

WEATHERGLAZE SYSTEMS LIMITED

Terms & Conditions of Sale

1. Definitions

- 1.1 Seller: shall mean Weatherglaze Systems Limited, Clonattin, Gorey, Co Wexford.
- 1.2 Buyer: shall mean any person or persons, company, firm, partnership or other trading entity who shall submit an Order to the Seller.
- 1.3 Order: shall mean a written request on official Weatherglaze Customer Order Forms or on forms acceptable to Weatherglaze.
- 1.4 Contract: shall mean any contract between the Seller and the Buyer for the sale and purchase of the Goods incorporating these terms.
- 1.5 Goods: shall mean any Goods which are the subject of an Order.
- 1.6 Delivery Date: means the date specified by the Seller when goods are to be delivered.

2. Terms

- 2.1 These terms and conditions 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 and conditions which the buyer may purport to apply under any quotation, confirmation of order or any other document.
- 2.2 Any variation to these terms and conditions (including any special terms and conditions agreed between the parties their representatives or agents) shall be inapplicable unless agreed in writing by the Seller.
- 2.3 Each Order or acceptance of a quotation for Goods by the Buyer from the Seller shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions. No Order from the Buyer shall be binding on the Seller until such time as the Seller has accepted the Order and until then any price will be a quotation subject to change without notice.
- 2.4 Any order shall only be deemed accepted by the Seller when it proceeds to manufacture and until such time it shall not be deemed accepted.
- 2.5 The Buyer is responsible for ensuring that all drawings, measurements specifications and instructions are correct. Weatherglaze shall not accept responsibility for variations or mistakes in deliveries or goods where such orders are placed by the customer verbally, by telephone or otherwise and said orders are not confirmed in writing by the customer.
- 2.6 The Seller may assign the Contract or any part of it to any person, firm or company. The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Seller

3. Contract

- 3.1 The Contract between the parties is a contract for the sale and purchase of goods only and confers no other rights and benefits on the Buyer. The Buyer is not entitled to hold themselves out as an agent, intermediary, representative or employee of the Buyer.
- 3.2 The Buyer shall indemnify the Seller against all damages, penalties, costs and expenses to which the Seller may become liable as a result of any misrepresentation of the nature or the relationship between the Buyer and the Seller.

4. Price and payment Prices

- 4.1 The price shall be the sellers quoted price at the date the order is accepted.
- 4.2 Unless otherwise stated prices quoted are Net of Value Added Tax. VAT shall be added and due at the rate ruling on the date of the Sellers invoice.

- 4.3 Payment shall be made on the due date as agreed between the seller and the buyer. The Buyer shall make payments due under the Contract in full without any deductions. No payment shall be deemed to have been received until the Seller has received cleared funds.
- 4.4 If payment of the price or any part thereof is not made by the due date the seller shall be entitled to:
- 4.4.1 Refuse to make delivery of any undelivered Goods whether ordered under these conditions or not without incurring any liability whatever to the Buyer for non-delivery or any delay in delivery
- 4.4.2 Terminate the contract
- 4.4.3 The Seller reserves the right to charge the Buyer interest (both before and after any judgement) on the amount unpaid, at a rate equal to 2 % greater than the ECB rate for the time being in force from the due date for payment until the date of actual payment by the Customer. Such interest shall be payable on demand and it may be charged and added to the balance of overdue payments from time to time
- 4.5 All payments payable to the Seller under the Contract shall become due immediately on its termination despite any other provisions whether by way of set-off, counterclaim, discount, abatement or otherwise.
- 4.6 An order which has been accepted and proceeded to manufacture is not subject to cancellation. If an order is cancelled after it has proceeded to manufacture the full contract price will remain due and owing by the Buyer to the Seller and subject to these terms and conditions.

5. Delivery

- 5.1 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.
- 5.2 The Seller shall arrange for carriage of the Goods to the Buyer's address. . If for any reason the Buyer fails to accept the delivery of any of the Goods when they are ready for delivery the risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Seller's negligence) and the Goods shall be deemed to have been delivered and the Seller may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).
- 5.3 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.
- 5.4 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 any time within 3 months of the delivery date.
- 5.5 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.

6. Warranties and Liabilities

- 6.1 The Seller warrants that the Goods will at the time of delivery will be of satisfactory quality and correspond to the description given by the Seller. The Buyer hereby acknowledges and accepts that in the case of sale by description or sample that reasonable variation may occur from the goods and such variation is within this context 'fair and reasonable' as per the requirements of Section 55 of the Sale of Goods and Services Act 1893 as amended.
- 6.2 Except where the Buyer is dealing as a consumer 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.

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 tortuous 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 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 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 contract 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.

7.5 The Buyer shall indemnify the Seller against all damages penalties costs and expenses to which the Seller may become liable as a result of work done in accordance with the Buyer's specification which involves infringement or alleged infringement of a patent, registered design or copyright.

8. Force Majeure

8.1 In the event that the Seller is prevented from carrying out its obligations under the contract as a result of any cause beyond its control, including but not limited to, happenings or occurrences due to "force majeure" or by reason or mobilisation hostilities acts of the State's enemies of war (whether declared or not) Government action, department instructions or act of God, riots, lock-outs strikes or disturbances wherever taking place, want of raw materials or fuel, failure of transport, reduction or stoppage of output at the Works where the goods are being manufactured through fire, flood, heat, frost, holidays, breakdowns of or accidents to machinery or any other causes or any circumstances whatever beyond the Seller's control, the Seller reserves the right to cancel or suspend deliveries. In any event the Seller shall not be liable in any way for loss or damage arising directly or indirectly through or in consequence of such events or happenings.

9. Shortage, Damages, Loss in Transit, Defective Goods

9.1 In respect of any claim for non- delivery for part of a consignment or for damage in transit, defect, corrosion, shortage of delivery deviation delay or detention the buyer must:

- 9.1.1 inspect the Goods immediately on delivery and give details of the defect, damage or loss on any carrier's delivery sheet;
- 9.1.2 notify the Seller within 24 hours by telephone of the defect, damage or loss;
- 9.1.3 confirm any such claim in writing or by email to reach the Seller within 10 days of delivery of the Goods in question;
- 9.1.4 and afford the Seller an opportunity to inspect the Goods in question within a reasonable time following delivery;
- 9.1.5 not dispose of any such Goods without the express permission of the Seller and then only as directed by the Seller.

9.2 In case of defective goods which the Buyer agrees would not be noticeable immediately upon delivery, the Buyer must:

- 9.2.1 notify the Seller by telephone immediately the defect becomes apparent;
- 9.2.2 confirm any such claim in writing or by email to reach the Seller within 10 days of delivery of the Goods in question
- 9.2.3 and afford the Seller an opportunity to inspect the Goods in question within a reasonable time following delivery;
- 9.2.4 not dispose of any such Goods without the express permission of the Seller and then only as directed by the Seller.

9.3 Any claim for defect as to size, colour or specification will not be considered after installation.

9.4 If the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Goods and the Seller shall have no liability for such defect, damage or loss and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract;

9.5 Where any valid claim in respect of any of the goods is based on any defect in the quality or condition of the Goods and is notified to the Seller in accordance with these Conditions, and the goods returned to and accepted by the Seller, the Seller shall be entitled to repair or replace the Goods free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Goods (or a proportionate part of the price), and the Seller shall have no further liability to the Buyer.

10. Tests and Inspections.

10.1 Unless otherwise agreed, all testing and inspection specified by the Buyer or implied by the order or customary to the Seller's practices shall be at the Seller's works and shall be final.

11. Reservation of Title.

11.1 The risk in the goods shall pass to the Buyer upon delivery, but ownership thereof shall remain with the Seller until payment in full has been made including any interest payable on late payments (each order being considered as a whole) or the Buyer resells the goods as provided herein.

11.2 Until such time as title to the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent and shall:

(a) keep the Goods marked and stored separately from other goods so as to be identifiable as the property of the Seller;

(b) keep the Goods properly stored, protected and insured to their full market value;

(c) give to the Seller such information relating to the Goods as the Seller may from time to time require;

(d) allow the Seller to enter onto the Buyer's premises for the purposes of inspecting the Goods at any time,

(e) deliver the Goods up to the Seller upon demand and if the Buyer fails to do so, the Seller, its agents or employees shall be entitled to enter upon the Buyer's premises or any other premises where the Goods are stored in order to retake possession of the Goods and the Buyer indemnifies the Seller in full in relation to all claims of any kind arising out of reasonable actions taken by the Seller to recover such goods where there has been default on the part of the Buyer as outlined herein.

11.3 Until title in the Goods has passed to the Buyer the Buyer shall not be entitled to pledge, create a lien over or charge in any way whatsoever the Goods and if the Buyer does so, all monies owing to the Buyer shall immediately become due and payable.

11.4 Before payment in full is made, the Buyer shall have the power to resell the goods (as principal towards sub-purchase but as agent between Buyer and Seller) and the Seller shall be beneficially entitled to and the Buyer shall be under fiduciary duty to account to the Seller for the proceeds of resale and any claim thereto.

11.5 If the Buyer, not having made payment in full for the goods, mixes them with other goods or uses them in the manufacture of other products, the ownership of other goods or products shall thereupon vest in the Seller as security for such payment, and accordingly the provisions set out in the immediately preceding sentence shall as far as appropriate apply to such other goods or products.

11.6 The provisions of this clause 10 shall be without prejudice to the obligation of the Customer to purchase the Goods.

12. Insolvency

12.1 If the Buyer shall make default in or commit any breach of any of his obligations to the Seller or if any distress or execution shall be levied upon the Buyer or if the Buyer shall offer to make any arrangement with the creditors or commit any act of bankruptcy or if any petition in bankruptcy shall be presented against him or if the Buyer is a limited company any resolution or petition to wind up such company's business (other than for the purpose of any amalgamation or reconstruction which becomes effective) shall be passed or presented the Seller shall be entitled without notice to suspend or cancel the Contract or the delivery of the whole or any part of the order and if any Goods have been delivered but not paid for, the Price in respect of those Goods, shall become immediately due and payable, without prejudice to any claim or right the Seller might otherwise make or exercise.

13. Data Protection

13.1 Any information and data provided by the Buyer and used by Seller directly or indirectly in the performance of this Agreement shall remain at all times the property of the Buyer. It shall be identified, clearly marked and recorded as such by the Seller on all media and in all documentation. The Seller shall take all reasonable precautions to preserve the integrity and prevent any corruption or loss, damage or destruction of any data and information. The

Seller agrees to comply and have adequate measures in place to ensure that its staff comply at all times with the provisions and obligations contained in (as amended from time to time): 5.4.1 The Data Protection Act 2018, 5.4.2 General Data Protection Regulation (EU) 2016/679, 5.4.3 The Consumer Protection Act 2007. All personal data acquired by The Seller from the Buyer shall only be used for the purposes of this Agreement and shall not be further processed or disclosed without the consent of the Buyer. Nothing in this Agreement shall oblige the Buyer to disclose any information to the Seller if it is of the view that to do so would be a breach of the Data Protection Acts. In the event of termination of this Agreement the Seller shall when directed to do so by the Buyer, erase, and instruct all its agents and sub-contractors to, erase all information and data provided by the Buyer and all copies of any part of the information and data provided by the Buyer from the Seller's systems and magnetic data. For further information regarding your rights and the processing of your data please see <https://www.weatherglaze.ie/data/>

14. General

- 14.1 The Seller may from time to time alter these terms and conditions in its absolute discretion.
- 14.2 If any provision herein contained is held by any Court or other competent authority to be invalid or unenforceable in whole or in part, the remainder of such provisions and all other provisions contained herein shall nonetheless be deemed valid and subsisting.
- 14.3 Failure or delay by the Seller in enforcing or partially enforcing any provision of this shall not be construed to as a waiver of any of its rights under this contract.
- 14.4 The conditions, validity and performance of this contract shall be governed by and shall be construed as in accordance with the law of the Republic of Ireland and shall be subject to the exclusive jurisdiction of the Courts of the Republic of Ireland.