

UK Window Group Limited Conditions of Sale

1. **General**
- 1.1 In these Conditions of Sale "us", "we" and "our" means UK Window Group Limited, trading as "UK Windows", "Techniglass", "Evolution" and "Seven Day Windows" as the case may be and "you" and "your" means the person, firm or company with whom we contract.
- 1.2 These Conditions of Sale apply to and govern any contract between you and us to the exclusion of any other conditions contained on, or in, any letter, order form, receipt or similar document emanating from us. No variation of these Conditions of Sale shall be effective unless expressly agreed by us in writing.
- 1.3 All quotations are valid for three months from date of issue (unless otherwise stated). An order by you shall not constitute a contract between ourselves unless and until it has been confirmed by us. The terms of the contract shall be as set out in our order confirmation and it is your responsibility to validate the accuracy of our order confirmation and to submit all the information necessary for us to perform the contract in accordance with our terms. Any deviation from our order confirmation shall constitute a new offer that shall be deemed accepted by you upon delivery.
- 1.4 (a) Except where otherwise stated in the contract or in our current price list all prices include the cost of packaging and delivery (but not installation) within mainland United Kingdom, excluding the Highlands and Islands of Scotland. We reserve the right to make additional charges if you require a method of packaging or delivery different to that normally employed by us or if delivery is to be made outside mainland United Kingdom or to the Highlands and Islands of Scotland.
(b) You shall, in addition to the net purchase price, pay to us the amount of any Value Added Tax or other sales tax at the rate in force at the time the goods are invoiced and all relevant foreign currency and export and import duties and other costs incurred for deliveries outside the United Kingdom.
2. **Payment**
(a) All goods will be invoiced at the time of, or soon after, dispatch. Payment for the goods must be received by us in sterling (without set off or counterclaim) within the period specified by agreed payment terms (or not later than 14 days from the date of the invoice in the absence of any specific agreement). Time of payment is of the essence in every contract. In addition to any other rights we may have, in the event of late payment you shall become liable to pay us interest on the amount due at 3% above the base rate of Barclays Bank plc calculated on a daily basis from the date of due payment until the date of actual payment.
(b) In the event that you postpone delivery, or request that we suspend the manufacture of the goods, or fail to give us sufficient information to enable us to process any order, you shall pay any additional costs and expenses thereby incurred by us.
(c) In the event of a dispute over part of a delivery you agree that you are not entitled to delay payment for the remainder of that delivery.
3. **Illustration & Dimensions**
(a) All descriptions, drawings, samples and other information contained in brochures, catalogues, price lists, trade literature and advertising material produced by us are approximate only, intended to indicate only the general character of the goods and do not form part of any contract between us.
(b) The dimensions of goods are subject to manufacturing tolerances customary within the trade. Dimensions contained in quotations, acknowledgements of orders, or catalogues, price lists, advertising matter, and other trade literature are therefore approximate only.
(c) All know-how, samples, models, designs, specifications, drawings, descriptions and similar items which we prepare relating to the goods or their development (and the copyright therein) shall remain our property, they shall be returned by you on demand and shall be treated by you as confidential. They are prepared solely for our use or illustrative purposes and must not be copied, reproduced or disclosed to any third party without our prior written consent and we shall not accept any liability whatsoever for any loss, injury or death caused by any reliance upon them by you or any third party.
4. **Substituted Goods**
We reserve the right to substitute goods which are similar to the goods ordered by you provided that such substituted goods are no less suitable for the purpose for which they are generally used than goods ordered by you.
5. **Cancellation**
If you cancel the contract it shall be deemed to be on the express condition that you shall indemnify us against all loss (including direct, indirect and consequential losses), damage, claims, expenses and actions arising out of such cancellation unless otherwise agreed in writing.
6. **Delivery**
- 6.1 (a) Delivery shall be to such place within mainland United Kingdom or the Republic of Ireland as specified by you in your delivery instructions contained in your order or, in the absence of such instructions, to your premises.
(b) You shall be responsible for unloading the goods at the point of delivery and for loading and removal if the goods are collected by you or your carrier from our premises.
(c) If, having arrived at the appointed delivery time, our vehicle is kept waiting for more than one hour before unloading commences, a charge of £25 per hour for subsequent delay will be applied.
(d) You shall be responsible for clearly signing and dating the dispatch note we present to you at the time of delivery, confirming your acceptance of the goods.
- 6.2 We will use reasonable endeavours to comply with any agreed delivery date, but cannot be held responsible for any loss or damage whatsoever caused by late delivery and you shall not be entitled to reject goods for late delivery. Requests for accelerated delivery will be treated on a "reasonable endeavours" basis and may be subject to additional charges. Unless specified otherwise, regarding glass products, we shall make reasonable efforts to deliver such products within one to two business days of the delivery of related other products.
- 6.3 We shall be entitled to make deliveries in installments and late delivery of one installment shall not entitle you to reject any other installment under the same contract.
- 6.4 If you fail to take delivery at the agreed time, we shall be entitled without prejudice to any other rights we may have to treat the contract as at an end and to resell the goods or to invoice the goods in which event payment in full shall become due in accordance with the provisions of condition 5. In either case we shall be entitled to charge you at rates giving an economic return for the handling and storage of the goods from the date of the invoice to the date of eventual delivery to you or of disposal elsewhere, as well as any consequent damages.
7. **Returnable Containers**
Returnable containers, stillages or racks in or on which goods are delivered are our property and will be charged to you unless they are returned to us no later than one month after the date of delivery, carriage paid, undamaged and in good condition.
8. **Risk**
- 8.1 The risk in the goods contracted to be sold by us shall pass to you when the goods are delivered to you, save that where the contract is stated to be C.I.F. risk shall pass to you when the goods are loaded on board ship at the port of shipment.
- 8.2 (a) Notwithstanding any passing of risk to you, we retain ownership of the goods which are the subject matter of the contract, the property in which shall not pass to you and you shall keep any goods delivered to you as bailee for and on behalf of us until we have received full payment of the price of all goods (whether or not the goods are delivered in installments and some have been paid for by you) and all other sums due at any time whatsoever from you to us.
(b) Until ownership of the goods has passed to you, you:
(i) shall insure the delivered goods against any loss or damage with a reputable insurance company and shall on demand produce evidence of such insurance. If you fail to insure we may do so instead on your behalf and you shall reimburse us on demand for the cost of this insurance. Until the full price has been paid, you shall hold on trust for us the policy and proceeds of insurance, and shall on request execute a formal assignment in favour of us over the same or arrange for our interest to be noted on the policy or for us to be named as an insured person and, if we retain any interest in the insurance, for the policy monies to be paid direct to us, falling which into a separate bank account on trust for us;
(ii) shall store the delivered goods separately or in some other way ensure that they are readily identifiable as our property;
(iii) irrevocably authorise representatives of ours at any time and from time to time (whether or not payment is due) to repossess the goods and for such purpose to enter any premises occupied by you or where the goods are or are thought to be located and to sever the goods from anything to which they are attached without being responsible for any damage caused; and shall keep the delivered goods free from any charge, lien or other encumbrance.
(c) If while under our ownership, the goods or any of them are processed or incorporated into other goods ("the New Goods") then, provided the goods remain as identifiable and removable part of the New Goods, the provisions of conditions 8.2(a) and (b) shall apply.
(d) We (acting on our own account not as your agent) may sell or agree to sell any of the goods or the New Goods in your possession on such terms as we may at our sole discretion consider appropriate.
- (e) We shall be entitled to a general lien over all goods and materials of yours which are in our possession or control from time to time for any sums due at any time whatsoever to us. Nothing in this condition 8 shall affect any other right or remedy of ours.
(f) The provisions of this condition 8 shall survive termination of the contract for any reason.
(g) Nothing in this condition 8 shall confer any right upon you to return the goods or to refuse or delay payment therefore.
9. **Limitation & Liability**
- 9.1 (a) Goods may be delivered in or on cartons, bundles, returnable containers, stillages or racks, loose or in other packaging. In any case where it is established to our satisfaction that the goods have been damaged or lost (whether wholly or in part) in transit we will at our own cost, repair or replace same provided that:
(i) in the case of total or partial loss or damage, you have returned to our representative (or where the goods have been delivered by a carrier his representative) our dispatch note duly signed by your representative with an indication of the shortage of or damage to the goods, cartons, bundles, returnable containers, stillages, racks, loose goods or other such packages as shall make up the delivery and full particulars are notified directly to us in writing within 7 days of delivery;
(ii) in the case of damage, the goods and their packaging are retained by you for inspection by our representative.
We shall not be liable for any loss or damage in transit, except as above.
(b) If we (acting reasonably) are satisfied that any goods supplied by us are defective as to material or workmanship not caused wholly or partly while at your risk by willful default, accident, improper storage or use or failure to follow instructions and providing that the goods have not been dismantled, altered or repair attempted, our liability shall be limited to make good the defect without charge by repair or replacement or (at our discretion) waiver or refund of all or part of the price, provided that the goods are returned to our premises full carriage paid within a reasonable time after you become aware of the defect. Where we find returned goods are not defective we reserve the right to charge you a handling fee including the cost of return and re-delivery.
(c) Our obligations and liabilities to you arising out of or in connection with the goods shall be limited to those expressly set out in these conditions and those which are implied or imposed by law to the extent that they cannot be limited, restricted or excluded by law.
(d) Subject to the foregoing, no collateral contract and no representation, warranty, condition, stipulation, liability or obligation whatsoever (including without limitation, whether arising (i) in contract tort including negligence or otherwise; or (ii) expressly, impliedly, at common law, by statute, custom, usage or course of dealing or otherwise; or (iii) in relation to loss, injury or damage of any nature whatsoever (whether direct or consequential) is given, made or undertaken by us or our employees or agents in relation to the goods (including, without limitation, whether in relation to their description, correspondence with sample, state, condition, quality (satisfactory or otherwise), performance, safety, merchantability, fitness for any particular purpose or other characteristic on delivery or at any other time), all of which are hereby excluded and extinguished.
(e) Where we supply glass, the goods supplied will conform to the relevant Visual Quality Standard of the Glass and Glazing Federation.
- 9.2 No warranty or representation given by us or on our behalf including any advice as to the installation quantities use or performance of goods supplied by us shall be binding upon us unless specifically stated in writing by us to be incorporated in the contract. This extends to information supplied by us on our drawings.
10. **Your Indemnity**
You shall indemnify and hold us and all of our group members and our respective officers, employees and agents harmless against all liabilities, losses, damages, costs, charges, expenses (including without limitation legal fees and expenses on a full indemnity basis) actions, proceedings claims and demands incurred by or brought against any of us/them and arising directly or indirectly out of or in connection with any breach of any of your obligations under these conditions or any contract between us.
11. **Consequential Loss**
Without prejudice to the generality of the foregoing provisions we shall not in any event be liable to you for any indirect or consequential loss, damage or expense.
12. **Insolvency & Breach of Contract**
(a) We shall have the option (without prejudice to any of our other rights) by notice in writing to you to rescind the contract or to suspend delivery in the following events:
(i) should any sum owing by you to us be overdue;
(ii) should you be in breach of any term of the contract;
(iii) should you enter into any composition or arrangement with, or for the benefit of, your creditors or have a receiving order in bankruptcy made against you or (if a body corporate) should you go into liquidation either voluntary or compulsory or under supervision or have a receiver appointed over all or any part of your assets, or you become unable to pay your debts within the meaning of Section 123 of the Insolvency Act (as maybe amended re-enacted or replaced from time to time), or the equivalent circumstances occur in any other jurisdiction, or
(iv) should you come under the control directly or indirectly of any person who does not control you at the date of the contract.
(b) In the event of any of the above, we may (at our discretion and without prejudice to our other rights) by written notice to you:
(i) declare immediately due and payable any indebtedness of yours to us on any account whatsoever; and
(ii) set off (to the extent it has not done so or is entitled to do so already) any indebtedness of ours to you against any indebtedness of yours to us, in each case or any account whatsoever.
13. **Health and Safety & Instructions**
(a) We hereby give notice to you that we have available upon request information and product literature concerning the currently known conditions necessary to ensure that the goods supplied will be safe and without risks to health when used properly, and you acknowledge it is for you to ask for further information if you so wish and you shall be deemed to have been afforded by us adequate information about the goods and materials in respect of the use for which they are designed, and have been tested, and of any condition necessary to ensure that when put to that use they will be safe and without risk to health, whether or not the said information has been requested by you.
(b) You shall comply, and ensure that your employees and agents comply, strictly with all instructions, warnings, data sheets and other material supplied by us or in connection with the goods and shall when supplying the goods ensure that they are accompanied by the same.
14. **Intellectual Property**
You shall have no rights to any intellectual property owned or licensed by us other than (if applicable) to resell the goods under the trade or service mark applied by us and you shall not, without our prior written consent, allow any trade or service mark applied by us or any instruction or warning applied to the goods to be obliterated or obscured.
15. **Assignment**
You may not assign, mortgage, charge, sub-let or otherwise dispose of any rights under this contract in whole or in part.
16. **Force Majeure**
In the event of war, invasion, act of foreign enemy hostilities (whether war has been declared or not), civil war, rebellion, revolution, insurrection or military or usurped power we shall be relieved of liability incurred under the contract wherever and to the extent to which fulfillment of such obligation is prevented, frustrated, or impeded as a consequence of any such event or by any statutes, rules, regulations, orders, or requisitions issued by any Government Department, Council, or other duly constituted authority, or from strikes, lock-outs, industrial or trade dispute, breakdown of plant or any other causes (whether or not of a like nature) beyond our control.
17. **Waiver**
Forbearance or indulgence shown or granted whether in respect of these conditions or otherwise, shall not affect or prejudice our rights against you or be taken as a waiver of any of these conditions.
18. **Governing Law**
Any contract incorporating these conditions shall be governed by and construed in accordance with the laws of England and Wales and both parties hereby agree to submit to the exclusive jurisdiction of the English Courts.
19. **Headnotes**
The headnotes to these conditions have been inserted for convenience and shall not affect their construction.