

# Focus Displays Terms and Conditions

## 1. INTERPRETATION

- 1.1 In these Terms and Conditions of Sale the following words shall, where context permits have the meanings assigned to them.
  - 1.1.1 Focus Displays”– Focus Displays.
  - 1.1.2 The Client”– The person, form or company purchasing the Goods from Focus Displays.
  - 1.1.3 The Goods”–Any components, finished articles or other products the subject matter of the contract.
  - 1.1.4 The Contract”– Any contract between the parties for the supply of the Goods to which these Terms and Conditions of Sale apply.
  - 1.1.5 The Conditions”– Those Terms and Conditions of Sale of Focus Displays set out below relating to the supply of Goods to the Client.
  - 1.1.6 The Order”–The order placed by the Client with Focus Displays for the supply of goods.
- 1.2 The headings in these Conditions are for the convenience of the parties only and do not affect the interpretation.
- 1.3 Words denoting the singular meaning include the plural meaning and vice versa.
- 1.4 Words denoting the masculine gender include the feminine and neuter genders and words denoting natural persons include companies and firms and all such words shall be construed interchangeably.

## 2. FORMATION OF CONTRACT

- 2.1 Unless otherwise agreed between the parties in writing (and subject to Conditions 2.3) all orders are deemed to have been made by the Client and are accepted by Focus Displays upon and subject to these Conditions which are complete and exhaustive and override all and any other terms and conditions of business proffered by the Client which to the extent they are inconsistent with these conditions shall in any event be deemed to have rejected and any performance by Focus Displays of the Contract shall be deemed to be upon and subject to these Conditions.
- 2.2 These Conditions shall not be capable of being varied, supplemented, qualified or interpreted by reference to any previous course of dealings between the parties.
- 2.3 No employee or agent of Focus Displays has power to vary or waive these Conditions except a Director doing so in writing.
- 2.4 Every Contract for the sale of the Goods shall be deemed to have been concluded only when Focus Displays issues written confirmation of an order submitted by the client.

## 3. QUOTATION

- 3.1 Unless otherwise agreed in writing quotations may be withdrawn or varied by Focus Displays at any time.
- 3.2 Focus Displays quotation include only such equipment, accessories, services and other works as are specified in the quotation.

#### 4. MISREPRESENTATIONS

- 4.1 The Client Shall not be entitled to rely for any purpose upon representation made by Focus Displays of any of its employees or agents to the Client otherwise than as contained or expressly referred to in the contractual document(s) unless the Client shall prior to the conclusion of the Contract have notified Focus Displays in writing that he intends to rely thereon in entering the contact.

#### 5. SPECIFICATIONS

- 5.1 Any specification, manuals and descriptive or technical material shall not form part of the Contract but shall be treated as approximate unless specifically stated otherwise in the Contractual documentation.
- 5.2 The client shall be responsible for ensuring that any specifications, descriptions or information supplied by the Client or by any other agent or representative of his relating to the Goods are accurate and meet the Client's requirements and the Client shall indemnify and save harmless Focus Displays in respect of any liability, loss, injury, damage, demand, cost, claim, charge or expense which may be incurred or sustained by Focus Displays by reason or arising directly or indirectly out of any claim in respect of any inaccuracy in such specifications, descriptions or information or otherwise.
- 5.3 The goods are subject to modification or amendment at any time without notice provided however that no such modification or amendment shall have a material adverse effect upon the performance of the Goods.

#### 6. CANCELLATION

- 6.1 The Client may not suspend nor cancel the whole or any part of any Order after acceptance of that Order by Focus Displays pursuant to Condition 2 above, except By prior written agreement between the parties.

#### 7. PRICES

- 7.1 Prices quoted are subject to increase in labour and materials costs and the imposition of any taxes, duties, freight charges or exchange rate fluctuations and the actual price paid by the Client will be that ruling at the date of delivery. Where no prices are quoted the prices applicable shall be Focus Displays prices at the date of delivery.
- 7.2 Where between the date of the Contract and the date of delivery the price of any of the Goods or any part or component of them or of any materials used in the manufacture is increased or if there are any increases in or the imposition of any taxes, duties, freight charges or exchange rate fluctuations Focus Displays shall be entitled to increase the contractual price of the Goods by no more than the amount of such increase.
- 7.3 Prices are exclusive of Value Added Tax and similar taxes which shall where applicable appear as separate items on Focus Displays Invoice to the Client.
- 7.4 Any duty of tax payable in respect of the sale of the Goods to the Client including their shipment or delivery to the Client shall be the responsibility of the Client.
- 7.5 Where a Client pays the price for goods in other than pounds sterling the Client agrees to pay such sum as after deduction of commission and other charges in connection with the exchange of currency equals the price of the Goods sold under the Contract.

- 7.6 If the Client has a complaint or query about any invoice raised by Focus Displays he shall notify Focus Displays of that complaint or query in writing within 5 days of the receipt of that invoice by the Client. If Focus Displays does not receive such notice within the time allowed, the Client shall be deemed to have accepted the amount of the invoice and shall be obliged to make payment in accordance with the provisions of Clause 9.
- 7.7 Where Focus Displays has quoted and the Contract is based on a condition that the Client purchases a certain quantity of goods over a specified period of time and the Client fails to purchase the agreed quantity within the agreed time, then Focus Displays will be entitled to charge in respect of those Goods actually sold to the Client an additional sum representing the difference between the quoted price (on the basis of the higher quantity of Goods being purchased) and the actual price of the goods actually purchased by the Client by the end of the specified period, such prices to be those ruling at the date of the end of the relevant period. Such sum shall be a debt payable immediately upon demand being made by Focus Displays to the Client.

## 8. DELIVERY

- 8.1 Unless otherwise agreed in writing delivery shall be ex Focus Displays premises, Watford, Hertfordshire, notwithstanding that Focus Displays may arrange for delivery to the Client at the Client's request and the Client is advised to insure accordingly.
- 8.2 Focus Displays shall take reasonable steps to supply the Goods within any quoted period or by any quoted date but such time is not guaranteed.
- 8.3 Time and date of delivery, installation and commissioning shall not be the essence of the Contract and in no case shall Focus Displays be liable for any delay in delivery or the consequence of such delay however caused.
- 8.4 It shall be a condition of the Contract that the Client shall accept delivery of the Goods when tendered whether before or after the quoted delivery date (whether fixed or not)
- 8.5 Where the parties agree in writing that delivery is by scheduled delivery each Consignment shall be deemed to be sold as part of an entire Contract and not under separate Contract for each consignment but Focus Displays shall not be entitled to withhold delivery of subsequent consignments if the Client is in breach of any of its obligations under the Contract or these Conditions.
- 8.6 Non-delivery of the Goods must be notified to Focus Displays in writing within 5 working days of receipt by the Client of the notification of dispatch by Focus Displays.
- 8.7 The Client shall inspect and test the Goods immediately upon delivery and must notify any damage to the goods to Focus Displays in writing within 5 working days of delivery.
- 8.8 If the Client shall fail to give notice as required in 8.6 and/or 8.7 above then the goods shall be deemed in all respect to be in accordance with the Contract and the Client shall be deemed to have irrevocably and unconditionally accepted the Goods as being completely satisfactory.
- 8.9 Any Goods in respect of which the Client makes a claim under the Contract shall be preserved by him intact as delivered and at his risk until inspection by Focus Displays its agents or employees.

## 9. PAYMENT

- 9.1 Unless otherwise agreed in writing between the parties the Client shall make payment in full without any deduction whatsoever on any account within 28 days of the date of the invoice.
- 9.2 If payment is not received in full when due the Client shall pay interest on the unpaid amount at the rate of 5% above the Barclays Bank plc base rate from time to time in force and such interest shall accrue daily and shall be payable without prejudice to any Other rights or remedies which Focus Displays may have against the Client.
- 9.3 If payment is to be made by instalments the failure of the Client to pay an instalment in due time shall entitle Focus Displays to treat such failure as a repudiation of the whole Contract by the Client and to recover damages for breach of Contract.
- 9.4 Focus Displays reserves the right to defer without delivery of any of the Goods which have been ordered by the Client so long as any amounts remain overdue for payment.
- 9.5 No claim by the Client in respect of the Goods comprised in one delivery shall entitle the Client to withhold payment of the whole or any part of the price payable in respect of any other delivery of the Goods.

## 10. PROPERTY AND RISK

- 10.1 Unless otherwise agreed between the parties in writing from the date of dispatch by Focus Displays from its premises (which shall include delivery to a carrier) the risk in the Goods shall pass to the Client who should insure accordingly.
- 10.2 Notwithstanding Condition 10.1 above both the legal and equitable title in and to the Goods will remain with Focus Displays and Focus Displays has received payment in full of the purchase price (which shall where remain with Focus Displays until Focus Displays has received payment in full of the purchase price (which shall where appropriate include any interest which may be due to Focus Displays.
- 10.3 Until such payment has been made the Client acknowledges that he shall be in possession of the Goods solely as bailee for Focus Displays.
- 10.4 Until the Client becomes the owner of the Goods he will store them separately from his own goods or those of any other person and in manner that makes them easily Recognizable as the Goods of Focus Displays.
- 10.5 So long as the title property in the Goods remain in Source the Client's right to possession of the Goods shall cease if the Client: being an individual becomes apparently insolvent or has a petition presented against him for a bankruptcy order or makes any composition or arrangement with his creditors or has an interim order made or dies or being a firm is dissolved or being a company has a winding up petition filed against it or has an administrative receiver, liquidator, receiver and manager appointed in respect of the whole or any part of its undertaking or has any execution levied or attempted against him his property or assist or ceases or threatens to cease to trade or repudiates the Contract or is in breach of a condition of the Contract
- 10.6 When the Client's right to possession of the goods ceases under Condition 10.5 Focus Displays may for the purposes of receiver of the Goods enter upon any premises where they are stored or kept or are reasonable thought to be stored and repossess them and the costs and expenses of Focus Displays in recovering possession shall be a debt due from the Client to Focus Displays.
- 10.7 The Client shall be free to agree to sell the Goods or any product incorporating the Goods subject to the following express conditions: that such agreement to sell shall take place as agent and bailee for Focus Displays (save that the Client shall not hold himself out as such) whether the Client sells on his own account or not and that the entire proceeds of sale are held in trust for Focus Displays and are not mingled with other monies or paid

into an overdrawn bank account and shall be at all times identifiable as belonging to Focus Displays.

- 10.8 Focus Displays is entitled to maintain an action for the price of the Goods notwithstanding that the title and property have not passed to the Client.

## 11. FORCE MAJEURE

Focus Displays shall not be liable for any breach of any obligation to the Client under the Contract where the breach is wholly or mainly due to circumstances outside Focus Displays reasonable control and Focus Displays shall be entitled if it considers it appropriate to make such additional charge as in all the circumstances is reasonable for any work resulting from such circumstances.

## 12. WARRANTY

- 12.1 The warrantee contained in this Condition 12 shall apply only where the Client is not in breach of his own obligations under the Contract.

- 12.2 Focus Displays undertakes to replace or at its option repair any Goods to be Defective due to faults in workmanship or material within a period of 12 months from the date of delivery provided always that: The Client submits a written claim to Focus Displays within 5 days of the date of Delivery.

The Goods have been properly stored, cared for, used and maintained and have not been subjected to any actual or attempted alteration or repair.

- 12.2.1 The Goods are returned to Focus Displays, carriage pre-paid at the risk of the Client and properly packaged as failure to properly package the Goods may result in their being damaged in transit. Focus Displays may reject warranty claims where Goods are returned improperly packaged.

- 12.3 In the case of Goods or parts which are found to be defective but which have not been manufactured by Focus Displays the Client shall be entitled so far as possible to the benefit of any guarantees given by the manufacturers details of which will be provided to the Client on request.

- 12.4 The Client is solely responsible for ensuring the Goods ordered are reasonably fit for his purposes.

- 12.5 The liability of Focus Displays under this Condition 12 shall be instead of and to the exclusion of any warranty or condition implied by law as to quality or fitness for purpose of the Goods and except as provided by this Condition Focus Displays shall not be under any liability whether in contract or tort or otherwise, in respect of defects in the Goods.

## 13. CONSEQUENTIAL LOSS

- 13.1 Focus Displays shall not be liable for any consequential loss arising from any breach of its obligations to the Client under the Contract or as the result of any negligence of source or its employees or agents.

- 13.2 This Condition 13 applies to the extent permitted by the Unfair Contract Terms Act 1977 so that in particular Focus Displays shall not be liable for death or personal injury caused by its negligence.

- 13.3 Focus Displays shall not be liable for any loss or damage caused by the failure of the Client properly to handle or use the Goods in their correct application and in view of the likely nature of the Goods the subject matter of the Contract the Client should ensure that they are handled and used only by properly qualified and trained persons.

## 14. INTELLECTUAL PROPERTY

- 14.1 Focus Displays expressly disclaims any warranty to the effect that any designs, drawings or specifications prepared by or on behalf of Focus Displays for Goods are not affected by any intellectual property rights of a third party and shall not be liable to the Client by reason of any infringement or alleged infringement of such rights.
- 14.2 The Client shall indemnify Focus Displays fully and effectually against all liability, Costs, and expenses which Focus Displays may incur as the result of work done in Accordance with designs, specifications or drawings provided by the Client involving the infringement or alleged infringement of any rights referred to in Condition 14.1 above.

## 15 LICENCES

- 15.1 If any licence permit or consent of any government agency authority or other person or body shall be necessary for the manufacture possession, sale, shipment or delivery of the Goods sold to the Client then the Client shall be solely responsible for obtaining such Licence, permit or consent as the case may be.
- 15.2 The Client shall indemnify Focus Displays against all claims, losses, expenses and costs made against or incurred by Focus Displays resulting from a breach of the Client's obligation under this condition.

## 15. FOCUS DISPLAYS DOCUMENTS

- 16.1 Any documents issued by Focus Displays to the Client at any time containing designs, specifications or drawings are confidential subject to copyright and/or are the property of Focus Displays and shall not be copied, reproduced, communicated to any third party or used without the written agreement of Focus Displays.
- 16.2 Any document referred to in this condition 16 shall remain the property of Focus Displays and must be returned on request.

## 18. NOTICE

Any notice given under this Contact must be in writing and shall be delivered personally or sent by pre-paid post first class mail or by letter to the registered office, place of business or fax or e-mail number of the recipient and shall be deemed to have been received on the day of personal delivery, two days from the date of posting within the United Kingdom or else in due course of post, or within 24 hours of the fax or e-mail being sent.

## 19. JURISDICTION

English law is the proper law of the Contract and all disputes arising in connection with it are subject to the jurisdiction of the English Court.