

## 1. Interpretation

### 1.1 Definitions

In these terms and conditions, the following definitions apply:

<b>Conditions</b>	these terms and conditions as amended from time to time in accordance with clause 14.7.
<b>Contract</b>	the contract between Propshop and the Customer for the sale and purchase of the Products and/or Services, in accordance with these Conditions.
<b>Customer</b>	the company or organisation that purchases the Products from Propshop.
<b>Force Majeure Event</b>	has the meaning given in clause 13.
<b>Instructions</b>	the written or oral instructions given to the Customer by Propshop in relation to the storage, commissioning, installation, use and maintenance of the Products.
<b>Intellectual Property Rights</b>	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>Order</b>	the Customer's order for the Products and/or Services, as set out in the Customer's purchase order form or the Customer's written acceptance of Propshop's quotation, as the case may be.
<b>Products</b>	the products (or any part of them) set out in the Order.
<b>Propshop</b>	Propshop Productions Limited (registered in England and Wales with company number 08331817) whose registered office is at Wey Court West, Union Road, Farnham, Surrey, United Kingdom, GU9 7PT.
<b>Services</b>	the services to be provided to the Customer by Propshop as set out in the order.
<b>Specification</b>	in relation to Products, any specification for the Products, including any related plans and drawings, that is supplied to Propshop by the Customer, or produced by Propshop and agreed in writing by the Customer; and in relation to Services, the description or specification for Services provided by Propshop to the Customer.

### 1.2 Construction

- 1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality);
- 1.2.2 a reference to a party includes its personal representatives, successors and permitted assigns;
- 1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provisions includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.4 any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.2.5 a reference to writing or written includes faxes.

## 2. Basis of the Contract

- 2.1 The Contract constitutes the entire agreement between the parties. These conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Products and/or Services in accordance with these Conditions. The Customer shall ensure that the terms of the Order and any relevant Specification are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when either Propshop issues a written acceptance of the Order or Propshop begins manufacturing of the Products or providing the Services, at which point and on which date the Contract shall come into existence.
- 2.4 Any samples, drawings, descriptive matter or advertising issued by Propshop and any illustrations of the Products or descriptions of the Services are issued or published for the sole purpose of giving an approximate idea of the Products and/or Services described in them. They shall not form part of the Contract or have any contractual force.

- 2.5 A quotation for the Products and/or Services given by Propshop shall not constitute an offer. A quotation shall only be valid for a period of 30 days from its date of issue.
- 2.6 All of these Conditions shall apply to the supply of both Products and Services except where application to one or the other is specified.

### 3. Delivery of Products

- 3.1 Propshop shall notify the Customer when the Products are ready for collection and the Customer shall collect or arrange for the Products to be collected (at the Customer's expense) by a third party courier (**Courier**) from Propshop's premises at Pinewood Studios or such other location as may be advised by Propshop (**Delivery Location**) within 10 days of Propshop notifying the Customer that the Products are ready.
- 3.2 Delivery shall be completed on the completion of loading of the Products at the Delivery Location.
- 3.3 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Propshop shall not be liable for any delay in delivery of the Products to the Customer that is caused by a Force Majeure event, any delay suffered or caused by the Courier or the Customer's failure to provide Propshop and/or the Courier with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 3.4 Propshop shall have no liability for any failure to deliver the Products to the extent that such failure is caused by the Courier, a Force Majeure Event or the Customer's failure to provide the Courier and/or Propshop with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 3.5 If the Customer fails to accept or take delivery of the Products within 10 days of Propshop notifying the Customer that the Products are ready, then, except where such failure or delay is caused by a Force Majeure Event or Propshop's failure to comply with its obligations under the Contract:
- 3.5.1 delivery of the Products shall be deemed to have been completed at 9.00 am on the tenth day following the day on which Propshop notified the Customer that the Products were ready; and
- 3.5.2 Propshop shall store the Products until delivery takes place, and charge the Customer for all related costs and expenses (including insurance) in connection with such storage and any other attempts by the Courier to transport the Products to the Delivery Location.
- 3.6 If 20 days after Propshop notified the Customer that the Products were ready for delivery the Customer has not accepted delivery of them, Propshop may dispose of or, if appropriate, resell all or part of the Products and charge the Customer for any shortfall below the price of the Products.
- 3.7 Propshop may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 3.8 Propshop may, at its sole direction, elect to deliver digital data files using any of the following methods:
- 3.8.1 by making an encrypted drive available for collection;
- 3.8.2 by uploading files onto an external drive provided by the Customer;
- 3.8.3 by using a cloud-based file transfer service (usually reserved for non-sensitive material);
- 3.8.4 providing the Customer with access to Propshop's own FTP site; or
- 3.8.5 by such other method as may be advised by Propshop to the Customer.

### 4. Quality of Products

- 4.1 Propshop warrants that on delivery the Products shall:
- 4.1.1 conform in all material respects with their description and any applicable Specification; and
- 4.1.2 be free from material defects in design, material and workmanship.
- 4.2 Subject to clause 4.3, if:
- 4.2.1 the Customer gives notice in writing to Propshop within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 4.1; and
- 4.2.2 Propshop is given a reasonable opportunity of examining such Products; and
- 4.2.3 the Customer (if asked to do so by Propshop) returns such Products to Propshop's place of business at the Customer's cost,
- Propshop shall, at its option, repair or replace the defective Products.
- 4.3 Propshop shall not be liable for Products' failure to comply with the warranty set out in clause 4.1 if:
- 4.3.1 the Customer makes any further use of such Products after giving notice in accordance with clause 4.2; or
- 4.3.2 the defect arises because the Customer failed to follow the Instructions and good trade practice; or
- 4.3.3 the defect arises as a result of Propshop following any drawing, design or specification supplied by the Customer; or
- 4.3.4 the Customer alters or repairs such Products without the written consent of Propshop; or
- 4.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

- 4.4 Except as provided in this clause 4, Propshop shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 4.1.
- 4.5 These Conditions shall apply to any repaired or replacement Products supplied by Propshop.

## 5. Services

- 5.1 Propshop shall provide the Services to the Customer in accordance with the Specification in all material respects.
- 5.2 Propshop shall use all reasonable endeavours to meet any performance dates for the Services specified in Propshop's quotation, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 5.3 Propshop shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Propshop shall notify the Customer in any such event.
- 5.4 Propshop warrants to the Customer that the Services will be provided using reasonable care and skill.

## 6. Title and risk

- 6.1 The risk in the Products shall pass to the Customer on completion of loading the Products onto the Courier's vehicle or a collection of the Products by the Customer from Propshop's premises. Propshop recommends that the Customer arranges insurance of the Products accordingly.
- 6.2 Title to the Products shall not pass to the Customer until Propshop has received payment in full (in cash or cleared funds) for:
- 6.2.1 the Products; and
- 6.2.2 any other goods or services that Propshop has supplied to the Customer in respect of which payment has become due.
- 6.3 Until title to the Products has passed to the Customer, the Customer shall:
- 6.3.1 hold the Products on trust for Propshop;
- 6.3.2 store the Products separately from all other goods held by the Customer so that they remain readily identifiable as Propshop's property;
- 6.3.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
- 6.3.4 maintain the Products in satisfactory condition and keep them insured against all risks for their full price on Propshop's behalf from the date of delivery;
- 6.3.5 notify Propshop immediately if it becomes subject to any events listed in clause 8.2; and
- 6.3.6 give Propshop such information relating to the Products as Propshop may require from time to time.
- 6.4 If before title to the Products passes to the Customer the Customer becomes subject to any of the events listed in clause 8.2, or Propshop reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Products have not been irrevocably incorporated into another product, and without limiting any other right or remedy Propshop may have, Propshop may at any time require the Customer to deliver up the Products and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

## 7. Price and payment

- 7.1 The price of the Products and/or Services shall be the price set out in the Order.
- 7.2 The price of the Products is exclusive of the costs and charges of packaging, insurance and transport of the Products, which shall be paid by the Customer when it pays for the Products.
- 7.3 The price of the Products and/or Services is exclusive of amounts in respect of value added tax (**VAT**). The Customer shall, on receipt of a valid VAT invoice from Propshop, pay to Propshop such additional amounts in respect of VAT as are chargeable on the supply of the Products and/or Services.
- 7.4 Unless otherwise confirmed by Propshop in writing in relation to the Contract, Propshop may invoice the Customer for Products on acceptance of the Order.
- 7.5 The charges for the Services shall be on a time and material basis:
- 7.5.1 the charges shall be calculated in accordance with Propshop's standard daily fee rates and number of hours worked per day, as set out in Propshop's quotation;
- 7.5.2 Propshop shall be entitled to charge an overtime rate (as set out in Propshop's quotation) for any time worked outside the hours referred to in the quotation as standard working days;
- 7.5.3 Propshop shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Propshop engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of any materials.

- 7.6 In relation to the Services, Propshop may invoice the Customer at any time after the Customer is notified that the Products are ready for delivery.
- 7.7 The Customer shall pay each invoice in full and in cleared funds in accordance with the payment instructions on the invoice within thirty (30) days of the date of that invoice. Time of payment is of the essence.
- 7.8 If the Customer fails to make any payment due to Propshop under the Contract by the due date for payment (**Due Date**), then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Barclays Bank plc's base lending rate from time to time. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 7.9 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against Propshop in order to justify withholding payment of any such amount in whole or in part. Propshop may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by Propshop to the Customer.
- 7.10 Without limiting its other rights or remedies, Propshop shall have the right to suspend the supply of Services and/or all further deliveries of Products under the Contract or any other contract between the Customer and Propshop if:
- 7.10.1 the Customer fails to make pay any amount due under the Contract on the Due Date for payment; or
- 7.10.2 the Customer becomes subject to any of the events listed in clause 8.2, or Propshop reasonably believes that the Customer is about to become subject to any of them.

## 8. Customer's insolvency

- 8.1 If the Customer becomes subject to any of the events listed in clause 8.2, or Propshop reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to Propshop, Propshop may cancel or suspend the supply of Services and/or any deliveries of Products under the Contract or under any other contract between the Customer and Propshop without incurring any liability to the Customer, and all outstanding sums in respect of Products delivered and Services provided to the Customer shall become immediately due.
- 8.2 For the purposes of clause 8.1, the relevant events are where the Customer suspends or threatens to stop or suspend payment of all or a material part of its debts, is unable to pay its debts as they fall due, goes into liquidation (except for the purpose of re-construction or amalgamation), has a receiver, administrator or administrative receiver, or examiner appointed over any of its assets or makes any voluntary arrangement with its creditors generally.

## 9. Limitation of liability: the Customer's attention is particularly drawn to this clause

- 9.1 9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 9.1.2 fraud or fraudulent misrepresentation; or
- 9.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979.
- 9.2 Subject to clause 9.1:
- 9.2.1 Propshop shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or indirect or consequential loss arising under or in connection with the Contract; and
- 9.2.2 Propshop's total liability to the Customer 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 not exceed the price of the Products and/or Services which are the subject of the Order.
- 9.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 9.4 This clause 9 shall survive termination of the Contract.

## 10. Intellectual property rights

All Intellectual Property Rights arising out of or in connection with the manufacture of Products and/or the provision of Services shall, unless otherwise agreed in writing between the Customer and Propshop, be owned by Propshop.

## 11. Confidentiality

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 11 shall survive termination of the Contract.

## 12. Termination and consequences

- 12.1 Without limiting its other rights or remedies, Propshop may terminate the Contract:
  - 12.1.1 by giving the Customer immediate written notice;
  - 12.1.2 with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the Due Date for payment.
  
- 12.2 On termination of the Contract for any reason:
  - 12.2.1 the Customer shall immediately pay to Propshop all of Propshop's outstanding unpaid invoices and interest and, in respect of Products and Services supplied but for which no invoice has yet been submitted, Propshop shall submit an invoice, which shall be payable by the Customer immediately on receipt;
  - 12.2.2 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
  - 12.2.3 clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## 13. Force majeure

Propshop shall not be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events (each a **Force Majeure Event**), circumstances or causes beyond its reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including but not limited to fires, floods, storms, earthquakes, natural disasters or extreme adverse weather conditions, default of suppliers or subcontractors, or inspection or quarantine by any customs and border control authorities in any jurisdiction. In such circumstances Propshop shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for 3 weeks, the Customer may terminate this agreement by giving 14 days' written notice to Propshop.

## 14. General

### 14.1 Assignment and subcontracting.

- 14.1.1 Propshop may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.
- 14.1.2 The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of Propshop.

### 14.2 Notices.

- 14.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post, recorded delivery, or commercial courier.
- 14.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.2.1; if sent by pre-paid first-class post or recorded delivery, at 9.00 am two days after posting; or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 14.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

### 14.3 Severance.

- 14.3.1 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 14.3.2 If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

### 14.4 Waiver. A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

### 14.5 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

- 14.6 Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 14.7 Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by Propshop.
- 14.8 Governing law and jurisdiction.** The 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 irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.