

## Terms & Conditions

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### 1. Definitions

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| 1.1 | "Buyer"         | means the person who buys or agrees to buy the goods from the seller  |
| 1.2 | "Conditions"    | means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the seller. |
| 1.3 | "Delivery Date" | means the date specified by the seller when goods are to be delivered   |
| 1.4 | "Goods"         | means the articles, which the buyer agrees to buy from the seller   |
| 1.5 | "Price"         | means the price for the goods excluding carriage, packing, insurance and VAT.   |
| 1.6 | "Seller"        | Arden Windows Limited   |

### 2. Conditions Applicable

- 2.1 These conditions and the Seller's "Fitting Maintenance and Care Instructions" from time to time (the current version is available on the Seller's website) shall apply to this contract for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order, or similar document.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these conditions.
- 2.3 No order placed for the Goods by the Buyer shall be deemed accepted by the Seller until a written acknowledgement of Order is issued by the Seller or (if earlier) the Seller delivers the Goods to the Buyer.
- 2.4 Any variation to these conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

### 3. The Price and Payment

- 3.1 The Price shall be the Seller's quoted price. VAT shall be added and due at the rate ruling on the date of the Seller's invoice.
- 3.2 Payment of the Price shall be due within 28 days of the date of the invoice.
- 3.3 If payment of the Price or any part thereof is not made by the due date the Seller shall be entitled to:
- 3.3.1 charge interest on the outstanding amount at the rate of 3% over the base rate of the Bank of England accruing daily at such a rate after as well as before any judgment;
- 3.3.2 refuse to make delivery of any undelivered Goods whether ordered under these conditions or not and without incurring any liability whatever to the Buyer for non-delivery or any delay in delivery;
- 3.3.3 terminate this contract.
- 3.4 The Seller reserves the right to claim interest under the Late payment of Commercial Debts (Interests) Act 1998.

### 4. The Goods

- 4.1 The quantity and description of the Goods shall be as set out in the Seller's quotation & amendments agreed and confirmed by way of an order acknowledgment where applicable.

### 5. Warranties and liabilities

- 5.1 The Seller warrants that the Goods will at the time of delivery correspond to the description given by the Seller.
- 5.2 Except where the Buyer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 Section 12) all other warranties, conditions and terms relating to fit for purpose, satisfactory, or condition of the Goods and whether implied by statute or common law or otherwise are excluded.

### 6. Delivery of the Goods

- 6.1 The Goods shall be delivered to the Buyer at the address specified by the Buyer and shall be deemed to occur upon the Seller notifying the Buyer that the goods are ready for onward delivery. The risk in the goods shall pass to the Buyer upon such delivery taking place.
- 6.2 The Seller shall arrange for carriage of the Goods to the Buyer's address. The cost of carriage and any insurance, which the Buyer reasonably directs the Seller to incur, shall be reimbursed by the Buyer without any set-off or other withholding whatever and shall be due on the date for payment of the price. The carrier shall be deemed to be the Buyer's agent.
- 6.3 The Seller shall not be liable for any direct or indirect or consequential loss, costs, charges, expenses or damages whatever caused directly or indirectly by any delay or failure in the delivery of the Goods (even if caused by the Seller's negligence), nor shall any delay entitle the Buyer to terminate or rescind this contract unless such delay exceeds 3 months.
- 6.4 Notwithstanding that the Seller may have delayed or failed to deliver the Goods (or any of them) the Buyer shall be bound to accept delivery and to pay for Goods in full provided that delivery shall be tendered at anytime within 3 months of the delivery date [as stated by the Seller in the Order Acknowledgement (if any)].
- 6.5 The Seller shall not be bound to onwards deliver any Goods after the appointment of a receiver or liquidator of the Buyer or if the Seller shall have reasonable cause to suspect that the Buyer cannot pay for the same, until payment in full for the Goods has first been made.

### 7. Limitation of Liability

- 7.1 Subject to conditions 5 and 6, the following set out the entire financial liability of the Seller (including any liability for the acts or omission of its employees, agents and sub-contractors) to the Buyer in respect of any breach of these conditions, any use made or resale by the Buyer of any of the Goods or any product incorporating the Goods and any representation, statement or tortious act or omission including negligence arising under or in connection with this contract.
- 7.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from this contract.
- 7.3 Nothing in these conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence; or under section 2(3) of the Consumer Protection Act 1987; or for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or for fraud or fraudulent misrepresentation.
- 7.4 Subject to conditions 7.2 and 7.3:  
(a) the Seller's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this contract shall be limited to the Price; and  
(b) the Seller shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential whatsoever (howsoever caused) which arise out of or in connection with this contract.

### 8. Remedies of the Buyer

- 8.1 Where the Buyer rejects any Goods then the Buyer shall have no further rights whatever in respect of the supply to the Buyer of such Goods or the failure by the Seller to supply Goods which conform to the contract of sale.

**9. Title**

- 9.1 Despite delivery having been made property in the Goods shall not pass from the Seller until the Buyer shall have paid the Price plus VAT if applicable in full.
- 9.2 Until property in the Goods passes to the Buyer in accordance with clause 9.1 hereof the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Seller. The Buyer shall store the Goods separately from all other Goods in its possession and mark them in such a way that they are clearly identified as the Seller's property and maintain the Goods in satisfactory condition (in accordance with the terms of the Seller's "Fitting Maintenance and Care Instructions" which are duly incorporated into this contract) and keep them insured on the Seller's behalf for their full price against all risks to the reasonable satisfaction of the Seller (on request the Seller shall produce the policy of insurance to the Seller).
- 9.3 Notwithstanding that the Goods remain the property of the Seller, the Buyer may sell or use the Goods in the ordinary course of the Buyer's business unless:  
(a) the Seller shall give written notice to the Buyer terminating such right; or  
(b) a receiver or liquidator of the Buyer shall be appointed; or  
(c) the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of its obligations under these conditions or any other contract between the Seller and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or  
(d) the Buyer encumbers or in any way charges any of the Goods.
- 9.4 The Seller shall be entitled to recover the Price plus VAT notwithstanding that property in any of the Goods has not passed from the Seller.
- 9.5 Until such time as property in the Goods passes from the Seller, the Buyer shall, upon request, deliver up such Goods as have not ceased to be in existence or re-sold to the Seller. If the Buyer fails to do so, the Seller may enter upon any premises owned, occupied or controlled by the Buyer wherever situated and repossess the same.
- 9.6 On termination of this contract, howsoever caused, the Seller's (but not the Buyer's) rights contained in this clause 9 shall remain in effect.

**10. General**

- 10.1 If the supply of the Goods is delayed or prevented as a consequence or event beyond the Seller's reasonable control, including but without limitation, industrial action, breakage of machinery, delays in or cancellation of Goods and services by third parties, shortages of raw materials, fire explosion, civil disturbance or act of God, then the period for delay of the Goods shall be extended to such extent as is reasonable having regard to the circumstances.
- 10.2 If any provision of this contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, void able, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, void ness, void ability, unenforceability or unreasonableness be deemed severable and the remaining provision of this contract and the remainder of such provisions shall continue in full force an effect.
- 10.3 Failure or delay by the Seller in enforcing or partially enforcing any provision of this contract shall not be construed as a waiver of any of its rights under this contract.
- 10.4 The parties to this contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 10.5 This contract, is subject to the law of England and Wales and all disputes arising out of it shall be subject to the exclusive jurisdiction of the Courts of England and Wales.