

## **M.K.M. BUILDING SUPPLIES LIMITED**

### **TERMS AND CONDITIONS OF SALE – BUSINESS SALES**

This page (together with the documents expressly referred to on it tells you the legal terms and conditions (Terms) on which we supply any of goods (Goods) listed on our website (our site) to you.

These Terms will apply to any contract between us for the sale of Goods to you (Contract). Please read these Terms carefully and make sure that you understand them, before ordering any Goods from our site.

Please note that by ordering any of our Goods, you agree to be bound by these Terms and the other documents expressly referred to in it

You should print a copy of these Terms for future reference.

We amend these Terms from time to time as set out in clause 5. Every time you wish to order Goods, please check these Terms to ensure you understand the terms which will apply at that time.

These Terms, and any Contract between us, are only in the English language.

#### **1. INFORMATION ABOUT US**

1.1 We operate the website [www.mkmbss.co.uk](http://www.mkmbss.co.uk). We are MKM Building Supplies Limited, a company registered in England and Wales under company number 03100815 and with our registered office and main trading address at MKM Building Supplies Limited, Stoneferry Road, Hull HU8 8DE. Our VAT number is GB 721453461.

1.2 To contact us, please see our [Contact page](#).

#### **2. OUR GOODS**

2.1 The images of the Goods on our site are for illustrative purposes only. Although we have made every effort to display the colours accurately, we cannot guarantee that your computer's display of the colours accurately reflect the colour of the Goods. Your Goods may vary slightly from those images.

2.2 The packaging of the Goods may vary from that shown on images on our site.

2.3 All Goods shown on our site are subject to availability.

### **3. BASIS OF SALE**

3.1 You confirm that you have authority to bind any business on whose behalf you use our site to purchase Goods.

3.2 These Terms and any document expressly referred to in them constitutes the entire agreement between you and us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter.

3.3 You acknowledge that in entering into this Contract you do not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms or any document expressly referred to in them.

3.4 You and we agree that neither of us shall have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

### **4. HOW THE CONTRACT IS FORMED BETWEEN YOU AND US**

4.1 For the steps you need to take to place an order on our site, please see our [Shopping with MKM page](#).

4.2 Our order process allows you to check and amend any errors before submitting your order to us. Please take the time to read and check your order at each stage of the order process.

4.3 After you place an order, you will receive an e-mail from us acknowledging that we have received your order. However, please note that this does not mean that your order has been accepted or a Contract between us has been formed. A Contract between us will only come into force in accordance with clause 4.4.

4.4 The Contract between us will only be formed when your chosen Branch has contacted you either by e-mail or telephone and agreed with you that it will fulfil your order and delivery or collection (as applicable) agreed and subject always to clause 4.5.

4.5 If we are unable to supply you with Goods, for example because that Goods are not in stock or no longer available or because of an error in the price on our site as

referred to in clause 8.4, we will contact you and we will not process your order. If you have already paid for the Products, we will refund you the full amount as soon as possible and at this point no Contract will be deemed to have been formed.

## **5. OUR RIGHT TO VARY THESE TERMS**

5.1 We may revise these Terms from time to time in the following circumstances:

5.1.1 changes in how we accept payment from you;

5.1.2 changes in relevant laws and regulatory requirements;

5.1.3 changes in market conditions affecting our business;

5.1.4 changes in technology;

5.1.5 changes in relevant laws and regulatory requirements; or

5.1.6 changes in our system's capability.

5.2 Every time you order Goods from us, the Terms in force at that time will apply to the Contract between you and us.

## **6. DELIVERY**

6.1 Your order is not confirmed until a Branch has contacted you to confirm that your order can be fulfilled and agreed with you whether the Goods will be delivered to you or collected by you

6.2 Receipt of an Order Acknowledgment by you does not constitute a guarantee or promise on our part that the Goods ordered are available. If the Goods ordered are not available, a Branch will contact you in accordance with clause 4.5.

6.3 If you choose to collect the goods from your Branch, you must take the Order Acknowledgment with you as proof of payment. The Branch is under no obligation to release the Goods to you if you do not have your Order Acknowledgment or if you are unable to provide the credit or debit card that was used in connection with the Order.

6.4 Each Branch offers free local delivery on the majority of orders, however, this may not always be available. If you require the Branch to deliver your order, you may be charged an additional delivery charge by the Branch.

- 6.5 The Goods will be your responsibility from the completion of delivery.
- 6.6 You own the Goods once we have received payment in full, including all applicable delivery charges.

## **7. NO INTERNATIONAL DELIVERY**

- 7.1 Unfortunately, we do not deliver to addresses outside the UK.
- 7.2 If you are based outside the UK please do contact us and we will try our best to accommodate you.

## **8. PRICE OF PRODUCTS AND DELIVERY CHARGES**

- 8.1 The prices of the Goods will be as quoted on our site from time to time. We take all reasonable care to ensure that the prices of the Goods are correct at the time when the relevant information was entered onto the system. However if we discover an error in the price of Good(s) you ordered, please see clause 8.4 for what happens in this event.
- 8.2 Prices for our Goods may change from time to time, but changes will not affect any order which we have confirmed with an Order Acknowledgement.
- 8.3 The price of the Goods includes VAT (where applicable) at the applicable current rate chargeable in the UK for the time being. However, if the rate of VAT changes between the date of your order and the date of delivery, we will adjust the VAT you pay, unless you have already paid for the Goods in full before the change in VAT takes effect.
- 8.4 Our site contains a large number of Goods. It is always possible that, despite our reasonable efforts, some of the Goods on our site may be incorrectly priced. We will normally check prices as part of our dispatch procedures so that:
- 8.4.1 where the Good's correct price is less than the price stated on our site, we will charge the lower amount when dispatching the Goods to you. However, if the pricing error is obvious and unmistakable and could have reasonably been recognised by you as a mispricing, we do not have to provide the Goods to you at the incorrect (lower) price; and
- 8.4.2 if the Goods correct price is higher than the price stated on our site, we will contact you as soon as possible to inform you of this error and we will give

you the option of continuing to purchase the Goods at the correct price or cancelling your order. We will not process your order until we have your instructions. If we are unable to contact you using the contact details you provided during the order process, we will treat the order as cancelled and notify you in writing.

## **9. HOW TO PAY**

- 9.1 You can only pay for Goods using a debit card or credit card. We accept the following cards: Visa, Visa Debit, Visa Delta, MasterCard, MasterCard Debit and Maestro cards.
- 9.2 Payment for the Goods is in advance. The Branch will notify you of any applicable delivery charges which will be paid by you in accordance with the instructions of the Branch. However, a Contract shall only come into existence in accordance with clause 4.4

## **10. MANUFACTURER GUARANTEES**

- 10.1 Some of the Products we sell to you come with a manufacturer's guarantee. For details of the applicable terms and conditions, please refer to the manufacturer's guarantee provided with the Goods.
- 10.2 For Goods which do not have a manufacturer's guarantee, we provide a warranty that the Goods shall be free from material defects. However, this warranty does not apply in the circumstances described in clause 10.3.
- 10.3 The warranty in clause 10.2 does not apply to any defect in the Goods arising from:
- 10.3.1 fair wear and tear;
  - 10.3.2 wilful damage, abnormal storage or working conditions, accident, negligence by you or by any third party;
  - 10.3.3 if you fail to operate or use the Goods in accordance with the user instructions; or
  - 10.3.4 any alteration or repair by you or by a third party who is not one of our authorised repairers;

## **11. LIABILITY**

- 11.1 We only supply the Goods for internal use by your business, and you agree not to use the Goods for any re-sale purposes.
- 11.2 Nothing in these Terms limit or exclude our liability for:
- 11.2.1 death or personal injury caused by our negligence;
  - 11.2.2 fraud or fraudulent misrepresentation;
  - 11.2.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
  - 11.2.4 defective products under the Consumer Protection Act 1987.
- 11.3 Subject to clause 11.2, we will under no circumstances whatever be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:
- 11.3.1 any loss of profits, sales, business, or revenue;
  - 11.3.2 loss or corruption of data, information or software;
  - 11.3.3 loss of business opportunity;
  - 11.3.4 loss of anticipated savings;
  - 11.3.5 loss of goodwill; or
  - 11.3.6 any indirect or consequential loss.
- 11.4 Subject to clause 11.2 and clause 11.3 , our total liability to you in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.
- 11.5 Except as expressly stated in these Terms, we do not give any representation, warranties or undertakings in relation to the Goods. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, common law or otherwise is excluded to the fullest extent permitted by law. In

particular, we will not be responsible for ensuring that the Goods are suitable for your purposes.

## **12. EVENTS OUTSIDE OUR CONTROL**

12.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under a Contract that is caused by an Event Outside Our Control. An Event Outside Our Control is defined below in clause 12.2.

12.2 An Event Outside Our Control means any act or event beyond our reasonable control, including without limitation strikes, lock-outs or other industrial action by third parties, civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war, fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster, or failure of public or private telecommunications networks or impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.

12.3 If an Event Outside Our Control takes place that affects the performance of our obligations under a Contract:

12.3.1 we will contact you as soon as reasonably possible to notify you; and

12.3.2 our obligations under a Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. Where the Event Outside Our Control affects our delivery of Products to you, we will arrange a new delivery date with you after the Event Outside Our Control is over.

## **13. COMMUNICATIONS BETWEEN US**

13.1 When we refer, in these Terms, to "in writing", this will include e-mail.

13.2 Any notice or other communication given by you to us, or by us to you, under or in connection with the Contract shall be in writing and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, e-mail, or posted on our website. Any "day to day" queries may be dealt with over the telephone.

13.3 A notice or other communication shall be deemed to have been received: if delivered personally, when left at our registered office; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after

posting; if sent by e-mail, one Business Day after transmission; or, if posted on our website, immediately.

- 13.4 In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an e-mail, that such e-mail was sent to the specified e-mail address of the addressee.
- 13.5 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

#### **14. OTHER IMPORTANT TERMS**

- 14.1 We may transfer our rights and obligations under a Contract to another organisation, but this will not affect your rights or our obligations under these Terms. We will always notify you in writing or by posting on this webpage if this happens.
- 14.2 You may only transfer your rights or your obligations under these Terms to another person if we agree in writing.
- 14.3 This Contract is between you and us. No other person shall have any rights to enforce any of its terms, whether under the Contracts (Rights of Third Parties Act) 1999 or otherwise.
- 14.4 Each of the paragraphs of these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.
- 14.5 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive a default by you, we will only do so in writing, and that will not mean that we will automatically waive any later default by you.
- 14.6 The Contract and any dispute or claim arising out of or in connection with it 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.
- 14.7 We both irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with a

Contract or its subject matter or formation (including non-contractual disputes or claims).