

# CR SMITH

## TERMS AND CONDITIONS OF PURCHASE

### 1. Interpretation

- 1.1 In these Conditions:  
"CR Smith" means CR Smith Glaziers (Dunfermline) Limited (registered in Scotland under number SC51530);  
"CONDITIONS" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between CR Smith and the Seller;  
"CONTRACT" means the contract for the sale and purchase of the Goods and the supply and acquisition of the Services;  
"DELIVERY ADDRESS" means the address stated on the Order;  
"GOODS" means the goods (including any instalment of the goods or any part of them) described in the Order;  
"ORDER" means CR Smith's purchase order or materials requisition form as either annexed to this document or printed on the opposite side of this document;  
"PRICE" means the price of the Goods and/or the charge for the Services;  
"SELLER" means the person so described in the Order;  
"SERVICES" means the services (if any) described in the Order;  
"SPECIFICATION" includes any plans, drawings, data or other information relating to the Goods or Services;  
"WRITING" includes telex, cable, facsimile transmission and comparable means of communication.

- 1.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute, or provision as amended, re-enacted or extended at the relevant time.

- 1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

### 2. Basis of Purchase

- 2.1 The Order constitutes an offer by CR Smith to purchase the Goods and/or acquire the Services subject to these Conditions.
- 2.2 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to CR Smith or subject to which the Order is accepted or purported to be accepted by the Seller.
- 2.3 The Order will, in the option of CR Smith, lapse unless unconditionally accepted by the Seller in Writing within 7 days of its date.
- 2.4 No variation to the Order or these Conditions shall be binding unless agreed in Writing between the authorised representatives of CR Smith and the Seller.

### 3. Specifications

- 3.1 The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable Specification supplied by CR Smith to the Seller or agreed in Writing by CR Smith.
- 3.2 Any Specification supplied by CR Smith to the Seller, or specifically produced by the Seller for CR Smith, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of CR Smith. The seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.
- 3.3 The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and the performance of the Services.
- 3.4 The Seller shall not unreasonably refuse any request by CR Smith to inspect and test the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to despatch, and the Seller shall provide CR Smith with all facilities reasonably required for inspection and testing.
- 3.5 If as a result of inspection or testing CR Smith is not satisfied that the Goods will comply in all respects with the Contract, and CR Smith so informs the Seller within 7 days of inspection or testing the Seller shall take such steps as are necessary to ensure compliance.
- 3.6 The Goods shall be marked in accordance with CR Smith's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition.

### 4. Price of the Goods and Services

- 4.1 The Price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated shall be:  
4.1.1 exclusive of any applicable value added tax (which shall be payable by CR Smith subject to receipt of a VAT invoice); and  
4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, charges or levies other than value added tax.
- 4.2 No increase in the Price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of CR Smith in Writing.
- 4.3 CR Smith shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms and conditions of sale.

### 5. Terms of Payment

- 5.1 The Seller shall be entitled to invoice CR Smith on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Order.
- 5.2 Unless otherwise stated in the Order, CR Smith shall pay the Price of the Goods and the Services within 30 days after the end of the month of receipt by CR Smith of a proper invoice or, if later, after acceptance of the Goods or Services in question by CR Smith.
- 5.3 CR Smith shall be entitled to set off against the Price any sums owed to CR Smith by the Seller.

### 6. Delivery

- 6.1 The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order, in either case during CR Smith's usual business hours.
- 6.2 Where the date of delivery of the Goods or of performance of the Services is to be specified after the placing of the Order, the Seller shall give CR Smith reasonable notice of the specified date.
- 6.3 The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.
- 6.4 A packing note quoting the number of the Order must accompany each delivery or consignment of the Goods and must be displayed prominently.
- 6.5 If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.
- 6.6 CR Smith shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until CR Smith and any customer of CR Smith to whom the Goods have been supplied by CR Smith has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.
- 6.7 The Seller shall supply CR Smith in good time with any instructions or other information required to enable CR Smith to accept delivery of the Goods and performance of the Services.

- 6.8 CR Smith shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by CR Smith.

- 6.9 If the Goods are not delivered or the Services are not performed on the due date then, without prejudice to any other remedy, CR Smith shall be entitled to:  
6.9.1 deduct from the Price or (if CR Smith has paid the Price) to claim from the Seller by way of liquidated damage for delay 1% of the Price for every calendar days delay, up to a maximum of 30%; and/or  
6.9.2 obtain alternative supplies from another supplier with any extra costs and loss of profit being paid to CR Smith by the Seller.

### 7. Risk and Property

- 7.1 Risk of damage to or loss of the Goods shall pass to CR Smith upon delivery to CR Smith in accordance with the Contract.
- 7.2 The property in the Goods shall pass to CR Smith upon delivery, unless payment for the goods is made prior to delivery, when it shall pass to CR Smith once payment has been made and the Goods have been appropriated to the Contract.

### 8. Defects, Warranties and Liability

- 8.1 The Seller warrants to CR Smith that the Goods:  
8.1.1 will be of good quality and fit for any purpose held out by the Seller or made known to the Seller in Writing at the time the Order is placed;  
8.1.2 unless otherwise agreed in Writing, will be free from defects in design, material and workmanship for a period of ten years from the date of payment of the Seller's invoice in accordance with Clause 5.2 hereof;  
8.1.3 will correspond with any relevant Specification or sample; and  
8.1.4 will comply with all statutory requirements and regulations relating to the sale of the goods.
- 8.2 The seller warrants to CR Smith that the Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for CR Smith to expect in all the circumstances.
- 8.3 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then CR Smith shall be entitled:  
8.3.1 to require the Seller to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days and free of any further charge, or  
8.3.2 at CR Smith's sole option and whether or not CR Smith has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has and/or been paid; or  
8.3.3 at CR Smith's sole option, and whether or not CR Smith has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to retain the Goods and/or the benefit of the Services and to seek damages for breach of contract from the Seller.
- 8.4 The Seller shall indemnify CR Smith in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by CR Smith as a result of or in connection with,  
8.4.1 breach of any warranty given by the Seller in relation to the Goods or the Services;  
8.4.2 any claim that the Goods infringe, or their importation, use or resale, infringes, the patent copyright design right, trade mark, or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by CR Smith;  
8.4.3 any liability under the Consumer Protection Act 1987 in respect of the Goods;  
8.4.4 any act or omission of the Seller or its employees, agents or subcontractors in supplying, delivering and installing the Goods; and  
8.4.5 any act or omission of any of the Seller's personnel in connection with the performance of the Services.
- 8.5 Neither the Seller nor CR Smith shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure is beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:  
8.5.1 act of God, explosion, flood, tempest, fire or accident;  
8.5.2 war or threat of war, sabotage, insurrection civil disturbance or requisition;  
8.5.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;  
8.5.4 import or export regulations or embargoes;  
8.5.5 strikes, lockouts or other industrial actions or trade disputes (whether involving employees or either the Seller or CR Smith or of a third party);  
8.5.6 difficulties in obtaining raw materials labour fuel, parts or machinery;  
8.5.7 power failure or breakdown in machinery.

### 9. Termination

- 9.1 CR Smith shall be entitled to cancel the order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery or performance, in which event CR Smith's sole liability shall be pay to the Seller the Price for the Goods or Services in respect of which CR Smith has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation.
- 9.2 CR Smith shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if:  
9.2.1 the Seller, makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or  
9.2.2 an encumbrancer takes possession or a receiver is appointed, of any of the property or assets of the Seller; or  
9.2.3 the Seller ceases, or threatens to cease, to carry on business, or  
9.2.4 CR Smith reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.

### 10. General

- 10.1 The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or subcontract any of its obligations under the Contract.
- 10.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 10.3 No waiver by CR Smith of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
- 10.5 By accepting the Order the Seller undertakes that neither it nor any of its employees or agents will disclose the existence of any trading or contractual relationship with CR Smith or any of the terms of that relationship to any third party for any reason whatsoever. Any breach of the foregoing undertaking shall entitle CR Smith, without prejudice to any other remedies competent to it, to cancel the Order (and any other order for goods or services given to the Seller) without liability of any kind to the Seller.
- 10.6 The Contract shall be governed in all respects by the laws of Scotland and, by accepting the order, the Seller submits to the non-exclusive jurisdiction of the Court of Session in Edinburgh.