

Standard Terms & Conditions of Sale

1. Definitions

In these Terms:

“Company” means Starglaze Windows and Conservatories Limited trading as Mybifold whose registered office address is No 5 Works, Waterside South, Stamp End, Lincoln, Lincolnshire, LN5 7JD.

“Contract” means the contract between You and the Company for the sale and purchase of the Goods in accordance with these Terms.

“Goods” means the goods (or any part of them) stated in the Order which the Company is to supply in accordance with these Terms.

“Order” means Your order for the Goods.

“Price” means the price of the Goods set out in the Order.

“Terms” means these standard terms of sale and includes any special terms agreed in writing between You and the Company.

“You/Your” means the individual or company named on the Order;

2. Entire Agreement

These Terms contain the whole agreement between the parties who confirm that they have not entered into the Contract in reliance on any representations that are not expressly incorporated in these Terms. These Terms apply to the Contract to the exclusion of any other terms that You may seek to impose or incorporate or which are implied by trade, custom, practice or course of dealing. You acknowledge that by entering into this Contract, You have not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.

3. Illustrations

Any illustrations in the Company’s promotional literature and documentation and any colour swatches or charts are for Your guidance only and not binding on the Company or to scale. Exact colour matches cannot be guaranteed due to the manufacturing process.

4. Ordering

- (i) The Company shall sell and You shall purchase the Goods in accordance with these Terms which are applied to all Contracts to the exclusion of all other conditions including any conditions which You may purport to apply under any purchase Order, confirmation or similar document. Any concessions made by the Company to you shall not affect the Company’s strict rights under the Contract.
- (ii) All orders must be placed in writing using the Company’s printed order forms or electronic ordering software.
- (iii) All Orders for Goods shall be deemed to be an offer by You to purchase the Goods pursuant to these Terms. No Order submitted by You shall be binding on the Company unless and until accepted either in writing or otherwise by the Company.
- (iv) The Company’s Goods are bespoke but manufactured to standard specifications. For properties exposed to severe or unusual weather conditions or frames that require compliance with specific standards e.g. Secured by Design, You must advise at the time of ordering. The Company cannot be held responsible if You do not highlight any special requirements, e.g. coastal location, extra security requirements in the Order.
- (v) Prices quoted by the Company are exclusive of VAT unless otherwise stated. You are required to pay VAT at the prevailing rate.
- (vi) Prices quoted for specified quantities of Goods or specialist Goods shall apply only to individual Orders for those Goods.
- (vii) All prices quoted by the Company are valid for 60 days only or until earlier acceptance by You, after which time they may be altered by the Company without further notice to You.
- (viii) You acknowledge that before ordering from the Company You have expressly represented and warranted that You are not insolvent or have not committed any act of bankruptcy, or being a customer with limited or unlimited liability know of no circumstances which would entitle any debenture holder or secured creditor to appoint a receiver, to petition for Your winding up, or to apply for the appointment of an administrator or exercise any other rights over and against You and any or all of Your assets.

5. Variation

- (i) Any variation of the details supplied to the Company on the Order form must be communicated to the Company before manufacture commences. If manufacture has already commenced and / or Goods have already been ordered for You prior to variation, You shall be liable for the additional cost incurred by the Company in meeting any such variation, but the Company shall not be obliged to agree to any such variation in the specification or Order.

- (ii) The Company will, however, use its reasonable endeavours to make any variations before manufacture commences and shall use its reasonable endeavours to meet the original delivery dates, but due to the short lead times, this may not always be possible. You are strongly recommended to only order Goods using surveyed sizes, and not rely on approximate sales sizes.
- (iii) Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice, these Terms or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
- (iv) You shall be responsible for ensuring the accuracy of any Order and providing any necessary information within a sufficient time to enable the Company to perform the Contract in accordance with these Terms.
- (v) The quantity, quality and description of the Goods and any specification for them shall be as set out in the Order and any variation agreed between the parties.

6. Cancellation

- (i) The Company shall be entitled to cancel any Order, for whatever reason, without penalty or incurring any liability whatsoever, by giving You written notice prior to manufacture commencing.
- (ii) You are entitled to cancel any Order providing written notification is received by the Company within 24 hours of the Company receiving the Order from You and where the Company gives written acknowledgement that it accepts the cancellation, but such acceptance shall only be on the basis that You agree to indemnify the Company against all loss (including loss of profit and loss of revenue and loss of business), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of Your cancellation.

7. Availability of Goods

All goods ex-stock are subject to availability.

8. Manufacture

- (i) You are to provide the sizes of Goods You wish to purchase and detail this on the Order and the Company enters into this Contract in reliance on Your warranty at clause 5(iv) above. If it subsequently appears that the sizes You supplied were incorrect, You will be liable for, and shall indemnify the Company against any cost incurred by the Company in manufacturing the Goods at the incorrect sizes.
- (ii) Measurement of size, weight and capacity of Goods is in accordance with normal trade usage and the Company will not be liable for variation resulting from normal manufacturing processes.
- (iii) In order to accommodate You we will manufacture frames that are outside the recommended manufacturing tolerances detailed in the Company's manual if You request them, however, any such frames will not be covered by the Company's guarantees and the Company shall have no liability to You for any loss or damage suffered or incurred by You or any other third party as a result of the failure of the Goods or lack of fitness for purpose of the Goods provided in accordance with this clause.
- (iv) Where You have asked for Goods to be cut to size, or for non-standard items, You warrant that the information You supply to the Company is correct and accurate at all times.
- (v) Where You are purchasing glass locally, You may ask the Company to provide You with glass sizes, but the Company shall be under no liability in respect of inaccuracies arising from them. It is Your responsibility to verify them.
- (vi) The Company will not be responsible for any frames that are not coupled with the correct joining pieces. It is Your responsibility to use the right components.

9. Carriage

Should You require any Goods to be sent by carriers other than the Company's own haulier, Your Order must be accompanied by Your written confirmation that You will pay the carriage charges when notified of them by way of an invoice from the Company and You shall agree to indemnify the Company in respect of the payment of the carriage fees.

10. Delivery/Collection

- (i) Delivery dates are subject to confirmation after receipt of Order but generally will be made in accordance with the Company's delivery grid for the current year.
- (ii) The Company will not deliver to unattended premises.
- (iii) You may request delivery to a site other than Your own premises, but the Company will only deliver there if it fits in with the Company's delivery grid. In any event, the Company's obligation shall extend only to delivery of the Goods as near to the site as is reasonably accessible by safe, hard road. You will be responsible for providing free of charge any labour required to unload and stack Goods, but the Company's drivers may assist if required to do so. Any such assistance will be at Your sole risk, and You shall indemnify the Company against any liability, loss, damage, cost, expense or injury suffered or incurred by the Company, its employees or agents which may arise in connection with the unloading of Goods at the delivery location. Nothing in this clause shall limit the Company's liability for death or personal injury caused by the Company negligence or liability for defective products under the Consumer Protection Act 1987.
- (iv) The Company will not accept Orders under penalty of late delivery and shall not be liable for delay in delivery of Goods. Time for delivery shall not be of the essence of the Contract.

- (v) Any time or date for delivery shall be taken as an estimate made by the Company in good faith, and the Company will use its reasonable endeavours to meet the time / date specified in Your Order. However, the time / date shall not be binding on the Company and under no circumstances will the Company be liable for any loss or damage suffered or incurred by You as a result of failure by the Company to meet the estimated time / date.
- (vi) Notwithstanding the above, the Company shall not be liable for any delivery delays arising from Force Majeure Events (as described in clause 17(vi)).
- (vii) The Company reserves the right to postpone deliveries to You if You have breached Your credit terms, or to deliver in instalments should transport needs require it. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Terms or any claim by You in respect of any one or more instalments shall not entitle You to treat the Contract as a whole repudiated.
- (viii) A delivery note signed on Your behalf is deemed to be absolute evidence of delivery of the Goods to Your requested address.

11. Storage

If You are unable to take delivery of Goods, fail to take delivery of the Goods or fail to collect the goods for whatever reason, the Company may store the Goods until delivery takes place, but the Company shall be entitled to charge You for the reasonable costs (including insurance) of storage until delivery. Notwithstanding that delivery may not have been completed, risk in the Goods will pass to You from the agreed delivery date as set out in the Order. Payment for the Goods will still be due by You in accordance with clause 14 as if they had been delivered on the due delivery date.

12. Inspection on Delivery/Collection

You must notify the Company of any defects immediately, ideally at the time of delivery/collection but certainly within 3 days of the delivery/collection date. After initial internal investigations by the Company, if it is accepted by the Company that Goods have been missed are defective or are not in accordance with the Contract, arrangements will be made to send out replacements to You. If You fail to notify the Company within 3 days following the delivery/collection date, You will be charged the full Price of the replacement Goods and a new contract shall be formed if the Company is to send replacement Goods out again. You are advised to ensure that all packs etc. are fully checked before the 3 day deadline.

13. Loss / Damage in Transit

The Company shall not be liable for any loss or damage in transit unless You give written notice of the complaint to the Company within the following time periods:

- (i) In the case of shortages or damages – within 3 days of the date of delivery/collection
- (ii) In the case of non-delivery – within 3 days of the agreed delivery/collection date.

and the Company shall have no liability whatsoever for any loss or damage to the Goods caused by a third party carrier. **It is not acceptable to write “goods unchecked” on delivery/collection notes.**

Any liability which the Company may incur for loss or damage to goods whilst in transit shall in any event be limited to the total value of the Goods as detailed in the Order. The Company reserves the right to insist that the Company's Technical Services Manager be allowed to inspect any damaged Goods prior to manufacturing any replacements.

14. Complaints Procedure

- (i) You must inspect Goods immediately upon their arrival at the agreed delivery address and notify the Company of any complaint in accordance with clauses 12 & 13. Unless the Company is notified of a defect in writing within 3 days of the agreed date of delivery that the Goods are not in accordance with the Contract or are defective, they shall be deemed to be free from any defect which would be apparent on a reasonable inspection and to have been accepted by You. You shall not be entitled to reject the Goods after a period of 3 days.
- (ii) **In the interest of dealing efficiently with queries, and monitoring our service, we request that any complaint be sent in writing to the Company at the Company's registered office address.**
- (iii) In ordering subject to these Terms, You are agreeing to afford the Company a reasonable opportunity to inspect defective Goods and, where appropriate, remedy defects that you have filed a complaint about.
- (iv) On more serious complaints, the Company reserves the right to send the Technical Services Manager to inspect the Goods in situ. The Manager is not a service engineer, however, and will not carry out Your remedials unless instructed to do so by the Company.

15. Warranties, Guarantee and Limitation of Liability

- (i) Should You wish to make a warranty claim under the guarantees in this clause, You must write to the Company quoting the Contract number, date of supply and details of the complaint.
- (ii) For a period of 10 years from the date of delivery/collection, the Company undertakes to remake free of charge any window or door manufactured by the Company which proves to the reasonable satisfaction of the Company to be defective as a result of a manufacturing fault. This guarantee excludes claims for damages and/or any other direct or indirect or consequential loss, howsoever caused.
- (iii) We guarantee the powder coating applied by Smart Systems Ltd to the aluminium profiles for a maximum of 10 years *against the following faults: -
 - Peeling, powdering and blistering

- Corrosion, except to bending or folding after the paint is applied
- Chalking, fading and loss of sheen

*Please notify where the frames are to be installed within hazardous environmental conditions, such as marine, industrial or swimming pools as this will reduce the guarantee period which will be subject to prior agreement. The end user is responsible for maintaining and cleaning the products in line with the extruders requirements, failure to do so will invalidate the guarantee, details can be obtained on request.

- (iv) All white, foiled, painted or colour 360 PVC are covered by our profiles suppliers specific guarantee and are subject to their terms and conditions of use, please ask for further details on these terms.
- (v) For a period of 5 years from the date of delivery/collection, the Company undertakes to remake free of charge any double glazed sealed unit manufactured by the Company which proves to the reasonable satisfaction of the Company to be defective as a result of unit failure. This guarantee excludes claims for damages and/or any other direct or indirect or consequential loss, howsoever caused.
- (vi) Goods supplied but not manufactured by the Company are sold subject to the conditions of sale of the manufacturers of those goods and the Company will pass on the benefit of the suppliers' guarantees to You where possible. However, in the event of any failure by the manufacturer, for whatever reason, to meet any liability, the Company shall be under no liability to You in that respect.
- (vii) The Company's guarantee does not extend to:
 - (a) Minor imperfections in glass which are outside the scope of the visual quality standards of the Glass & Glazing Federation. The glass used in the Company's units is the best available quality, but may have minor imperfections. You will have the benefit of the glass manufacturer's warranty where applicable, but the Company cannot promise a higher standard than currently provided.
 - (b) Damage due to misuse, neglect or lack of care and maintenance by You or Your customers.
 - (c) Deterioration in finish or other conditions beyond the Company's control on door and window hardware. The manufacturers' 12 month guarantee will apply.
 - (d) Matching stained glass colours, as these vary from one batch to another.
 - (e) Painted panels which are only covered by a 12 month guarantee
- (viii) The Company shall not be liable to You or deemed to be in breach of the Contract by reason of any defect in the Goods or delay in performing or any failure to perform any of the Company's obligations in under these Terms, if the defect, delay or failure was due to any Force Majeure Event. Without prejudice to the generality of the foregoing the following shall be regarded as Force Majeure Events:
 - (a) act of God, explosion, flood, drought, tempest, breakdown of plant or machinery, fire, accident, criminal damage;
 - (b) war or threat of war, sabotage, interaction, civil disturbance or requisition;
 - (c) acts, restrictions, regulations, bylaws, prohibitions or measures of any kind on the part of any governmental parliamentary or local authority;
 - (d) import or export regulations or embargoes;
 - (e) strikes, lock-outs, or other industrial action or trade disputes (whether involving the Company's employees or those of a third party) and actions by suppliers;
 - (f) Supplier Issues including difficulties in obtaining raw materials, labour, fuel, parts of machinery;
 - (g) power failure or breakdown in machinery; and
 - (h) severe weather conditions.
- (ix) The Company shall be under no liability under the above warranties if the total Price for the Goods has not been paid by the agreed due date.
- (x) Except in respect of death or personal injury caused by the Company's negligence or liability for defective products under the Consumer Protection Act 1987, the Company shall not be liable to You by reason of any representation (unless fraudulent) or any implied warranty, condition or other term or any duty at common law or under the express terms of the Contract whether in contract, tort, breach of statutory duty or otherwise for loss of profit or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (including any losses that may result from the Company's deliberate repudiatory breach of the Contract) or whether caused by the negligence of the Company, its employees, agents or otherwise which arise out of or in connection with the supply of the Goods including any delay in supplying or failure to supply the Goods in accordance with the Contract or at all or their use or resale by You, and the entire liability of the Company under or in connection with the Contract shall not exceed the Price in respect of the Goods the subject of the claim.
- (xi) You agree to indemnify the Company and keep the Company indemnified against all losses, costs, claims, demands, expenses and actions which the Company may suffer or incur as the result of Your breach of any of the terms of this Contract or as the result of any resale of the Goods to any third party.
- (xii) Painted PVC profiles are guaranteed for 10 years against cracking, peeling and flaking and are guaranteed to hold their colour without excessive fading for a period of 5 years. These guarantees are subject to the painted surfaces being maintained in accordance with our recommendations.

18. Glass and Glazing Federation

The Company supports the GGF Code of Ethical Practice and undertakes to work within its guidelines. A copy can be obtained from the Company's registered office.

19. Notice

Any notice to be given by either party to the other under these terms shall be in writing addressed to the other party in the case of the Company, at the address detailed above, and in respect of You, the address detailed on the order form.

20. Governing Law & Jurisdiction

This agreement shall be governed by and construed in accordance with the law of England and Wales and each party agrees to submit to the jurisdiction of the courts of England and Wales. Any dispute arising in connection with these Terms shall be resolved according to English law in the Lincoln County Court or in the Lincoln District Registry of the High Court.