

1. **Definitions**
In these conditions:
"the Company" means Spectrum Workplace LLP whose registered office is at Wellesley House 204 London Road Waterlooville Hampshire PO7 7AN.
"Contract" means the Contract formed by the acceptance of the Order by the Company or acceptance of the Customer's offer on these terms or on these terms as varied by agreement in writing by the Company and if doubt exists as to the terms as varied these terms shall prevail.
"Customer" means the person, company, firm or other legal body on whose behalf the Order has been placed with the Company.
"Delivery" means transportation of goods from the Company or its authorised agent to the Customer to the destination point agreed by the Company at the time of the Company's acceptance of the Order, or at the Company's premises if the Customer is collecting them or arranging carriage.
"Estimate" an estimate or quotation of the cost of, and of details of the Works provided by the Company to the Customer before the date of the Order. An estimate by the Company does not constitute an offer and the Company reserves the right to withdraw or revise the same at any time prior to the Company's acceptance of the Customer's Order.
"Order" means the Customer's instructions to the Company to supply goods or carry out the Works.
"Price" means the price of goods specified in the latest price list of the Company or agreed by the Company on acceptance of the Customer's Order.
"Property" means the property on which the Works are carried out.
"Works" means the works detailed in an estimate prepared by the Company for works at the Customer's Property.
2. **Pre-Contract Statements**
2.1 An Order or Orders are accepted by the Company exclusively upon these terms and conditions and no other conditions or representations whatsoever referred to in negotiations or set out in the Order or Orders or otherwise shall be incorporated into the Contract unless the Company expressly so agrees in a written memorandum signed on behalf of the Company.
2.2 The Contract is subject to these terms and conditions which override any differing conditions whether oral or in the Customer's order form or the Customer's other documents unless the Company expressly so agrees in a written memorandum signed on behalf of the Company.
3. **The Order**
3.1 No Order by the Customer shall form part of or constitute a Contract between the Customer and the Company unless the same be accepted by the Company.
3.2 All telephone Orders received or acknowledged by the Company shall be subject to these terms and conditions.
3.3 All written Orders received by the Company shall be subject to these terms and conditions and any acceptance of any Order by the Company shall be so subject unless the same shall have been varied in writing by the Company and memorandum thereof signed on behalf of the Company.
3.4 Any cancellation of an Order (or part of an Order) by the Customer must be in writing and agreed as cancelled also in writing by the Company. In the case of any cancellation the Customer may be released from its obligations under the Contract after payment of a sum for reasonable liquidated damages, such damages in the case of standard stock goods to be no less than 25% of the Price and in the case of non-standard goods constructed or assembled to a particular specification of the Customer 60% of the Price.
4. **The Price**
4.1 The Price shall be as stated in the Company's Estimate or order confirmation.
4.2 Unless otherwise stated the Price quoted excludes VAT.
4.3 VAT will be charged at the rate ruling at the time of delivery.
4.4 Unless otherwise stated the Price quoted shall exclude delivery.
4.5 At any time up to 7 days before Delivery the Company may adjust the Price to reflect any increase in the costs of supplying the goods which are beyond the reasonable control of the Company (including without limitation, foreign exchange fluctuations, taxes and duties and the cost of labour, materials and other manufacturing costs) Provided That the Customer may cancel the Contract within 2 days of any such notice of increase from the Company.
5. **Delivery**
5.1 Any Delivery date specified by or agreed by the Company shall be deemed an estimate only and the Company shall not be liable for failure to deliver in accordance with the Delivery date unless a written memorandum from the Company and signed on behalf of the Company specifies therein that "time is of the essence for Delivery" against the Delivery date specified and subject to the limitation that the Company shall not be liable for any damage or loss arising directly or indirectly of any delay in Delivery.
5.2 Unless time is expressed to be of the essence on Delivery in accordance with paragraph 5.1 above the Customer shall not be entitled to refuse the goods because of late Delivery unless the delay shall be within the Company's control and be unreasonable.
5.3 If any sum overdue from the Customer to the Company the Company may withhold any goods due for despatch to the Customer under any contract between the Customer and the Company without prejudice to the Company's rights under the Contract.
6. **Acceptance of Delivery**
6.1 Unless otherwise agreed in writing goods shall be collected by the Customer.
6.2 If it is agreed that goods will be delivered by the Company the choice of carrier shall be at the absolute discretion of the Company and shall be at the risk of the Customer the insurance of which will be the Customer's responsibility unless otherwise agreed in writing with the Company.
6.2 The Customer shall advise the Company and the carrier in writing of any loss or damage to goods within the following time limits:-
6.2.1 partial loss damage defects or non delivery of any separate part of a consignment shall be advised to the Company within 24 hours of actual Delivery of a consignment or the part of a consignment
6.2.2 non delivery of whole consignment shall be advised within 2 days of notice of despatch received by the Customer
6.3 Any assistance by the Customer or an agent or employee of the Customer in unloading or taking delivery of the goods shall be entirely at their risk and discretion and without liability on the part of the Company.
7. **Works**
7.1 In consideration for the payment of the Price the Company agrees to carry out the Works with due diligence and with all reasonable speed in a proper and workmanlike manner.
7.2 This Contract incorporates the description of Works and any goods and materials in the Estimate.
7.3 The Company will not be responsible for any changes in the Property (between the date when the Company inspected the Property for the purposes of preparing the Estimate, and the date when the Works began) which may affect the performance of the Contract (whether reasonably foreseeable or not), and the Customer shall indemnify the Company against any costs or damages which may arise as a result of any such changes.
7.4 The Customer shall give the Company clear and unrestricted access to the Property to carry out the Works at all reasonable times.
7.5 The Customer agrees to provide the Company with a plan of all pipes, wires and conduits on the Property on or before the date of this Contract, failing which the Customer shall be liable for any costs or damages which may result from the Company's actions or its agents or subcontractors on the Property and shall indemnify the Company accordingly.
7.6 The Customer agrees to provide the Company with a copy of the most recent survey or assessment carried out in relation to the Property for the purposes of complying with regulation 4 of the Control of Asbestos Regulations 2006.
7.7 The Company will use materials supplied by the Customer on the strict understanding that the Customer accepts that the Company has no responsibility with regard to advising the Customer on their quality or suitability for building purposes. Any losses or damages which may flow from the use of defective materials, will be the sole responsibility of the Customer.
7.8 The Price does not include the cost of obtaining any consents required to carry out the Works including but not limited to planning permission, building regulation approval, listed building consent, fire authority approval or landlord's consent
7.9 Ownership of any goods supplied and paid for by the Company or its agents, whether installed or not, shall not pass to the Customer until all invoices for goods and services supplied have been paid in full.
7.10 Any date provided by the Company for the commencement or completion of the Works shall be deemed an estimate only and time shall not be of the essence of this Contract.
7.11 In the event that the Works do not finish on any date estimated in this Contract and the delay is entirely due to the actions or omissions on the part of the Customer or its agents or tenants, the Customer will (whether formally demanded or not) indemnify the Company for any loss of earnings as a result of the delay (whether proved or not) calculated at the rate of 4% above Barclays Bank plc base rate from time to time on the Price provided by the Company in respect of the Works (plus VAT) for each day or part of the day the Company is required to remain on site after the date estimated for completion of the Works together with any additional costs incurred by any sub-contractor or agent of the Company.
7.12 The Customer agrees to pay for any increase in the price of materials between the date of the Order and the date of commencement of the Works.
7.13 If the Customer requires any additional works to be carried out by the Company the parties shall negotiate the costs and time required for them to be carried out with a view to reaching an agreement. The Company shall not be obliged to carry out any additional works unless and until the parties have agreed the costs in writing.
7.14 Unless stated in writing by the Company estimated prices do not include the cost of any alteration to or addition to any existing services within the Property, for carrying out work outside normal working hours (here meaning 0800 hours to 1800 hours Monday to Friday, and excluding public and bank holidays); the fees of any consultants required (for example but not limited to consulting or civil engineers) and the cost of carrying out any alterations to or providing any lighting, electricity supply, data and communications wiring and trunking, fire detection and fire prevention systems, security systems, plumbing and air-conditioning.
7.15 Estimates for Works are given on the basis that the Property is soundly constructed and capable of being altered, or added to in the manner proposed in the Estimate and without any other works of any kind being required. If any further work is required in addition to that detailed in the estimate then it will be charged at the Company's normal rates in addition to the estimated Price for the Works.
7.16 All measurements in the Company's Estimate and any accompanying schedules are approximate and should not be used for any purpose other than in connection with the Works. Colours, materials, fabrics, glazing and other treatments and appearances will be the nearest commercially available in all respects to that stated in the Estimate. The Company nevertheless reserves the right to change such items either to take advantage of technical developments, improvements or modifications which the Company (acting reasonably) considers desirable or to take account of non-availability of materials or to ensure compliance with relevant health and safety or statutory requirements.
7.17 When Works are to be carried out then the risk of those Works shall be deemed to pass from the Company to the Customer at the point in time when each part or section of the Works is assembled or as the case may be completed notwithstanding that all the Works have not been assembled or completed.
7.18 It is the Customer's responsibility to ensure that all statutory and regulatory requirements are met to carry out the Works with regard to (but not limited to) landlord's consent, building regulation approval, planning permission and listed building consent). It is agreed that the Customer will indemnify the Company from and against any proceedings, claims, actions and costs that it may incur as a result of any Works being carried out in the absence of such consents or approvals.
7.19 The Price has been Estimated on the basis that the Customer will afford clear and unrestricted access to the Property and that there will be an adequate supply of electricity within 5 metres of the location of the Works and that the carrying out of the Works will not be interrupted either by the Customer or any third party acting with the Customer's approval or consent if as a result of non-compliance the Company incurs any additional costs and expenses then these will be payable by the Customer at its current rates in force on production of the Company's invoice.
7.20 The Company will only be liable for any defects in the Works if it was caused by the negligence of the Company and to the extent that written notice of such defect is given to the Company within one month of completion of the Works. The Customer will afford the Company an opportunity to inspect the alleged defects within a reasonable time, and will not cover up or tamper or make more difficult any works required to remediate such defect.
8. **Payment**
8.1 A non-refundable advance payment of 60% of the Price is payable on Orders for non standard goods constructed or assembled to a particular specification of the Buyer.
- 8.2 Where any advance payment is required by the Company the performance of the Contract by the Company shall be conditional upon receipt thereof by the Company.
8.3 The Customer is to pay in cash or otherwise in cleared funds upon Delivery unless the Customer has an agreed credit account with the Company.
8.4 If the Customer has an agreed credit account payment is due no later than 30 days after Delivery.
8.5 If the Customer fails to pay the Company in full on the due date the Company may (without prejudice to any other rights under the Contract):-
8.5.1 suspend or cancel any future deliveries
8.5.2 suspend or cancel any Works
8.5.3 cancel any discounts offered to the Customer
8.5.4 charge interest on any amount outstanding from the date when payment became due from day to day until payment in full at a rate 4% above Barclays Bank plc's base rate from time to time in force and interest shall accrue at such rate after as well as before any judgement.
9. **Risk and Title**
9.1 The risk in the goods will pass to the Customer from the time of Delivery:-
9.1.1 at the Company's premises if the Customer is collecting them or arranging carriage or
9.1.2 at the destination point agreed by the Company if it is arranging carriage.
9.2 In spite of Delivery having been made title in the goods shall not pass from the Company until:
9.2.1 the Customer shall have paid the Price plus VAT in full; and
9.2.2 no other sums whatever shall be due from the Customer to the Company.
9.3 Until title in the goods passes to the Company in accordance with Clauses 9.2.1 and 9.2.2 the Customer shall hold the goods and each of them on a fiduciary basis as bailee for the Company. The Customer shall store the goods (at no cost to the Company) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Company's property.
9.4 Notwithstanding that the goods (or any of them) remain the property of the Company the Customer may sell or use the goods in the ordinary course of the Customer's business at full market value for the account of the Company. Any such sale or dealing shall be a sale of the Company's property by the Customer on the Customer's own behalf and the Customer shall deal as principal when making such sales or dealings. Until the title in the goods passes from the Company the entire proceeds of sale or otherwise of the goods shall be held in trust for the Company and shall not be mixed with other money or paid into any overdraw bank account and shall be at all material times identified as the Company's money.
9.5 The Company shall be entitled to recover the Price (plus VAT) notwithstanding that the title in any of the goods has not passed from the Customer's Property.
9.6 Until such time as title in the goods passes from the Company the Customer shall upon request deliver up such of the goods as have not passed to be in existence or resold to the Company. If the Customer fails to do so the Company may enter upon any premises owned occupied or controlled by the Customer where the goods are situated and repossess the goods and thereafter resell the same.
9.7 In the event that the goods supplied become attached to any item belonging to the Customer ("the Customer's Product") and the goods supplied remain in the opinion of the Company's employees and/or agents readily detachable from the Customer's Product without causing damage to the Customer's Product.
The Customer hereby grants an irrevocable right to the Company's employee and agents to separate and remove the goods from the Customer's Product.
9.8 The Customer shall not pledge or in any way charge by way of security for any indebtedness any of the goods which are the property of the Company. Without prejudice to the other rights of the Company, if the Customer does so all sums whatever owing by the Company to the Customer shall forthwith become due and payable.
9.9 The Customer shall insure and keep insured the goods to the full price against "all risks" to the reasonable satisfaction of the Company until the date that the title in the goods passes from the Company, and shall whenever requested by the Company produce a copy of the policy of insurance. Without prejudice to the other rights of the Company, if the Customer fails to do so all sums whatever owing by the Customer to the Company shall forthwith become due and payable.
10. **Specification**
10.1 All data containing specifications of weights dimensions quantities and the like are hereby declared to be approximate only (or where tolerances are prescribed, to be within those tolerances) as are all weights and dimensions.
10.2 The Customer must ensure that the specifications supplied to the Company are accurate and that the goods Delivered in accordance with those specifications will be fit for and suitable for their intended use.
10.3 The Customer shall arrange for inspection of all goods immediately upon Delivery and shall within 2 days notify the Company of any alleged damage showing loss or defect or other particulars by reason of which it alleges the goods supplied do not conform to the Contract and in the absence of such notice within the time specified the goods shall be deemed to have been supplied in accordance with the Contract and accepted by the Customer and all claims actions rights or remedies claiming the goods are not in conformity with the Contract shall be deemed waived by the Customer.
10.4 Upon notice given by the Customer to the Company under Clause 9.3 the Customer shall:
10.4.1 preserve the goods intact and as delivered for the period of 28 days during which the Company its employees or agents shall have the right (and an irrevocable license is hereby given for the said period for entry to the Customer's premises at reasonable hours for this purpose) to enter the Customer's premises to inspect and investigate the complaint and
10.4.2 if the Customer shall prohibit restrict or impede the Company's rights hereunder during the said period the Company shall be released from all liability therefor and the goods shall be deemed to have been accepted by the Customer in accordance with the terms of the Contract.
11. **Company Warranties**
11.1 The Company warrants that the goods are free from material defects at the time of Delivery.
11.2 The goods shall be manufactured and supplied in accordance with the description contained in the Company's specification and manufactured in accordance with all applicable British Standards which relate specifically to the goods.
11.3 The Company may from time to time make changes in the specifications of the goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the goods.
11.4 The Customer shall inspect the goods on Delivery and shall within 2 days of Delivery notify the Company of any alleged defect, shortage in quantity, damage or failure to comply with the description. In the event of such notification the Customer shall afford the Company an opportunity to inspect the goods within a reasonable time following Delivery and before any use is made of them. If the Customer shall fail to comply with these provisions the goods shall be conclusively presumed to be in accordance with the Contract and free from any defect or damage which would be apparent on a reasonable examination of the goods and the Customer shall be deemed to have accepted the goods.
11.5 If the goods or the Works are not in accordance with the Contract for any reason the Customer's sole remedy shall be limited to the Company making good any shortage by replacing such goods or remedying any defect in the Works, or if the Company shall elect, by refunding a proportional part of the Price.
11.6 The Company shall be under no liability whatever to the Customer for any indirect loss or expense (including loss of profit) suffered by the Customer arising out of any breach by the Company of this Contract.
11.7 In the event of any breach of this Contract by the Company the remedy of the Customer shall be limited to damages. Under no circumstances shall the liability of the Company exceed the Price of the goods or the Works.
11.8 All other warranties and conditions whether implied by statute or otherwise are excluded from this contract Provided that nothing in this contract shall restrict or exclude liability for death or personal injury caused by the negligence of the Company or affect the statutory rights of a Buyer dealing as a consumer.
11.9 The Company accepts no liability whatsoever for any guarantee or warranty provided by any manufacturer or supplier of any goods or for any statement contained in any such guarantee or warranty. Orders are accepted by the Company exclusively upon these terms and conditions and no other conditions or representations whatsoever.
12. **General**
12.1 These terms and conditions together with the Order constitute the entire Contract between the parties and no statement given orally or in writing should be deemed incorporated herein unless made in writing and signed on behalf of each party. Promotional materials or samples supplied by the Company do not form part of this Contract. Whilst the Company shall endeavour to maintain prices as quoted in any catalogue or promotional material, it reserves the right to increase such prices in line with any increase of prices by manufacturers or suppliers. Any reference wood type or colour in any catalogue, promotional material, Estimate or quotation are references to the finish or veneer and not to the material of construction.
12.2 Each of the clauses and sub-clauses of these terms and conditions is distinct and severable. If any provision of these terms and conditions shall be determined to be invalid, illegal, or unenforceable, the remainder of these terms and conditions shall continue to be valid, legal and enforceable to the fullest extent of the law. From time to time the Company reserves the right to revise its terms and conditions.
12.3 Any time or indulgence granted by the Company or delay in exercising any of its rights under this Contract shall not prejudice or affect the Company's rights or operate as a waiver of the same.
12.4 The Company reserves the right to refuse to open a Customer account or to supply a Customer.
12.5 The Customer shall not be entitled to assign its rights or obligations pursuant to this Contract.
12.6 The Company may suspend or terminate the Contract if the Customer is bankrupt or insolvent or makes any voluntary arrangement with its creditors or becomes subject to an administration order or has an administrative receiver appointed over any of its assets or the Company has reason to believe that any of the foregoing conditions may come into existence or any amount owing to the Company that is overdue or where the Customer has exceeded any credit limit.
12.7 If the supply of goods or completion of the Works is prevented hindered delayed or rendered uneconomic by reason of circumstances or events beyond the Company's reasonable control including but not limited to Act of God restrictions restraints or interference by any government or governmental or official body or any legislation rules or orders they make not strike lock-out trade disputes or labour disturbance accident breakdown of plant or machinery fire flood severe weather conditions difficulty or increased expense in obtaining labour materials transport or other circumstances affecting the Company's normal source of goods or the manufacture of goods or the means of delivery.
The Company shall be under no liability to the Customer and shall have the right to cancel or suspend the whole or any part of the Company's unfulfilled obligations and in the event of any such cancellation or suspension to treat the terms of the Contract as having been modified accordingly by mutual consent.
12.8 Any dispute or difference arising out of or in connection with this Contract shall be determined by the appointment of a single arbitrator to be agreed between the parties or failing agreement within fourteen days, after either party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the President or a Deputy President of the Chartered Institute of Arbitrators.
12.9 The Contract shall at all times be governed construed and enforced in accordance with English law which shall be the proper law of the Contract and both parties thereby submit to the exclusive jurisdiction of the English courts.
12.10 If the Customer is more than one person, each person has joint and several obligations under these terms and conditions.
12.11 A person who is not a party to any Contract made pursuant to these terms and conditions shall have no right under the Contract (Rights of Third Parties) Act 1999 to enforce any terms of such Contract and the Company shall not be liable to any such third party in respect of the goods.