

1.INTERPRETATION

1.1 In these conditions:

BUYER means the person, firm or company entering the Contract to purchase the Goods from the Seller;

CONDITIONS means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller;

CONTRACT means the contract for the purchase and sale of the Goods;

DELIVERY DATE means the earlier of the date of actual delivery of the Goods or if the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, the date that the Seller notifies the Buyer that the Goods are ready for collection, or as the case may be the Seller tenders delivery of the Goods.

GOODS means the goods (including any instalment of the Goods or any parts for them) which the Seller is to supply in accordance with these conditions.

SELLER KATUK LIMITED (company number 12825108) whose registered office is situated at 1 Mottram Way, Macclesfield, Cheshire, SK10 2DH.

WRITING includes telex, cable and comparable means of communication.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF THE SALE

2.1 The Seller shall sell and the Buyer shall purchase the Goods in accordance with any written quotation of the Seller which is accepted by the Buyer, or any written order of the Buyer which is accepted by the Seller, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made by the Buyer and no conduct of the Seller is to be regarded as acceptance of the Buyer's terms.

2.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Seller.

2.3 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed.

2.4 Any advice or recommendations given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.5 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

2.6 All descriptions, specifications, drawings and dimensions submitted by the Seller are deemed to be approximate only and all illustrations in any Seller's brochure, price list, systems manual and other advertising matter shall not form part of any contract.

3. ORDERS AND SPECIFICATIONS

3.1 No order submitted by the Buyer shall be accepted or deemed to be accepted by the Seller until confirmed in Writing by the Seller's authorised representative.

3.2 The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification and pricing) submitted by the Buyer and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3 The quantity, quality, description and price of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

3.4 If the Goods are to be manufactured or any process to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify and keep the Seller indemnified against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

3.5 The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or EU requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

3.6 No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in Writing of the Seller and on terms that the Buyer shall indemnify and keep the Seller indemnified in full against all loss (including loss of profit), costs (including the cost of all labour and materials used) damages, charges and expenses incurred by the Seller as a result of cancellation.

4. PRICE OF THE GOODS

4.1 The price of the Goods shall be the Seller's quoted price, or where no price has been quoted or a quoted price is no longer valid, the price listed in the Seller's published price list current at the date of acceptance of the order. Where the Goods are supplied for export from the United Kingdom, the Seller's published export price list shall apply in the absence of a price quoted by the Seller. All prices quoted are valid for 30 days or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2 The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currently regulation, alteration of duties, increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

4.3 Except as otherwise stated under the terms of any quotation or in any price list of the Seller and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are inclusive of the reasonable cost for transport, packaging and insurance.

4.4 The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

4.5 The cost of pallets and returnable containers will be charged to the Buyer in addition to the price of the Goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.

5. TERMS OF PAYMENT

5.1 Subject to any special terms agreed in Writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods at point of order confirmation by the Sellers authorised representative (3.1) or at any time prior to the delivery of the Goods.

5.2 The Buyer shall pay the price of the Goods (less any discount to which the Buyer is entitled, but without any other deduction) in accordance with the terms agreed between the Seller and the Buyer at the time of the order confirmation by the Sellers authorised representative and in default of agreement on the last day of the month following the month in which the Goods are invoiced to the Buyer, whichever shall be the earlier, the Seller shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

5.3.1 suspend all or any further deliveries to the Buyer made under that or any other contract with the Buyer and in such event the Buyer shall not be released from its obligations to the Seller under that or any other contract or cancel the Contract or any other contract with the Buyer and to claim damages from the Buyer for breach of contract;

5.3.2 appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and

5.3.3 charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 5 per cent per annum above The Royal Bank of Scotland plc base rate from time to time accruing daily, until payment in full is made.

5.4 The Buyer shall not be entitled to set off against any monies due to the Seller hereunder any amounts whether present or contingent due from the Seller to the Buyer under this Contract or for any other reason whatsoever.

6. DELIVERY

6.1 Delivery of the Goods shall be made by the Seller delivering the Goods to the Buyer's address on the Delivery Date or as otherwise agreed between the Seller and the Buyer. The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are intended for delivery.

6.2 Any dates quote for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in Writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.

6.3 The Seller reserves the right at its discretion to deliver by instalments.

6.4 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.

6.5 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

6.5.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs, including insurance and storage; or

6.5.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

7. RISK AND PROPERTY

7.1 Risk of damage to or loss of the Goods shall pass to the Buyer:

7.1.1 In the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

7.1.2 in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

7.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Goods and all other goods sold or agreed to be sold by the Seller to the Buyer under any other contract.

7.3 Until such time as the property in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Seller's fiduciary agent or bailee, and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property but shall be entitled to resell or use the Goods in the ordinary course of its business, but shall account to the Seller for the proceeds.

7.4 Until such time as the property in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been re-sold), the Seller shall be entitled at any time to require the Buyer to delivery up the Goods to the Seller and, if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or any third party where the Goods are stored and repossess the Goods and for that purpose the buyer hereby authorises and licenses the Seller, its officers, employees and agents and to enter upon any land or building upon which the Goods are situated to recover those Goods.

7.5 The Buyer shall not be entitled to or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall, without prejudice to any other right or remedy of the Seller, forthwith become due and payable.

8. WARRANTIES AND LIABILITIES

The warranties and liabilities provisions covered by these terms and conditions of sale are held under a separate document. Warranty for KAT Door and Window Products Aluminium and PVCu published on the KAT website and or available on request.

9. INDEMNITY

9.1 If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Buyer, the Seller shall indemnify the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:

9.1.1 the Seller is given full control of any proceedings or negotiations in connection with any such claim:

9.1.2 the Buyer shall give the Seller all reasonable assistance for the purpose of any such proceedings or negotiations;

9.1.3 except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);

9.1.4 the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);

9.1.5 the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs, if any, awarded in favour of the Buyer which are payable by, or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and

9.1.6 without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.

9.2 The Seller is the proprietor of intellectual property rights relating to the Goods and the Seller reserves as such rights to itself and no authorisation or licence is granted to the Buyer to use the Goods or any drawings or specifications relating to the same provided to the Buyer by the Seller otherwise than for the purpose provided.

9.3 The Seller shall not be liable to the Buyer under any circumstance for loss of profit, revenue, contracts, anticipated savings, good will or any other direct, indirect or consequential loss, in relation to faulty goods or late delivery.

10. INSOLVENCY OF BUYER

10.1 This clause applies if:

10.1.1 The Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order (or being an individual or firm) becomes bankrupt or (being a company) goes into liquidation, otherwise than for the purpose of amalgamation or reconstruction; or

10.1.2 an encumbrancer takes possession, or a receiver is appointed, of the Buyer's undertaking or any of its property or assets; or

10.1.3 the Buyer ceases, or threatens to cease, to carry on business; or

10.1.4 the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly.

10.2 If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Goods have been delivered, but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

11. GENERAL

11.1 The Seller is a member of a group of companies and accordingly the Seller may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Seller.

11.2 The Buyer shall not be entitled to assign the whole or any part of its rights and/or obligations under the Contract without the prior written consent of the Seller.

11.3 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant on this provision to the party giving the notice. A notice shall be deemed to have been received, in the case of a facsimile, upon transmission and, in the case of a letter, forty eight hours after posting. In proving service by letter, it shall be sufficient to show that the envelope containing the notice was properly addressed and stamped and duly posted. In proving service by facsimile transmission, it shall be necessary only to produce a report confirming uninterrupted transmission to the recipient.

11.4 No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.

11.5 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.

11.6 The Conditions shall constitute the entire agreement in relation to the sale of the Goods and no modification or waiver thereof shall be valid unless made in Writing expressly for the purpose and signed by an authorised officer of the Seller and of the Buyer.

11.7 The Contract shall be governed by the laws of England and the Buyer agrees to submit to the non-exclusive jurisdiction of the English courts.

11.8 Any dispute arising under or in connection with these Conditions or the sale of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the Law Society.

11.9 No person other than the Buyer or Seller shall have any rights under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of the Contract provided that nothing in this condition shall affect any right or remedy of any third party which exists or is available apart from that Act.

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