

Terms & Conditions

1. General

1.1 All goods supplied by Hurst Plastics Limited of Unit 1, Kingston International Business Park, Somerden Road, Hedon Road, Hull, HU9 5PE (hereinafter referred to as "the Company") to any other party (hereinafter referred to as "the Customer") are sold subject to the following Terms and Conditions.

1.2 These terms and conditions exclude and override any other terms and conditions inconsistent herewith which the Customer might seek to impose, even though such other terms and conditions may be submitted in a later document or purport to exclude or supersede any terms and conditions inconsistent with them or may be contained in any offer acceptance or counter-offer made by the Customer.

1.3 No addition or variation of or exclusion of such terms and conditions, whether express or implied, shall be binding upon the Company unless accepted specifically in writing by a Director of the Company.

1.4 The Company's employees or agents are not authorised to make any representations unless confirmed by a Director of the Company in writing and in entering into the contract the Customer acknowledges that he has not relied on any representation which is not so confirmed.

2. Quotations and Prices

2.1 Quotations which comprise an invitation to treat may be withdrawn at any time.

2.2 All quotations for non-standard items must be in writing if to be relied upon.

2.3 Prices quoted in or acknowledgement of orders placed are strictly exclusive of Value Added Tax or other sales taxes which will in all cases be charged at the rate applicable at the date of despatch of goods.

2.4 The Company reserves the right to increase its prices without notice. Any price increase will be notified to the Customer as soon as it is reasonably possible.

3. Delivery and Risk

3.1 Delivery of any goods shall be made by the Customer collecting the goods at the Company's premises at any time after the Company has notified the Customer that the goods are ready for collection or if some other place for delivery is agreed by the Company for delivering goods to that place.

3.2 The Company will use all reasonable endeavours to deliver goods at the time specified in the contract but any date or time specified for delivery of performance is (unless agreed otherwise by a Director of the Company in writing) an estimate only and late delivery or performance shall not entitle the Customer to reject any goods or services, terminate the contract, withhold any payment, claim damages or any other remedies.

3.3 On receipt, goods should be checked with the advice note enclosed with the goods to ensure that there are no defects, that they are the goods ordered and to ensure that the colour specified is correct. Claims for defects, shortages and/or damages sustained during transit and incorrect delivery of the goods will only be considered if the Company (and where it is alleged that the goods have been damaged in transit, the carrier and the Company) receives written confirmation of the claim within 72 hours of delivery. Goods received damaged or in an unsatisfactory condition must be signed for as such on the carrier's delivery note. Subject to the provisions regarding warranties set forth herein, returns will not be accepted if the goods are incorrectly supplied or defective or the colour is wrong once they have been fitted, altered or modified in any way. The Company shall only be liable for the replacement value of the damaged or defective goods and shall under no circumstances be liable for any consequential loss to the Customer. If goods are purchased via the Internet, they can be returned by the customer within the seven day cancellation period specified in Clause 6.4. If goods are retained by the Customer after this period, then in all other respects the provisions of this Clause 3.3 apply.

3.4 In all cases where it is claimed that the goods supplied are damaged or defective pursuant to Clause 3.3 above the following procedure shall apply (provided that if the Customer does not notify the Company or permit it to investigate the claim in accordance with the terms of this Clause 3, the Customer shall not be entitled to reject the goods or claim damages or any other remedy and the Company shall have no liability for such defect, failure or damaged goods):

(a) For all orders placed or delivered outside the UK notification of any defect (including any warranty claim pursuant to Clause 9 hereof) or damage to goods shall constitute an order for further goods corresponding to the quality and type of those goods alleged to be damaged or defective and shall be invoiced for by the Company in the normal manner and paid for by the Customer in accordance with these terms and conditions. A representative of the Company shall attend at the Customer's premises within 3 months of such notification to verify that the goods are damaged or defective and upon doing so a credit note shall be issued to the customer for the value of damaged or defective goods. The Company may thereafter at its discretion arrange for the goods to be removed from the Customer's premises.

(b) For all orders placed and delivered within the UK, provided the Customer notifies the Company of its wish to do so within 72 hours of delivery of the goods, it may opt to follow the procedure outlined in sub-clause (a) above. In the event that it does not do so or within the time scale set forth in the said sub-clause (a), the Customer shall arrange with the Company for the return of the goods to the Company's premises and upon receipt of the goods the Company shall inspect and shall issue a credit note for any or all of such goods which it shall in its discretion confirm as damaged or defective.

(c) If a Customer making an order via the Internet has grounds for belief that the goods are damaged or defective pursuant to Clause 3.3, then the Customer must notify the Company within seven days of receipt of the goods that the goods are damaged or defective. In all other respects, the provisions of Clauses 3.4 (a) and (b) will apply.

3.5 It is the objective of the Company to deliver goods within 10 days of the Customer placing an order. If goods have not been received by the Customer by the tenth day then it is the responsibility of the Customer to inform the Company of non-delivery. If the Company has not been informed of non-delivery within 24 hours following the tenth day then the Company will have no liability with regard to the alleged non-delivery of goods.

3.6 If proof of delivery is required by the Customer it must be requested as soon as is reasonably possible and not later than seven days before payment of the account is due. All export duties, taxes, levies etc. present or future in all countries with regard to the goods will be payable by the Customer.

3.7 The (Company/Customer) will provide insurance for the carriage of the goods. The goods will be insured with a company based in the UK. The amount to be insured will be not less than 2% of the invoice amount. Goods shall be at the risk of the Customer:

3.7.1 In the case of goods to be delivered at the Company's premises at the time when the Company notifies the Customer that the goods are available for collection; or

3.7.2 In the case of goods to be delivered otherwise than at the Company's premises at the time of the actual delivery of the said goods.

4. Payment

4.1 All accounts are payable in accordance with any Company quotation documents. If no terms are mentioned in the quotation documents, payment in full is due on the tenth day of the calendar month following the date of invoice to the Customer by the Company. The Company reserves the right to charge a fee for the processing of Customer payments made by credit card or debit card. The Company reserves the right to charge interest on overdue accounts at 2 per cent per month of the full invoice amount for the period from the date payment is due until the actual date of payment.

4.2 Payment for all goods will be made in pounds sterling unless otherwise agreed by the Company in writing.

4.3 The Company reserves the right at any time at its discretion to demand security for, or vary the terms and method of payment before continuing with delivering goods in satisfaction of any order notwithstanding any subsisting agreement to provide credit to the Customer.

4.4 If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

4.4.1 Cancel any subsisting supply contract with or suspend any further deliveries or collections by the Customer.

4.4.2 Appropriate any payment by the Customer to such goods (or goods supplied under any contract between the Customer and the Company) as the Company may think fit notwithstanding any purported appropriation by the Customer.

4.4.3 Refuse to deal with any claim under any warranty given by the Company under the contract pursuant to which payment is overdue or any other contract between the Company and the Customer whenever made and refuse to deal with any matter raised or outstanding under Clause 3.4 hereof.

4.4.4 Issue proceedings to recover monies due on the overdue account together with any other monies payable on any other orders placed by the Customer whether payment is due or not.

4.4.5 Any sums payable by the Company to the Customer on any account may at any time be offset by the Company against any sums payable by the Customer to the Company.

5. Goods Wrongly Ordered

Only with the written agreement of the Company will the return of goods wrongly ordered be accepted. Where goods have been specially made, altered or cut, they will not be accepted for return. In the event of the Company agreeing the return of goods as aforesaid the Company reserves the right to make a charge to the Customer in respect thereof, including with respect to the carriage thereof.

6. Cancellation

6.1 The Customer's order will be processed immediately by the Company and the production of goods undertaken.

6.2 The Company reserves the right to charge the Customer a reasonable fee should an amendment or cancellation of an order for goods be communicated in writing to the Company any later than four hours after placement of the order.

6.3 Goods ordered and then produced by the Company but not delivered, due to the suspension of the Customer's trading account, will be charged in full to the Customer.

6.4 If a Customer has ordered the goods via the Internet, the Customer has the right to cancel their order within seven days of receipt of the goods. If the Customer chooses to do this, then they will receive a full refund for the goods once the goods have been returned to the Company.

7. Customer's Credit Standing

Quotations are given and orders accepted subject to the Company's approval of the account. Thereafter, if, at its discretion, the Company ceases to be satisfied with the credit standing of the Customer, then the Company may at any time refuse to fulfil or process an order for goods in whole or in part and shall not be liable in damages or otherwise in respect of the said refund.

8. Property and Retention of Title

8.1 The Customer is licensed by the Company to use or to agree to sell goods delivered to the Customer subject to the express condition that the entire proceeds of any sale or insurance proceeds received in respect of such goods are held in Trust for the Company and are not mixed with other moneys or paid into an overdrawn bank account and shall at all times, be identifiable as the Company's money.

8.2 Notwithstanding delivery and the passing of risk in goods, title in goods supplied by the Company shall not pass to the Customer until all money due to the Company from the Customer, under any contract outstanding between the Company and the Customer, has been paid in full.

8.3 All goods shall, subject to Clause 8.1 hereof, be kept separate and distinct from all other property owned by the Customer and by third parties, shall be kept properly insured and in good and substantial repair and condition and be stored in such a way as to be clearly identifiable as belonging to the Company and the Customer will not allow any interference with any identification marks or serial number of goods.

8.4 The Company (without prejudice to its other rights or remedies) shall have the right to recover and sell goods until such time as title in goods has passed to the Customer and the Customer hereby grants to the Company its agents or employees an irrevocable licence to enter onto any premises where goods are stored for that purpose and in each such instance the Customer shall indemnify the Company in respect of the costs and expenses incurred by the Company in so doing.

8.5 Without prejudice to any other rights contained herein, the Company may at any time revoke the power of sale and use contained in Clause 8.1 hereof by notice to the Customer, if the Customer is in default for longer than 7 days in the payment of any sum whatsoever due to the Company, whether in respect of specific goods or any other goods supplied at any time by it to the Customer or if the Company has bona fide doubts as to the solvency of the Customer.

8.6 If goods are incorporated in or become a constituent of any other goods, the Company shall be given the ownership of those new goods as security of payment of all sums owing by the Customer to the Company. In the event of a sale of goods on their own or incorporated in other goods, the Company's beneficial entitlement shall attach to the proceeds of sale or to the claim for such proceeds.

9. Warranty

9.1 Subject to the conditions set out below the Company warrants that:

9.1.1 For goods purchased by the Customer which are installed in Europe north of the 45th latitude the colour change shall not be greater than 5 units on the yellow index scale after 10 years from date of the despatch of the product. For goods purchased by the Customer which are installed in Europe south of the 45th latitude the colour change shall not be greater than 5 units on the yellow index scale after 5 years from date of the despatch of the product. The above limit of colour change also applies to Vacuum formed sheets provided a colour change of no greater than 2 units on the yellow index scale occurred through the vacuum forming process. Any colour changes are to be measured against the relevant samples and standard of the manufacturer of such products.

9.1.2 For wood grained products the goods purchased shall be free from bubbling and delamination, for goods purchased by the Customer which are installed north of the 45th latitude for a period of 5 years and for goods purchased by the Customer which are installed south of the 45th latitude for a period of 5 years.

9.1.3 Where the Company supply glass, the goods supplied will conform to the relevant visual quality Standard of the Glass and Glazing Federation.

9.1.4 Due to the manufacturing method, of, and naturally occurring flaws in several of the glass ranges offered, minor imperfections, seeds, flaws, bubbles or similar may be evident but are deemed to be acceptable and no liability will be accepted by the Company. Similarly, certain glass ranges, essentially, but not exclusively, the triple glazed options, may be liable to 'rattling' or similar and no liability will be accepted by the Company.

9.1.5 The 'lead' strip utilised in certain glass unit designs may be subject to oxidation when exposed to the elements. As oxidation is a naturally occurring effect, it is not considered as a fault or flaw and the Company will accept no liability.

9.2 The above warranty is given by the Company subject to the following conditions and to the provisions of Clause 3 hereof generally:

9.2.1 The Company shall be under no liability in respect of any defect arising from any drawing, design, or specification supplied by the Customer;

9.2.2 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acknowledgement of order, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company;

9.2.3 All dimensions, diagrams, images, colours and prices featured in any of the Company's printed or electronic material are believed to be correct and accurate at the time of going to press and no liability will be accepted by the Company for error or change whatsoever caused;

9.2.4 The Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing) misuse or alteration or repair without the Company's approval;

9.2.5 The Company shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if it is not permitted such facilities for inspection, testing and repairs as may be reasonably requested by the Company pursuant to Clause 3 hereof;

9.2.6 The above warranty does not extend to materials not manufactured by the Company, in respect of which the Customer is entitled only to the benefit of any guarantee or warranty given to the Company by the manufacturer and the Company's liability shall not exceed the amounts recovered by the Company from the manufacturer concerned.

10. Trademarks, Patents and other Industrial Rights

10.1 If any claim is made against the Customer alleging that the goods or the service infringe any patent rights, registered designs, copyright or other industrial property rights of another then: -

10.1.1 The Customer shall forthwith notify the Company with full particulars; and

10.1.2 The Company or its suppliers or licensors (as the case may be) shall be at liberty at their expense to conduct all negotiations and/or litigation in respect thereof and (if necessary) in the name of the Customer; and

10.1.3 Except pursuant to a final award, the Customer shall not pay or accept any such claim or company proceedings without the consent of the Company (which shall not be unreasonably withheld or delayed); and if as a result of such negotiations or litigation the Customer shall be unable to use the goods substantially for the purpose for which they were bought the Company shall take them back and refund the price thereof and such refund shall be in full satisfaction of all claims by the Customer against the Company.

10.2 The Customer shall indemnify the Company against all actions, costs (including cost of defending legal proceedings), claims, proceedings and demands in respect of any infringement by the Company of patent rights, registered design, copyright, design rights or other industrial rights attributed to the Company complying with any special instructions from or requirements of the Customer relating to the goods or the service.

10.3 The Customer shall not represent to its customers that it sells products manufactured by the Company after the Customer shall have ceased to purchase such products on a regular basis from the Company and in such event the Customer shall return to the Company all sales literature relating to products manufactured by the Company.

11. Exclusions and Limitations

11.1 Subject as expressly provided in these Terms and Conditions and except where goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

11.2 Any claim by the Customer arising other than pursuant to Clause 3 hereof shall be notified to the Company within a reasonable time after discovery of the defect or failure.

11.3 Where the Company is satisfied that the Customer has a valid claim under the warranties set forth out in Clause 9 hereof after the same has been duly notified to the Company the Company shall be entitled to replace the goods (or any part in question) free of charge or at the Company's sole discretion refund to the Customer the price of the goods.

11.4 The Company shall not be liable for any consequential or indirect loss suffered by the Customer whether this loss arises from a breach of duty in contract or tort or otherwise. Non-exhaustive illustrations of consequential or indirect loss would be loss of profits, loss of contract, damage to property and personal injury (but only insofar as such injury is not caused by the Company's negligence).

11.5 Where goods are sold under a consumer transaction (as defined by the Customer Transactions (Restrictions on Statements) Order, 1976) the statutory rights of the Customer are not affected by these Terms and Conditions.

12. Force Majeure

12.1 The Company will not be liable to the Customer or be deemed to be in breach of the contract by reason of any delay in performing or any failure to perform, any of the Company's obligations in relation to the goods, if the delay or failure was due to any cause beyond the Company's reasonable control. Without limiting the foregoing, the following will be regarded as causes beyond the Company's reasonable control;

12.1.1 act of god, explosion, flood, tempest, fire or accident;

12.1.2 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

12.1.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

12.1.4 import or export regulations or embargoes;

12.1.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);

12.1.6 difficulties in obtaining raw materials, labour, fuel, part of machinery;

12.1.7 power failure or breakdown in machinery.

13. Indemnity

If goods are to be manufactured or any process is to be applied to goods by the Company in accordance with the specification submitted by the Customer the Customer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any third party which results from the Company's use of the Customer's specification.

14. Termination

14.1 If the Customer commits a material breach of these terms, and (if such a breach is remediable) fails to remedy that breach within 30 days of the Customer being notified of the breach, then the Company may terminate the contract with immediate effect.

14.2 If the Customer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being a body corporate) goes into liquidation or (being a non corporate body) becomes bankrupt or an encumbrancer takes possession or a receiver is appointed of any of the assets of the Customer or the Customer ceases or threatens to cease to carry on business or the Company reasonably apprehends that any of the events mentioned above is about to occur then (without prejudice to any other right or remedy of the Company) the Company shall be entitled to cancel the contract or suspend any further delivery performance under the contract without any liability to the Customer and if goods have been supplied but not paid for the price shall become immediately due and payable.

15. Miscellaneous

15.1 No waiver by the Company of any breach of contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

15.2 Any notice to be given by either party to the other shall be in writing by pre-paid first class post or facsimile addressed to the other party at its registered office or principal place of business or such other address as may have been notified to such other party.

15.3 The contract will be subject to English Law and will be treated as having been made within England. As such, the parties agree to be bound by the non-exclusive jurisdiction of the English courts. However, we retain the right to serve proceedings in another jurisdiction of our choosing.

15.4 Due to the nature of materials used and the method of manufacture, we recommend that you allow for a tolerance of + or - 2mm to either the cut size or thickness of every inflow panel.

15.5 No forbearance, indulgence or relaxation on the part of the Company shown or granted to the Customer in respect of any of the provisions of these Terms and Conditions will in any way affect, diminish, restrict or prejudice the rights or powers of the Company or operate as or be deemed to be a waiver of any breach by the Customer of the Terms and Conditions of the contract.

15.6 If any provision of the contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the contract and the remainder of the provision in question will not be affected.

16. Contracts (Rights of Third Parties) Act 1999

These terms are made for the benefit of the parties to it, and is not intended to be enforceable by anyone else except the parties' successors and valid assigns.