

DEFINITIONS

1. "The Seller" means Dempsey Dyer Limited. "The Purchaser" means the person, firm or company to be supplied with the Goods by the Seller and includes any successors in title to the purchaser approved by the seller. "The Goods" means the goods, materials, fixtures and/or other items to be supplied pursuant to the Contract (including goods or materials which have been or are to be affixed to or from part if any building or other structural or any instalment of the Goods or any part of them.) "The Contract" means the Contract for sale and purchase of the goods made between the Seller and Purchaser to which these conditions apply.

ESTABLISHMENT OF CONTRACT

2. Quotations by the seller do not constitute an offer. The Purchaser's order is only validly accepted and a binding contract entered into when the seller has accepted the order in writing.

3a. Unless otherwise agreed in writing by a Director of the Seller these Conditions (which supersede any early sets of Conditions appearing in the Seller's catalogue or elsewhere) apply to all Contracts and shall override any terms or conditions stipulated incorporated or referred to by the Purchaser in the Purchaser's order or in any negotiations or correspondence or elsewhere. Acceptance of Goods by or on behalf of the Purchaser shall be conclusive evidence that these Conditions are accepted by the Purchaser and that they apply to the Contract.

3b. Subject as herein provided all guarantees warranties and conditions (including any conditions as to quality or fitness for any particular purpose) whether express or implied by statute common law or otherwise are excluded and hereby negated to the fullest extent permitted by law.

SPECIFICATIONS AND DRAWINGS

4a. All descriptive matter drawings and particulars of weights, finishes, colours and dimensions submitted by the seller and the descriptions and illustrations contained in the Seller's catalogue price lists and other advertising matter are intended merely to present a general idea of the Goods and none of these shall form part of the Contract nor shall the Seller be liable for any representations made therein.

4b. The Goods are supplied in accordance with the specification (if any) submitted to the Purchaser.

4c. The Purchaser shall accept the Goods in fulfilment of the Contract notwithstanding variations in construction, specification, colour or size, which are responsible within the limitations, which are imposed by availability of materials and components and by production techniques.

4d. If the Seller adopts any major changes or modifications in construction, design or specification of the Goods so as to alter the appearance thereof, the Seller shall give to the Purchaser advise thereof and unless the Purchaser shall deliver to the Seller notice of cancellation to the Contract within fourteen days thereafter then the Purchaser shall accept the Goods so changed or modified in fulfilment of the Contract. In the event of a notice of cancellation being served the Seller shall not be liable to the Purchaser for breach of contract or otherwise.

4e. Any plans drawings or technical documents prepared by the Seller and submitted to the Purchaser prior or subsequent to the formation of the Contract shall remain the property of the Seller and shall be returned to the Seller on demand. The Purchaser shall not without the Seller's written consent copy the said plan drawings or technical documents or any part of them or part with possession of them or disclose them or any part of them to others or allow any third party to use the said plans, drawings or technical documents other than in connection with the installation or assembly of Goods.

DELIVERY AND RISK

5a. The risk of damage to or loss of the Goods shall pass to the Purchaser 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 in the case of Goods to be delivered otherwise than at the Seller's premises at the time of the delivery (whether or not the installation has been completed) or if the Purchaser wrongfully fails to take delivery of the Goods at the time when the Seller has tendered delivery of the Goods.

5b. The Purchaser is responsible for supplying adequate trained operatives to offload the window products at the Purchaser's premises or at a delivery address notified to us by and agreed by us with the Purchaser. If adequate trained operatives are not available, Goods cannot be offloaded and a charge will be made for an additional delivery.

5c. For the purposes of safe manual handling, factory-glazed frames cannot exceed in size: 4-16-4 glass-2.2m². 6-12-6 glass-1.7m².

VARIATION, CANCELLATION AND SUSPENSION

6a. Should the Seller incur any extra cost or loss owing to the Purchaser's delay or refusal to accept delivery or the suspension of work by the Purchaser's instructions or lack of instructions or interruptions, delays, mistakes or work for which the Seller is not responsible such extra cost or loss plus a mark up for profit element shall be added to the Contract price and paid for accordingly.

6b. No cancellation, amendment or variation of a Contract will be accepted by the Seller.

6c. Delivery shall be taken by the Purchaser within the period (if any) stated in the Contract and the Purchaser shall provide the Seller with such details as may be necessary or requested by the Seller to enable the Seller to complete or deliver within that period.

6d. In the event of the Purchaser returning or failing or refusing to accept any of the Goods in accordance with the Contract the Seller shall be entitled, at its option, either to deliver and invoice the Purchaser for the Goods or any balance of the Goods then remaining undelivered or to suspend or cancel that and any further deliveries under the Contract and the Seller may at its discretion, and if and so long as its storage facilities permit, store the Goods at the Purchaser's risk until their actual delivery and the Purchaser shall be liable to the Seller for all additional costs including transport, administration and insurance of it so doing. This provision shall be in addition to and not in substitution for any other payment or damages for which the Purchaser may become liable in respect of its failure to take delivery at the appropriate date.

LIABILITY FOR DELAY AND/OR FAILURE TO SUPPLY

7. The Seller shall not be under any liability to the Purchaser in respect of any damage or loss arising directly or indirectly out of delay in delivery.

8. Without prejudice to the provisions of clause 7 where the Contract provides that the Seller will transport the Goods to a place specified by the Purchaser the Seller will only be liable for loss or damage in transit or failure to effect delivery if the Seller is notified in writing (giving full details of the claim) within three working days of the date of delivery or of the date when delivery ought to have been effected. The Purchaser must examine the Goods at the place and time of delivery as foresaid and no claim will be entertained in respect of Goods, which have not been checked and examined by the Purchaser at the time of delivery. In respect of the time limit specified in this clause time shall be of the essence.

WARRANTIES AND LIABILITIES

9a. Except in respect of death or personal injury caused by the Seller's negligence the Seller shall not be liable to the buyer for any loss or damage whether for loss of profit or otherwise, costs, expenses or other claims for consequential compensation whatsoever and howsoever caused but SUBJECT AS HEREINAFTER provided the Seller shall be entitled to replace or repair at its discretion and its own cost any of the Goods which are or become faulty by reason only of the use of defective workmanship within the period that the Purchaser has notified the Seller in writing. But the Seller shall not be liable to supply or pay cost of labour to fit Goods so replaced nor for any damage or injury whether indirect or direct caused to the Purchaser, his employees or customers, or persons authorised or permitted by him or them to operate, use or come into contact with the Goods nor for any other loss or damage suffered or incurred by the Purchaser or any third party. If the Purchaser does not notify the Seller accordingly the Purchaser shall not be entitled to reject the goods and the Seller shall have no liability for such defect or failure and the Purchaser shall be bound to pay the price as if the Goods have been delivered in accordance to the Contract.

9b. The Seller shall be under no liability in respect of any defect arising to the use of materials provided by the Purchaser or out of the use of any design drawing or specification supplied by the Purchaser.

9c. The Seller shall be under no liability whatsoever in respect of Goods represented by the Purchaser to be defective or faulty which not been stored or used properly and in accordance with the Seller's or manufacturer's recommended practices or any defect arising from fair wear and tear, wilful damage or negligence on the part of the Purchaser or any person or persons permitted to use the Goods in any way.

9d. The Seller shall not be liable in any respect of any defect arising from the Purchaser's faulty assembly, erection, installation, maintenance or alteration of the Goods carried out without the consent of the Seller or as a result of non compliance with or in contravention of any instructions given by the Seller (whether oral or in writing).

9e. The Purchaser is hereby notified that the British Standards Institute, the Glass Glazing Federation and certain other bodies prescribe certain recognised standards for the assembly, erection, installation, maintenance or alteration to be carried out himself or by any other person, firm or company other than the Seller and he is strongly advised to seek the Seller's advice as to which bodies prescribe such standards and to approach the relevant body or bodies directly for

details thereof. The Seller shall not be liable whether under any guarantee or otherwise in respect of any defect arising from any failure to comply with any prescribed standards if such assembly, erection, installation, maintenance or alteration shall have been carried out other than by the Seller.

WARRANTIES AND LIABILITIES (Cont)

9f. The Seller shall not be liable in respect of Goods or any items incorporated into Goods which have not been manufactured by the Seller save that the Seller will so far as is possible pass on the benefit of any manufacturer's warranty or guarantee to the Purchaser.

9e. Warranty periods and maintenance guidelines are specified for each of the Seller's product types and the Purchaser should request a copy of these from the Seller.

PRICES AND TERMS OF PAYMENT

10a. Unless the Seller otherwise specified in writing all prices are strictly net and settlement in full of each invoice is due within 28 days after the date of invoice.

10b. All quotations by the Seller are exclusive of Value Added Tax or any similar taxes and all levies, duties or taxes applicable to the Goods and are subject to adjustments to take into account such items as the date of invoice or delivery which ever is relevant.

10c. The Contract price for the Goods may be increased by the Seller in accordance to market conditions at the date of actual supply and Purchaser shall pay such additions in addition to the Contract or quoted price. Without prejudice to the generality of the foregoing "market conditions" shall include any increase in the cost of labour, and/or materials, operations, and/or transport and any variation in currency exchange rates.

10d. The Seller reserves the right at its option at any time to require payment in part or in full for the Goods prior to manufacture or despatch and reserves the right to withhold manufacture or delivery of the Goods until such payment is received.

10e. Interest shall be payable by the Purchaser on any amount outstanding from the due date at a rate of 4% above the Base Lending Rate of Barclays Bank plc ruling from time to time (calculated on a day to day basis) until receipt by the Seller of the full amount due (whether before or after any judgement).

10f. The Purchaser shall indemnify the Seller in respect of all legal, administrative and other costs and expenses resulting from any breach by the Purchaser of the terms of the Contract.

RETENTION OF TITLE

11a. If delivery of the Goods or any part of them has been made before payment of all sums due to the Seller from the Purchaser under the Contract and in respect of all other Goods agreed to be sold by the Seller to the Purchaser for which payment is then due the Goods delivered shall remain the property of the Seller until such payment has been effected. Until that time the Purchaser shall hold the Goods owned by the Seller as the Seller's fiduciary agent and bailee and the Purchaser shall give the Seller every assistance in taking matters required to protect the Seller's right of property or other rights in respect of such Goods.

11b. Until payment of all sums due to the Seller by the Purchaser under the Contract the Purchaser shall, if the Seller so requires, store the Goods in such a way as they can clearly be identified as the property of the Seller.

11c. If any payment under the contract is overdue or there is any breach by the Purchaser of any of the provisions of the Contract the Seller reserves the right to re-possess any of the Goods and thereafter to re-sell the same and for this purpose the Purchaser hereby grants an irrevocable right and licence to the Seller's servants and agents to enter upon all or any of the Purchaser's premises with or without vehicles during normal business hours. That right shall continue to subsist notwithstanding the termination of the Contract through the happening of any of the events specified in these Conditions or otherwise and without prejudice to any accrued rights of the Seller under the Contract.

11d. In the event of the Purchaser or any person acting through him or on his behalf purporting to re-sell or otherwise dispose of the Goods or any part of them prior to payment of all sums due to the Seller from the Purchaser under the Contract the Purchaser shall hold in trust for the Seller all the Purchaser's rights under any such contract of re-sale or any other contract in pursuance of which the Goods or any part thereof are disposed of or any contract by which property comprising the said Goods or any part is or is to be disposed of and any monies or any other consideration received by the Purchaser there under and shall hold any such monies as the Seller's fiduciary agent in a clearly identifiable trust account and shall pay the sums due to the Seller in respect of the Goods and such monies.

11e. In the event of the Goods or any part thereof being constructed, erected or incorporated of any part of any premises or items or in any way whatsoever becoming a constituent part of any other goods or property prior to payment of all sums due to the Seller from the Purchaser under the Contract and in respect of all other goods agreed to be sold by the Seller to the Purchaser for which payment is then due the Purchaser shall in the event of the sale of such premises, items, goods or property hold the proceeds of sale of the said premises, items, goods or property in trust for the Seller in a clearly identifiable trust account and will account to the Seller for the part of the said proceeds of sale as are attributed to the Goods or such part thereof.

11f. In the event of the Seller repossessing any of the Goods and reselling them the Seller will hold the proceeds of the sale of such goods as trustee for the Purchaser to the extent that these proceeds of sale exceed the total of all monies owed by the Purchaser to the Seller under the Contract and in respect of all other goods agreed to be sold by the Seller to the Purchaser for which payment is then due and any costs incurred by the Seller in connection with such re-sale or other costs, damages or disbursements which the Seller is entitled to receive from the Purchaser. In all cases reliance by the Seller on the provision shall be at the sole instigation of the Seller.

PURCHASER'S DEFAULT

12. If the Purchaser shall make default or commit any breach of any obligations to the Seller or if any distress or execution shall be levied upon the Purchaser, his profits or assets or if the Purchaser becomes bankrupt or (if the Purchaser is a limited company) goes into liquidation other than for the purposes of amalgamation or reconstruction or becomes subject to an administration order or has a receiver or administrative receiver appointed over any of its property or assets or encumberancer takes possession of any of its property or assets or if the Purchaser (whether an individual firm or limited company) makes any arrangements with its creditors or if the Purchaser ceases or threatens to cease to carry on business of it the Seller reasonably apprehends any of the events mentioned above is about to occur in relation to the Purchaser and notifies the Purchaser by written notice posted to the Purchaser's last known address then all outstanding sums owing from the Purchaser to the Seller shall become immediately due and payable and the Seller shall have the right forthwith at its absolute discretion to suspend all or any further deliveries for such period as it thinks fit and/or at any time thereafter to determine any contract then subsisting and upon written notice of such determination being posted by it to the Purchaser's last known address the subsisting Contract shall be deemed to have been determined without prejudice to any claim or right the Seller might otherwise make or exercise.

FORCE – MAJEURE

13. All Contracts (including for the avoidance of doubt obligations under these conditions) may be cancelled or suspended by the Seller for such period or periods as the Seller in its absolute discretion shall elect (including the right to terminate after a period or periods or suspension) without liability on the Seller's part in the event of the Seller being unable to fulfil or being delayed or interrupted in fulfilment of any of its obligations under a Contract by reason of any contingency beyond its control including but without limitation, strikes, lock-outs, trade disputes, breakdowns, accidents, statutes, rules, regulations, orders, restrictions, prohibitions, recommendations, requisitions or other act of national or local government, war, invasion act of foreign enemy hostilities (whether war has been declared or not), civil war, rebellions, revolution, insurrection or military or usurped power, shortage of raw materials or inability to secure materials, labour, transport, or licences and the Purchaser shall be obliged to pay for those Goods which the Seller is actually able to deliver in accordance with their price under the Contract plus delivery and other relevant changes or if no such price is appropriated to them under the Contract then on a pro rata basis in relation to the Contract price as a whole.

LEGAL CONSTRUCTION

14. These Conditions and the Contract shall be governed by and construed and interpreted in accordance with the Laws of England and for the purpose of settlement of any disputes arising out of or in connection with these Conditions or the Contract the parties hereby submit themselves to the sole jurisdiction of the English Courts.

GENERAL

15a. The Seller reserves the right to sub-contract the performance and/or fulfilment of the Contract or any part thereof.

15b. The failure on the part of either party to the Contract to exercise or enforce any rights conferred by the Contract shall not be deemed to be a waiver of any such rights nor operate so as to bar the exercise of enforcement thereof at any times thereafter.

15c. Any notice required to be given in writing shall be deemed to have been duly given if sent by prepaid post first class, fax, e-mail or telex addressed to the party concerned at its principal place of business of last known address.

15d. In the event that any one or more of the provisions contained in these Conditions shall be invalid, illegal or unenforceable the remaining provisions contained here in shall not in any way be affected or impaired thereby.

HEADINGS

16. The paragraph headings of these conditions are for convenience only and shall in no way form part thereof.