

Uni Windows Ltd.

Unit 6 Edgefield Industrial Estate, Loanhead, Midlothian, EH20 9TB

Tel: 0131 440 8099 reg.: SC398155

www.uniwin.co.uk



Conditions of Sale

1.0 DEFINITIONS

- a) The term '**Seller**' means Uni Windows Ltd. The term '**Purchaser**' means and includes the purchaser and any of its subsidiary or associated companies. The term '**Materials**' includes any goods, plant, equipment and substances of every description.
- b) The term '**Order Form**' means the form issued by the seller and acknowledged and accepted by the Purchaser of Materials, the supply of which is the subject matter of the contract between the Seller and the Purchaser.
- c) The term '**Contract Price**' is the sum exclusive of VAT for which the materials set out in the Order Form are supplied by the Seller to the Purchaser. This Contract Price is to remain fixed until the date stated in the Order Form, but in any case no longer than six months from the date of issue of the Order Form.
- d) The term '**Services**' means the services, which the Seller is to supply.

2.0 CONTRACT

- a) Only the **Order Form shall constitute the offer from the Seller to the Purchaser** and the form shall only be capable of being accepted, unless withdrawn in writing by the Seller, either by the Purchaser returning the signed form within 90 days of issue signifying the Purchaser's acceptance, subject to the Seller's conditions, of the above form, or else by the Purchaser and/or the Seller acting as if the Purchaser had accepted the above form. The **Order Form** and the Seller's **Conditions Of Sale** are considered as having been accepted by the Purchaser in case the Seller receives the deposit funds for the order as specified in the order form. Once the Order Form has been accepted by the Purchaser any variations will be subject to the Seller's acceptance in writing and any additional costs will be added to the Contract Price and become due at the same time.
- b) The **Order Form contains all the terms of agreement** between the parties, who have placed reliance upon no other terms or representations, and supersedes all or any other previous agreements or arrangements expressed or implied. Any materials supplied and services provided by the Seller are supplied subject to these conditions and these conditions only.

3.0 DELIVERY

- a) Delivery shall be to the address set out in the Order Form. The Materials shall be the risk of the Seller up to the point of the delivery arriving at the delivery address, after which time they are to be at the Purchaser's risk. The Purchaser shall be responsible for providing suitable access for delivery vehicles and for offloading and storing Materials upon delivery.
- b) **The Materials shall be deemed to be delivered, examined and accepted in good condition and as per the Order Form unless the Purchaser gives written notice to and received by the Seller within one week of the date of delivery** stating that the materials do not conform to the contract, specifying in that notice full details of the non-conformance.
- c) **Any time or date for the delivery named by the Seller is an estimate only** and the Seller shall not be liable for the consequences of any delays. The Seller is not liable for any delay in the delivery of the Materials nor is it liable if it is prevented from delivering Materials, materials or Services or executing work for any causes beyond its control, such causes may include Act of God, force majeure, war or hostilities, legislation, Government Order or direction, and strike, lock-out, labour disturbance, civil commotion, fire, accident, breakdown of machinery, or any lack or shortage of labour or materials, or reduction, or delay or stoppage of the output at the works or makers of any Materials or materials required and in any such case the Seller are to be released from any obligation to complete the contract with the Purchaser by a particular time. This right exists without prejudice to the Seller's right to recover payment for Materials already delivered or work already done. Time of delivery is not of the essence of the contract.
- d) Where a period is named for delivery and such a period is not extended by mutual consent in writing the Purchaser shall take delivery of the Materials within that time period. If the Purchaser shall not accept the delivery then the Seller may at its own discretion arrange for storage in joint names and insurance of the Materials at the Purchaser's risk. The Purchaser shall be responsible for all costs and expenses including insurance of such storage and in any event delivery shall be deemed to have taken place at the commencement of the above storage period. Costs and expenses will first become due at the end of each subsequent month.
- e) Delivery will be deemed to have been effected when the Materials leave the Seller's premises or the premises of the Seller's supplier in circumstances where the Materials are delivered direct from such suppliers.
- f) The Seller reserves the right to make delivery by instalments and to tender a separate invoice in respect of each instalment. Each delivery shall constitute a separate contract.
- g) If agreed between the parties the Materials may be collected by the Purchaser. Collection of the Materials must take place within fourteen days from the agreed collection date or the dates notified by the Seller as available for collection or the date of this contract whichever is later. Thereafter the Purchaser will incur storage charges at the rate currently applied by the Seller. Details of such storage charges may be obtained by the Purchaser at his request from a Director or General Manager.
- h) Upon collection of the Materials the Purchaser shall be solely responsible for the size, weight and positioning of any load on his vehicle and shall fully indemnify the Seller for any claims or action arising there from.
- i) Where the Seller agreed to deliver the Materials delivery shall be to the nearest hard metalled road surface. The Purchaser shall be entirely responsible for the prompt unloading of the Materials and the provision of suitable labour and equipment.
- j) The Purchaser shall take delivery or accept the Materials within the time limit provided in the contract. If the Purchaser fails to accept the Materials or to give the Seller adequate delivery instructions the Seller will store the Materials until actual delivery to the Purchaser or until the Materials are disposed of. The Purchaser shall be liable for the costs of such storage and insurance of the Materials. Alternatively the Seller may sell the Materials at the best price readily obtainable and the Purchaser shall be liable to pay the costs of the sale. If the Materials are sold for less than the price payable by the Purchaser, the Purchaser shall be liable to pay the Seller the difference in price.
- k) Notwithstanding delivery, title in the property of the Materials shall not pass unless it is in accordance with Clause Passing of Property and Risk

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4.0 SPECIFICATION

- a) Unless otherwise agreed in writing the Materials supplied by the Seller have been manufactured to the appropriate manufacturer's specification current at the time of manufacture. To allow for advances in the manufacturing process the Seller reserves the right to vary the specification of the Materials supplied without notice. However, the manufacturer's specification relates solely to the materials supplied by the Seller and is subject to the Purchaser complying with any requirements set out in the manufacturer's specification.
- b) The details of the order must be reviewed by the Purchaser prior to the order acknowledgement. By accepting the **Contract** as defined in clause 2.0 of this Conditions of Sale, the Purchaser confirms all details of the order (e.g. dimensions, colours and other Material specifications) to be correct.
- c) The Materials or materials supplied are on the basis that they conform to the written descriptions contained on the order or conformation where supplied. No warranty can be given that the Materials or materials supplied conform to the sketch plans or drawings provided to the Seller by the Purchaser or to illustrations or descriptions in catalogue or trade literature.
- d) In the event that the Seller provides estimates of quantities or measurements on the basis of drawings and/or Bills of Quantities and/or specifications submitted by the Purchaser the Seller shall exercise reasonable care in providing such but the Seller accepts no liability for inaccuracies in the estimates or calculations. The Seller takes no responsibility for discrepancies between this offer and the Purchaser's project.
- e) Any Materials manufactured to the design or specification of the Purchaser or its experts or details taken of plans supplied by the Purchaser are produced without warranty of any kind except their compliance with the design or specification. The Purchaser will unconditionally fully and effectively indemnify the Seller in respect of any claim, cost or expenses, losses or demands resulting there from including the infringement of patent, copyright, design, trademark or any industrial or intellectual property rights resulting from the Seller's use of the said design or specifications.
- f) When estimates are provided by the Seller on the basis of plans and specifications supplied by the Purchaser then the Purchaser shall recheck the specification and quantities quoted and shall be deemed to have accepted the specifications and quantity specified when placing the order unless written notice of any variations are given to the Seller.
- g) Design and advisory services (including the preparation of drawings, specifications, contract particulars and the like) shall be provided by the Seller with reasonable skill and care but no other representations or undertakings are made or are to be implied in connection with any such services nor shall the Seller be under any liability whatsoever in respect of these services if erection is carried out before any necessary approval, commissions and consents of third parties are obtained.
- h) If the Seller arranges processing of Materials on behalf of the Purchaser by a third party such processing will be carried out under the standard terms and conditions of the third party and entirely and at the Purchaser's own risk. No undertakings or warranties either expressed or implied are given in respect of any processed Materials. The Purchaser shall be entitled to copies of third party standard terms and conditions as appropriate on written request. The Seller's liability in respect of loss or damage to processed Materials shall be limited to the costs and expenses of such processing operation and shall not be determined by the inherent value of the Materials thereby processed.
- i) The Purchaser is deemed to be fully conversant with the nature and performance of the Materials supplied to it including any harmful, hazardous or dangerous effects resulting from their usage or misuse and shall not be reliant in any way upon the advice, skill or judgment of the Seller or its servants, agents or employees who are not authorised to make any representations concerning the Materials whatsoever other than those confirmed by the Chairman or Director of the Seller in writing.
- j) To the extent that any third party Materials or Services supplied to the Seller validly excludes, restricts or limits its liability to the Seller in respect of Materials supplied or any loss or damage arising in connection therewith then the liability of the Seller to the Purchaser in respect of such Materials and materials shall be correspondingly excluded, restricted or limited. The Purchaser shall be entitled to receive details of any such exclusion, restriction or limitation upon request to the Seller.

5.0 PAYMENT

- a) Payment in full of all sums, costs and expenses arising under the contract shall be made by the Purchaser to the Seller of the Materials supplied no later than two weeks following delivery of the Materials and for the costs and expenses arising under the contract no later than the day they become due. Thereafter interest will be charged by the Seller to the Purchaser on the whole or any part of the sums outstanding at the rate of 5% per annum above the base rate of Royal Bank of Scotland plc, calculated on a daily basis. In this respect time shall be the essence of this Contract.
- b) Part payment by the purchaser of monies due to the Seller from the Purchaser arising under this or any other contract, or by force of law shall be ascribed as designated by the Seller failing which, firstly, to cover, in date order, any interest outstanding on this or other contracts between the Parties then to cover, in date order, any costs and expenses outstanding on this or other contracts between the Seller and Purchaser or their associates and subsidiaries and finally, such residue as remains to cover the contract price due under this contract.
- c) Listed prices are subject to the EUR / GBP exchange rate at the time of the order date. Uni Windows reserves the right to increase the total sale price in case the exchange rate increases by more than 3% as issued by the Royal Bank of Scotland, as emerged between the order date and the date of final payment.
- d) All Materials delivered by the Seller are to remain the property of the Seller until all sums owed to the Seller by the Purchaser are paid.
- e) The Purchaser is to hold all Materials delivered to it, which are the property of the Seller. The Purchaser is to keep all of the Seller's property in whatever form separate from his own property or in any property belonging to others, and to account to the Seller for his intrusions with the same. The Purchaser grants to the Seller a license to enter property his control in order to identify, protect and if necessary recover the Seller's property.

6.0 LIEN / Passing of Property and Risk

- a) Ownership of the Materials remains with the Seller and will not pass to the Purchaser until either the Seller is paid for all the Materials and no other amounts are owed by the Purchaser to the Seller in respect of other Materials supplied or the Purchaser sells the Materials in accordance with this agreement in which case ownership of the Materials shall pass to the Purchaser immediately before the Materials are delivered to the Purchaser's purchaser.
- b) The Purchaser must store the Materials separately from any other Materials until they become the Purchaser's property or the Purchaser delivers them to a purchaser. At all times the Materials are to be kept in good and substantial repair and condition and the Purchaser will not allow any interference with any identification marks or serial numbers on the Materials.
- c) If the Purchaser is overdue in paying for the Materials or any Materials supplied the Seller may if still the owner of the Materials recover and resell them. The Seller may enter the Purchaser's premises for this purpose and this right does not prejudice any other right of the Seller.

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- d) Until the Purchaser has paid the Seller for the Materials and all other goods supplied to him by the Seller the Purchaser holds the Materials on trust for sale. If the Purchaser sells the Materials the Purchaser shall hold the proceeds of sale on trust for sale for the Seller in a separate bank account. Further the Seller may trace into any bank or other account, which the Purchaser maintains. If the Purchaser sells the Materials the Seller may by written demand require the Purchaser to assign to the Seller the Purchaser's rights to recover the price from a subsequent purchaser.
- e) The Purchaser must not assign to any other person any rights arising from the sale of the Materials without the written consent, of the Seller's Chairman or Secretary. Where such consent is given it is conditional upon the assignee accepting the conditions between the Purchaser and the Seller.
- f) The Purchaser must insure the Materials against all insurable risks for the price due to the Seller for the Materials.
- g) If the Materials are destroyed by an insured risk before the Purchaser has paid for them the Purchaser shall hold the proceeds as the Seller's trustee.

7.0 INSPECTION AND TESTING

- a) The Purchaser must carefully examine the Materials immediately upon their delivery and in relation to those Materials which are of the Seller's manufacture must notify the Seller in writing within 3 days of delivery of any short delivery, variance between the Materials delivered and the delivery note or defects or damage reasonably discoverable on careful examination. In the absence of notification the Seller excludes all liabilities in respect of any short delivery, defect or variance, which should reasonably have been discovered on careful examination. Any damage to fully finished frames must be recorded on the delivery note at the time of delivery.
- b) This shall be the limit to the Seller's obligation and under no circumstance will the Seller be liable for any direct, indirect or consequential loss or damage resulting to the Purchaser or any other person whatsoever or howsoever arising from any such shortage, variance, damage or defect.
- c) The Seller shall be under no liability where damage, shortage or variation in the terms of the delivery note or defects are complained of by the Purchaser unless it is given reasonable opportunity by the Purchaser to inspect the consignment in which the Materials complained of were contained and all or any strapping, batons or packaging provided by the Seller.
- d) In respect of materials supplied, which are not, the Seller's manufacture no guarantees are given nor liability accepted by the Seller beyond such guarantee or liability as given or accepted by the actual manufacturers.
- e) The Seller will not be liable for any fixing charges incurred by the Purchaser arising from any Materials or work done proved to be defective or delayed and shall not be responsible for any additional overheads, administrative expenses, contractual penalties or other cost, claims and demands arising from the Purchaser's obligations to any third party and due indirectly or directly to any defects or delays in the Materials supplied or work done by the Seller. The Purchaser accepts that it is their responsibility to insure against these risks.
- f) Any alleged shortage, delay, damage or defect shall not constitute valid grounds for a Purchaser to delay payment in respect of the Materials delivered and for the avoidance of doubt the Purchaser shall be required to pay for all Materials supplied in respect of which there is an alleged claim for damage, delay, defect or variation from the terms of the delivery note or other default in accordance with the provision of the agreement.
- g) All special tests and inspections reasonably required by the Purchaser or his agents shall be carried out at a location determined at the Seller's discretion and shall be at the Purchaser's expense.

8.0 WARRANTIES*

- a) No condition is to be made or to be implied nor is any warranty given or to be implied as to the type of wear of the Materials supplied or that they will be suitable for any particular purpose or condition other than that the materials conform to the manufacturers specification. The Purchaser further declares that it has placed no reliance on the skill or judgement of the Seller notwithstanding that such a purpose or conditions may be known or made known to the seller.
- b) Materials represented by the Purchaser to be defective shall not form part of any claim for work done by the Purchaser or for any loss, damage, or expense whatsoever arising directly or indirectly from such defects but such Materials if returned to the Seller and accepted by them as defective will be made good, if practical, or replaced by the Seller at their absolute discretion. Defects in quality or dimensions in any delivery shall not be grounds for cancellation of any other contract or the remainder of the contract price.
- c) **In the event of the Purchaser requesting an inspection of Materials supplied by the Seller on the grounds of the Materials being supplied in defective form and the defects being shown to be due to incorrect fitting, maltreatment, incorrect use or any other reason beyond the control of the Seller then the Purchaser shall be responsible for all costs and expenses incurred by the Seller in connection with such inspection.**
- d) The Purchaser must accept the quality of the glass if it complies with the guidelines set out in the Glass & Glazing Federations standards for 'Quality of Vision' and 'Quality Evaluation Criteria'.
- e) **The Warranty does not cover any damage to or breakage of the Materials due to slumping of the building construction, any damage or faults caused by unprofessional or improper installation, maintenance, manipulation or handling of the products. The Warranty does not cover any faults caused by over-dimensioning or non-adhering to the operating conditions or caused by a mechanical damage.**
- f) Where the Seller provides the Purchaser with fitting of the Materials, the preparation and the state of the site (e.g. the structural openings), which the Purchaser has been acknowledged with at any point during the sales process, must be suitable for the fitting. Where such preparation is not suitable or not accepted by the Seller as suitable and the Purchaser insists on the fitting to be carried out, the Warranty will not cover faults, on both the Materials and the fitting, caused by the insufficient preparation.
- g) All sliding and folding sliding doors require special preparation for the thresholds before fitting, which the Purchaser is acquainted with during the sales process, i.e. self-levelling concrete or concrete base or suitable steel plate or a timber block integral to the threshold, to be perfectly straight, flat and level, with no tolerance. Where this condition is not adhered to and the door is fitted anyway, the Warranty for the door is void.
- h) Thresholds of all entrance doors are fitted to the level of the finishing floor level. Where plastic packers are used for the threshold to sit in such level, the space in between and around the packers is not filled or sealed with silicone foam and must be filled with concrete, in order for the door's threshold to sit on a solid surface. Where this condition is not fulfilled and the door threshold does not sit on a solid surface, the Warranty for the final product is void. If the Seller provides the Purchaser with fitting of entrance door, the filling of the space underneath the threshold, between and around the packers with concrete, is not part of the contract and will be charged as additional works.
- i) **Installation** is subject to a separate terms as specified in **Uni Windows Installation Terms and Conditions**
- j) *for detailed Warranties refer to Uni Windows Guarantee & Warranty Conditions

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9.0 DETERMINATION OF CONTRACT

- a) If the Purchaser shall make default in or commit a breach of this contract or any other of its obligations to the Seller, or if any diligence or distress of execution shall be levied on the Purchaser's property or assets or if any diligence or distress of execution shall be levied on, the Purchaser shall make or offer to make any arrangements or composition with creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy or its equivalent in the law of the Purchaser domicile shall be present or made against him, if the Purchaser is a limited company and any resolution or petition to wind up such company's business (other than for purpose of amalgamation or reconstruction) shall be passed or presented or is a receiver of company's undertaking, property or assets or any part thereof shall be appointed, the Seller shall have the right forthwith to determine any contract then subsisting and upon written notice of such determination being posted to the Purchaser's last known address any subsisting contracts shall be deemed to have been determined without prejudice to any claim or right the Seller may otherwise make or exercise.
- b) In the event of any such determination by the Seller in accordance with the above or any cancellation and/or repudiation of the contract by the Purchaser, and the Seller shall be entitled to recover all loss and damage of any kind consequential or otherwise which the Seller shall sustain in connection with such cancellation or termination. Upon the determination of the contract by the Seller all outstanding monies due by the Purchaser to the Seller including such sums due in accordance with these conditions will become due and payable immediately on demand of the Seller. The exercise of the rights conferred by this condition shall be without prejudice to any other rights enjoyed by the Seller pursuant to these conditions or by law including in particular the right to recover materials or the proceeds thereof from the Purchaser pursuant to condition 5 hereof.

10.0 GENERAL

- a) The Purchaser shall not be able to assign any of its rights or duties under this contract without the written consent of the Seller. 2.0) The Seller shall be able to subcontract any of its rights or duties.
- b) This contract shall be construed in accordance with the law of the place where the materials are delivered.