

## Terms & Conditions

### 1 Definitions

1.1 When the following words are used in these Terms, this is what they mean.

<b>Event Outside Our Control:</b>	is defined in clause 7 of these Terms
<b>Order:</b>	your written request for the Products
<b>Order Confirmation:</b>	the full terms of the agreement between us
<b>Products:</b>	the product or products that we are selling to you as set out in the Order Confirmation,
<b>Terms:</b>	the terms and conditions set out in this document; and
<b>We/our/us:</b>	Tradestar Glazing Systems Ltd (registered in England and Wales – registered number 09462067) whose registered office is 99 Western Road, Lewes, England, BN7 1RS
<b>You/yours</b>	The customer

When we use the words “writing” or “written” in these terms, this will include e-mail unless we say otherwise.

- 1.2 We will supply you with the Products in the Order Confirmation. The agreement between us will be on the basis of the Terms. We will ask you to confirm in writing that you have read and approved the Order Confirmation including these Terms before we can proceed with manufacturing your order.
- 1.3 A contractual agreement between us arises at the point of your acceptance of our Order Confirmation verbally or in writing or, if earlier, when we begin making the Products in the Order.
- 1.4 If any of the provisions in the Terms conflict with your own terms of business, the Terms will prevail. The Terms may only be varied in writing by one of our directors.

### Changes to the Order

- 1.5 You may make a change to the Order for the Products within 24 hours of accepting our Order Confirmation provided that manufacture of the Products has not yet commenced. We reserve the right to amend the specification of the Products if required by applicable statutory or regulatory requirements.

### Made to measure Products

- 1.6 The images of the products on our website are for illustration purposes only. Although we have made every effort to be as accurate as possible, our products are handmade. Therefore all dimensions and measurements indicated on our website are liable to vary by up to 20mm.
- 1.7 We make our products according to the measurements you provide us. It is crucial that you provide accurate measurements. You can find information and tips on how to measure on our website. You may also consult us about measuring methodology. We are not liable to replace any Products or refund any payment, or credit any invoice, if the Products do not fit as a result of inaccurate measurements supplied by you. This will not affect your legal rights as a consumer in relation to made-to-measure Products that are faulty or not as described.

### **Delivery of goods**

- 1.8 Please note that the timescales for delivery and the amount of delivery charges will vary depending on the Products ordered and location of the delivery address. Please allow extra time for deliveries to Devon and Cornwall, the Scottish Highlands and Islands or to addresses outside the UK. Our delivery charges can be found on our website.
- 1.9 We aim to contact you within 48 hours of receipt of your Order in order to agree a delivery date. Occasionally our delivery to you may be affected by a Force Majeure Event – see paragraph 7. Delivery dates are approximate only and time is not of the essence of any agreed delivery date. We are not liable to you financially for delivery made before or after an agreed delivery date. Delivery is complete on the completion of unloading of the Products (or, in relation to an instalment of Products, delivery of that instalment) at the delivery location.
- 1.10 If you have arranged to collect the Products from our Premises, you can collect them from us at any time on any weekday between the hours of 7.30am and 4.30pm.
- 1.11 The risk the Products shall pass on delivery of them and the Products (or where we deliver by instalments, in relation to each instalment) will be your responsibility from delivery. However, title to the Products shall not pass until payment is made of the amount due under the Order Confirmation. Until title passes you must store the Products separately so that they remain readily identifiable. You must not remove deface or obscure any identifying mark or packaging. You may not re-sell the Products until you have paid for them in full.
- 1.12 If no one is available at your delivery address to take delivery of the Products on the agreed delivery date, we will leave a note that the Products have been returned to our Premises. In that eventuality please contact us to arrange re-delivery. We are entitled to charge you for re-delivery when we cannot deliver on the agreed delivery date. If, at your request, we leave the Products in a location that is unattended, or with someone nominated by you, we can accept no liability for loss or damage to the Product after delivery in accordance with your instructions.
- 1.13 If you request the alteration of the agreed delivery date less than 7 days before the agreed delivery date we are entitled to charge you a fee for storage of the goods. This is normally £100 per week (pro rata), but may vary depending on the size of the product.
- 1.14 If we are unable to deliver the whole of the order at one time due to operational reasons or shortage of stock we are entitled to deliver the order in instalments though we will not charge extra delivery cost for this. However, if you ask us to deliver the order in instalments we may charge you extra delivery costs. If we are late delivering any instalment, that will not entitle you to cancel any other instalment.

- 1.15 If you fail to accept delivery of the Products within three business days of our notifying you that the Products are ready then delivery shall be deemed to have been completed at 9am on the third business day after the date of such notification. We may charge reasonable storage charge pending delivery. After deemed delivery we may resell or otherwise dispose of all or part of the Products and charge you for any shortfall between the sale price achieved and the agreed price of the Products.
- 1.16 We are not liable to pay you for your re-attendance on site or for any costs, charges or financial loss arising as a consequence of your having to attend site a second or further times because we deliver late.
- 1.17 We are not liable to you for any loss of profit, loss of business, business interruption, loss of business opportunity, business reputation or any consequential financial loss arising from our breach of our agreement with you.

### **Faulty Products**

- 2.1 Once you have received your goods any fault or damage must be reported to us in writing within 3 days of receipt.
- 2.2 If you fail to report a defect within that time limit the Products will be deemed to be in free from visible damage, defect and deviation from the Order. This will curtail your rights to seek a refund or replacement. It is therefore vital that you examine the Products immediately upon receipt.

### **Guarantee**

- 3.1 We warrant that on delivery, and for a period of 12 months from the date of delivery (warranty period), the Products shall:
- (a) conform in all material respects with their description in the Order Confirmation; and
  - (b) be free from material defects in design, material and workmanship; and
  - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979); and
  - (d) be fit for any purpose held out by us
- 3.2 Subject to clause 3.3, if:
- (a) you give notice in writing to us within two weeks of discovery (which is mutually agreed as a reasonable time to allow discovery) that some or all of the Products do not comply with the warranty set out in clause 3.1;
  - (b) we are given a reasonable opportunity of examining such Products; and
  - (c) you (if asked to do so by the us) return such Products to our place of business at our cost,

We shall, at our option, repair or replace the defective Products, or refund the price of the defective Products in full.

- 3.3 We shall not be liable for the failure of any of the Products to comply with the warranty set out in clause 3.1 in any of the following events:

- (a) you make any further use of such Products after giving notice in accordance with clause 3.2;
  - (b) the defect arises because you (or anyone acting on your instructions) failed to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products;
  - (c) the defect arises as a result of our following any measurements, drawing, design or specification supplied by you;
  - (d) you alter or repair such Products without our written consent;
  - (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
  - (f) the Products differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- 3.4 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 3.5 These Conditions shall also apply to any repaired or replacement Goods supplied by the Supplier.

#### **Price and payment**

- 4.1 The price of the Products will be set out in our Order Confirmation. Our prices may change at any time but price changes will not affect a contract that has already come into force.
- 4.2 If a written price has been generated for you this price is guaranteed for 30 days.
- 4.3 The prices of the Products include VAT however if the rate of the VAT changes between the date of the order and the date of delivery or performance we adjust the rate of VAT that you pay unless you have already paid for the Products in full before the change in the rate of VAT takes effect.
- 4.4 The price for the Products exclude delivery costs which will be added to the total amount due.
- 4.5 You must make payment for Products in advance by Credit or Debit Card. We accept payments via Payzone.
- 4.6 If you do not make any payment due to us by the due date for payment we may claim interest, compensation and reasonable recovery costs from you under the Late Payment of Commercial Debts (Interest) Act 1998.

#### **Installation by us**

- 5.1 If we are installing the Products in your property or the property of your customer, we will make good any damage to the property caused by us in the course of installation. However, we are not responsible for the cost of repairing any pre-existing faults or damage to the property that we discover in the course of installation and / or performance by us.

#### **Limitation of liability**

- 6.1 We do not exclude or limit in any way our liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; fraud or fraudulent

mis-presentation; breach of their terms implied by section 12 of the Sale of Goods Act 1979 or defective productions under the Consumer Protection Act 1987.

- 6.2 We shall under no circumstances whatsoever be liable to the you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, sales, business or revenue, loss of business opportunity, loss of anticipated savings, loss of goodwill, or any indirect or consequential loss arising under or in connection with the agreement with you except in so far as it would be unlawful for us to exclude or restrict such liability.
- 6.3 Our total liability to you in respect of all other losses arising under or in connection with this agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Products.
- 6.4 If we are responsible for supplying defective Products and we replace the same, we do not accept any liability for any costs that you may sustain for re-attending site to receive delivery a second time.
- 6.5 We shall not be liable for any delay in delivery of the Products caused by a force majeure event or your failure to provide us with adequate delivery instructions or to arrange for representation or adequate facilities for us on site.
- 6.6 If we fail to deliver the Products our liability shall be limited to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Products.

#### **Force majeure**

7. Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from a Force Majeure Event (an event or circumstance beyond a party's reasonable control). If the period of delay or non-performance continues for 8 weeks, the party not affected may terminate this Contract by giving 5 days' written notice to the affected party. If you cancel an Order under this clause and you have made any payment in advance for Products that have not been delivered to you, we will refund these amounts to you.

#### **Information about us and how to contact us**

8. If you have any questions or if you have any complaints please contact us. You can contact us by telephone, by post or by email sent to us at [sales@tradestarglazing.co.uk](mailto:sales@tradestarglazing.co.uk)
9. If any clause in these Terms requires you to give us notice in writing you can send this to us by email, by hand or by pre-paid post. We will confirm receipt of this by contacting you in writing. If we need to contact you or give you notice in writing, we will do so by email, by hand or by pre-paid post to the address you provide us in the Order or your last known place of business.
10. If you are purchasing the Products in the course of your business, please note that any notice given by you to us, or by us to you will be deemed received 24 hours after the email is sent or three days after the date of posting of any letter. In providing evidence of the service of any notice it will be sufficient to prove, in the case of a letter, that such a letter was properly addressed, stamped and placed in the post and in the case of an email that such email was sent to the specific email address of the addressee. The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

## **How we may use your personal information**

- 11.1 You agree that we may use the personal information you provide us to:
- (a) provide the Products
  - (b) process your payment for such Products, and
  - (c) inform you about similar products or services that we provide, but you may stop receiving these at any time by contacting us
- 11.2 If you are a business, you agree that we may pass your personal information to credit reference agencies and that we may keep a record of any search that they do.
- 11.3 Subject to clause 12.2 we will not give your personal data to any third party

## **Other important terms**

- 12.1 We may transfer our rights and obligations under this agreement to another organisation, and we will always notify you in writing if this happens, but this will not affect your rights or our obligations under these Terms.
- 12.2 You may only transfer your rights or your obligations under these Terms to another person if we agree in writing.
- 12.3 This contract is between you and us. No other person shall have any rights to enforce any of its terms.
- 12.4 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 12.5 If we fail to insist that you perform any of your obligations under these Terms or if we do not enforce our rights against you, or if we delay in doing so, this will not mean that we waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 12.6 These Terms are governed by the law of England and Wales. We and you both agree to the exclusive jurisdiction of the courts of England and Wales.

## **Entire agreement**

- 13.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 13.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this agreement.

## **Variation**

14. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).