

# Terms & Conditions

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## I. DEFINITIONS

“Seller” means Prestige Signz

“Buyer” means the person who accepts an estimate of the Seller for the sale of the goods or whose orders for the goods is accepted by the Seller.

“The Customer” means the person, firm or company entering into the contract with the Seller

“The Contract” means the contract between the Seller and the Customer for the sale and purchase of the Goods or supply of Services incorporating these Conditions

“Goods” means any goods or materials to be manufactured by the Seller and/or supplied to the Customer/Buyer under the terms of the contract

“Services” means the manufacture, installation or maintenance of signs or other equipment by the Seller under the terms of the contract

“Export Contract” means a contract where the goods are being sold to a purchaser whose place of residence is outside the United Kingdom of Great Britain and Northern Ireland

## II. GENERAL

- a. All headings are for ease of reference only and shall not affect the construction of these Conditions
- b. Any provision of these Conditions which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of these Conditions
- c. None of the terms and conditions of the contract shall be varied except in writing and signed by a Partner of emf Trade Signs
- d. No waiver or forbearance by the Seller (whether express or implied) in enforcing any of its rights under the Contract shall prejudice its right to do so in the future. The Seller may licence or sub-contract all or part of its rights and obligations under these Conditions without the Buyers consent
- e. Any quotation given by the Seller shall not constitute an offer but shall constitute an invitation to treat
- f. These terms and conditions and any contract between the Seller and the Customer are subject to the law of England and all disputes arising there from shall be subject to the jurisdiction of the English Courts

### III. PRICE

- a. All tenders and quotations are exclusive of VAT which will be charged at the rate applicable at the date of invoice
- b. The Price of the Goods shall be the Seller's quoted price which shall be binding on the Seller provided that the Buyer shall accept the Seller's quotation within 60 days or if a different period is stated in the relevant quotation within the period so stated
- c. All prices for delivery within the UK are quoted "ex works". All prices for goods to be exported from the UK are quoted FOB, UK Port
- d. The Seller may increase the quoted price and the Customer shall pay such increase price if;
  - i. Any special access equipment is in the opinion of the Company during the course of the performance of the contract necessary for the proper performance of its part of the contract
  - ii. Any drawings plans or surveys whether prepared by or on behalf of the Company or the Customer require any amendment which is either requested by the Customer or which in the opinion of the Company is necessary for the proper performance of its part of the contract
  - iii. Any part of the contract whether at the request of the Customer or otherwise is to be performed outside the normal working hours 8.00am to 4.30pm Monday to Friday
  - iv. The cost to the Seller of any materials to be used in the works increases as a result of circumstances outside the control of the Seller
- e. Unless specifically mentioned on the face of the quotation or any written contract the price does not include the cost of removal and disposal of any old signs or other of the Customer's property from the Customer's premises. The cost of such removal and disposal will be an additional charge to the price and will be added to the invoice
- f. Except as otherwise expressly stated and contracted the Seller reserves the right to vary prices at any time without notice to the Customer. Stated prices are exclusive of all value added taxes or duties. Prices do not include the cost of freight, carriage or packing which will be additionally charged to the customer
- g. Quotations are subject to withdrawal at any time before receipt of an order. All quotations will be deemed withdrawn if not accepted within 60 days from their date or if a different period is stated in the relevant quotation within the period so stated

#### **IV. PAYMENT**

- a. We will require full payment with confirmation from non account holders
- b. Account holders balances are to be paid within 30 days of invoice. Time for payment shall be of the essence
- c. The Seller reserves the right to charge interest at a rate of 2% above the Bank of England base rate from the date on which payment is due until actual payment
- d. If balances are not paid by the due dates we will take all steps necessary to recover outstanding debts owed to emf Trade Signs
- e. All goods remain the property of emf Trade Signs until paid for in full, of which we have the right to remove if full payment is not made
- f. The Seller reserves its statutory right to claim interest and compensation under the Late Payment of Commercial Debts (Interest) Act 1998 if sums due from the Buyer to the Seller are not paid in accordance with the agreed credit terms
- g. If the Buyer fails to make any payment on the due date then without prejudice to any of the Seller's other rights the Seller may in its discretion:
  - i. Suspend or cancel deliveries of any goods or Services due to the Buyer and/or
  - ii. Appropriate any payment made by the Buyer to such of the Goods or Services (or Goods or Services supplied under any other contract with the Buyer) as the Seller may in its sole discretion think fit
- h. If the Buyer fails to make any payment within three months of the date of the relevant invoice then without prejudice to any of the Seller's other rights the Seller may at its discretion treat the Contract as repudiated and either sell the Goods or any part of the Goods to a third party or reuse components included in the goods or both. If the Seller does so and the combined total amount received by the Seller from the Buyer in respect of the Goods (less any sum appropriated to any other transaction under section III.g.ii), the amount received from any third party for the Goods and the value of any component parts of the Goods re-used by the Seller exceeds the combined total amount of the Price and any expenditure incurred by the Seller in exercising its rights under this clause, then the Seller will pay any such excess to the Buyer
- i. 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 which the Buyer may have or allege to have or for any reason whatever

#### **V. GOODS & SERVICES**

- a. The Goods shall be supplied in accordance with the description contained in the Seller's specification
- b. Services for which a charge is made will be provided with reasonable care and skill but no warranty is given that the result of the Services will be suitable for the Buyer's purposes
- c. Except as specified in clause V.d the specification and designs of the Goods and any items produced as a result of the Services such as drawings or specifications (including the copyright, design right or other intellectual property in them) shall remain the exclusive property of the Seller
- d. Information provided by the Seller is confidential and may not be disclosed to a third party without the prior consent of the Seller
- e. Where any designs or artwork have been supplied by the Buyer for display on or incorporation in the Goods then the Buyer warrants that the use of those designs or artwork for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party. Such designs or artwork provided by the Buyer to the seller (including the copyright, design right or other intellectual property in them) shall remain the exclusive property of the Buyer

## VI. WARRANTY

- a. The Company agrees at its own cost and at its own option to repair or replace any of the goods or parts thereof and to repair or rectify any defects in the works which in each case are proved to the Seller to be faulty due to bad workmanship or materials providing in such case that such fault is notified to the Seller in writing within a period of six months from the date of delivery of the goods or completion of the works
- b. The Seller specifically exempts from the provisions of this clause any part or parts which were not manufactured by the Seller. In the case of such goods the customer shall be entitled to the benefit of any rights obtained by the Seller in the Seller's contract to purchase the goods or parts thereof

## VII. LIMITATION OF LIABILITY

Subject to the provisions of clause VI hereof it is hereby specifically agreed:

- a. If the Customer has examined a sample of goods produced by the Seller the Goods shall be deemed to correspond with their description if they correspond with the sample notwithstanding the Goods may have been described by the Seller
- b. If the Customer has examined the Goods or has been provided with plans, drawings or specifications or other information by the Seller relating to the Goods or Services the Customer must make his own judgement as a result of such examination or plans specification and other information
- c. No warranty condition description or representation on the part of the Seller is given or implied by these conditions nor is any warranty description or representation to be taken to have been given or implied from anything said or written in negotiations between the parties or their representatives by or on behalf of the Seller prior to the contract and all statutory or other warranties conditions descriptions or representations express or implied as to the state quality of fitness of the goods or the services the subject of the contract are hereby expressly excluded.
- d. Without prejudice to the generality of the foregoing it is specifically agreed that the Seller will in no circumstances be liable
  - i. For any indirect or consequential loss sustained by the Customer as a result of any breach of contract by the Seller
  - ii. For any loss occasioned to the Customer arising out of any damage to or destruction of any property of any type on the Customer's premises during the performance of the contract howsoever occasioned
  - iii. For any loss or damage suffered by the Customer arising out of any defects in the walls, timber or other structures to which any sign or other goods may have been affixed unless the Seller has been asked by the Customer to advise and as advised in arrears on the suitability of such walls, timber or other structure
- e. In the event of the Seller being found liable for any loss or damage (notwithstanding the provisions of any of these conditions) the liability shall in no event exceed the contract price
- f. Noting in these conditions shall restrict the liability of the Seller arising out of any defect in the goods or the services due to the negligence of the Seller which causes death or personal injury
- g. The Seller's liability shall in any event cease if:
  - i. The Customer shall not have paid in full any invoices from the Company on the due date
  - ii. The Seller's representatives are denied full and free right of access to the goods and/or the site where the services have been effected
  - iii. The Customer permits persons other than those approved or authorised by the Seller to effect any replacement of parts, maintenance, adjustments or repairs to the goods or the services

- iv. The Customer has not properly maintained the goods in accordance with the instructions, pamphlets or directions given or issued by the Seller as appropriate
- v. The Customer has used any spare parts or replacements not manufactured by or on behalf of the Company and supplied by it, or fail to follow the Seller's instructions for the use of same
- vi. The Customer permits any additions or alterations to be made to the goods of whatever kind without the Seller's approval in writing
- vii. In the event of a claim being made against the Customer by reason of any matter referred to and in respect of which the Seller is liable under these conditions, the Customer shall notify the Seller in writing within fourteen days of receipt by him of notice of such claim. In these circumstances the Seller may on its election conduct all negotiations for the settlement of the said claim and any litigation that may arise there from. The Customer shall not, unless and until the Seller shall have failed to take over the conduct of such negotiations or litigation, make any admission which might be prejudicial thereto
- viii. The Customer shall, at the request of the Seller, afford all available assistance for any such purpose. Notwithstanding the provisions of any other clauses in this agreement if the Customer shall be in default of its obligations under this clause the Seller shall be under no liability to indemnify the Customer in respect of any such claim
- ix. The Seller will make every effort to ensure that all goods are manufactured and/or supplied to specification but it is in all cases for the Customer to ensure that goods are fit and suitable for the purpose for which they are required. All conditions and warranties expressed or implied, whether by Statute, Common Law or otherwise as to the conditions or fitness for any purpose of the goods are expressly excluded and the Seller shall be under no liability for any direct or consequent loss howsoever arising which may be suffered by the Customer by reason of any defect or failure to perform on the part of the goods
- x. If any goods prove to be defective, the liability of the Seller shall for all purposes be limited to the cost of making good the defects or, at our discretion, replacement of the goods. The Seller will only consider crediting in part or in full in cases where it has been given a proper opportunity to make good any defects or to replace the goods and only where liability has been accepted by the Seller
- xi. We take no responsibility for the infringement of any patent or copyright or registered design or trade mark of any third party in the executions of the Buyer's instructions and it is the Buyer's entire responsibility to obtain any necessary licenses or permissions and to indemnify us against all claims, actions, proceedings, costs and losses arising out of such an infringement
- xii. Orders for the installation and erection of Signage are undertaken on the understanding that the Buyer has complied with the requirements of local planning and other interested official departments and the responsibility for obtaining any planning permission and permits is entirely that of the Buyer, unless otherwise stated in the contract. All charges levied by authorities before, during and/or after installation and erection are to be borne by the Buyer
- xiii. Where signage is erected in the ground the responsibility for ensuring that no services, such as water, gas, electricity, telephones or pipelines are likely to be interfered with, damaged or obstructed is the responsibility of the Buyer as is any interference, damage or obstruction caused thereto by our staff or subcontractors in the event of the position of such services not being revealed (or being incorrectly revealed) to us. Likewise where a sign is erected on a structure it is the Buyer's responsibility to ensure that the structure is of adequate strength and in good condition to bear the additional loads imposed thereon by the installation of the sign and fittings

## **VIII. PERFORMANCE**

- a. Where a period is named for performance of the contract unless such period is extended by mutual consent in writing the Customer shall accept performance within that period
- b. Any time or date for performance of the contract named by the Seller is an estimate only and the Seller shall not be liable for the consequences of any delay
- c. The Customer shall provide to the Seller such details as may be necessary or may be required by the Seller to enable the Seller to perform the contract. If for any reason the Customer fails to provide such details, or if any reason not related to any act of default by or on the part of the Seller the Customer is unable to accept the performance of the contract at the time when the Seller is ready and willing to perform the contract the Customer shall indemnify the Seller in respect of any losses occasioned to the Seller by reason of such failure on the part of the Customer

## **IX. DELIVERY**

- a. Any loss or damage to the goods in transit must be noted on the delivery note of the carrier and notified to the Seller within 24 hours of receipt of the consignment. In the event of non delivery of the goods the Customer must notify the Seller within 24 hours of the due delivery date
- b. No claims for shortages of delivery will be accepted by the Seller unless notice in writing is given to the carrier concerned and to the Seller and a complete claim in writing is submitted within four days of the date of the consignment being received.

## **X. HEALTH AND SAFETY**

- a. Any liability for ensuring compliance with any requirement statutory or otherwise concerning health, safety or welfare on the premises of the Customer or the client of the Customer or any premises required to be visited on behalf of the Customer rests solely with the Customer
- b. The Customer is to carry out such tests and examination of the Goods as are reasonably practicable to ensure that when used the Goods are safe and without risk to health and comply with all local laws and regulations
- c. The Customer shall, if so requested by the Seller, enter into a written undertaking to take such steps as may be specified by the Seller relating to such tests and examination
- d. The Customer shall indemnify the Seller against any loss, liability or expense arising from the Customer's failure to carry out any such tests or examinations required under b and c above

## **XI. ACCEPTANCE OF THE GOODS**

The Customer shall inspect the Goods and/or Services immediately on delivery or completion and shall within four days of delivery notify the Seller, in writing, of any matter or thing by reason whereof it alleges the Goods or Services are not in accordance with the contract. If the Customer fails to give such notice the Goods and Services shall be conclusively presumed to be in all respects in accordance with the contract and the Customer shall be deemed to have accepted the Goods or Services and pay for them accordingly

## **XII. APPROVAL AND CONSENT**

Unless otherwise agreed in writing by the Seller the responsibility for obtaining all approval or consents for the Services as may be required by Statute, Contract, Landlord permission or otherwise shall be the responsibility of the Customer. Where the Seller agrees to make all necessary occasions for planning permission under the Town & Country planning acts the Customer will pay to the Seller a fee as agreed between the parties whether or not the application is successful. Where the Company at the request of the Customer commences performance of the contract before any required approvals or consents have been obtained the Customer will indemnify the Seller against any liability arising from such performance and in the event of such permission or consent being refused the Customer shall indemnify the Seller against all losses arising from such refusal

## **XIII. LETTERS PATENT**

- a. The Customer agrees not without the previous consent in writing of the Seller to manufacture or sell to any third party any goods the manufacture or sale of which would infringe any Letters Patented of which the Seller is licensee or under which the Seller is authorised to manufacture or sell
- b. The Customer shall indemnify the Seller against all damages, penalties, costs and expenses to which the Seller may be liable if any work done on the Customers instructions involves an infringement of a registered design, trademark, copyright, or Letters Patent

## **XIV. COPYRIGHT**

- a. All drawings, plans, specifications, technical information and estimates supplied by the Seller and the Copyright therein remain the property of the Seller and they will be returned by the Customer to the Seller forthwith in the event of any order for Goods or Services of a similar type being placed with another Seller and in any event not later than six months after they are supplied in the event of no contract having been entered into between the Customer and the Seller in relation thereto. All such drawings, plans, specifications, technical information and estimates are confidential and shall be used by the Customer only for the purpose of considering any quotation or tender the performance of the contract or the operation of the Goods may not be divulged in any circumstances without the written authority of the Seller
- b. Where drawings, plans, specifications and technical information are supplied by the Customer the provisions of sub paragraphs hereof shall apply to the Seller mutates mutandis:
  - i. Without prejudice to clause VII hereof the Seller will accept no liability for any loss caused to the Customer which arises wholly or partly from any defect or error in omission from the said drawings, plans, specifications and technical information

## **XV. SUBCONTRACTING**

The Seller reserves the right to subcontract the performance of the whole or part of the contract The Customer reserves the right to to assign this contract (should the need arise) subject to the Seller's written consent, such consent not to be unreasonably withheld

## **XVI. ACCESS**

The Customer should ensure access by the Seller to the site for the purpose of the surveying and inspecting of the premises and installing sign or other equipment. Any cost incurred by the Seller in the event of delay in obtaining access arranged by the Customer shall be charged to and be paid by the Customer

## **XVII. TERMINATION**

If the Customer shall make default in or commit a breach of any of its obligations to the Seller or if any judgment shall be entered against the Customer or distress or execution shall be levied upon the Customer, its properties or assets or if the Customer shall make or offer to make any arrangements or composition with creditors or commit any act of bankruptcy or if any petition or receiving order shall be presented or made against him or if the Customer being a Limited Company any resolution or petition to wind up such a Company shall be passed or presented otherwise than for reconstruction or amalgamation or if a receiver of the Customers undertaking property or assets or any part thereof shall be appointed by the Customer the Seller shall have the right forthwith to determine any contract then subsisting and upon written notice of determination being posted to the Customer at the last known address of the Customer any subsisting contract shall be deemed to have been determined without prejudice to any claim or right the Seller may otherwise make or exercise

## **XVIII. ARBITRATION**

Any difference or dispute arising between the Seller and the Customer in respect of a contract governed by these conditions shall if the Company so determines to be referred to the arbitration of a person to be mutually agreed. The submission shall be deemed to be a submission to arbitrate within the meaning of the Arbitration Act 1950 or any statutory modification or re-enactment thereof

## **XIX. PROTOTYPES**

Any prototypes, models, plans, illustrations, drawings, descriptions, and specifications are intended to give a general outline of the Seller's proposals and are not binding as to details nor to final sizes or arrangements. They shall remain the property of the Seller and not be copied or communicated to a third party without the Seller's written consent. The Seller reserves the right to charge for any prototype, models, plans, illustrations and drawing supplied at the Customers request. The Seller also reserves the right to charge for attendance at site meetings

## **XX. RETURNS**

All returnable packages and packing materials will be charged on the Seller's invoice. If returned to the Seller within 14 days carriage paid and in good condition full credit will be given

## **XXI. FORCE MAJEURE**

The Seller shall not be liable for any loss or damage caused by any delay in performance or non-performance of any of its obligations where the same is occasioned by any cause whatsoever which is beyond its control including, but limited to, acts of god, war (whether or not declared), riots, civil disturbance, malicious damage, fire, explosion, sabotage, storm, flood, earthquake, fog, subsidence, adverse weather conditions, pestilence, epidemics, legal restrictions, or acts of any Government or branch or agency thereof (including without limitation any local government), non availability of transport, strikes, lockouts or trade disputes of whatever kind, cessation or interruption of operation of any plant or process, failure of supply of raw materials, or components of or breakdown of machinery or any other circumstance beyond the reasonable control of the party affected ('Force Majeure Event'). Should any such event occur the Seller shall be entitled to cancel or rescind or suspend the contract or suspend any delivery without liability for loss or damage resulting there from but only after advising the Customer in writing of the cause of the cancellation or rescission or suspension