

COLCHESTER WINDOWS & PLASTIC SUPPLIERS LTD

CONDITIONS OF SALE

OUR TERMS

1. THESE TERMS

- 1.1 **What these terms cover.** These are the terms and conditions on which we supply products to you, being goods only. These fully replace, take precedence over and supersede all previous versions of our terms and conditions as may have been issued or signed. These terms and conditions supersede and shall take precedence over any other terms and conditions issued in relation to the products whatsoever, irrespective of their time and/or date of issue or by whom they are issued. These terms and conditions apply irrespective of any terms and conditions you may (at any time) seek to impose or otherwise apply to the provision of products by us to you. No terms or conditions contained in your documentation, purchaser orders, order confirmations, other documents or otherwise, shall apply, and these terms and conditions apply to the exclusion of any terms that you seek or may seek to impose or incorporate. Terms or conditions endorsed upon, delivered with or contained in any quotation, acknowledgment or acceptance of order, specification or similar document from us or in place when any order is placed on premises via telephone, are deemed to be part of the contract for the provision of products by us to you. Terms or conditions endorsed upon, delivered with or contained in any documentation, communication or otherwise from you or on your behalf are not part of any contract for the provision of products by us to you and you are deemed to have waived any right which you otherwise might have to rely on them or any other terms and conditions or otherwise you seek to impose.
- 1.2 **Why you should read them.** Please read these terms carefully before you submit your order to us. These terms tell you who we are, how we will provide products to you, how you and we may change or end the contract, what to do if there is a problem and important information. If you think that there is a mistake in these terms or require any changes, please contact us to discuss.
- 1.3 **Are you a business customer or a consumer?** In some areas you will have different rights under these terms depending on whether you are a business or consumer. You are a consumer if:
- You are an individual.
 - You are buying products from us wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession).

- 1.4 **If you are a business customer this is our entire agreement with you.** If you are a business customer these terms constitute the entire agreement in relation to purchases. You acknowledge that you do not rely on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

2. INFORMATION ABOUT US AND HOW TO CONTACT US

- 2.1 **Who we are.** We are Colchester Windows & Plastic Suppliers Limited, trading as CWPS, a company registered in England and Wales. Our company registration number is 08428723 and our registered office is at Lawley House, Butt Road, Colchester, Essex, CO2 8HT. Our telephone number is 159 3627 86.
- 2.2 **How to contact us.** You can contact us by telephoning our customer service team at 01206 866077 or by writing to us at office@cwpsltd.co.uk or CWPS, Haven Road, Colchester, Essex, CO2 8HT.
- 2.3 **How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us in your order.
- 2.4 **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

3. OUR CONTRACT WITH YOU

- 3.1 **How we will accept your order.** Our acceptance of your order for products (not including any quotation for the avoidance of doubt) will take place on the earlier of: when you conclude any purchases in store or over the telephone and pay for the products at the time (or pay any deposit), when we email you to accept it or otherwise confirm acceptance of your order in writing, or when you pay any amount in respect of the products, whether in full or in part, at which point a contract will come into existence between you and us.
- 3.2 Each order for products is subject to these terms and conditions and no order shall be subject to other terms and conditions or to modifications to these terms and conditions unless we expressly agree to these in writing. We shall not be deemed to accept any modifications to these terms and conditions by failing to object to such modifications.
- 3.3 Each order shall constitute an entire and separate contract to which these terms and conditions shall apply.
- 3.4 **If we cannot accept your order.** If we are unable to accept your order, we will inform you of this and will not charge you for the product. This might be because the product is out of stock, because of unexpected limits on our resources which we could not reasonably plan for, because a credit reference we have obtained for you does not meet our minimum requirements, because we have identified an error in the price or description of the product or because we are unable to meet a delivery deadline to you have specified.
- 3.5 **Your order number.** We will assign an order number to your order and tell you what it is when we accept your order. It will help us if you can tell us the order number whenever you contact us about your order.
- 3.6 **We only sell to the UK.** Our brochure website is solely for the promotion of our products in the UK. Unfortunately, we do not accept orders from addresses outside the UK.

4. OUR PRODUCTS

- 4.1 **Products may vary slightly from their pictures.** The images, descriptions and illustrations of the products on or within our brochures or on our website or in our advertising matter are for illustrative purposes only and shall not form part of any contract for the products. Your product may vary from those images.
- 4.2 **Product packaging may vary.** The packaging of the product may vary from that shown in images on our brochure website.
- 4.3 **Making sure your measurements/specification(s) are accurate.** If we are making the product to measurements or a specification you have given us you are responsible for ensuring that these measurements and specification(s) (as applicable) are correct. It is also your responsibility to ensure that your requirements concerning the products have been correctly explained to you and we have agreed in writing. All measurements in our specifications, drawings and dimensions submitted by you in relation to the products are to be deemed approximate only and are not binding on us when providing the products.
- 4.4 Whilst every effort will be made to comply with the specifications provided to us by you in respect of the products, all dimensions are subject to manufacturers' and fabricators' normal tolerances, details of which are available on request.
- 4.5 No fenestration product including glass sealed unit goods have an inherent load bearing quality. Products ordered in excess of the design parameters in our catalogue or other literature or as advised by us from time to time shall have 3% no warranty or otherwise applicable to the product whatsoever.

5. YOUR RIGHTS TO MAKE CHANGES

- 5.1 **If you wish to make a change to the product you have ordered please contact us.** We will let you know if the change is possible. If it is possible we will let you know about any changes to the price of the product, the timing of supply or anything else which would be necessary as a result of your requested change and ask you to confirm whether you wish to go ahead with the change.
- 5.2 **OUR RIGHTS TO MAKE CHANGES**
- 5.3 **Minor changes to the products.** We may change the product in the following ways, without having to give notice to you:
- (a) to reflect changes in relevant laws and regulatory requirements;
 - (b) to implement minor technical adjustments and improvements; and
 - (c) to make design changes as technical developments as may be required or may expedient.
- 5.4 **More significant changes to the products and these terms.** In addition, as we informed you in the description of the product on our brochure website or in our literature generally, we may make more significant changes to these terms and conditions or to the products or to affect the use of the products, but if we do so we will notify you and you may then contact us to end the contract before the changes take effect and receive a refund for any products paid for but not received.

- 5.5 You shall be regarded as having received no representations made by or on behalf of us before any contract for the supply of products by us to you has been formed pursuant to these terms and conditions. You confirm that you were not in any way induced to enter into a contract for the provision of goods pursuant to these terms and conditions. We however, shall be entitled to rely on representations made by you either on, before or after a contract for the provision of goods pursuant to these terms and conditions has been formed.
- 5.6 **PROVIDING THE PRODUCTS**
- 5.7 **Delivery costs.** The costs of delivery will be as displayed to you in the order and may vary from time to time depending on external factors, including but not limited to insurance and/or petrol costs.
- 5.8 **When we will provide the products.** During the order process we will let you know when we estimate we will provide the products to you.

- 5.9 **If the products are goods.** If the products are goods we will deliver them to you as soon as reasonably possible. We will contact you with an estimated delivery date however, time is not of essence in respect of delivery or in relation to these terms and conditions (generally) unless otherwise expressly stated to the contrary herein. Any time or date specified by us as time at which products will be despatched or delivered is given and intended as an estimate only and we shall not be liable for any loss, damage or expense howsoever arising from delay in delivery.
- 5.10 **We are not responsible for delays outside our control.** If our supply of the products is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event, but if there is a risk of substantial delay you may contact us to end the contract and receive a refund for any products you have paid for but not received.
- 5.11 **Collection by you.** If you wish to collect the products from our premises, you can collect them from us at any(a) time during our working hours of 7:30 am to 4:00 pm on weekdays (excluding public holidays).

- 5.12 **If you are not at home when the product is delivered.** If no one is available at your address to take delivery, we will contact you (by phone call or email) to rearrange delivery or you must contact us to rearrange delivery or otherwise collect your products from us, however, they may be an additional charge for re-delivery as determined by us in our sole discretion. Alternatively, if you permit us to leave any products at your premises, elsewhere in or a 'safe place' we shall do so and you shall have full risk of those products at the time of said delivery - we will have no liability once they are delivered in accordance with your instructions, whatsoever.
- 5.13 **If you do not re-arrange delivery.** If, after a failed delivery to you, you do not re-arrange delivery or otherwise collect your products from us we will contact you for further instructions and may charge you for storage costs and any further delivery costs. Any damages to products whilst in storage will be your responsibility and we shall have no liability whatsoever in this regard. If, despite our reasonable efforts, we are unable to contact you or re-arrange delivery or collection we may end the contract and clause 10.2 will apply.

- 5.14 **You shall, on demand at our request, produce us with all details and access necessary to allow us to make delivery of the products and shall accept delivery whenever we offer this to you or perform delivery.** If you fail to comply with this condition or shall otherwise cause or request a delay in the delivery of the products, we shall pay as part of the price for the products, all storage, transportation and other relevant costs incurred as a result.
- 5.15 We reserve the right to make delivery by instalments unless otherwise expressly stipulated. These terms and conditions shall apply to each instalment delivery.
- 5.16 **When you become responsible for the goods.** A product which is goods will be your responsibility and at your risk from the time we deliver the product to the address you gave us or we deliver to a carrier or to any person, firm or company on your behalf or when you collect these from us.

- 5.17 **When you own goods.** Title to the products sold by us to you shall not pass to you until you have paid for and we have received payment in full for the products.
- 5.18 If you, in respect of any of the products, fail to pay the price in full on the date payment is due pursuant to these terms, and conditions, we shall (without prejudice to any other remedy we may have) be entitled to demand immediate return of the products and you shall forthwith return the same. Should you fail to do so, we shall be entitled to enter your

premises where such products are situated and recover them for this purpose. You hereby give us full license and authority to enter your premises. If you sell on or otherwise re-sell any or all of the products before they have been paid for in full, then, you do so as principal and not as our agent and title to the products shall pass from us to you immediately before the time at which resale by you occurs. You shall sell or otherwise deal with the products and shall hold the proceeds of sale thereof or such proportion thereof as represents our unpaid price for such products, as trustee upon trust for us to whom such proceeds or proportion shall belong but without prejudice to our rights to trace the same if you fail to keep the same separate. The foregoing rights on our part are in addition to and not in lieu of any other rights we may have at common law or by statute in respect of payment.

What will happen if you do not give required information to us. We may need certain information from you so that we can supply the products to you. We will contact you to ask for this information. If you do not give us this information within a reasonable time of us asking for it, or if you give us incomplete or incorrect information, we may either end the contract and clause 10.2 will apply or we may make an additional charge of a reasonable amount to compensate us for any extra work that is required as a result. We will not be responsible for supplying the products late or not supplying any part of them if this is caused by you not giving us the information we need within a reasonable time of us asking for it.

Reasons we may suspend the supply of products to you. We may have to suspend the supply of a product to: deal with technical problems or make minor technical changes; due to any availability or unavailability of the products or any component of this from any third party supplier of ours; update the product to reflect changes in relevant laws and regulatory requirements; or if you do not pay us for the product as requested by you or notified by us to you (see clause 6).

Your rights if we suspend the supply of products. We will contact you in advance to tell you we will be suspending supply of the product, unless the problem is urgent or an emergency. If we have to suspend the product, we will endeavour to source this from another supplier and may increase the price to reflect any increased price charged to us. If we have to suspend the product for longer than 12 weeks we will contact you to offer other alternatives or if these are not acceptable to you, we will adjust the price so that you do not pay for products while they are suspended. You may contact us to end the contract for a product if we suspend it, or tell you we are going to suspend it, in each case for a period of more than 12 weeks and we will refund any sums you have paid in advance for the product in respect of the period after you end the contract.

We may also suspend supply of the products if you do not pay. If you do not pay us for the products when you are supposed to (see clause 14.4) and you still do not make payment within 7 days of us reminding you that payment is due, we may suspend supply of the products until you have paid us the outstanding amounts. We will contact you to tell you we are suspending supply of the products. We will not suspend the products where you dispute the unpaid invoice (see clause 14.7). We will not charge you for the products during the period for which they are suspended other than in respect of the product as requested by you or notified by us to you (see clause 6) and we will add to the price of the products due from you. As well as suspending the products we can also charge you interest on your overdue payments (see clause 14.6) and the fees set out above.

We shall be entitled to postpone or cancel delivery in whole or in part of the products when we are delayed in or prevented from making or obtaining any goods or raw materials or parts or components or services therefore or making delivery thereof by any force majeure event, which shall include, but not be limited to: any event, circumstance or cause beyond our reasonable control, strikes, lockouts, trade disputes or labour troubles, act of god, acts or omissions of you or your agents or persons, embargo or other governmental act, regulation or request, fire, accident, war, riot, delay in construction, inability to obtain adequate labour, materials or manufacturing facilities. Whilst subject to any of the foregoing events our obligations shall be suspended until such events cease or until we cancel delivery (as the case may be and as determined by us in our sole discretion). We shall not be required to obtain elsewhere in the market goods with which to replace goods delivery of which has been postponed or cancelled as a result of any of the said events. In the event of cancellation, we shall be paid pro-rata for goods delivered to that date.

If, we or any of our personnel or sub-contractors do any loading or unloading of goods, no liability whatsoever shall thereby be incurred by us, our personnel or sub-contractors and you shall indemnify us in this respect in full. We shall not be liable for any loss or damage to goods delivered after the date and time advised to you unless you have been advised, we will invoice the goods and payment will become due under these terms and conditions. A monthly demurrage charge will be levied according to our sole discretion.

YOUR RIGHTS TO END THE CONTRACT

You can always end your contract with us. Your rights when you end the contract will depend on what you have bought, whether there is anything wrong with it, how we are performing, when you decide to end the contract and whether you are a consumer or business customer.

If what you have bought is faulty or misdescribed you may have a legal right to end the contract (or to get the product repaired or replaced or to get some or all of your money back), see clause 12 if you are a consumer and clause 13 if you are a business;

If you want to end the contract because of something we have done or have told you we are going to do, see clause 8.2;

If you are a consumer and have just changed your mind about the product, see clause 8.3. You may be able to get a refund if you are within the cooling-off period, but this may be subject to deductions and you will have to pay the costs of return of the goods.

In all other cases (if we are not at fault and you are not a consumer exercising your right to change your mind), see clause 8.6.

Ending the contract because of something we have done or are going to do. If you are ending a contract for a reason set out at (a) to (e) below the contract will end immediately and we will refund you in full for any products which have not been provided and you may also be entitled to compensation. The reasons are:

(a) we have told you about an upcoming material change to the product or these terms which you do not agree to (see clause 8.2);

(b) we have told you about an error in the price or description of the product you have ordered and you do not wish to proceed;

(c) there is a risk that supply of the products may be significantly delayed because of events outside our control; we have suspended supply of the products for technical reasons, or notify you we are going to suspend them for technical reasons, in each case for a period of more than 12 weeks; or

(d) you have a legal right to end the contract because of something we have done wrong.

Exercising your right to change your mind as a consumer (Consumer Contracts Regulations 2013). If you are a consumer you have a legal right to change your mind about a contract for goods if you have a legal right to change your mind within 14 days and receive a refund. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these terms.

When consumers do not have a right to change their minds. Your right as a consumer to change your mind does not apply in respect of:

(a) bespoke goods produced to specific requirements, specification(s), instructions or otherwise;

(b) products sealed, once these have been unsealed after you receive them including but not limited to items in protective packaging such as sealed and guttering materials;

(c) any products which become mixed inseparably with other items after their delivery.

How long do consumers have to change their minds? If you are a consumer how long you have to change your mind depends on what you have ordered and how it is delivered.

Have you bought goods? If so you have 14 days after the day you (or someone you nominate) receives the goods.

Ending the contract where we are not at fault and there is no right to change your mind. Even if you are not at fault and you are not a consumer who has a right to change their mind (see clause 8.1), you can still end the contract if you are a consumer about the products bought over the telephone or at a distance you have a legal right to change your mind within 14 days and receive a refund. These rights, under the Consumer Contracts Regulations 2013, are explained in more detail in these terms.

When consumers do not have a right to change their minds. Your right as a consumer to change your mind does not apply in respect of:

(a) bespoke goods produced to specific requirements, specification(s), instructions or otherwise;

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(a) bespoke goods produced to specific requirements, specification(s), instructions or otherwise;

(b) products sealed, once these have been unsealed after you receive them including but not limited to items in protective packaging such as sealed and guttering materials;

(c) any products which become mixed inseparably with other items after their delivery.

(a) you do not make any payment to us when it is due and you still do not make payment within 7 days of us reminding^{13.7} you that payment is due;

(b) you do not, within a reasonable time of us asking for it, provide us with information that is necessary for us to provide the products;

(c) you do not, within a reasonable time, allow us to deliver the products to you or collect them from us;

(d) you default in or commit any breach of any of your obligations under these terms and conditions, whether to us or otherwise;

(e) you cease to carry on your business or a substantial part of this;

(f) any distress or execution is levied on any of your property;

(g) you make or offer to make any arrangement or composition with your creditors or commit any act of bankruptcy, or if 13.9 any resolution or plan is presented, or if you are presented, or a receiver appointed, of you undertaking, property or assets or any material part thereof (or any equivalent for an individual consumer purchaser) Such termination is without prejudice to any claim or right which we might otherwise make or exercise or have against^{13.10} you for breach of contract.

10.2 **You must compensate us if you break the contract.** If we end the contract in the situations set out in clause 10.1 we will refund any money you have paid in advance for products we have not provided but we may deduct or charge you reasonable compensation for the net costs we will incur as a result of your breaking the contract.

10.3 **We may withdraw the product.** We may write to you or telephone you to let you know that we are going to stop^{14.1} providing the product. We will refund any money you have paid in advance for products which will not be provided.

11. **IF THERE IS A PROBLEM WITH THE PRODUCT**
How to tell us about problems. If you have any questions or complaints about the product, please contact us. You can telephone our customer service team at 01206 866077 or write to us at office@cwpsltd.co.uk; or CWPS, Haven Road, Colchester, Essex, CO2 8HT.

12. **YOUR RIGHTS IN RESPECT OF DEFECTIVE PRODUCTS IF YOU ARE A CONSUMER**
If you are a consumer we are under a legal duty to supply products that are in conformity with this contract. See the box below for a summary of your key legal rights in relation to the products. Nothing in these terms will affect your legal rights.

Summary of your key legal rights
This is a summary of your key legal rights. These are subject to certain exceptions. For detailed information please visit the Citizens Advice website www.adviceguide.org.uk or call 03454 04 05 06.
If your product is **goods**, the Consumer Rights Act 2015 says goods must be as described, fit for purpose and of satisfactory quality. During the expected lifespan of your product your legal rights entitle you to the following:
a) Up to 30 days: if you goods do not conform to the description, or are not fit for purpose, or do not have satisfactory quality;
b) Up to six months: if your goods can't be repaired or replaced, then you're entitled to a full refund, in most cases.
c) Up to six years: if your goods do not last a reasonable length of time you may be entitled to some money back.
See also clause 8.3.

12.2 **Your obligation to return rejected products.** If you wish to exercise your legal rights to reject products you must either return them to us or allow us to collect them from you. We will pay the costs of postage or collection. Please call customer services on 01206 866077 or email us at office@cwpsltd.co.uk to arrange collection or otherwise confirm that you will be returning the products to us. We will confirm if we will pay the costs of collection which is to be determined by the court on a case by case basis and we do not have to be reasonable when considering such requests, nor provide reasons of our decision in this regard, to you.
Subject to clause 12.4 and clause 12.5, if:
(a) you give us notice in writing at the time of or up to the point of delivery/the products being left at your premises as per your instructions/collection/provision of the products (as applicable) that, and a note is made in the carrier's delivery book or our records (as applicable depending on the method of your obtaining the products and where products are collected from us or purchased on premises from our warehouse(s) or site(s), before you leave those premises) to the effect that, a product does not conform to the warranty set out in clause 12.1;

(b) we are given a reasonable opportunity of examining such product; and

(c) you return such product to us at our cost,

we shall, at our option, repair or replace the defective product, or refund the price of the defective product in full. Any defects or issues not reported as set out above, shall not be our responsibility and we shall have no liability for these.^{14.6}
We reserve the right, in our sole discretion and determination, to retain a percentage of the price of the products calculated as set out below within this clause, depending on the type of products you have ordered, as compensation for the net costs we will incur as a result of your returning an allegedly defective product.

14.7 **Standard stocked products - 30% of the price of the products**
(i) Special order products - 100% of the price of the products
(ii) Bespoke/made-to-measure products - 100% of the price of the products

12.4 **We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the products^{15.1} as a result of you:**
(a) causing marks or blemishes to the products, bending, distorting, cutting, breaking or otherwise damaging or altering the products in any way whatsoever, whether material or otherwise;

(b) not storing the products in accordance with our or the manufacturer's instructions (whether written or oral);

(c) storing or using the products in their delivery packaging for an extended period of time which may have contributed or led to warping of the products.

12.5 **We will not be liable for a product's failure to comply with the warranty in clause 12.1 if:**
(a) you notify us of any defects or issues after the point of delivery of the products but limited to no more than 24 hours after this time, collection of the products but limited to no more than 24 hours after this time or your obtaining the products on premises from our warehouse(s)/site(s) but limited to no more than 24 hours after this time (as applicable);^{15.3}

(b) you have bent, distorted, cut, broke up or otherwise damaged or altered the products in any way whatsoever, whether^{15.4} material or otherwise;

(c) you have failed to follow our or the manufacturer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the product or (if there are none) have failed to follow good trade practice;

(d) you have used or stored the products in their delivery packaging for an extended period of time which may have^{16.1} contributed or led to the warping of the products;

(e) you make any further use of such product after giving a notice in accordance with clause 12.3(a);

(f) the defect arises as a result of us following any drawing, design or specification supplied by the Customer;

(g) the defect arises as a result of us following any drawing, design or specification supplied by the Customer;

(h) you alter or repair the product without our written consent; or

(i) the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal working conditions.

12.6 **Except as provided in this clause 12, we shall have no liability to you in respect of a product's failure to comply with the warranty set out in clause 12.1 repaired or replacement products supplied by us under clause 12.3.**

12.7 **These terms shall apply to any repaired or replacement products supplied by us under clause 12.3.**

12.8 **Nothing in these terms and conditions limits any liability which cannot legally be limited, including liability for: death or personal injury caused by negligence; fraud or fraudulent misrepresentation; breach of the terms implied by section 12 of the Sale of Goods Act 1979; or defective products under the Consumer Protection Act 1987.**

12.9 **All express or implied warranties, conditions, representations, undertakings or obligations whether imposed by statute, common law, custom, course of dealing or otherwise on our part in respect of the products (whether their descriptions, quality, fitness for purpose, erection, installation, use, capability, delivery date or whatever) are hereby expressly¹⁷ excluded. We accept no responsibility in respect of or consequent upon the sale and/or delivery and/or erection and/or installation and/or used of the products for any damage, direct or consequential or contingent or any resulting loss, loss of profits, costs, charges, expenses or other liability whether of you or of any other person howsoever arising.**

12.10 **Some of the products we sell to you also come with a manufacturer's guarantee. For details of the applicable terms¹⁸ and conditions, please refer to the manufacturer's guarantee or the website from which it can be accessed, which will be provided with the products. For the avoidance of doubt, we shall have no liability whatsoever for any claims made^{18.2} under any manufacturers guarantee, which must be made directly with the manufacturer and not via us at all.**
The following types of loss are wholly excluded: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to^{18.3} goodwill; and indirect or consequential loss.

13. **YOUR RIGHTS IN RESPECT OF DEFECTIVE PRODUCTS IF YOU ARE A BUSINESS**
If you are a business customer we warrant that up to the point of delivery any products which are goods shall: conform in all material respects with their description and any relevant specification; and be free from material defects in design, material and workmanship.

13.2 **Subject to clause 13.3 and clause 13.4, if:**
(a) you give us notice in writing at the time of or up to the point of delivery/the products being left at your premises as per your instructions/collection/provision of the products (as applicable) that, and a note is made in the carrier's delivery book or our records (as applicable depending on the method of your obtaining the products and where products are collected from us or purchased on premises from our warehouse(s) or site(s), before you leave those premises) to the^{18.6} effect that, a product does not conform to the warranty set out in clause 13.1;

(b) we are given a reasonable opportunity of examining such product; and

(c) you return such product to us at our cost,

we shall, at our option, repair or replace the defective product, or refund the price of the defective product in full. Any defects or issues not reported as set out above, shall not be our responsibility and we shall have no liability for these.^{18.7}
We reserve the right, in our sole discretion and determination, to retain a percentage of the price of the products calculated as set out below within this clause, depending on the type of products you have ordered, as compensation for the net costs we will incur as a result of your returning an allegedly defective product:

13.3 **Standard stocked products - 30% of the price of the products**
(i) Special order products - 100% of the price of the products
(ii) Bespoke/made-to-measure products - 100% of the price of the products

13.4 **We may reduce your refund of the price (excluding delivery costs) to reflect any reduction in the value of the products as a result of you:**
(a) causing marks or blemishes to the products, bending, distorting, cutting, breaking or otherwise damaging or altering the products in any way whatsoever, whether material or otherwise;

(b) not storing the products in accordance with our or the manufacturer's instructions (whether written or oral);

(c) storing or using the products in their delivery packaging for an extended period of time which may have contributed or led to warping of the products.

13.4 **We will not be liable for a product's failure to comply with the warranty in clause 13.1 if:**
(a) you notify us of any defects or issues after the point of delivery of the products but limited to no more than 24 hours after this time, collection of the products but limited to no more than 24 hours after this time or your obtaining the products on premises from our warehouse(s)/site(s) but limited to no more than 24 hours after this time (as applicable);^{18.6}

(b) you have bent, distorted, cut, broke up or otherwise damaged or altered the products in any way whatsoever, whether^{18.6} material or otherwise;

(c) you have failed to follow our or the manufacturer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the product or (if there are none) have failed to follow good trade practice;

(d) you have used or stored the products in their delivery packaging for an extended period of time which may have^{16.1} contributed or led to the warping of the products;

(e) you make any further use of such product after giving a notice in accordance with clause 13.2(a);

(f) the defect arises because you failed to follow our oral or written instructions as to the storage, installation, commissioning, use or maintenance of the product or (if there are none) good trade practice;

(g) the defect arises as a result of us following any drawing, design or specification supplied by the Customer;

(h) you alter or repair the product without our written consent; or

(i) the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal working conditions.

13.5 **Except as provided in this clause 13, we shall have no liability to you in respect of a product's failure to comply with the warranty set out in clause 13.1.**

13.6 **These terms shall apply to any repaired or replacement products supplied by us under clause 13.2.**

Nothing in these terms and conditions limits any liability which cannot legally be limited, including liability for: death or personal injury caused by negligence; fraud or fraudulent misrepresentation; breach of the terms implied by section 12 of the Sale of Goods Act 1979; or defective products under the Consumer Protection Act 1987.
All express or implied warranties, conditions, representations, undertakings or obligations whether imposed by statute, common law, custom, course of dealing or otherwise on our part in respect of the products (whether their descriptions, quality, fitness for purpose, erection, installation, use, capability, delivery date or whatever) are hereby expressly excluded. We accept no responsibility in respect of or consequent upon the sale and/or delivery and/or erection and/or installation and/or used of the products for any damage, direct or consequential or contingent or any resulting loss, loss of profits, costs, charges, expenses or other liability whether of you or of any other person howsoever arising.
The following types of loss are wholly excluded: loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of or damage to goodwill; and indirect or consequential loss.
Some of the products we sell to you also come with a manufacturer's guarantee. For details of the applicable terms and conditions, please refer to the manufacturer's guarantee or the website from which it can be accessed, which will be provided with the products. For the avoidance of doubt, we shall have no liability whatsoever for any claims made under any manufacturers guarantee, which must be made directly with the manufacturer and not via us at all.
PRICE AND PAYMENT
When to find the price for the product. All orders are accepted on condition that goods will be invoiced at the price ruling at the date of dispatch/collection or on-premises transaction from our warehouse(s)/site(s) (as applicable), or as otherwise set out in any quotation provided by us (as applicable) – as a result, the price of the product (which includes VAT) will be the price indicated on the order when you place your order or when we contact you to accept your order, or in any quotation provided by us to you (whichever is the later). Any quotations provided will only be valid for 30 days unless price increases outside of our control prevent the original quotation price from being honoured – in these circumstances, the price for the products in any quotation can be amended by us unilaterally to account for any such changes, without further liability to you. We take all reasonable care to ensure that the price of the product advised to you is correct. However please see clause 14.3 for what happens if we discover an error in the price of the product you order.
We will pass on changes in the rate of VAT. All prices for goods are subject to VAT at the current rate. If the rate of VAT changes between your order date and the date we supply the product, we will adjust the rate of VAT that you pay, unless you have already paid for the product in full before the change in the rate of VAT takes effect.
What happens if we get the price wrong. It is always possible that, despite our best efforts, some of the products we sell may be incorrectly priced. We will normally check prices before accepting your order so that, where the product's actual price is stated or acknowledged on the invoice amount shall be due for payment by you at the point of sale unless credit terms are agreed by us (in our sole discretion) and in place in which case, credit customers are permitted to pay within 30 days end of the following month in which the order in question was placed or provided, whichever is earlier. We reserve the right at any time to demand full or partial payment before proceeding or proceeding further with the provision of products to you and our standard-form position is that payment in full for the products must be provided before they are supplied to you. Time is of the essence for payment. In relation to any customers that we have provided credit to or are otherwise permitted to pay via any form of credit account, we reserve the right to unilaterally and without notice to you, in our sole discretion: amend, withdraw or otherwise deal with any credit accounts and limits as we see fit.
Our right of set-off if you are a business customer. If you are a business customer you must pay all amounts due to us under these terms in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
We can charge interest if you pay late. If you do not make any payment to us by the due date we may charge interest to you on the overdue amount at the rate of 8% a year above the base lending rate of Bank of England from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You must pay us interest together with any overdue amount.
What to do if you think an invoice is wrong. If you think an invoice is wrong please contact us promptly to let us know. You will not have to pay any interest until the dispute is resolved. Once the dispute is resolved we will charge you interest on correctly invoiced sums from the original due date.
OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU IF YOU ARE A CONSUMER
We are responsible to you for foreseeable loss and damage caused by us. If we fail to comply with these terms, we are responsible for any loss or damage suffered that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.
We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of your legal rights in relation to the products; and for defective products under the Consumer Protection Act 1987.
We are not liable for business losses. If you are a consumer we only supply the products for you for domestic and private use. If you use the products for any commercial, business or re-sale purpose our liability to you will be limited as set out in clause 16.
OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU IF YOU ARE A BUSINESS
Nothing in these terms shall limit or exclude our liability for:
death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);
fraud or fraudulent misrepresentation;
breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
defective products under the Consumer Protection Act 1987.
Except to the extent expressly stated in clause 13.1 all terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.
Subject to clause 16.1:
(a) we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with any contract between us; and
our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to of the total sums paid by you for products under such contract.
HOW WE MAY USE YOUR PERSONAL INFORMATION
How we will use your personal information. We will only use your personal information as set out in our privacy policy which is available on request.
OTHER IMPORTANT TERMS
We may transfer this Agreement to someone else. We may transfer our rights and obligations under these terms to another organisation without having to notify you.
You need our consent to transfer your rights to someone else. You may only transfer your rights or your obligations under these terms to another person if we agree to this in writing. We do not have to give a reason for rejecting any such request and do not have to be reasonable when doing so.
Nobody else has any rights under this contract. This contract is between you and us. No other person shall have any rights to enforce any of its terms.
If a court finds part of this contract illegal, the rest will continue in force. Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
Even if we delay in enforcing this contract, we can still enforce it later. If we do not insist immediately that you do something and are required to do under these terms, or if we fail in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the products, we can still require you to make the payment at a later date.
Which laws apply to this contract and where you may bring legal proceedings if you are a consumer. These terms are governed by English law and you can bring legal proceedings in respect of the products in the English courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English courts.
Which laws apply to this contract and where you may bring legal proceedings if you are a business. If you are a business, any dispute or claim arising out of or in connection with a contract between us or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.