

1. Interpretation

1.1. In these Conditions:

'the Buyer' means the person who accepts a quotation of the Seller for the sale or hire of the Goods or whose order for the Goods is accepted by the Seller.

'the Goods' means the Goods and/or Services (including any instalment of the Goods or any parts for them) which the Seller is to supply in accordance with these Conditions.

'the Seller' means Nomadic Structures (UK) Limited trading as Nomadic Display (UK) (registered in England and Wales under number 1994191).

'the Contract' means the Contract for the purchase and sale of the Goods and/or Services on the Conditions.

'Approved Credit Account' means the credit account held by the Buyer with the Seller, which has been approved in writing by the Seller.

2. Basis of the Sale

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with the Contract subject to these Conditions, which supersede any other terms appearing in the Seller's catalogue or elsewhere, and which shall govern the Contract to the exclusion of any Terms and Conditions of the Buyer. All orders made by the Buyer shall be subject to these Conditions and not to any Terms and Conditions set out in any purchase order or other instructions sent by the Buyer to the Seller.

2.2 No variation to these Conditions shall be binding unless agreed in writing by the Seller's Managing Director.

2.3 The Seller's employees are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. The Buyer should not rely on any representations made by any person purporting to be an Agent of the Seller.

2.4 Any advice or recommendation given by the Seller or its employees as to the storage, application or use of the Goods which is not confirmed in writing by the Seller is followed or acted upon entirely at the Buyer's own risk.

2.5 Any typographical, clerical or other error or omission in any document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

2.6 All descriptions and illustrations contained in the Seller's catalogues, price lists and advertisements or otherwise communicated to the Buyer are intended merely to present a general idea of the Goods described, and nothing in any of them shall form any part of the Contract.

While all Goods supplied will be of merchantable quality and fit for their purpose, the Seller cannot guarantee that the quality of such Goods will correspond entirely with the quality of any samples submitted or quoted for and no condition or warranty to this effect shall be implied.

3. Orders, Quotations and Specifications

The Buyer shall confirm the order by submitting a written Purchase Order to the seller or by signing the Nomadic Order Form.

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

3.2 Quotations are subject to withdrawal at any time before receipt of a qualified order from the Buyer, and shall be deemed to be withdrawn unless so accepted within 60 days from their date.

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

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

3.5 All quotations supplied for graphics are on the basis that seven working days are required for printing and finishing of any graphics. Production time commences once all suitable material and instructions have been received by the Seller from the Buyer in writing, including the Buyers signed approval on the Sellers 'Graphic Approval Document'.

For shorter production time, the Seller reserves the right to surcharge as follows;

5 working days 20%
4 working days 30%
3 working days 40%
2 working days 50%

3.6 The Seller reserves the right to change estimated graphics prices if material supplied by the Buyer is not as expected or requires alterations or additions.

Artwork and settings provided by the Seller will be charged separately and production of such is not included in the surcharges.

3.7 Design work requested by the Buyer will be charged at a minimum of £50.00 per hour.

4. Cancellation

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

5. Price of the Goods

5.1 The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid, whether by expiry of that quotation or by variation by the Seller), the price specified in the invoice at a rate based on time and materials supplied. All prices quoted are valid for 60 days only or until earlier acceptance by the Buyer or alteration by the Seller which may be made by giving notice to the Buyer at any time before delivery.

5.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in cost to the Seller.

5.3 Any price quoted by the Seller for the Goods shall be deemed to exclude the cost of the delivery to the Buyer (including transport, insurance and any taxes, duties or surcharges) unless otherwise stated in the Special Conditions.

5.4 The price is exclusive of any applicable Value Added Tax.

6. Terms of Payment

6.1 Where the Buyer places an order for the hire of the Goods:-

6.1.1 Payment for the total price for the hire of the Goods shall be made with the order unless otherwise agreed in writing.

6.1.2 Unless an extension to the period of hire has been agreed to in writing and payment of the whole of the price of hire for the additional period has been made in advance, the Buyer shall be liable to pay the Seller 20% of the initial hire charge for each day exceeding the hire period.

6.1.3 Other than for the hire of Goods, where the Buyer holds an Approved Credit Account with the Seller:-

6.1.4 Subject to the Special Conditions, the Seller 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 or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.

6.1.5 On giving the Seller 14 days notice the Buyer may request the Seller to delay the delivery of the Goods and in those circumstances the Seller may invoice the Buyer for the price of the Goods. The Seller reserves the right to recover from the Buyer any expenses (whether direct or indirect) incurred by the Seller due to the delay in delivery.

6.1.6 Unless otherwise agreed in writing, payment in respect of each invoice shall be made by the 30th day after the Seller's invoice without deduction or set off, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. Time of payment shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

6.2 In every other case payment of the total price of the Goods shall be made when the Buyer places the order unless otherwise agreed in writing.

6.3 If the Buyer fails to make any payment by the due date then, without prejudice to any other right or remedy available to the Seller, the whole of the price of all Goods bought or agreed to be bought by the Buyer shall fall due and payable without demand, and the Seller shall be entitled to:-

6.3.1 Cancel the Contract or suspend any further deliveries to the Buyer;

6.3.2 Appropriate payment made by the Buyer to such of the Goods (or the Goods supplied under any other Contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer).;

6.3.3 Charge the Buyer interest from the date of invoice (both before and after any judgement) on the amount unpaid, at the rate of 1.5% per month compounded monthly until payment in full is made); or

6.3.4 Treat such failure as a repudiation of the whole Contract by the Buyer and to recover damages for such breach of Contract.

6.3.5 Any payment by the Buyer after default may be applied at the option of the Seller to any outstanding invoice or to interest before capital.

6.4 The Seller shall be entitled to set off sums owed by the Seller to the Buyer against sums owed by the Buyer to the Seller.

7. Delivery

7.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place. The Seller shall be entitled to deliver the Goods in one or more consignments unless otherwise expressly agreed.

7.2 Any dates quoted for delivery of the Goods are approximate and the Buyer shall not be entitled to reject the Goods for any failure on the Seller's part to deliver on or before a date quoted for delivery. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate Contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalment shall not entitle the buyer to treat the Contract as a whole as repudiated.

7.3 The Seller shall not be liable for any failure to deliver the Goods arising from circumstances outside the Seller's control. Time is not of the essence in terms of delivery of the Goods because the timing of delivery is influenced by matters outside of the Seller's control.

7.3.1 Non-exclusive illustrations include Act of God, war, riot, explosion, abnormal weather conditions, fire, flood, government action, strikes, lockouts, delay by suppliers, accidents and shortage of materials, labour or manufacturing facility.

7.3.2 If the Seller is prevented from delivery in the above circumstances, it shall notify the Buyer of the fact in writing within 10 days commencing with a contractual delivery date.

7.3.3 If the circumstances preventing delivery are still continuing 3 months from and including the date from when the Seller sends such notice, then either the Buyer or the Seller may give such written notice to the other cancelling the Contract. Such notice must be received whilst the circumstances are still continuing.

7.3.4 If the Contract is cancelled in this way, the Seller shall refund any payment which the Buyer has already made on account of the price (subject to deduction of any amount which the Seller is entitled to claim from the Buyer, but the Seller accepts no liability to compensate the Buyer for any further loss and damage caused by the failure to deliver).

7.4 If the Buyer fails to take delivery of the goods or fails to give the Seller adequate delivery instructions within 7 days of being notified that the Goods are ready for collection, then without prejudice to any rights or remedy available to the Seller, the Seller may;

7.4.1 Store the Goods until the actual delivery and charge the Buyer for the reasonable costs of storage; or

7.4.2 Sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the Contract, or charge the Buyer for any shortfall below the price under the Contract.

8. Risk and Property

8.1 The Goods shall remain the property of the Seller as legal and equitable owner and no property in or title to the Goods shall pass to the Buyer until their full price has been duly paid to the Seller together with the full price of any Goods, which are the subject of any other Contract with the Seller.

8.2 While the ownership of the Goods remains with the Seller, the Buyer shall store them upon its premises separately from its own Goods or those of any other person and in a manner, which makes them readily identifiable as the Goods of the Seller.

8.3 Risk in the Goods passes to the Buyer as soon as the Goods leave the Seller's premises except when the Seller has requested the Buyer to delay the delivery of the goods in accordance with sub-condition 6.1.5 and whereupon the risk shall pass to the Buyer on the date that the Seller receives the Buyer's notice requesting delivery to be delayed.

8.4 If any payment due hereunder are overdue in whole or in part the Seller may (without prejudice to its other rights) recover or resell the Goods or any part of them and may enter upon the Buyer's premises (or such other premises where the Goods are stored) by its servants or agents for that purpose.

8.5 The Buyer shall not be at liberty to sell on the Goods before effecting payment therefore to the Seller unless such on-sale is at a price not less than the price agreed between the Seller and the Buyer. Without prejudice and subject to the rights of the Seller in law and equity, if any of the Goods shall be sold by the Buyer before payment for them has been made that part of the proceeds of sale which represents or is equivalent to the amount owed by the Buyer, upon trust for the Seller and shall be paid into a separate bank account designated for that purpose. The Seller shall be entitled to trace the proceeds of any such sale(s) into the said bank account (or wherever such proceeds may in fact be located) and the Buyer hereby authorises the Seller to make enquiries of its bankers (or otherwise as appropriate) relating to such proceeds.

8.6 The Buyer shall ensure that the Goods are not incorporated in or mixed with or used as part of other Goods ('new Goods') before payment for the Goods has been made to the Seller although if such incorporation or mixing shall take place the property in those Goods which remain identifiable and/or severable from such new Goods shall remain with the Seller until payment has been made or the new Goods have been sold as aforesaid and all the Seller's rights hereunder in the Goods shall extend to such part or the new Goods and to the proceeds of sale thereof, which shall be held by the buyer in accordance with sub-condition 8.1 hereof.

9. Warranties and Liability

9.1 Except where the Buyer deals as a consumer (within the meaning of the Unfair Contract Terms Act 1977) any claim by the Buyer which is based on any defect in the quality, quantity or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Buyer) be notified in writing to the Seller within 14 days from the date of delivery. If delivery is not refused and the Buyer does not notify the Seller

accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect or failure, and the Buyer shall be bound to pay the price as if the goods have been delivered in accordance with the Contract.

Where the Buyer has rejected the Goods (whether in accordance with this Contract or otherwise) the Buyer shall if so requested return the Goods to the Seller's premises within 7 days of that date on which he notified the Seller that he has rejected the Goods. Alternatively the Buyer will permit access for the Seller to inspect the goods at the Buyers premises or wherever the goods are located.

9.2 Where any valid claim in respect of any of the Goods which is based on any defect in the quality, quantity or condition of the Goods or their failure to meet specification is notified to the Seller in accordance with these Conditions, the Seller shall be entitled to repair or replace the Goods (or the part in question) free of charge. The Buyer is not entitled to withhold payment in respect of the whole of the amount payable under the invoice but only an amount equivalent to the cost of those Goods which do not conform to the Contract.

9.3 The Seller shall not be liable for any consequential or indirect loss suffered by the Buyer whether this loss arises from breach of Contract or breach of duty of care and or tort or in any other way (including loss arising from the Seller's negligence). Non-exclusive illustrations of consequential or indirect loss would be:-

9.3.1 Loss of profits.

9.3.2 Loss of contact.

9.3.3 Damage to property of the Buyer or anyone else.

9.3.4 Personal injury to the Buyer or anyone else (but only so far as such injury is not caused by the Seller's negligence).

10. Insolvency of the Buyer

10.1 This condition applies if:-

10.1.1 The Buyer is an individual or firm and becomes bankrupt or insolvent or enters into a voluntary arrangement with his creditors.

10.1.2 The Buyer is a Company and:-

(a) Has a petition presented for its winding-up;

(b) Passes a resolution for voluntary winding-up (other than for the purpose of a bona fide amalgamation or reconstruction); or

(c) Enters into a voluntary arrangement with his creditors; or

(d) Becomes subject to an Administration Order; or

(e) Has a receiver appointed of all or any of its assets.

10.1.3 The Buyer commits a serious breach of this Agreement and either a breach cannot be remedied or the Buyer fails to remedy it within 7 days beginning with a date it receives notice to do so.

10.1.4 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Buyer; or

10.1.5 The Buyer ceases, or threatens to cease, to carry on business; or

10.1.6 The Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10.2 If this Condition applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable and notwithstanding any previous agreement or arrangement to the contrary.

10.3 In addition to any right of lien to which the Seller may by law be entitled the Seller shall (in the event of the Buyer's insolvency) be entitled to a general lien on all Goods of the Buyer in the Seller's possession (although such Goods or some of them may have been paid for) in respect of all sums due or owing from the Buyer on any account whatsoever.

11. General

11.1 Any notice which must be given under this Agreement may be either delivered personally or posted. Notice given by post must be pre-paid and correctly addressed. In the case where a registered company is the recipient it should be sent to its registered office or normal business address and in any other case to the recipient's principle place of business or such other address as may at the relevant time have been notified pursuant to this provision of the part giving the notice. A postal notice which complies with this clause is deemed served on the second business day after the day of posting.

11.2 No waiver by the Seller 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.

11.3 The Court may strike out or override any part of this Agreement which it considers unreasonable, invalid or unlawful (whether an entire clause or only part of one) and enforce the Agreement as if the offending part had never been contained in it.

11.4 The Contract shall be governed by the Laws of England and the parties submit to the exclusive jurisdiction of the English Courts, save that the Seller shall be entitled to bring proceedings against the Buyer in any other Court which has jurisdiction.