

## TERMS AND CONDITIONS OF SALE OF FRIENDS OF WILSON LTD

These Terms and Conditions relate to and will form part of any agreement between us when you buy products and/or services from us. They will only be varied if we agree to this in writing.

### 1 DEFINITIONS

"You" means the person and/or organisation who purchases products and services from us.

"We", "us" means Friends of Wilson Ltd. We are a company registered in Scotland, Company Number SC381374 whose Registered Office and business address is Friends of Wilson Ltd, The Drill Hall, 32-36 Dalmeny Street, Edinburgh, EH6 8RG. Our email address is [contact@friendsofwilson.com](mailto:contact@friendsofwilson.com). Our VAT Registration Number is 995 8413 61.

"Purchase Order" means the document describing the products and/or services we will supply to you.

"Consumer" means anyone purchasing not in the course of a business as described in S12 of the Unfair Contract Terms Act 1977.

"Intellectual Property Rights" means any patent, trademark, service mark, registered design, copyright, design right, any contact or database rights, know-how, confidential information or process, any application for any of the above, and any other intellectual property rights recognised in any part of the world, whether or not presently existing or applied for, which are held by the owning party.

"Products" means any item that we supply to you.

"Services" means any design services that we provide to you.

"Working days" means any day Monday to Friday from 9am to 5pm, excluding all public and bank holidays in Scotland.

"Website" means [www.friendsofwilson.com](http://www.friendsofwilson.com) or any website owned or operated by us.

### 2 ABIDE BY TERMS

By making use of our organisation and buying from us, you will be deemed to be aged 18 or over and to have read and understood and agree to be bound by the Purchase Order and these Terms and Conditions. Where you are entering into an agreement on behalf of an organisation, you confirm that you have the legal right to do so.

### 3 ORDERING AND SUPPLY OF GOODS AND SERVICES

(1) We are not responsible for variations in design or colour, either on the Website, in any brochure, or displayed on a monitor and you are responsible for making your own examination and investigation. Before you agree to buy from us, we always recommend that you see a sample of the materials available. Samples are available and we will provide details of the costs, to include delivery, if you contact us by email at [contact@friendsofwilson.com](mailto:contact@friendsofwilson.com). In most circumstances, provided you arrange for the samples to be returned to us by courier and they are received undamaged etc, then we will normally refund some of the costs involved once you have placed your order.

(2) What we will supply to you will be as detailed on the Purchase Order. If you ask us to supply any other products or services or you make any changes at all, then you will be charged at our usual rates. The price is as shown on the Purchase Order – any other prices, such as those given orally or which may appear on the website, are for guidance only. It is your responsibility to ensure that any product will meet your own requirements. You are always responsible for all measurements and specifications which you provide to us. This also means you must thoroughly check and approve all designs, drawings, samples, and anything we submit to you. We are not responsible for any errors, amendments or rectifications required

and any additional work or products needed, will be charged at our usual rates.

(3) Unless we have agreed otherwise in writing, all estimates /quotes will be valid for a period of 30 days. Any samples, drawings, specification, product details in any format or any form of advertising material, are shown by us to provide some indication of the products and/or Services and are not part of any agreement unless specifically stated within the Purchase Order.

(4) An agreement between us, incorporating these Terms and Conditions, shall only come into force when we confirm your order. Prior to any confirmation, we have the right to refuse any order.

### 4 PRICES AND PAYMENT

(1) The price you pay will be shown on the Proposal. Prices are exclusive of VAT, which must be paid by you at the relevant current rate.

(2) Unless stated on the Purchase Order, prices exclude:-

(a) delivery charges - where delivery charges are included, then unless we specify a particular method or carrier, the method and carrier we use will be at our sole discretion.

(b) insurance - where insurance is included, then unless we specify a particular insurer and/or policy, the insurance provided will be at our sole discretion. Insurance policies vary and do not normally cover every eventuality and we will not be responsible for this. You can obtain full details of insurance provided by emailing us at [contact@friendsofwilson.com](mailto:contact@friendsofwilson.com).

(c) any other taxes, duties and/or liabilities. Please see Clause 4(3) following.

(3) International sales.

(a) If you are importing any of our Products, then you acknowledge that you are solely responsible for compliance with importing laws and requirements of the country to which the Products are shipped/delivered and this is entirely at your own expense and risk.

(b) In addition to the purchase price of the Products, you accept full responsibility for any and all handling charges, shipping costs, insurance, import duties, fees, liabilities and tax/duty costs, which may arise or apply to your purchase, transportation and delivery.

(c) Our Products are crate-packaged for export orders. Whilst we will do all we can to assist with anything you make us aware of (e.g. special packaging etc which may involve extra payment by you to us), we will not be responsible for any non-delivery or import duty charged or any fines or impositions as a result of any import or attempted import.

(4) Payment must be made in GBP Sterling by bank transfer before any order, or part thereof, can be dispatched.

(5) Unless we have agreed otherwise in writing-  
(a) a non-refundable 50% deposit is payable by you before we provide any Products or Services. This is payable on the date of the Purchase Order.

(b) the balance payment to us is due once we confirm that products are ready for dispatch or within 7 working days of the date we agree to provide Services to you.

(6) Where payment is a part of staged payments, then late or non-payment automatically means that no Products or Services will be provided until such time that full payment is made. No refunds will be made.

(7) Where payment or any part payment is overdue (such as if there are problems with the payment method, or payment does not clear for any reason, or is not made on time), then we will immediately cease or suspend the provision of any Products and/or Services until full cleared payment is received by us.

(8) We reserve the right to charge interest on overdue payment at the rate of 15 % per annum and we are also entitled to recover all reasonable expenses incurred in obtaining

### 5 PROPERTY AND RISK

(1) We retain the title and ownership of any Products, materials or results of Services until you have made full and cleared payment. It is your responsibility to care for and insure the Products until ownership passes to you.

(2) The risk in any Products, materials or results of Services will pass from us to you when they leave our premises, or when they are delivered to you if we personally (not any third party) are delivering them to you.

### 6 OUR OBLIGATIONS FOR DELIVERY AND PERFORMANCE

(1) All times provided are estimated and not guaranteed. Time is not of the essence. Whilst we will use our reasonable endeavours to supply Products and Services to you, we will not be responsible for any late delivery nor failure to provide.

(2) Once all the Products are ready for despatch, we will contact you with estimated despatch and delivery dates. This is not a guaranteed delivery date and so we will not be liable for any delays or losses etc. We do advise you to place your order as far in advance as possible of the date you require the items. Unless we have specifically agreed in writing otherwise, we will deliver all the Products on each Purchase Order in one delivery.

(3) Delivery charges to the address you require will be shown on the Purchase Order. If you change your mind about the delivery address etc, then there will be an extra charge which must be paid before Products are despatched. Orders can be collected directly from us, but only by prior arrangement.

(4) Delivery is usually by a service which requires a signature on receipt. That signature confirms both receipt and the state of the parcel received (see 6(5) below). Taking delivery of Products is entirely your responsibility. If you are unable to take delivery and the Products are returned to us, we will contact you to arrange redelivery at your expense. However, where we have been unable to contact you or redeliver, then we will only hold Products for a maximum of 28 days from the original date of delivery or date we were ready to deliver, whichever is sooner. We will then reserve the right to either charge you storage at our usual rate or to dispose of the Products.

(5) When you receive your Products, it is your responsibility to examine all items very carefully for any damage or problems. If there is any damage or if, for example, a parcel shows signs of damage before opening, you must please sign for it, 'Received Damaged'. You must notify us on the day you receive it. You must then notify us in accordance with Clause 9(1).

(6) Where there is a problem with your Products, such as the wrong Products arrive or an item is missing, please refer to Clause 9.

(7) (a) Certain of our Products, particularly our decorative acoustic wall panels, should be treated carefully at all times. To be decorative, certain panels may therefore have hanging and/or loose or more vulnerable sections which could be pulled back, broken or snapped off. Therefore you must bear this in mind and take care when you install, use and clean the panels, since misuse will not be our responsibility. If you wish to use panels in areas which you feel the panels may be prone to misuse or if you simply prefer it, then we may be able to ensure that the design is such that there are fewer or no loose sections.

(b) Whilst use and installation together with ensuring the panels are for your purposes and use is your responsibility, we always advise you to fully discuss your requirement and use with us and will be happy to offer guidance as to installation, use and cleaning.

(8) We will perform any Services with reasonable skill and care and to a reasonable standard in accordance with recognised industry

we will use our reasonable endeavours to supply the Services, we will not be responsible for any failure to provide Services or any unavailability.

(9) We make no warranty against electronic virus, worms or any other fault or defect or problems which may occur or as a result thereof, including data, materials, documents or any e-mail the Supplier sends.

(10) If we have specifically agreed on any Purchase Order to supply any report or documentation, they will be in whatever format and contain the information that we, in our absolute discretion, deem appropriate.

(11) Except as expressly stated in these Terms and Conditions and any written agreement between us or those statutory warranties which apply to consumers, all warranties whether express or implied, by operation of law or otherwise, are excluded in relation to the Products and Services to be provided by us.

## **7 YOUR OBLIGATIONS**

(1) To enable us to supply Products and/or Services to you, you agree to:-

(a) co-operate with us and provide any documents, information and/or materials, support and facilities required, and within a reasonable time of our request. Please note that it will always be your responsibility to retain, as applicable, up to date copies and back-ups of anything which you provide to us. Please also note that we refuse to handle in any way, information, data or material which we, in our absolute discretion, deem to be illegal, offensive or controversial, and as such reserve the right to terminate our agreement without notice.

(b) obtain all and any licences, permission, consents and anything similar, prior to our supplying you. Unless specified within the Purchase Order, the costs of meeting this obligation will be your responsibility.

(c) ensure and agree that anything you give to us has been thoroughly checked by us and so is accurate, requires no further amendment and does not breach any copyright, Intellectual Property Rights or the rights of any third party, is not contrary to any law and is virus-free and functions satisfactorily and will be provided by you in the format that we specify.

(d) comply with all statutes and statutory regulations applicable to the Products and Services.

(e) comply with the Purchase Order and any special terms contained within it.

(2) You confirm that you will use all Products according to our instructions, advice, suggestion, guidance and that you are responsible for safe and legal use of anything we supply to you and are responsible for carrying out all checks etc. You also specifically accept that the effectiveness of any Products will also be dependent on correct and effective installation, use, storage, inspection and periodic routine maintenance. Unless you have purchased a Service from us, supply only of any Product does not include anything other than standard instructions, advice, suggestions, and guidance. To obtain the standard instructions etc, please email us at [contact@friendsofwilson.com](mailto:contact@friendsofwilson.com)

## **8 CANCELLING YOUR ORDER**

(1) In view of the Products and Services we provide, unless we have agreed otherwise in writing, we both agree that:-

(a) orders can not be cancelled – once you have placed the order, you are responsible for payment and deposits are non-refundable. (b) for any distance selling, even if it applies to you and your purchase, you waive any cancellation or refund rights under the Consumer Protection (Distance Selling) Regulations 2000, particularly Regulation 13. (2) If you wish to cancel and we have not yet started work on your purchase, we may, at our absolute discretion, agree to accept your deposit in full and final

(3) Any agreement between us will automatically terminate if either of us, as applicable, passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an Order to that effect, ceases to carry on its business or substantially the whole of its business, or is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

## **9 PROBLEMS WITH YOUR PRODUCTS OR SERVICES**

(1) If you have any problems at all with your Products or something is missing or has arrived damaged, then you must retain the original packaging and you must notify us in writing (this can be by e-mail to [contact@friendsofwilson.com](mailto:contact@friendsofwilson.com)), within 3 days of you receiving your package. If you do not notify us in writing within the 3 day period, then we will assume that you have accepted the order.

(2) Once you have notified us about a problem, then we will carry out a thorough investigation.

(3) If we agree that the damage and/or problem with your order is our fault, then we will pay for the return delivery costs for all items which we ask you to return to us. Then, at our sole discretion, we will either provide a replacement or we will refund you. Refunds are made within 28 days of our agreeing a refund and are made using the same method of payment by which you paid us.

(4) Where any problem has occurred during transport and/or delivery and so is not our fault, then provided the item is insured (please refer to the Purchase Order), we will do all that we can reasonably do to assist you with making a claim for compensation to the insurers.

(5) If you have any problems with our Services, you must notify us in writing within 7 days of your awareness of any problem, giving full details of the problem and we will then work to rectify any concerns.

(6) Please note that we will never be responsible for any fault which arises due to:-

(a) poor handling or any misuse, abuse or neglect including, but not limited to in installation, use and cleaning;

(b) abnormal working conditions, failure to follow instructions, misuse, alteration or unauthorised repair, wilful damage, improper maintenance or negligence on your part or of any third party; or

(c) any subsequent damage after risk has passed to you, which is not due to a defect in the Products and/or Services.

## **10 INTELLECTUAL PROPERTY**

(1) You confirm that you understand that we either hold the Intellectual Property Rights to all Products, including, but not limited to designs and graphics or have the owner's permission to use them. You agree that you will not breach any of our or any third party copyright and/or intellectual rights.

(2) You agree that we have a non-exclusive, worldwide, and royalty-free licence to edit, modify, adapt, translate, exhibit, publish, transmit, participate in the transfer of, reproduce, create derivative works from, distribute, perform, display, and otherwise use your content as necessary solely for the purposes of providing you with the Products and Services you order.

(3) You agree that we reserve the right to include details of any Products/Services provided to you, including any images, for our use either on our or other design industry websites or within any printed portfolio, or any digital presentations and as any other example of our work

## **11 TIME ESTIMATE**

We will use all our reasonable endeavours to complete any supply to you within any time estimate that we give. However, we will not be liable for any loss or damage suffered because of any unavoidable or reasonable delay in completion, including third party involvement and your failure to deliver such items.

## **12 LIABILITY DISCLAIMER**

(1) To the extent that the law allows, we will not be held responsible for any loss, indirect, incidental or consequential damage, or loss, including any economic loss or loss of profit or business whatsoever suffered by you or by any third party howsoever caused, including as a result of any negligence, breach of contract, misrepresentation or otherwise.

(2) In the unlikely event that we would be held liable for any losses occurring as a result of our agreement with you, then such total damages for any loss whatsoever shall be limited, in relation to any one incident or series of related incidents, to 105% of the amount paid by you.

## **13 INFORMATION AND DATA PROTECTION**

Any Products and/or Services we provide to you may be reliant on information provided by you, so you are responsible for ensuring that any information you provide is accurate, correct and up-to-date. Data will be held according to current applicable Data Protection legislation subsisting in England.

## **14 QUERIES, COMPLAINTS AND NOTICES**

(1) We aim to respond to any queries or complaints within 14 working days. Complaints must be addressed in writing to our address as shown on the Purchase Order. If any cause of complaint may amount to a breach of our agreement with you, then you must allow us 30 days to remedy that breach.

(2) We will write to each other and send notices using a postal service which requires the receiver to sign a receipt, like Royal Mail's Recorded Delivery.

## **15 FORCE MAJEURE**

We will not be liable for any delay or failure to perform any of our obligations if the delay or failure results from events or circumstances outside our reasonable control, including but not limited to, acts of God, accidents, war, fire, strikes, lock outs, failure of any communications including telecommunications or computer systems, breakdown of plant or machinery or shortage or unavailability of raw materials from a natural source of supply, and we will be entitled to a reasonable extension of our obligations.

## **16 WAIVER, INDEMNITY**

(1) If you breach any of your obligations to us, then you will indemnify us for any claims, costs and expenses which we incur in any way because of that breach.

(2) If you do breach your obligations and we do not do anything about it, then that does not alter our future rights, nor stop us doing something about it in the future.

## **17 INVALIDITY**

Each clause or any part of our Terms and Agreement are to be regarded as independent of the others. This means that should any clause or any part of the Agreement between us be found to be unenforceable or invalid, it will not affect the enforceability or validity of the rest of our Agreement.

## **18 JURISDICTION**

These Terms and Conditions shall be interpreted, construed and enforced in accordance with English law and shall be subject to the exclusive jurisdiction of the English Courts