

# KONTRACT

## KONTRACT INTERIORS LTD TERMS & CONDITIONS OF BUSINESS

### 1. DEFINITIONS

In these conditions:

"the Company" means Kontract Interiors Limited, registered company number 06953737.

"the Conditions" means these terms and conditions

"the Buyer" means any company, firm or individual or agent thereof who is dealing with the Company in respect of Goods.

"the Goods" means the products for furniture items, services for Design and Management, Fit-out items includes fittings and finishes (including any parts or accessories) to be supplied by the Company.

"the Supplier" means the Company for all supplies of Goods.

### 2. APPLICABILITY OF CONDITIONS

All quotations, offers, acceptances and contracts made by the Company are subject to the Conditions which shall apply to the exclusion of any other terms, conditions and warranties, written or oral, express or implied, even if incorporated in any of the Buyer's documents which purport to provide that the Buyer's own terms shall prevail.

No variation or qualification of these Conditions wherever appearing shall be effective unless agreed in writing by a Director of the Company.

### 3. QUOTATIONS

The Company's quotations are non-binding and the Company reserves the right to amend the quotation at any time. No contract between the Company and the Buyer shall arise unless and until the Company has accepted in writing the Buyer's order placed on the basis of the Company's quotation.

### 4. CANCELLATION OR SUSPENSION OF ORDERS

Once accepted by the Company, an order cannot be cancelled except with the written agreement of the Company.

A condition of accepting cancellations may be that charges for abortive work or restocking goods will be passed on to the Buyer. These will be advised at the time of cancellation.

### 5. REPRESENTATIONS

No employee or Agent of the Company other than a Director of the Company is authorised to make any statement, warranty or representation as to the Goods and the Company will not be liable for any loss or damage suffered by the Buyer as a result of relying on such unauthorised statements or warranties.

### 6. PRICES

Prices contained in a quotation, price list, catalogue or similar documents shall be based upon current standard costs prevailing at the relevant date, and are for guidance only. The contract price shall be as agreed/confirmed when the Company accepts the Buyer's order. Where a fix priced tender is offered it shall be open for a period of 28 days, or as stated in the letter of offer.

Unless otherwise stated prices do not include VAT which will be chargeable at current rate prevailing at the date of invoice.

### 7. DESPATCH, DELIVERY AND COMPLETION

Delivery shall be deemed to occur and the risk of loss or damage of any kind in any physical products which make up the Goods shall pass to the Buyer on the occurrence of the earlier of the following events:

- delivery by the Company to the Buyer's premises; or
- where delivery is not to the Buyer's premises, the Company gives the Buyer notice that the Goods are ready for collection or despatch from the Company's premises.

If the Goods include installation services, such services shall be deemed completed when the Buyer signs off a proof of delivery (POD) confirming the same. It is possible that such POD may have conditions regarding minor changes and replacement of damaged parts to be subsequently performed.

Should the Buyer postpone the delivery of any Goods, the Company reserves the right to charge the Buyer for storage at the Company's preferred warehouse. Such costs may also involve additional delivery charges.

# KONTRACT

## 8. INSPECTION BY THE BUYER

On delivery or collection, the Buyer shall carefully examine physical products which make up the Goods and shall sign a POD confirming the Goods are as per contract or by written notice to be received by the Company within three (3) days of receipt of the Goods notify the Company of any short delivery, over delivery or any defects reasonably discoverable on careful examination. In the absence of receipt of such notice the Company shall be discharged from all liability in respect of such defects or short or over delivery and the Goods shall be deemed to have been fully accepted by the Buyer.

If the Company becomes aware of any over delivery of Goods to the Buyer, it shall be entitled at its option to repossess the excess Goods, set them off against any future deliveries of Goods or give the Buyer notice that it will be invoiced for such excess Goods seven days after the date of the notice unless the Goods are made available for collection.

## 9. DELIVERY

The Company will use reasonable commercial endeavours to deliver the Goods and to perform services in accordance with any times stated in the contract, but time of delivery or performance shall not be of the essence to the contract. Any such times are stated by way of general information only and in the event of failure to despatch or deliver or perform within such times for any cause (whether within or outside the Company's control), the same shall not be a breach or repudiation of the contract and the Company shall not be liable for any direct or consequential loss or damage, howsoever caused or arising, suffered by the Buyer as a result of such delay.

If the contract does not otherwise provide, the Company shall be entitled to deliver Goods by single delivery or by instalments at its option.

If the contract provides for delivery by instalments or the Company so elects, each instalment shall be deemed to be the subject of a separate contract on the Conditions. Without prejudice to the above, non-delivery or delay in delivery shall not affect the balance of the contract nor entitle the Buyer to terminate the same.

## 10. FORCE MAJEURE

The Company shall not be liable for any delay or failure in carrying out its obligations which is caused wholly or partly by reason of any accident, delay in transportation, fire, flood, explosion, war, government actions, inability to obtain adequate labour, interruptions in supply of power or materials, machine breakdown, industrial dispute, shortened working hours or any other cause beyond the Company's control.

If such delay or failure has continued for a period of twelve (12) weeks, then either party may give notice in writing to the other determining the contract without liability to the other.

## 11. PAYMENT

Unless expressly agreed in writing, payment shall be made in sterling without any deduction or deferment on account of any disputes or cross claims whatsoever within fourteen days (14) days from the date of invoice.

Where full payment is not received by the due date, the Company reserves the right to charge interest on the sum outstanding calculated from the due date on a daily basis but without prejudice to the Company's rights to receive payments on the due dates.

Interest will be charged at 4% above Barclays Bank base rate. The interest will be compounded every 6 months

Time for payment shall be of the essence and in the event of delay or default in any payment for more than sixty (60) days, in addition to charging interest in accordance with the above paragraphs, the Company shall be entitled to suspend deliveries and/or treat the contract as repudiated and/or re-sell any of the Goods in its possession and be indemnified by the Buyer for any loss thereby incurred.

The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998

## 12. PROPERTY IN GOODS

The property in Goods shall not pass to the Buyer, and the Buyer shall hold the Goods as bailee for the Supplier (returning them to the Supplier on request), until the price of the Goods shall have been wholly paid to the Supplier.

In the event of non-payment, the Supplier shall be entitled to repossess the Goods.

## 13. QUALITY, CONDITION AND DESCRIPTION OF GOODS

The Company warrants that physical products that make up the Goods will be of good materials and workmanship. If the Buyer gives written notice to the Company in accordance with clause 8 and 9 above that Goods have not been supplied as aforesaid and that is established, then the Company will at its own expense replace or repair such defective Goods or remedy such defaults in service. However, the Company shall have no liability under this warranty where the Goods have been processed or worked on by anyone other than the Company or where the defect is attributable to an error in the Buyer's specification or design or to damage caused after the time when the risk in the Goods passed to the Buyer under the Conditions.

The same warranty shall apply in respect of Goods replaced or repaired by the Company.

# KONTRACT

The Buyer shall have no claim against the Company under either of the warranties embodied in the paragraphs above, unless such claim is notified in writing to the Company in accordance with clause 9 above.

Such replacement or repair will be the absolute limit of the Company's liability in respect of such warranty claims.

Except as expressly provided in the Conditions, the Company excludes all other warranties (including any implied warranties as to satisfactory quality and fitness for purpose) to the fullest extent possible by law.

The Buyer shall have no claim against the Company, and the Company shall have no liability for claims made under this clause 13, where the manufacturer or Supplier of the Goods refuses to honour its warranty to the Company as to the suitability, fitness for purpose, workmanship, quality and condition of the Goods

## 14. LIMITATION

The Company shall be liable to the Buyer in relation to death or personal injury caused by the Company's negligence.

The Company shall in no circumstances be liable to the Buyer for the following types of loss (whether direct or indirect): economic loss including administrative and overhead costs, loss of profits, business, contracts, revenues, goodwill, production and anticipated savings of every description.

Except for the liabilities accepted above, the Company's liability to the Buyer in relation to a contract (whether in statute, contract or tort) shall not exceed the total fees received by the Buyer in relation to the relevant contract.

## 15. DRAWINGS, SPECIFICATIONS

Specifications and drawings, prepared by the Company for the purpose of a quotation or tender or otherwise used by the Company for the purpose of producing the Goods, and all intellectual property rights in them shall remain the property of the Company and shall be returned to the Company on request. They shall not be used except for the purpose of the contract and the Buyer shall not disclose or make them available to third parties and shall not use them in any other way without the specific consent of the Company.

## 16. INTELLECTUAL PROPERTY RIGHTS

The Buyer undertakes that any design or instruction furnished or given by it shall not cause the Company to infringe any rights of a third party and the Buyer shall indemnify the Company against any loss or damage suffered by the Company as a result of a claim made against the Company that a third party's rights have been so infringed.

The sale by the Company of the Goods shall not convey to the Buyer any licence or right to use any designs, letters, copyright, registered designs or other intellectual property rights owned by the Company, without prior approval in writing.

## 17. INDEMNITY

The Buyer shall indemnify the Company against all actions, claims or demands by third parties whether in tort or otherwise howsoever arising directly or indirectly in connection with the use, functioning or state of the Goods or in connection with the performance of services.

## 18. SUB-CONTRACTING

The Company shall be entitled to sub-contract all or any of its obligations hereunder. However sub-contractors should not assign their contract or any of their rights hereunder without first receiving written approval of the Company.

## 19. TERMINATION

The Company shall have the rights forthwith to terminate any contract then subsisting upon the following conditions:

- if the Buyer shall make default in or commit a breach of the contract or of any of his obligations to the Company;
- if any distress or execution shall be levied upon the Buyer's property or assets;
- if the Buyer shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him;
- if the Buyer is a limited company and any resolution or petition to wind up such company's business (other than for the purpose of amalgamation or reconstruction) shall be passed or presented; or
- if a receiver of such company's undertaking, property or assets or any part thereof shall be appointed.

# KONTRACT

Upon written notice of such termination being given to the Buyer any subsisting contracts shall be deemed to have been terminated and the Company shall be entitled to recover from the Buyer all losses thereby arising including but not limited to those under 'Partial Completion' of these Conditions or otherwise.

## 20. PARTIAL COMPLETION

In the case of partial completion of a contract by reason of any of the events referred to in paragraphs 'Cancellation', 'Force Majeure' and 'Partial Completion' of the Conditions, the Company shall be entitled to charge the Buyer on a full indemnity basis for all labour, material, overhead and other costs incurred by the Company in performance of such contract but without prejudice to its rights if non-completion is occasioned by the Buyer.

## 21. NOTICES

Unless otherwise provided in writing, any written communication or notice under a contract shall be made or given by sending the same by ordinary prepaid first class letter post in the case of the Company to its current address and in the case of the Buyer to his last known address and if so sent shall be deemed to be made or given two (2) days after the date when posted.

## 22. GOVERNING LAW AND INTERPRETATION

English law shall govern these Conditions and all contracts and the Buyer shall submit to the non-exclusive jurisdiction of the English Courts in relation to any dispute. If any of these Conditions or any part thereof is rendered void or unenforceable by any legislation to which it is subject or by any rule of law, it shall be void or unenforceable to that extent and no further.

The parties to these conditions do not intend that any term of these conditions shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to them.