

1 DEFINITIONS

In these terms and conditions of sale, unless the context otherwise requires "The Company" shall mean Plastic Building Supplies Ltd, whose registered office is at 29/31 Concorde Road, Norwich NR6 6BJ and "The Customer" shall mean the persons, firm or company or other body to whom goods or services are supplied hereunder.

"Goods and Services" shall mean the goods, materials or services as ordered by the Customer from the Company.

2 GENERAL

- (a) (a) These conditions of sale shall apply in their entirety as between the company and the customer and shall prevail over all other conditions, warranties and representations whether express or implied, statutory or otherwise and any reported provisions to the contrary and hereby excluded. The company shall have no liability in respect of errors or omissions contained in its literature or that of its suppliers in respect of any other document forming part of the contract with the customer.
- (b) (b) While every effort will be made by the company to supply the customer goods to the original specification, the company reserves the right to change and/or alter the specification without prior notice, however, this clause shall not be construed so as to allow the company to supply goods substantially different to that envisaged at the date of the contract.

3 VARIATION IN FINISH

- (a) (a) Claims for defects as to size, colour or texture will not be considered if made after installation.
- (b) (b) All dimensions quoted are nominal and minor variations can occur. Notwithstanding the foregoing, no warranty of any nature is made by the company as to the match of any colours.

4 PRICES, QUOTATIONS, ESTIMATES AND RETURNS

- (a) (a) Only written quotations or estimates for the supply of goods and/or services shall be valid.
- (b) (b) Prices quoted are those current at the date of the quotation and shall be subject to variation without notice to allow for any increase in costs coming into effect from the date of quotation.
- (c) (c) List prices are subject to alteration without notice.
- (d) (d) Designs, drawings, illustrations and samples supplied to the buyer remain the property of the company in which the company retains copyright and are to be returned to the company within a reasonable time or upon demand.
- (e) (e) Glass is priced by reference to the dimensions required by the customer, rounded up to the nearest inch or centimetre or as the case may be. The company's minimum charge for the supply of glass of any description is available as at date of enquiry.
- (f) (f) Any offer made by the company, quotations or invitations to treat may be withdrawn by the company at any time.
- (g) Subject to the company's discretion, only new and unused normal stock lines will be accepted for credit less the amount of the company's handling and re-stocking charges. All returned goods must be accompanied by the original invoice or delivery advice note.

5 TAX

Unless otherwise quoted or agreed, the company's prices do not include value added tax, or any other tax, levy, duty or surcharge, whether imposed before or after the making of the contract.

6 CLAIMS

- (a) (a) The customer shall inspect all goods immediately upon delivery and shall within 48 hours from such inspection give notice in writing to the company of any matter reason whereof the customer may allege the goods are not in accordance with the contract.
- (b) (b) Notice of any claim relating to shortage of or damage to the goods shall be made to the company in writing within 48 hours of receipt of goods. In the event of loss or non-delivery of the goods the customer shall notify the company in writing within seven days of receiving the advice note.
- (c) (c) The company will consider claims only if the above conditions are met and the claim is signed by the customer and accompanied by full particulars giving the invoice and customers order number and, as the case may be, the case number, the condition of the case or packing and the copy of the delivery note in respect of the goods.
- (d) (d) The companies liability hereunder in respect of any shortage, loss or damage to the goods shall be limited to the proportion of the price attributable to the goods undelivered, lost or damaged and in no event shall accompany its servants or agents be liable for any injury, loss or damage (including consequential damage) loss of profits or expenses of any kind whatsoever caused in connection of goods supplied by the company (other than death or personal injury due to the negligence of the company).
- (e) (e) Where manufacturers of products supplied by the company have limited their liability in respect thereof or in respect of any consequential liability there from the same limitation shall apply to the company's liability and the sale of such products.

7 PAYMENT AND DEFAULT

- (a) (a) Subject to clause 4(f) payment of goods shall be made on or before the date fixed in accordance with the terms agreed between the customer and the company which, in the case of a credit facility agreed between the company and the customer, shall be by the last working day of each month following month of delivery, unless otherwise agreed in writing between the company and the customer.
- (b) (b) In the event that payment shall not have been made by the date by the same was due, herein under the company shall be entitled to recover from the customer interest on any outstanding balance at the rate of 13.75% per annum, for the time being in force for the period from such date until the date of payment occurring (both before and after judgement).
- (c) (c) The company reserves the right at any time at its discretion to
 - (i) (i) To demand security for, or vary the terms and method of, payment before continuing with or delivering goods in satisfaction of any order notwithstanding any subsisting agreement to provide credit to the customer and
 - (ii) (ii) Without notice to the customer, withdraw or reduce existing credit facilities.
- (d) (d) If the customer fails to make any payment on the due date or breaches any credit limit previously agreed by the company, and without prejudice to any other right or remedy available to the company the company shall be entitled to: -
 - (i) (i) Cancel any subsisting contract with or suspend any further deliveries to or collections by the customer.
 - (ii) (ii) Appropriate any payment made to such of the goods (or goods supplied under any other contract between the customer and the company). As the company may think fit notwithstanding any purported appropriation by the customer.
- (e) (e) In the event of a breach by the customer, or any of the terms of any subsisting agreement between the customer and the company, all monies payable to the company, whether or not due, shall become immediately payable to the company without notice.
- (f) (f) 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. If the customer (being a company) has a petition presented for its winding up or the appointment of any administrator or passes a resolution for voluntary winding up otherwise than for the purpose of a bona fide amalgamation or reconstruction or enters a scheme of arrangement or voluntary arrangement or compounds or makes any proposal to or enters into any arrangement with its creditors or has a receiver or manager or administrative receiver appointed over all or any part of its assets or (being an individual) has a petition presented for his bankruptcy or becomes bankrupt or insolvent or enters into any arrangement with his creditors or makes or has made an application for a interim order in connection with a proposal to creditors for a voluntary arrangement or commits in either case a material or serious breach of this agreement (and in the case of such a breach being in remediable fails to remedy it within seven days of receiving notice to do so). The customer will be deemed to have repudiated all contracts and all sums owing to the company on any account shall become due and payable forthwith without requirement for any notice to be given, and further, the customers power of sale and use clause 11 shall automatically cease.

8 DELIVERY

- (a) Where goods are offered from delivery to site, the company's obligation is to deliver as near to the site as safe hard road permits. If, in any particular case, the company should agree to relax this condition, the relaxation shall be deemed to have been given in consideration of an indemnity from the customer against all losses, costs and expenses, which the company may incur or pay as a result of such relaxation.
- (b) The company shall have the sole discretion as to the mode of transport to be adopted.
- (c) Delivery of goods by the company does not include the provision of labour and equipment for unloading and stacking, which the buyer is to provide at his/her own cost
- (d) Goods held by the company pending delivery instructions maybe subject to storage charge.
- (e) Any contract or part thereof for which the customer has not given to the company clear and unambiguous instructions for delivery within a period of six months after acceptance of the order shall (at the option of the company) be invoiced and the amount become payable by the customer forthwith or cancelled. Unless such order shall be invoiced within seven months from acceptance of the order, it shall be deemed to be cancelled.
- (f) (f) The company reserves the right to deliver goods by instalments.
- (g) (g) Delivery time is not of the essence, the company cannot be held liable for any loss what so ever the customer may or may not incur for the late delivery of any of its goods or services.

9 WARRANTIES AND EXCLUSIONS

- (a) Where samples are submitted, these are drawn from bulk and are representative of the whole and no guarantee can be given that every item will be the same in all material respects as the sample.
- (b) The goods are supplied on the basis that they conform to the written description contained on the invoice. No warranty can be given that the goods supplied conform to sketch plans or drawings provided by the company or the customer or to illustrations or descriptions in catalogues or trade literature.

© In the event that the company provides estimates of quantities of measurements on the basis of drawings and/bills of quantities and/or specifications submitted by the customer, the company shall exercise reasonable care in so doing that the company accepts no liability for inaccuracies in the estimates or calculations.

(d) Any goods manufactured to the design or specification of the customer or its experts are produced without warranty of any kind except their compliance with the design or specification. The customer will unconditionally, fully and effectively indemnify the company in respect of any claim resulting there from including the infringement of patent, copyright, design, trademark or any other industrial or intellectual property rights resulting from the company's use of the said design or specification.

(e) Where goods are supplied with advertised stress capacity, they are warranted to possess such capacity.

(f) Design and advisory services (including the preparation of drawings, specifications, contract particulars and the like) are provided with reasonable care and skill, but no other representation or undertaking is made or is to be implied in connection with any such services nor shall the company be under any liability whatsoever in respect of these services if erection is carried out before the necessary approvals are obtained.

(g) If the company arranges processing of goods on behalf of the customer by a third party such processing will be carried out under the standard terms and conditions of the third party (copies available on written request) and entirely at the customer's own risk and cost. No undertakings or warranties either express or implied are given in respect of any processed goods.

(h) The customer is deemed to be fully conversant with the nature and performance of the goods including any harmful hazardous effects resulting from their usage and shall not be reliant in any way upon the advice, skill or judgement of the company. The company's employees or agents are not authorised to make any representations concerning the goods, other than those confirmed by the company in writing.

(i) Notwithstanding anything to the contrary contained in these conditions if and to the extent that any person by whom the company has been supplied hereunder validly excludes, restricts or limits his/her liability to the company in respect of goods supplied or of any loss or damage arising in connection therewith then the liability of the company to the customer in respect of the said goods shall correspondingly be excluded, restricted or limited. The company will, on request, supply the customer with details of any such exclusion, restriction or limitation.

(j) The company shall not be liable for any consequential loss or indirect loss suffered by the customer or any third party in relation to this contract (except personal injury directly attributable to the negligence of the company and the customer shall hold the company fully and effectively indemnified against such losses whether arising from breach of a duty in contract or tort in any way including losses arising from the company's negligence.

(k) In no circumstances whatsoever shall the company's liability (in contract, tort or otherwise) to the customer arising under, out of, or in connection with, this contract or the goods supplied hereunder exceed the invoice price of the particular goods concerned.

(l) On the occasion whereby those of its suppliers restrict the company's liabilities, warranty will be limited in so far as the supplier's warranties shall allow.

10 PASSING OF PROPERTY AND RISK

(a) The property, ownership and title in the goods shall not pass from the company until

(i) The customer has paid the company for the goods; and

(ii) No other sums are outstanding from the customer to the company on any account whatsoever, whether or not such sums have become due for payment.

(b) Until the price of the goods has been paid in full the relationship between the company and the customer in respect of the goods shall be that of bailor and bailee and, should the customer sell the goods before paying the company for them, he shall do so as agent for the company.

© The company's goods held by the customer as bailee shall be insured by the customer for fire and all other normal hazards for a sum not less than the price owed to the company by the customer for them and the customer shall cause the interest of the customer therein to be noted upon the policy of insurance.

(d) Where the price of the goods supplied by the company remains unpaid after the date when it should have been paid or in the event of the customer's insolvency as defined in clause 7(f) or any breach of these conditions by the customer, the customer must immediately place any of the goods supplied to it by the company which are in its possession or under its control at the company's disposal and the company shall (without prejudice to any other rights and remedies) have the right to repossess and use those goods and may by itself, its servants or agents enter upon any of the customer's premises for the purpose of removing such goods and detach them from other goods and the cost to the company of so recovering the goods shall be payable by the customer to the company on demand.

11 FORCE MAJEURE

In the event of the company being delayed in or prevented from performing its obligations hereunder owing to any cause whatsoever beyond the company's control including without limitation, act of God, war, strikes, lockouts, trade disputes, difficulty in obtaining workmen or materials, breakdown of equipment, or any other cause, the company will not be liable for any loss, damage or expenses incurred and shall be at liberty to cancel or suspend the contract without incurring any liability arising there from and the customer shall not be entitled to terminate the contract.

12 INTELLECTUAL PROPERTY RIGHTS

If the customer receives a claim that any goods or part thereof supplied by the company infringes the intellectual property rights of any third party the customer

shall immediately notify the company in writing. The company shall have sole right to evaluate settle or defend such claim and the customer shall give the company all possible information and assistance for this purpose. The company shall at its own expense and option do all or any of the following: -

- (a) (a) Settle the claim
- (b) (b) Obtain for the customer the right to use such goods
- (c) (c) Replace or modify the goods refunding to the customer the purchase price installation and carriage costs, less a reasonable amount for depreciation
- (d) (d) Have the customer return the goods refunding to the customer the purchase price installation and carriage costs, less a reasonable amount for depreciation.
- (e) (e) Defend against such claim provided always that the customer has complied with all the terms of the contract and if any court of competent jurisdiction holds such goods to constitute infringement of the company shall pay all costs and damages awarded on account of such infringement and if the use of such goods is prohibited the company shall at its option take action as specified in (b), (c) or (d) above. If a claim or infringement relates to goods or part thereof sold but not manufactured by the company any indemnity given by the manufacturers of any such goods shall apply. The rights and obligations of the company and the customer respecting property rights are solely and exclusively as laid down in this condition.

13 LAWS AND INTERPRETATION

- (a) (a) This contract represents the entire agreement between the parties and supersedes all earlier warranties representations or statements (whether oral or in writing) and may only be varied or amended in writing between the parties.
- (b) (b) The headings of each provision are intended for convenience only and do not affect the interpretation thereof.
- (c) (c) This contract is subject to and shall be interpreted in accordance with English law.
- (d) (d) Nothing in these conditions of sale affects the statutory rights of the customer who deals as a consumer as defined in (The Supply of Goods and Services Act 1996).