

TERMS AND CONDITIONS OF SIGNMASTER SYSTEMS LTD

1. INTERPRETATION

1.1 **Definitions.** In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Cancellation Charge: the charge payable by the Customer in the event of cancellation or variation of the Order to recover any reasonable costs already incurred by Signmaster in respect of the Order, or any reasonable pre estimates of loss to be incurred by Signmaster in respect of the Order.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with Clause 15.6.

Contract: the contract between Signmaster and the Customer for the sale and purchase of the Equipment and/or the supply of Services in accordance with these Conditions.

Customer: the person or firm who purchases the Equipment and/or Services from Signmaster.

Customer Support Agreement: the support programme offered by the relevant UK distributor of the Equipment to the Customer (through Signmaster).

Delivery Location: the location that the Customer nominates for the Equipment to be delivered.

Deposit: the deposit payable by the Customer in respect of the purchase of the Equipment, such amount as notified by Signmaster from time to time.

Equipment: the Equipment (or any part of it) offered for sale by Signmaster as set out in the Order.

Force Majeure Event: has the meaning given in Clause 13.

Jotform: a form supplied by Signmaster to the Customer upon the conclusion of a Service.

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Order: the Customer's order for the Equipment and/or Services, as set out/described in the email order, telephone order, purchase order or face to face order, as the case may be.

Services: the services supplied by Signmaster to the Customer as set out in the Order.

Signmaster: Signmaster Systems Limited a company registered in England and Wales with company number 04921232 and whose registered office is Bank Chambers, 3 Churchyard Side, Nantwich, Cheshire, CW5 5DE.

Signmaster's Premises: Unit 3, Waymills Industrial Estate, Whitchurch, Shropshire, SY13 1TT; Office G-04 The Hive, 6 Beaufighter Road, Weston-Super-Mare, North Somerset, BS24 8EE or such other main trading premises as notified from time to time.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (d) 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.
- (e) A reference to **writing** or **written** includes e-mails.
- (f) Any obligations are jointly and severally liable as against the obligors (if applicable).

2. BASIS OF CONTRACT

2.1 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 Equipment or Services or Equipment and Services in accordance with these Conditions.

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- 2.3 The Customer is responsible for ensuring that the terms of the Order are complete and accurate and that they comply with any obligations required prior to making an Order in accordance with these Conditions.
- 2.4 The Order shall only be deemed to be accepted and come into force when:
- (a) in relation to Services, Signmaster issues written acceptance of the Order;
 - (b) In relation to Equipment, the Customer pays the Deposit (in respect of the larger items of Equipment) after Signmaster has issued instructions to do so, or when Signmaster delivers the Equipment to the Customer or when the Customer pays for the Equipment in full after Signmaster has issued written instructions to do so, whichever is earlier, at which point the Contract shall come into existence.
- 2.5 At the point the contract comes into existence it shall be deemed that the Customer has directed Signmaster to proceed with the Order. From this point the Customer shall become liable to the Cancellation Charge in respect of any costs incurred by Signmaster in relation to the Order.
- 2.6 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Signmaster which is not set out in the Contract.
- 2.7 Any samples, drawings, descriptive matter, or advertising produced by Signmaster and any descriptions or illustrations contained in Signmaster's catalogues, brochures or website are produced for the sole purpose of giving an approximate idea of the Equipment and/or Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.8 A quotation for the Equipment given by Signmaster shall not constitute an offer. A quotation shall only be valid for a period of 5 Business Days from its date of issue.
- 2.9 All of these Conditions shall apply to the supply of both the Equipment and Services except where application to one or the other is specified.

3. EQUIPMENT

- 3.1 Signmaster shall supply the Equipment to the Customer in accordance with Order. The Equipment is described in Signmaster's brochure and/or catalogue and/or on the Signmaster website at <http://www.signmaster.co.uk>.
- 3.2 Signmaster reserves the right to amend the specification of the Equipment if required by any applicable statutory or regulatory requirements. Signmaster shall not be required to provide the Customer with notice of such amendments.

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- 3.3 Signmaster shall not be under any obligation to continue to supply all or any of the Equipment to the Customer.
- 3.4 Subject to Clause 3.2, Signmaster shall use its reasonable endeavours to supply the Equipment to the Customer in accordance with the Order.
- 3.5 Each Order for the Equipment shall constitute a separate contract. Any default by Signmaster in relation to any one order shall not entitle the Customer to treat this Contract as terminated.

4. DELIVERY

- 4.1 Signmaster shall ensure that the Equipment is accompanied by a delivery note which shows the date of the Order, all relevant Customer information, Signmaster reference numbers, installation documents and special storage and maintenance instructions etc.
- 4.2 Delivery of the Equipment shall be completed on the Equipment's arrival at the Delivery Location.
- 4.3 Signmaster shall use its reasonable endeavours to dispatch the Equipment in accordance with the estimated delivery date provided to the Customer pursuant to Clause 4.1.
- 4.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. Signmaster shall not be liable for any delay in delivery of the

Equipment to the Customer's nominated address that is caused by a Force Majeure Event or the Customer's failure to provide Signmaster with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

Equipment which does not require installation and training by a Signmaster engineer (smaller items of Equipment)

- 4.5 Upon delivery of the Equipment (together with the installation instructions) to the Delivery Location the Customer is required to examine the Equipment within 24 hours of Delivery and notify Signmaster in writing of any damaged Equipment or discrepancies of the Equipment within the aforementioned period of four Business Days otherwise the Customer will not be able to raise such an issue.

For the avoidance of doubt, a notification on Signmaster's delivery note shall not constitute written notice.

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Equipment which does require installation and training by a Signmaster engineer (larger items of Equipment)

- 4.6 Following delivery a Signmaster engineer shall install the Equipment at the Delivery Location. The Engineer shall train the Customer in the proper use and maintenance of the Equipment in accordance with the relevant guidelines and instructions. Following installation and training the Customer will be required to complete a form to confirm they are happy with things such as the Equipment, installation and training received.
- 4.7 If the Customer fails to accept delivery of the Equipment within four Business Days of Signmaster attempting to deliver the Equipment, then, except where such failure or delay is caused by a Force Majeure Event or Signmaster's failure to comply with its obligations under the Contract, Signmaster shall store the Equipment until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 4.8 If 10 Business Days after the day on which Signmaster notified the Customer that the Equipment was ready for delivery the Customer has not accepted delivery of them, Signmaster may resell or otherwise dispose of part or all of the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment.
- 4.9 Equipment returned without the prior written consent of Signmaster may at Signmaster's absolute discretion be returned to the Customer or stored at the Customer's cost.

5. QUALITY

- 5.1 Subject to Clause 5.8, Signmaster gives no warranty or assurance to the Customer that the Equipment shall:
- (a) conform in all material respects with their description;
 - (b) be free from material defects in design, material and workmanship;
 - (c) be of satisfactory quality (within the meaning of the Sale of Equipment Act 1979); and
 - (d) be fit for any purpose held out by Signmaster,

and the Customer acknowledges and accepts that it must rely exclusively on any manufacturer's warranty should there be any.

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- 5.2 In the event of a problem with the Equipment during the relevant manufacturer's warranty period:
- (a) the Customer shall give notice to Signmaster within a reasonable time of discovery that some or all of the Equipment does not comply with the manufacturer's warranties;
 - (b) as soon as reasonably practicable following notification to Signmaster of a problem with the Equipment, Signmaster shall either (in respect of a smaller item of Equipment) attempt to deal with the problem themselves OR (in respect of a larger item of Equipment) contact the UK distributor of the Equipment (on behalf of the manufacturer);
 - (c) Signmaster shall (in respect of a smaller item of Equipment), at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full OR shall (in respect of a larger item of Equipment) ask an engineer of the UK distributor or manufacturer to visit the Delivery Location to examine such Equipment as soon as reasonably practicable.
- 5.3 If applicable in respect of the Equipment, the Customer acknowledges the receipt and understanding of the Customer Support Agreement.
- 5.4 The manufacturer, the UK distributor and/or Signmaster shall not be liable under any circumstances in relation to the Equipment in respect of any of the following events:
- (a) the Customer makes any further use of such Equipment after giving notice in accordance with Clause 5.2;
 - (b) the defect arises because the Customer failed to follow Signmaster's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Equipment or (if there are none) good trade practice regarding the same;
 - (c) the Customer alters or repairs such Equipment without the written consent of Signmaster;
 - (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
 - (e) the Equipment differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 5.5 Signmaster shall have no liability to the Customer in respect of the Equipment's failure to comply with the manufacturer's warranty.

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- 5.6 The terms implied by sections 13 to 15 of the Sale of Equipment Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 5.7 These Conditions shall apply to any Equipment which has been repaired or replaced by a UK distributor or the manufacturer of the Equipment.
- 5.8 In respect of any Equipment which has been sold as second hand and refurbished by Signmaster, Signmaster warrant that it shall be of satisfactory quality and be free from material defects in design, material and workmanship for three months following the date of delivery.
- 6. TITLE AND RISK**
- 6.1 The risk in the Equipment shall pass to the Customer upon delivery at the Delivery Location.
- 6.2 Title to the Equipment shall not pass to the Customer until the earlier of:
- (a) Signmaster receives payment in full (in cash or cleared funds) for the Equipment and any other Equipment that Signmaster has supplied to the Customer in respect of which payment has become due, in which case title to the Equipment shall pass at the time of payment of all such sums; and
 - (b) the Customer resells the Equipment, in which case title to the Equipment shall pass to the Customer at the time specified in Clause 6.4.
- 6.3 Until title to the Equipment has passed to the Customer, the Customer shall:
- (a) store the Equipment separately from all other Equipment held by the Customer so that they remain readily identifiable as Signmaster's property;
 - (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;
 - (c) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - (d) notify Signmaster immediately if it becomes subject to any of the events listed in Clause 11.2; and
 - (e) give Signmaster such information relating to the Equipment as Signmaster may require from time to time.

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- 6.4 Subject to Clause 6.5, the Customer may resell or use the Equipment in the ordinary course of its business (but not otherwise) before Signmaster receives payment for the Equipment. However, if the Customer resells the Equipment before that time:
- (a) it does so as principal and not as Signmaster's agent; and
 - (b) title to the Equipment shall pass from Signmaster to the Customer immediately before the time at which resale by the Customer occurs.
- 6.5 If, before title to the Equipment passes to the Customer, the Customer becomes subject to any of the events listed in Clause 11.2, then, without limiting any other right or remedy Signmaster may have:
- (a) the Customer's right to resell the Equipment or use them in the ordinary course of its business ceases immediately; and
 - (b) Signmaster may at any time:
 - (i) require the Customer to deliver up all Equipment in its possession which have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Equipment are stored in order to recover them.

7. SUPPLY OF SERVICES

- 7.1 Signmaster shall supply the Services to the Customer in accordance with Order. The Services are described in Signmaster's brochure and/or catalogue and/or on the Signmaster website at <http://www.signmaster.co.uk>.
- 7.2 Signmaster shall use all reasonable endeavours to meet any performance dates for the Services specified in writing by Signmaster, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
- 7.3 Signmaster reserves the right to amend the specification of the Services if required by any applicable statutory or regulatory requirements. Signmaster shall not be required to provide the Customer with notice of such amendments.
- 7.4 Signmaster shall not be under any obligation to continue to supply all or any of the Equipment to the Customer.
- 7.5 Signmaster warrants to the Customer that the Services will be provided using reasonable care and skill.

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7.6 The Customer may be required, at Signmaster's request, to supply Signmaster with the results of a test print prior to Signmaster providing the Services. Signmaster may run a further test print at the time of providing the Services. Signmaster reserves the right to rely on the results of those test prints and, where relevant, to provide those results to the relevant manufacturer.

7.7 Signmaster cannot be held responsible for any faults which occur after it has completed the supply of Services.

8. CUSTOMER'S OBLIGATIONS

8.1 The Customer shall:

- (a) ensure that the terms of the Order are complete and accurate;
- (b) co-operate with Signmaster in all matters relating to the Services, including, but not limited to;
 - i. providing Signmaster with a picture of a nozzle test print on the Customer's relevant machine prior to providing Signmaster with an Order;
 - ii. ensuring a member of the Customer's staff is present during the supply of Services; and
 - iii. upon completion of the Services, sign the Jotform to confirm the Services provided is satisfactory and no further Services are required;
- (c) provide Signmaster, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Signmaster to provide the Services;
- (d) provide Signmaster with such information and materials as Signmaster may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) prepare the Customer's premises for the supply of the Services;
- (f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- (g) comply with all applicable laws, including health and safety laws;
- (h) keep all materials, equipment, documents and other property of Signmaster (Signmaster Materials) at the Customer's premises in safe custody at its own risk, maintain the Signmaster Materials in good condition until returned to Signmaster, and not dispose of or use the Signmaster Materials other than in accordance with Signmaster's written instructions or authorisation;

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- (i) comply with any payment obligations promptly and in accordance with these Conditions;
- (j) understand that:
 - i. Signmaster cannot be held responsible for any faults which occur after the Customer has signed the Jotform;
 - ii. a new Order will be required if the Customer requires further Equipment and/or supply of Services after Signmaster has completed the Services or provided the Equipment to the Customer, unless Signmaster provides written agreement that a new Order will not be required;
 - iii. not all Equipment, including all genuine manufactured parts, will include a manufacturer's warranty; and
 - iv. Signmaster may notify the Customer of their recommended course of action which may result in a cancellation of the Order;
- (k) comply with any additional obligations as set out in the Order or advised in writing by Signmaster; and
- (l) where the Equipment is being purchased with the assistance of a third-party finance arrangement, provide the relevant third-party with the completed certificate of acceptance within 2 Business Days of Delivery.

8.2 If Signmaster's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

- (a) without limiting or affecting any other right or remedy available to it, Signmaster shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Signmaster's performance of any of its obligations;
- (b) Signmaster shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Signmaster's failure or delay to perform any of its obligations as set out in this Clause 8.2; and
- (c) the Customer shall reimburse Signmaster on written demand for any costs or losses sustained or incurred by Signmaster arising directly or indirectly from the Customer Default.

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9. PRICE PAYMENT AND DEPOSIT

- 9.1 The price of the Equipment and Services shall be the price set out in the Order, or, if no price is quoted, the price set out in Signmaster's published price list in force as at the date of delivery.
- 9.2 Payment in full shall be taken in respect of the Equipment and Services at the time of placing the Order unless the Order is in respect of a larger piece of Equipment, whereby the Customer shall be required to pay the Deposit at the time of placing the Order and the remainder once the installation date has been agreed upon.
- 9.3 Signmaster may, by giving notice to the Customer at any time up to 7 Business Days before delivery, increase the price of the Equipment and Services to reflect any increase in the cost of the Equipment and Services that is due to:
- (a) any factor beyond Signmaster's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
 - (b) any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered; or
 - (c) any delay caused by any instructions of the Customer or failure of the Customer to give Signmaster adequate or accurate information or instructions.
- 9.4 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). The Customer shall, on receipt of a valid VAT invoice from Signmaster, pay to Signmaster such additional amounts in respect of VAT as are chargeable on the supply of the Equipment or Services at the same time as payment is due for the supply of the Equipment or Services.
- 9.5 Signmaster may invoice the Customer for the Equipment on or at any time after the placing of the Order but will require payment in full before any delivery of the Equipment, save where the Equipment is being purchased with the assistance of a third-party finance arrangement. In respect of Services, Signmaster shall invoice the Customer upon placement of the Order and the invoice shall be paid in full before the Services are provided.
- 9.6 If the Customer is purchasing the Equipment with the assistance of a third-party finance arrangement and they fail to comply with the obligation set out at Clause 8.1(l), then Signmaster reserve the right to treat the invoice as unpaid and to pursue the Customer for the full value of the relevant Equipment and Services.

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9.7 The Customer shall pay each invoice (which, for the avoidance of doubt, includes any Cancellation Charges), submitted by Signmaster:

(a) Within the timeframe set out on the invoice or in accordance with any credit terms agreed by Signmaster and confirmed in writing to the Customer; and

(b) in full and in cleared funds to a bank account nominated in writing by Signmaster, and

time for payment shall be of the essence of the Contract.

9.8 If the Customer fails to make any payment due to Signmaster under the Contract by the due date for payment, then, without limiting Signmaster's remedies under Clause 11 (Termination), the Customer shall pay interest on the overdue amount at the rate of 4% per annum above National Westminster Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

9.9 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Signmaster 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 Signmaster to the Customer.

10. DATA PROTECTION

10.1 The following definitions apply in this Clause 10:

(a) Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

(b) Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

(c) Domestic Law: the law of the United Kingdom or a part of the United Kingdom.

10.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause 10 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

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- 10.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and Signmaster is the Processor.
- 10.4 Without prejudice to the generality of Clause 10.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Signmaster and/or lawful collection of the Personal Data by Signmaster on behalf of the Customer for the duration and purposes of the Contract.
- 10.5 Without prejudice to the generality of Clause 10.2, Signmaster shall, in relation to any Personal Data processed in connection with the performance by Signmaster of its obligations under the Contract:
- (a) process that Personal Data only on the documented written instructions of the Customer unless Signmaster is required by Domestic Law to otherwise process that Personal Data. Where Signmaster is relying on Domestic Law as the basis for processing Personal Data, Signmaster shall promptly notify the Customer of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits Signmaster from so notifying the Customer;
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - (d) not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - i. the Customer or Signmaster has provided appropriate safeguards in relation to the transfer;
 - ii. the Data Subject has enforceable rights and effective legal remedies;

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- iii. Signmaster complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - iv. Signmaster complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Domestic Law to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this Clause 10.
- 10.6 The Customer consents to Signmaster appointing third-party processors of Personal Data under the Contract. Signmaster confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business and in either case which Signmaster confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and Signmaster, Signmaster shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Clause 10.6.

11. TERMINATION AND SUSPENSION

11.1 If the Customer becomes subject to any of the events listed in Clause 11.2, Signmaster may terminate the Contract with immediate effect by giving written notice to the Customer.

11.2 For the purposes of Clause 11.1, the relevant events are:

- (a) the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section

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268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;

- (b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors (other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer);
- (c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (d) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- (e) (being a company) the holder of a qualifying floating charge over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- (g) (being an individual) the Customer is the subject of a bankruptcy petition or order;
- (h) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 11.2(a) to Clause 11.2(f) (inclusive);
- (j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- (k) the Customer's financial position deteriorates to such an extent that in Signmaster's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and

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- (l) (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 11.3 Without limiting its other rights or remedies, Signmaster may suspend provision of the Services and Equipment under the Contract or any other contract between the Customer and Signmaster if the Customer becomes subject to any of the events listed in Clause 11.2(a) to Clause 11.2(l), or Signmaster reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 11.4 On termination of the Contract for any reason:
 - (a) the Customer shall immediately pay to Signmaster all of Signmaster's outstanding unpaid invoices and interest and, in respect of Services and Equipment supplied but for which no invoice has been submitted, Signmaster shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - (b) the Customer shall return all of the Signmaster Materials and any Equipment which have not been fully paid for. If the Customer fails to do so, then Signmaster may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 11.5 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as up to the date of termination.
- 11.6 Clauses which expressly or by implication is intended to survive termination of the Contract shall continue in full force and effect.

12. LIMITATION OF LIABILITY

- 12.1 Nothing in these Conditions shall limit or exclude Signmaster's liability for:
 - (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
 - (b) fraud or fraudulent misrepresentation;
 - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; and;
 - (d) defective products under the Consumer Protection Act 1987.

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- 12.2 Subject to Clause 12.1:
- (a) Signmaster 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 any indirect or consequential loss (including ink, materials and time) arising under or in connection with the Contract; and
 - (b) Signmaster'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 in no circumstances exceed the price of the Equipment and/or Services in respect of the particular Order.
- 12.3 Signmaster shall use its reasonable endeavours to ensure the accuracy of the technical data and literacy provided with the Equipment, but shall not be liable for any loss of profit, or any indirect or consequential loss arising for any errors or omissions contained within such technical data and literacy.
- 12.4 This Clause 12 shall survive termination of the Contract.

13. FORCE MAJEURE

- 13.1 **Force Majeure Event** means any circumstance not within a party's reasonable control including, without limitation:
- (a) acts of God, flood, drought, earthquake or other natural disaster;
 - (b) epidemic or pandemic;
 - (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - (d) nuclear, chemical or biological contamination or sonic boom;
 - (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
 - (f) collapse of buildings, fire, explosion or accident;
 - (g) any labour or trade dispute, strikes, industrial action or lockouts;
 - (h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and

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- (i) interruption or failure of utility service.
- 13.2 Provided it has complied with Clause 13.4, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 13.3 The Affected Party shall:
 - (a) as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and
 - (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 13.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 4 weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving 4 weeks' written notice to the Affected Party.
- 14. **INDEMNITY. THE CUSTOMER SHALL INDEMNIFY AND KEEP SIGNMASTER FULLY INDEMNIFIED AT ALL TIMES AGAINST ALL LIABILITIES, COSTS (INCLUDING LEGAL COSTS ON AN INDEMNITY BASIS), EXPENSES, DAMAGES AND LOSSES (INCLUDING ANY DIRECT, INDIRECT OR CONSEQUENTIAL LOSSES, LOSS OF PROFIT, LOSS OF REPUTATION AND ALL INTEREST, PENALTIES AND OTHER COSTS AND EXPENSES SUFFERED OR INCURRED BY SIGNMASTER) ARISING FROM ANY BREACH OF THE TERMS OF THE CONTRACT BY THE CUSTOMER AND FROM THE ACTIONS OR OMISSIONS OF ANY REPRESENTATIVE OF THE CUSTOMER.**
- 15. **GENERAL**
- 15.1 **Assignment and other dealings.**
 - (a) Signmaster may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
 - (b) The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Signmaster.

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15.2 **Notices.**

- (a) 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 or other next working day delivery service, commercial courier or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 15.2(a); if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by or email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15.3 **Severance.**

- (a) If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- (b) If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15.4 **Waiver.** A waiver of any right or remedy under the Contract or law 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 prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

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- 15.6 **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 in writing and signed by Signmaster.
- 15.7 **Governing law.** 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 the law of England and Wales.
- 15.8 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).