

CONDITIONS OF SALE

1. APPLICATION

Unless otherwise specifically agreed in writing by the Managing Director, these Conditions shall be incorporated in every offer, quotation, acceptance and contract for the sale or supply of goods by the Company and any conditions proposed by the Customer are hereby excluded.

2. ACCEPTANCE

Quotations are not offers and are given subject to confirmation by the Company upon receipt of the Customer's order and no contract shall be concluded until such confirmation is given or the Customer's order is otherwise accepted by the company and all prior correspondence or oral communications are to be regarded as superseded and not forming part of the contract. Each order when accepted constitutes a separate contract.

3. PRICES

- (a) Prices quoted are exclusive of VAT (unless otherwise stated) and are those in force at the date of quotation. They may be varied at any time after or before a contract becomes binding only by reason of an increase in the cost of the price of raw materials or labour.
- (b) If prices are varied after a contract has become binding the Company shall give the Customer written notice of such variation, and on receipt of such notice the Customer may cancel his order. In a case where goods are to be delivered in instalments the Customer shall be bound to pay the increased or varied price in respect of the goods delivered after such notice is received.
- (c) Unless otherwise expressly agreed prices quoted include the cost of normal packing and of delivery to destinations in the U.K.
- (d) Unless otherwise expressly agreed in the case of export sales prices quoted include the cost of normal package and of delivery to U.K. port or airport only.
- (e) Invoices are subject to revision for errors and omissions at any time by the company.

4. DELIVERY

- (a) Delivery dates or periods are only best estimates and the Company is not liable for the consequences of any delay. Time shall not be of the essence.
- (b) Any delivery period begins on the date of the Company's acceptance of the Customer's order as required by Condition 2 or (if later) when the Company received from the Customer any further information which it may require to proceed with the contract. The Customer agrees to supply such information promptly and to accept the goods when the delivery schedule or timetable specified in the contract and to give any necessary instructions for delivery accordingly.
- (c) The customer shall in all cases other than export sales provide the labour necessary to unload and stack free of charge to the Company and shall ensure that the delivery vehicle is unloaded within a reasonable time and shall indemnify the Company against any loss or damage arising during unloading.
- (d) The goods shall be and thereafter remain at the Customer's risk.
- (i) in the case of a sale to a Customer in the U.K. from the time of delivery (prior to loading) to the Customer or elsewhere at his discretion, or
- (ii) in the case of an export sale from the time of delivery to a U.K. port or airport selected by the Company. But the property in them shall not pass to the Customer until full payment has been received by the Company for all goods whatsoever supplied at any time by the Company to the Customer. So long as the property in the goods shall remain in the Company, the Customer shall hold the goods as bailee for the Company and store the goods so as to clearly show them to be the property of the Company and the Company shall have the right, without prejudice, to the obligations of the Customer to purchase the goods to retake possession of the goods and for that purpose to go upon any premises occupied by the Customer.
- (e) Should the Customer convert the goods for any of them into a new product, whether or not such conversion involves the a mixture of any other goods or thing whatsoever, and in whatever proportions, the conversion shall be effected by the Customer solely as agent for the Company who shall have the full legal and beneficial ownership of the new product.
- (f) Subject to (g) and (h) below the Customer shall be at liberty to sell the goods and the new products referred to in (e) above in the ordinary course of business on the basis that the proceeds of sale are paid into a separate account and shall belong to the Company to whom the Customer shall account on demand, provided that the Customer shall have no authority to enter into any contract of sale on behalf of the Company and any contract of sale shall accordingly be concluded in the name of the Customer.
- (g) The Company may at any time revoke the Customer's power of sale by notice to the Customer if the Customer is in default for longer than fourteen days in the payment of any sum whatsoever due to the Company (whether in respect of the goods or any other goods supplied at any time by the Company to the Customer or for any other reason whatsoever) or if the Company has bona fide doubts as to the solvency of the Customer.
- (h) The Customer's power of sale shall automatically cease if a receiver, administrative receiver, administrator or similar officer is appointed over any of the assets or the undertaking of the Customer or a winding-up order is made against the Customer or the Customer goes into voluntary liquidations (otherwise than for the purpose of reconstruction or amalgamation without insolvency) or calls a meeting of or makes any arrangements or composition with creditors or commits any act of bankruptcy.
- (i) if the Customer fails to give the Company delivery instructions promptly when required, payment shall become due forthwith and the Company shall be entitled (but not bound) to store the goods at the Customer's expense. In the event that the Customer fails to accept delivery or collect the goods within 30 days, the Company may sell the goods and apply the proceeds to the purchase price and claim the balance from the Customer.

5. PAYMENT

- (a) Unless credit references are satisfactorily received and the Customer is separately notified in writing, payment by the Customer is due 7 days following the date of invoice. On the due date for payment the Customer shall pay the Company the balance due for payment without any right of set-off, deduction, retention or withholding whatsoever.
- (b) If the Customer fails to pay the Company by the due date the Company may either suspend all further deliveries until payment is made in full or cancel the order and subsequent orders insofar as goods remain to the delivered thereunder.
- (c) The Company reserves the right to charge interest when payment has not been made on the due date at the rate of twelve per cent per annum above the base rate of the Company's principal bankers for the time being calculated on the outstanding balance from the due date for payment down to receipt by the Company of payments.

6. GUARANTEE OF QUALITY

- (a) Subject to (b) below if any defect in the materials from which the goods are made or fault in manufacture of the goods shall be found to exist and be reported to the Company in writing within a period of three days after the Company shall have completed delivery in accordance with Condition 4 of these conditions, and the Company shall be satisfied that such defect in materials or fault in manufacture does exist, the Company will repair or at its option replace the defective goods free of charge, provided that the same are returned to the Company's works carriage paid and provided that this paragraph (a)
- (i) shall not apply to damage sustained in transit unless the Customer shall comply with the terms of Condition 7 of these Conditions of Sale.
- (ii) shall cease to have effect if the goods have been installed or used for any purpose other than those for which they are intended or otherwise than in accordance with the Company's instructions or other recommendations and regulations (whether issued by the Glass & Glazing Federation or otherwise); or stored in improper conditions or if a seal has been removed, broken or tampered with or if the Company's trade mark or serial number has been removed, defaced or altered, or if the goods have been treated in any way after delivery other than by the Company and the defect would not have existed but for the treatment.
- (iii) shall not cover faults in materials not manufactured by the Company but in such case the Company shall use its best endeavours to make available to the Customer the benefit of any guarantee of quality given by such manufacturer.
- (iv) shall not apply to defaults which are a result of fair wear and tear.
- (v) shall not apply to damage or defects sustained by the goods as a result of the Customer employees, agents or servants negligence and provided further that where the Company does repair or replace defective goods as aforesaid the Customer shall not be entitled to make any claim in respect of such goods for work done there on transport costs loss of profit on re-sale or in respect of any claim loss damage or experience whatsoever other than replacement costs thereof nor shall the Customer be entitled to treat delivery of such defective goods as grounds for repudiating the contract or for cancelling further deliveries. The Company shall not be liable for costs, expenses or other claims for consequential compensation whatsoever.
- (vi) shall not apply; if the total price for the goods has not been paid by the due date for the goods or the account is in arrears.

- (b) The guarantee contained in Condition 6(a) above shall operate in respect of the following goods for the following periods (from the invoice date of sale to the Customer):
- (i) hermetically sealed double glazed units (in to drained system) – 5 years
(in to timber frames and/or roof lights) – 2 years.
- (ii) Aluminium and PVCu frames – 5 years.
- (iii) hardware (including [but not limited to] handles, catches, locks, friction stays, espagnolette mechanism, hinges and gaskets [but excluding solid brass]) – 2 years.

7. LOSS OR DAMAGE IN TRANSIT

The Company shall repair or at its option replace free of charge any part of goods lost or damaged in transit provided that the Company and the carrier are given written notice of such loss or damage within the time required by the carrier's conditions of carriage. Alternatively, when delivery is made by the Company's own transport, the Company shall be given written notice within three days of completion of delivery in accordance with Condition 4 hereof.

8. FORCE MAJEURE

- (a) The Company shall not be liable to the Customer to the extent that fulfilment of its obligations to the Customer has been prevented hindered or delayed by force majeure as herein defined.
- (b) For the purposes of this Condition force majeure shall mean any circumstance beyond the reasonable control of the Company and shall include (without restricting the generality of the foregoing):
- (i) riots, civil commotions, war, rebellion, national or international emergency, strikes, lockouts or other labour disputes.
- (ii) destruction or damage due to natural causes, floods, fires, earthquakes, explosions or breakdowns of machinery.
- (iii) any order or regulation of a local, national or international authority.
- (iv) shortage of labour, equipment, materials or supplies.

9. DEFAULT, INSOLVENCY, ETC.

- (a) If the Customer shall make default or commit a breach of a contract or of any other of his obligations to the Company, or if any distress or execution shall be levied upon the Customer's property or assets, or if the Customer shall make or offer any arrangements or composition with creditors or commit any act of bankruptcy, or if any petition or receiving order in bankruptcy shall be presented or made against him, or if the Customer is a limited company and any resolution for petition to wind-up the Customer's business (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver, administrator or similar officer of the undertaking property or assets or any part thereof of the Customer (being a limited company) shall be appointed, then the Company may without notice
- (i) suspend or determine the contract or any unfulfilled part thereof,
- (ii) stop any goods in transit, and
- (iii) recover any goods from the Customer's premises for which payment has not been made in full without prejudice to any other right or remedy which the Company may lawfully enforce or exercise.
- (b) In the event of the Company terminating a contract the Customer shall pay the Company for all outstanding work and goods which are under contract and shall indemnify the Company against all resulting loss arising out of the non-performance of the contract. If the Customer shall not have paid for undelivered goods within the later of the contractual payment date and 30 days following termination, the Company may sell such goods and apply the proceeds towards the contract price.

10. GENERAL LIEN

The Company shall have a general lien over any goods of the Customer in its possession for any moneys whatsoever due from the Customer to the Company. If any lien is not satisfied within fourteen days of such moneys becoming due the Company may in its absolute discretion sell the goods as agents for the Customer and apply the proceeds towards the moneys due and the expenses of the sale, and shall upon accounting to the Customer for the balance (if any) remaining, be discharged from all liability whatsoever in respects of the goods.

11. PATENTS AND REGISTERED DESIGN

The Customer shall indemnify the Company against all damages, penalties and expenses to which the Company may become liable as a result of work done (if any) in accordance with the Customer's specification which involves infringement or alleged infringement of a patent trade mark registered design or other intellectual property right of any person.

12. LIABILITY

- (a) Except as expressly otherwise provided in these Conditions the Company shall be under no liability
- (i) in respect of the quality condition or description of goods supplied or their fitness for any particular purpose, or
- (ii) for delay in the manufacture or delivery of the goods.
- (b) Any term condition or representation contrary to this condition whether express or implied by statute, common law or otherwise, is hereby expressly excluded (to the extent that it is possible to do so in law).
- (c) No servant or agent of the Company has authority to make any representations in relation to the goods sold or services supplied by the Company.
- (d) The Company does not exclude liability for death or personal injury caused by its negligence.

13. INDEMNITY

- (a) The Customer shall indemnify the Company against all damages to any person, firm or company and against all proceedings, charges and expenses for which the Company may become liable in by respect of the goods sold except to the extent admitted expressly in these Conditions and unless such damage shall have been a direct result of the negligence of the Company and can be attributed to no other cause (whether in whole or in part).
- (b) The Customer shall fully and effectively indemnify the Company against the total expense to the Company arising out of the Customer's breach or breaches of these Terms and Conditions of Sale. Such expense shall include, without limitation, all expenses incurred by the Company in recovering overdue invoices, Court fees, all amounts payable to the Company's professional advisers (payable on an indemnity basis) in pursuing claims against the Customer for breaches of the Terms and Conditions and for enforcing any judgement(s) and/or orders, all amounts payable to the Customers debt recovery agents. The Customer further agrees to so indemnify the Company in the event that any instructions given to the Company by the Customer, its officers, contractors or its employees are not authorised by the Customer, or if any information given to the Company proves to be inaccurate, incomplete or misleading.

14. PUBLICATIONS, DRAWINGS & GENERAL INFORMATION

All publications, drawings, general information and specifications produced by the Company in relation to their products have been prepared in good faith and in accordance with manufacturers specifications. They are not intended to be an exhaustive list of the applications to which the goods may be applied or to be representations as to the suitability of the goods for any particular purpose and none shall therefore form part of this Contract.

15. PROPER LAW

The validity construction and performance of the Contract shall be governed by the law of England and any disputes shall be submitted to the English Courts.

16. NOTICES

Any Notice relating to these Conditions shall be in writing and may be served or delivered to the party to be served at its principal office or fax number as notified from time to time in the case of a Company or at his address or fax number as notified from time to time in the case of an individual. Notices sent by first class delivery mail shall be deemed to be delivered 72 hours after posting and proof of due posting shall be sufficient evidence of delivery. Notices sent by fax shall be deemed to be delivered after sending and fax machine confirmation shall be sufficient evidence of delivery.

17. GENERAL

- (a) The headings in these Conditions are for ease of reference only and do not affect their construction nor do they limit their scope.
- (b) If at any time any of the provisions of these conditions become void or unenforceable for any reason under any applicable law, the same shall be deemed omitted herefrom and the validity of the remaining provisions shall not be impaired thereby.
- (c) No failure of, or delay or forbearance by the Company in asserting or exercising its rights under any contract shall affect its right to do so in the future.

18. DATA PROTECTION ACT 1998 & CREDIT REFERENCES

The Company may make a search, at any time, with a credit reference agency, and will keep a record of that search and will share that information with other businesses. The Company may also make enquiries about the principal partners/directors with a credit reference agency. The Company will also monitor and record information relating to your trade credit performance. All these records will be kept by the Company and made available to other organisations to assess credit applications, status of credit and fraud prevention. You are advised and hereby consent that some of this data may be shared by organisations situated within or outside the European Economic Area where this is necessary to enable us to perform our business.

19. THIRD PARTY RIGHTS

The Company and the Customer do not intend that any of the terms in these "Conditions of sale" will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any other party.