, subject to the terms of clause 9, the goods are and correspond, within reasonable tolerance levels, to the Seller's Product Information or description of the Goods and to all statutory requirements applicable to the Goods.
- 9.2 Except as provided in clause 9.1 all terms, conditions, warranties or descriptions implied by law or expressed orally by the Seller's employees or agents or otherwise, as to the quality or fitness for the purpose of the Goods whether made known to the Seller or not or their conformity to any samples or description provided by or on behalf of the Seller are expressly excluded, except where the Goods are of a type ordinarily bought for private use and the Buyer is not buying or holding out as buying the same in the course of a business.

### LIABILITY

- 10.1 Subject to clause 10.6, provided that the Buyer has complied with clause 8, if the Goods are defective in quality or state or otherwise not in accordance with the Contract, the Seller's liability to the Buyer shall be limited to:
  - i) repayment of or credit for the Price and any reasonable costs incurred by the Buyer for the purpose of transporting the Goods back to the Seller, or at the Seller's option;
  - ii) replacement of the Goods by delivering replacement goods as soon as reasonably practicable and in all other respects in accordance with the Contract.
- 10.2 The Buyer shall have no right of rejection of the Goods and the Seller shall not be liable for negligence or breach of Contract except as provided in clause 10.1.
- 10.3 The Seller shall not be liable for the breach of contract attributable directly or indirectly to circumstances beyond the Seller's reasonable control, including but not limited to war, civil commotion, strikes, lockouts, breakdown of plant or government or any apprehension of the foregoing.
- 10.4 The Seller shall have no liability for ascertaining whether the Goods are suitable or reasonably fit for the purpose for which they were ordered or for any advice it may give whether by itself, its employees or agents as to the application of suitability of the Goods for any purpose whatsoever.
- 10.5 The Seller shall not be liable to the Buyer by reason of any representation (unless fraudulent), or any implied warranty, condition, or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Seller, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Buyer, and the entire liability of the Seller under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in the Conditions.
- 10.6 The provisions of clause 10 do not apply to:-
  - 10.6.1 claims for death or personal injury to persons arising out of the Seller's negligence
  - 10.6.2 claims for breach of warranty of title implied by law

### PRODUCT LIABILITY

- 11.1 The Buyer undertakes to draw to the attention and ensure compliance of its servants, agents or other persons handling or using the Goods or having access to the Goods whilst in the Buyer's possession or to whom the Goods are sold any instructions, warnings or other information ("product and material safety information") concerning the methods whereby or the conditions whereunder the Goods should be used, handled or stored which are contained or referred to in the Seller's Product or Material Safety Data Information Sheet or other literature relating to the Goods or upon any label attached to the Goods or to the Goods' packaging or which are clearly displayed at the point of delivery. The Buyer shall indemnify the Seller against any loss or liability by reason of any breach by the Buyer of its obligations under this sub-clause or by reason of any failure by the Buyer himself to comply with the product information.
- 11.2 The Buyer shall indemnify the Seller against any loss or liability whatsoever whensoever suffered or incurred by the Seller under the provisions of Part 1 of the Consumer Protection Act 1987 or any statutory modification or re-enactment thereof where and to the extent that such loss or liability arises by virtue of the act or omission of the Buyer in relation to the Goods after the delivery of the Goods to the Buyer.

### INSOLVENCY

If the Buyer:-

- 12.1 Being a company,
  - 12.1.1 has a petition presented for its winding up; or
  - 12.1.2 passes a resolution for voluntary winding-up (other than for the purpose of a bona fide amalgamation or reconstruction); or
  - 12.1.3 enters into a voluntary arrangement with its creditors; or
  - 12.1.4 becomes subject to an administration order; or
  - 12.1.5 has a receiver appointed of all or any of its assets; or
- 12.2 Being an individual or firm,
  - 12.2.1 becomes bankrupt or insolvent; or
  - 12.2.2 enters into a voluntary arrangement with creditors;

or if the Buyer ceases, or threatens to cease to carry on business or the Seller reasonably apprehends that any of the events mentioned above is about to occur and notifies the Buyer accordingly then the Seller shall be entitled to treat the Contract as being at an end or suspend any further deliveries under the Contract. If the Goods have been delivered but not paid for, the price shall become due immediately regardless of any previous agreement to the contrary.

### DATA PROTECTION ACT

- 13.1 The Buyer in entering into a Contract consents to the Seller collecting and processing personal data relating to the Buyer, or the Buyer's officers, employees or agents for the following purposes:
- 13.1.1 Arranging and managing credit facilities to the Buyer.
  - 13.1.2 Managing the Buyer's account, including credit records and overdue payments.
  - 13.1.3 Provision and administration of the Contract or any other contract between the Buyer and Seller.
  - 13.1.4 Development, research and marketing of the Seller's business.
- 13.2 The Buyer further consents to the electronic transfer of any personal data collected for the above purposes outside of the European Economic Area for the purposes of data processing.
- 13.3 The Buyer warrants that the above consents are given with full authority of the individuals concerned.

**WAIVER**

The rights of the Seller and the Buyer shall not be prejudiced or restricted by an indulgence or forbearance extended by either party to the other and no waiver by either party in respect of any breach shall operate as a waiver in respect of any subsequent breach.

**ASSIGNMENT**

The Contract shall not be assigned by the Buyer to any third party without the prior written consent of the Seller.

**SEVERANCE**

If any provision of these Conditions is held by a competent authority to be invalid or unenforceable in whole or in part the validity of the other Conditions and the remainder of the provision in question shall not be affected.

**ARBITRATION**

Any dispute or difference arising out of supply of Goods shall be referred to an arbitrator to be agreed between the parties or in default appointed by the President of the Chartered Institute of Arbitrators.

**PROPER LAW**

The Contract shall be governed by English Law and the non-exclusive jurisdiction of the English Courts.