

## 1. Definitions

### 1.1 In these terms and conditions

**"Business Day"** means a day other than a Saturday, Sunday or UK public holiday.

**"Buyer"** as specified on the confirmation, purchase order or internet order.

**"Company"** means Piggotts Flags & Branding Limited, company number 10582644, whose registered office is at Unit 3 Taber Place, Witham, Essex CM8 3YP, its employees, subcontractors and agents.

**"Conditions"** means these standard conditions.

**"Contract"** means the agreement between Company and the Buyer comprising the Purchase Order, Confirmation, Internet Order these conditions and any other documents expressly stated in the Purchase Order as being incorporated into the Contract.

**"Delivery Location"** means the place of delivery of Goods or Services (including installations) specified on the purchase order.

**"Force Majeure Event"** means an event, other than any industrial action, beyond the control of a party, which could not reasonably have been foreseen by such party at the date on which the Contract comes into effect and includes acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) and armed hostilities or other national or international calamity or one or more acts of terrorism.

**"Goods"** means the goods or services identified in the Purchase Order.

**"Purchase Order"** means the Buyers Purchase Order, Confirmation or Internet Order.

**"Price"** Means the full value of the contract including any variations to the value of the contract brought about by changes required by the Buyer.

**"Intellectual Property Rights"** all patents, rights to inventions, designs, concepts, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in goodwill or to sue for passing off, unfair competition rights, moral rights, rights in confidential information (including know-how and trade secrets) and other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights and all similar or equivalent rights or forms of protection in any part of the world. Intellectual Property Right means any one of the Intellectual Property Rights. **"Works"** means installation, removal, refurbishment identified in the Purchase Order.

**1.2** If there is any inconsistency between these terms and conditions and the Purchase Order and any other document forming part of the Contract, these Terms & Conditions shall take precedence.

**1.3** Headings do not affect the interpretation of the contract.

### 2. Quotations & Acceptance

**2.1** A quotation for the Goods or Services given by the Company shall not constitute an offer. A quotation shall only be valid for a period of 10 Business Days from its date of issue, unless otherwise stated by the Company.

**2.2** A Purchase Order shall only be deemed to be accepted when the Company issues an order acknowledgement of it, at which point the Contract shall come into existence.

**2.3** The Contract constitutes the entire agreement between the parties. The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.

**2.4** Any Purchase Order, Confirmation, Internet Order must be accompanied by all information required to enable the Company to commence performance of the Contract after the Company has accepted the Purchase Order, Confirmation, Internet Order. The Buyer warrants that all information supplied to the Company by the Buyer, its agents, sub-contractors or employees shall be correct and accurate and comprehensive for the purpose of performance of the contract and hereby indemnifies the Company against any and all costs, losses, expenses, damages and fees incurred by the Company whether directly or indirectly as a result of breach of this warranty.

**2.5** The price quoted is based on the following assumptions. All infrastructure (by way of example only, will include but will not be limited to the following:- lamp posts, roads, streets, fixtures and fittings, buildings upon which fittings are to be fixed etc) is the Buyers responsibility and it is for the Buyer to ensure that it is fit for purpose. The Company will create its designs and products with this assumption in mind. Where access is required to an area where a flag pole is to be installed or maintained this access should be free from constraints. Piggotts reserves the right to alter the contents and terms of the Contract should any of the above not being satisfied.

## 3. Manufacture, Quality and Packaging

**3.1** The Company agrees to supply to the Buyer the Goods and services on the terms of the Contract.

**3.2** The Company undertakes that the Goods and services will:

a. Comply with the supplied specification

b. Be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended)

c. Where applicable, be free from defects, material and workmanship and remain so for 6 months after delivery: and

d. Comply with all applicable statutory and regulatory requirements.

**3.3** The Company shall not provide for packaging materials within the Contract price unless otherwise stated.

**3.4** The manner of any packaging will be at the discretion of the Company.

The Company accepts no liability for failure to pack to any particular standard or against any particular risk unless the requirements for such packaging are specifically brought to the attention of the Company, accepted by the Company and paid for by the Buyer.

### 4. Price and Payment

**4.1** At the Company's discretion the Price shall be either

a. As indicated on invoices provided by the Company to the Buyer in respect of Goods or Works performed: or

b. The Company's quoted price (subject to clause 5.2) which shall be binding upon the Company, provided that the Buyer shall accept the Company's quotation in writing.

**4.2** The Company reserves the right to change the price due to:

a. If a variation to the Goods or Works which are to be supplied is requested; or

b. If a variation to the Goods or Works originally scheduled (including any applicable plans or specifications) is requested; or

c. Where additional Goods or Works are required due to the discovery of hidden or unidentifiable difficulties (including but not limited to, poor weather conditions, limitations to accessing the site, discovery of Asbestos or structural defects in the fabric of buildings or equipment to be removed) which are only discovered on the commencement of the Works.

**4.3** At the point of order full payment will be due.

**4.4** At the Company's sole discretion, full payment is required for any order or Contract unless otherwise agreed in advance by the Company.

**4.5** Time for payment for the Works being of the essence, the Price will be payable by the Buyer on the date(s) determined by the Company, which may be:

a. The date specified on any invoice or other form as being the date for payment.

b. Failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Buyer by the Company.

**4.6** The company reserves the right to charge the following at its discretion

a. For payments made by credit cards a surcharge of 4% will be applied.

b. A £100 administration fee will be chargeable for any cheque returned to the Company from the Buyers bank for whatever reason.

c. For accounts that become overdue past agreed credit terms, interest will be charged at 4% above the base

### 5. Time and Place of Delivery

**5.1** Delivery of the Goods shall be completed on the Goods arrival at the Delivery Location on the basis ex-works as that term is defined in Incoterms 2010.

**5.2** The Company reserves the right to deliver the Goods by instalments and in such event each instalment shall be treated as a separate Contract provided that deliveries of further instalments may be withheld until the Goods comprised in earlier instalments have been paid for in full.

**5.3** If the Company fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the buyer in obtaining replacement Goods of similar description and quality in the cheapest market available, less the price of the Goods.

**5.4** The Company shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Buyer's failure to provide the Company with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

**5.5** Any quoted period time accepted by the Company for despatch, delivery or completion of the Goods are to be treated as estimates only, and the Company shall have no liability to the Buyer in respect of any loss suffered or expense incurred as a result of failure to perform the Contract in any way within any such period and for the avoidance of doubt no delay of whatsoever nature shall entitle the Buyer to cancel the order of refuse to accept delivery or in any other way fail to perform an obligation on its part hereunder at any time.

### 6. Acceptance and Rejection of Goods

**6.1** If the Buyer fails to accept delivery of the Goods within 5 Business Days of the Company notifying the Buyer that Goods are ready.

a. Delivery of the Goods shall be deemed to have been completed at 9.00am on the 5th Business Day after the day on which the Company notified the Buyer that the goods were ready; and

b. The Company shall store the Goods until delivery takes place, and charge the Buyer for all related costs and expenses (including insurance).

**6.2** If after 10 Business Days after the day on which the Company notified the Buyer that the Goods were ready for delivery the Buyer has not accepted delivery of them, the Company may dispose of part or all of the Goods with full payment still being due for the value of the Contract.

**6.3** In the event of defective workmanship or materials in the Goods the Company will repair or replace the Goods as the Company deems appropriate provided always that such defect becomes apparent within 12 months from delivery and the Company accepts that the defect was

### 7. Risk and Title

**7.1** Whilst risk in the Goods supplied to the Buyer under the Contract shall pass on delivery, legal and beneficial ownership of the Goods shall remain with the Company until such time as the Company has received payment in full for all Goods supplied to the Buyer.

**7.2** If before title to the Goods passes to the Buyer the Buyer becomes subject to any Insolvency Events, or the Company reasonably believes that any such event is about to happen and notifies the Buyer accordingly, then, the Company may at any time require the Buyer to deliver up the Goods and, if the Buyer fails to do so promptly, enter any premises of the Buyer or of any third party where the Goods are stored in order to recover them.

c. For accounts that become overdue past agreed credit terms, interest will be charged at 4% above the base

### 8. Confidentiality and Intellectual Property

**8.1** Neither party shall disclose to any person any confidential information disclosed to it by the other party concerning the business or affairs of the other party or, any member of its Group, including information relating to a party's operations, process, plans, product information, know-how, designs, trade secrets, software, market opportunities and customers ("Confidential Information"), except as permitted by clause 8.2.

**8.2** The Company may disclose Confidential Information to its employees, officers, agents, consultants or subcontractors ("Representatives") who need to know such information for the purposes of carrying out the Company's obligations under the Contract, provided the Company takes all reasonable steps to ensure its Representatives comply with the confidentiality obligations in this clause 8 as though they were party to the Contract.

**8.3** The Company reserves all rights in its Confidential Information. No rights or obligations in respect of such information other than those expressly stated in the Contract are granted to the Buyer. In particular, no licence is granted directly or indirectly under any patent, invention, discovery, copyright or other Intellectual Property Right held, made, obtained or licensable by the Company at any time.

**8.4** All rights to use designs, drawings and other documents prepared in connection with the Contract shall vest solely in the Company. Buyer shall only use such designs, drawings and documents for the purpose of the Contract.

#### **9. Force Majeure**

**9.1** The Company shall have no liability or responsibility for failure to perform any obligations under the Contract to the extent it is unable to perform as a consequence of a Force Majeure Event.

**9.2** If affected by a Force Majeure Event the Company shall, as soon as reasonably practicable

a. notify the Buyer of the nature and extent of the Force Majeure Event and  
b. use all reasonable endeavours to remove any such causes and resume performance under the Contract as soon as feasible.

**9.3** If a Force Majeure Event prevents the Company's performance of its obligations for a continuous period of three months, it can terminate the Contract with immediate effect by notice in writing.

**9.4** "Force Majeure Event" means an event, other than any industrial action, beyond the control of a party, which could not reasonably have been foreseen by such party at the date on which the Contract comes into effect and includes acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared) and armed hostilities or other national or international calamity or one or more acts of terrorism.

#### **10. Limitation of Liability and Termination**

**10.1** The Company shall under no circumstances whatever be liable to the Buyer, 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.

**10.2** The Company's total liability to the Buyer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

**10.3** The Company does not waive rights. Any action which might suggest to the contrary by the Company in connection with the contract will not extinguish the Company's rights in connection with this agreement.

**10.4** The Company may at any time terminate the contract, in whole or in part in the event the Buyer is in breach of its obligations. In such a situation, the full contract price payable by the Buyer will be due to the Company.

#### **11. Cancellation**

**11.1** The Company may cancel any contract to which these terms and conditions apply or cancel provision of the Works at any time before the Works have commenced by giving written notice to the Buyer. On giving such notice the Company shall repay to the Buyer any sums paid in respect of the Price, less any amounts owing by the Buyer to the Company for Goods or Services already provided. The Company shall not be liable for any loss or damage whatsoever arising from such cancellation.

**11.2** In the event that the Buyer cancels the Contract the Buyer shall be liable for any and all loss incurred (whether direct or indirect) by the Company as a direct result of the cancellation (including but not limited to, any loss of profits).

**11.3** Cancellation of orders for materials made to the Buyers specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

**11.4** Each provision of this agreement is severable. Severance does not affect any other provision. Variation to this agreement must be in writing and notified.

**11.5** This agreement is governed by the Laws of England and shall be subject to the jurisdiction of the English Courts.

**12. Tolerances** Please note that colours, size and weight can be 10% above or below the order requirement on applique or printed products;

**12.1 Artwork Approval** All quotations are subject to approval of final artwork where appropriate. Where the provided artwork is not to a satisfactory level the Company reserves the right to charge for the preparation of correct artwork;

**12.2 Material** The Company reserves the right to substitute the specified material with an equal or better grade of material without giving notice;

**13.4 Site** The site should be easily accessed and free from restriction on the chosen time and date of the Works. Should access to the site not be possible the Company reserves the right charge for loss incurred on the aborted visit;

**12.3 Refurbishment and Service** The Company reserves the right to charge for extra and additional work caused by the miss-description of the work to be completed, or by the equipment itself being in an unserviceable condition other than specified in the quotation;

**12.4 Parking Charges** The Hirer undertakes whether by itself or through agents acting on its behalf, to provide safe and legal access for the Company's vehicle(s), to its site(s) and when necessary parking for the Company's vehicle(s), in order that the Company may deliver its services/products. In the event of a breach by the Hirer of this obligation, then it is agreed that the Hirer will pay and or be wholly responsible for, any fines or penalties imposed upon the Company or on its vehicles;