

ASHLEY ADS LTD. - CONDITIONS OF SUPPLY BUSINESS

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this Condition apply in these Conditions.
Buyer: the person, firm or company who purchases the Goods from Ashley Ads Ltd. Unit D11, Pinetrees Business Park, Norwich, Norfolk NR7 9BB. Registered in England No. 4104330, VAT Reg. No. 765101646. Ashley Ads Ltd. is a wholly owned subsidiary of The Pod (East Anglia) Ltd. registered in England No. 09782138. 'Ashley Signage, Print and Display' is a trading style of Ashley Ads Ltd.
Conditions: these terms and conditions of supply.
Contract: any contract between Ashley Ads Ltd. and the Buyer for the sale and purchase of the Goods, incorporating these Conditions.
Delivery Point: the place where delivery of the Goods is to take place under Condition 4.
Goods: any goods agreed in the Contract to be supplied to the Buyer by Ashley Ads Ltd. (including any part or parts of them).
- 1.2 Words in the singular include the plural and in the plural include the singular.
- 1.3 Condition headings do not affect the interpretation of these Conditions.

2. APPLICATION OF TERMS

- 2.1 Subject to any variation under Condition 2.2 the Contract shall be on these Conditions to the exclusion of all other terms and Conditions (including any terms or Conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).
- 2.2 These Conditions apply to all Ashley Ads Ltd's sales and any variation to these Conditions and any representations about the Goods shall have no effect unless expressly agreed in writing and signed by a director or duly authorised employee of Ashley Ads Ltd.
- 2.3 The Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Ashley Ads Ltd. which is not set out in the Contract. Nothing in this Condition shall exclude or limit Ashley Ads Ltd's liability for fraudulent misrepresentation.
- 2.4 Each order or acceptance of a quotation for Goods by the Buyer from Ashley Ads Ltd. shall be deemed to be an acceptance of the relevant quotation of Ashley Ads Ltd. by the Buyer to buy Goods subject to these Conditions, at which point the Contract shall be formed.
- 2.5 The Buyer shall ensure that the terms of its order and any applicable specification are complete and accurate.

3. DESCRIPTION & SPECIFICATION

- 3.1 Any quotation provided by Ashley Ads Ltd. shall be valid for 30 days from the date stated on the quotation.
- 3.2 The description and quantity of the Goods shall be as set out in Ashley Ads Ltd's quotation, subject to the other provisions of these Conditions.
- 3.3 All samples, drawings, descriptive matter, specifications and advertising issued by Ashley Ads Ltd. and any descriptions or illustrations contained in Ashley Ads Ltd's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.
- 3.4 Ashley Ads Ltd. makes no representation and gives no warranty in respect of the source or origin of manufacture or production of the Goods of any part thereof.
- 3.5 Items supplied by the Buyer for use under the Contract shall be of suitable quality and shall be provided free of charge in sufficient quantities and at the times required by Ashley Ads Ltd.
4. **DELIVERY**
- 4.1 The method of, dates and other particulars relating to delivery shall be as agreed in writing between the parties.
- 4.2 Any dates specified by Ashley Ads Ltd. for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 4.3 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or Ashley Ads Ltd. is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:
- 4.3.1 risk in the Goods shall pass to the Buyer (including for loss or damage caused by Ashley Ads Ltd's negligence);
- 4.3.2 the Goods shall be deemed to have been delivered; and
- 4.3.3 Ashley Ads Ltd. may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

5. NON-DELIVERY

- Any liability of Ashley Ads Ltd. for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

6. RISK/TITLE

- 6.1 The Goods are at the risk of the Buyer from the time of delivery.
- 6.2 Ownership of the Goods shall not pass to the Buyer until Ashley Ads Ltd. has received in full (in cash or cleared funds) all sums due to it in respect of:
- 6.2.1 the Goods; and
- 6.2.2 all other sums which are or which become due to Ashley Ads Ltd. from the Buyer on any account.
- 6.3 Until ownership of the Goods has passed to the Buyer, the Buyer shall:
- 6.3.1 hold the Goods on a fiduciary basis as Ashley Ads Ltd's bailee;
- 6.3.2 store the Goods (at no cost to Ashley Ads Ltd.) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as Ashley Ads Ltd's property;
- 6.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- 6.3.4 maintain the Goods in satisfactory Condition and keep them insured on Ashley Ads Ltd's behalf for their full price against all risks to the reasonable satisfaction of Ashley Ads Ltd. On request the Buyer shall produce the policy of insurance to Ashley Ads Ltd.
- 6.4 The Buyer's right to possession of the Goods shall terminate immediately if:
- 6.4.1 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or
- 6.4.2 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between Ashley Ads Ltd. and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or
- 6.4.3 the Buyer encumbers or in any way charges any of the Goods.
- 6.5 Ashley Ads Ltd. shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from Ashley Ads Ltd.
- 6.6 The Buyer grants Ashley Ads Ltd, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
- 6.7 On termination of the Contract, howsoever caused, Ashley Ads Ltd's (but not the Buyer's) rights contained in this Condition 6 shall remain in effect.

7. PRICE

- 7.1 The price for the Goods shall be as agreed in writing between the parties.
- 7.2 Notwithstanding Condition 7.1, Ashley Ads Ltd. reserves the right to increase prices due to increased costs, including (but not limited to) those relating to exchange rates, labour, materials and transport.
- 7.3 The price for the Goods shall be exclusive of any value added tax and all costs or charges in relation to packaging, loading, unloading, carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods.

8. PAYMENT

- 8.1 Subject to Condition 8.4, payment of the price for the Goods is due in pounds sterling 30 days from the date of the Buyer's receipt of Ashley Ads Ltd's invoice for the Goods, unless otherwise agreed in writing by Ashley Ads Ltd.
- 8.2 Time for payment shall be of the essence.
- 8.3 Ashley Ads Ltd. will supply one invoice for the Goods notwithstanding that the consignment may comprise more than one instalment.
- 8.4 No payment shall be deemed to have been received until Ashley Ads Ltd. has received cleared funds.
- 8.5 All payments payable to Ashley Ads Ltd. under the Contract shall become due immediately on its termination despite any other provision.
- 8.6 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by Ashley Ads Ltd. to the Buyer.
- 8.7 If the Buyer fails to pay Ashley Ads Ltd. any sum due pursuant to the Contract, the Buyer shall be liable to pay interest to Ashley Ads Ltd. on such sum from the due date for payment at the annual rate of 3% above LIBOR, accruing on a daily basis until payment is made, whether before or after any judgment. Ashley Ads Ltd. reserves the right to claim interest under the Late Payment of Commercial Debts (Interests) Act 1998.

9. QUALITY

- 9.1 Ashley Ads Ltd. warrants that (subject to the other provisions of these Conditions) on delivery, and for a period of 3 months from the date of delivery, the Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 9.2 Ashley Ads Ltd. shall not be liable for a breach of the warranty in Condition 9.1 if:
- 9.2.1 the Buyer has damaged the Goods in operation or allowed the Goods to be damaged by a third party; or
- 9.2.2 the defect arises because the Buyer failed to follow Ashley Ads Ltd's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
- 9.2.3 the defect arises as a result of design errors in the Goods, where Ashley Ads Ltd. has manufactured the Goods to a design of the Buyer; or
- 9.2.4 the Buyer alters or repairs such Goods without the written consent of Ashley Ads Ltd.
- 9.3 Subject to Condition 9.2, if any of the Goods do not conform with the warranty in Condition 9.1 Ashley Ads Ltd. shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if Ashley Ads Ltd. so requests, the Buyer shall, at the Buyer's expense, return the Goods or the part of such Goods which is defective to Ashley Ads Ltd.
- 9.4 If Ashley Ads Ltd. complies with Condition 9.3 it shall have no further liability for a breach of the warranty in Condition 9.1 in respect of such Goods.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 The sale of the Goods and the publication of any information or technical data relating thereto may incorporate products which are the subject of third party intellectual property rights and Ashley Ads Ltd. gives no warranty that the use of the Goods by the Buyer will not constitute an infringement of third party intellectual property rights.
- 10.2 All intellectual property rights in the Goods, whether owned by Ashley Ads Ltd. or a third party shall remain with Ashley Ads Ltd. or that third party and nothing in these Conditions shall be construed as transferring or permitting the transfer of any intellectual property rights to the Buyer.
- 10.3 The Buyer shall indemnify Ashley Ads Ltd. and its suppliers against all royalties, actions, claims, costs and expenses and other payments in respect of any patents, registered designs or other rights which may be claimed as a result of the Goods being made by Ashley Ads Ltd. according to designs or specifications supplied by the Buyer. The Buyer shall indemnify Ashley Ads Ltd. and its suppliers against all actions, claims expenses and costs in connection with any infringement or alleged infringement of any patent or registered design or other right in the manufacture, use or sale of the Goods. The Buyer shall defend or assist in the defence at its own expense any proceedings which may be so brought.

11. LIMITATION OF LIABILITY

- 11.1 The following provisions set out the entire financial liability of Ashley Ads Ltd. (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- 11.1.1 any breach of these Conditions;
- 11.1.2 any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and
- 11.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 11.2 All warranties, Conditions and other terms implied by statute or common law (save for the Conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
- 11.3 Nothing in these Conditions excludes or limits the liability of Ashley Ads Ltd:
- 11.3.1 for death or personal injury caused by Ashley Ads Ltd's negligence; or
- 11.3.2 for any matter which it would be illegal for Ashley Ads Ltd. to exclude or attempt to exclude its liability; or
- 11.3.3 for fraud or fraudulent misrepresentation.
- 11.4 Subject to Condition 11.3 Ashley Ads Ltd's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price.
- 11.5 Subject to Condition 11.3, Ashley Ads Ltd. shall not be liable to the Buyer for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

12. INDEMNITY

- The Buyer shall indemnify Ashley Ads Ltd. against any losses, costs or damages incurred by Ashley Ads Ltd. pursuant to any claim by a third party relating to the Buyer's use of the Goods (including but not limited to the Buyer's export or resale of the Goods).

13. ASSIGNMENT

- Ashley Ads Ltd. may assign the Contract or any part of it to any person, firm or company. The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of Ashley Ads Ltd.

14. FORCE MAJEURE

- Ashley Ads Ltd. reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Ashley Ads Ltd. including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 60 days, the Buyer shall be entitled to give notice in writing to Ashley Ads Ltd. to terminate the Contract.

15. GENERAL

- 15.1 The Buyer is responsible for any licences or claims or consents necessary to export the Goods from the United Kingdom, or to import the Goods into the country to which the Goods are to be delivered.
- 15.2 The Buyer will take over full responsibility and will fulfil all obligations for taking back and/or recycling electrical and electronic equipment according to any applicable European directives or local laws relating to the use, recycling and disposal of waste electrical and electronic. The Buyer will exempt Ashley Ads Ltd. from all legal obligations for taking back and/or recycling and from all possible claims of third parties in connection with these obligations and will fulfil these obligations itself on its own costs, if the Buyer has not been able to transfer these legal obligations to its customers.
- 15.3 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 15.4 Failure or delay by Ashley Ads Ltd. in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 15.5 Any waiver by Ashley Ads Ltd. of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 15.6 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 15.7 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law, and the parties submit to the exclusive jurisdiction of the English courts.

16. COMMUNICATIONS

- 16.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by receipted email:
- 16.1.1 (in case of communications to Ashley Ads Ltd) to its registered office or such changed address as shall be notified to the Buyer by Ashley Ads Ltd. from time to time; or
- 16.1.2 (in the case of the communications to the Buyer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as shall be notified to Ashley Ads Ltd. by the Buyer from time to time.
- 16.2 Communications shall be deemed to have been received:
- 16.2.1 if sent by pre-paid first class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or
- 16.2.2 if delivered by hand, on the day of delivery; or
- 16.2.3 if sent by receipted email on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.