

## Terms & Conditions of Business

These Terms and Conditions of Business (“The Terms”) and the Order set out the entire agreement between you (“the Customer”) and Clearly Unique (“the Company”). Please read these terms carefully. Signature of the Order constitutes acceptance to these Terms.

### 1. **PRODUCT**

The company agrees to supply and install, and the Customer agrees to purchase the products set out on the Order Form (“the Products”).

The Company reserves the right to slightly change the Products to a similar product in the event that the original product is unavailable. The Company shall use its reasonable endeavours to inform you of any such substitutions.

### 2. **SITE SURVEY and LEAD TIME**

The Company will undertake an initial discussion and take approximate measurements at the site at which the Customer wishes to have the Products Installed (“the Site Survey”). Unless otherwise agreed in writing with the Customer, the Company’s lead-time for delivery of the Products shall be a minimum of 14 days from the date of Order.

Once the Customer advised intention to proceed, we will endeavour to return and make templates within seven (7) days.

Due to the specific requirements of each Customer, once an order has been placed it may not be cancelled. In the event of a cancellation, the Company will retain the Customer’s deposit. Any cancelled order for Products that have already been manufactured by the Company must be paid in full.

### 3. **DELIVERY**

When all Products set out on the Order Form have been manufactured, the Company will contact the Customer and arrange a mutually convenient delivery date (“the Delivery Date”).

The Company will use its reasonable endeavours to delivery the Product(s) on the Delivery Date and undertakes to notify the Customer within a reasonable time in the event that the Delivery Date cannot be met. For the avoidance of doubt, time shall not be of the essence of delivery.

The Company excludes any and all liability (to the extent permitted by law) for any costs or damages of any kind (including direct, indirect and consequential losses) arising out of late delivery of the Product(s). The Company shall not be responsible for the delays or late delivery caused by circumstances beyond its reasonable control.

The Customer must give the Company at least five (5) working days written notice before the Delivery Date in the event that the Customer wishes to delay delivery of the Product(s).

In the event that the Customer wishes to delay delivery by more than five (5) working days, the full balance of the value of the Order will become immediately payable. The Company agrees to store such delayed Products, at the Customer’s risk, for up to one (1) calendar month from the original Delivery Date. The Company reserves the right to charge storage fees at a daily rate, until such time as the Products are delivered to the Customer.

A delivery charge will be payable by the Customer on all installations outside a twenty (20) mile distance of the Company’s premises.

#### **4. SITE PREPARATION and INSTALLATION**

The Customer is solely responsible for ensuring that the site is suitably prepared for installation. In the event that damp or dry rot is detected during the Site Survey the Company recommends that the condition be treated well in advance of the agreed date for delivery and installation of the Product(s).

Uneven surfaces and/or defects on walls should be rectified in advance of installation, which is at the sole responsibility of the Customer.

Electrical and telephone points, utensil racks, appliances, cabinetry and all fixtures must be fitted before templating, as changes cannot be made to the Product(s) once it is cut and toughened. Silicone is applied to outer perimeter of the Product(s) for sealing and waterproofing purposes. Seals may vary depending on abutments to joinery, granite, wall and worktops being level or plumb. Up to 3mm tolerances are acceptable.

The Company shall not be responsible for any issues relating to the size or fit of the Product(s) if (a) the Product(s) are ordered without the benefit of a Site Survey by the Company's qualified installers or (b) the Product(s) are installed by unqualified installers.

#### **5. COMPLETION OF ORDER**

The Customer's order will be deemed completed when all Product(s) set out on the Order Form have been installed, or, if the Customer does not require installation, on delivery. Any Product(s) found to be faulty after installation will be rectified under the guarantee conditions set out in Clause 11 below and the Guarantee (need one) ("the Guarantee"). For the avoidance of doubt, faulty Product(s) will not constitute incomplete installation.

#### **6. TITLE and RISK**

Notwithstanding the earlier passing of risk, title in the Product(s) shall remain with the Company and shall not pass to the Customer until all amounts due by the Customer (including any applicable interest and costs) have been paid in full. Until title passes, the Customer shall hold the goods as bailee for the Company. The Company may at any time before title passes and without any liability to the Customer repossess and dismantle and use or sell all or any of the Product(s) and by doing so terminate the Customer's right to use, sell or otherwise deal in them, and, for that purpose (or determining what if any Product(s) are held by the Customer on inspecting them) enter any premises of or occupied by the Customer. Unless otherwise set out in these Terms, risk passes onto the Customer once the goods are installed, delivered or collected (as the case may be).

#### **7. PAYMENT TERMS**

Unless otherwise agreed with the Customer in writing, payment in the form of 50% deposit shall be due immediately at template stage, with the balance being due immediately from the date the Company submits a final invoice to the Customer. In the event of late payment, the Company reserves the right to:

- a. charge the Customer late payment interest on all amounts due at the rate of eight percent (8%) above the base rate of the Bank of England from time to time in force, from the date payment is due until the date that payment is actually made;
- b. charge the Customer interest at the rate equivalent to that set for the purposes of Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998;
  - i. calculated (on a daily basis) from the date of our invoice until payment;
  - ii. compounded on the first day of each calendar month; and
  - iii. before and after any judgement (unless a court orders otherwise).
- c. suspend or cancel future deliveries or outstanding work;
- d. cancel any discount offered to the Customer.

If the Customer has an approved business credit account the Company reserves the right to withdraw it or reduce your credit limit or bring forward your due date for payment.

The Customer does not have the right to off-set any money they may claim from the Company against anything that they may owe the Company.

While the Customer owes money to the Company, the Company has the right to keep any property the Company may hold of the Customers until payment has been received in full (a lien).

If the Customer breaches any of its obligations under these terms, they are to indemnify the Company in full against all direct or indirect expenses and liabilities incurred including legal costs and other related costs on a full indemnity basis.

The Customer should note that, until the Company receives full payment, the Guarantee offered by the Company to the Customer will not come into effect.

The Company may take any of the actions in this clause at any time without notice.

## **8. COLOUR**

Colour is to be chosen from the Dulux™, Farrow & Bull™ or Crown™ paint mixing range. Due to the variation in the manufacture of glass the colours as shown on the colour chart or sample cannot be guaranteed.

The Company will use its reasonable endeavours to match as closely as possible the finished Product with the colour chart.

Certain glass types have a higher content of iron in them which causes a green effect that changes the final colour of the colour coat. Please refer to the coloured glass samples for a more accurate indication. The colours on samples are slightly lighter than the finished product as samples allow more light through the edge of the glass thus making the colour lighter.

Colours should always be chosen from sample swatches in the room set under final lighting conditions. At the initial discussion stage a selection of coloured samples can be viewed. Samples in the colour of your choice will only be supplied once an order is placed.

## **9. AMENDMENTS**

Please note any cost increased necessitated by the Site Survey are the sole responsibility of, and shall be payable by the Customer. Any amendments in respect of changes requested after the final measure and survey are also payable in full by the Customer. Any changes relating to changed position of sockets, taps, phone sockets, light switches or other fixtures are at the expense of the Customer.

## **10. NON-DELIVERY and DEFECTS OR DAMAGE TO PRODUCT(S)**

Any claim for non-delivery of any Product(s) must be notified in writing by the Customer to the Company within ten (10) days of the date of the Delivery Date. Any claim that any Product(s) have been delivered damaged, and not of the correct quantity or do not comply with their description must be notified in writing by the Customer to the Company within seven (7) days of the Delivery Date.

Any alleged defect must be notified in writing by the Customer to the Company within twelve (12) months of the installation of the Product(s). If delivery is taken by the Customer, it is the Customer's responsibility to check panels on receipt and sign them off. Allowing a third party to take delivery is at our Customer's own risk. If you have any questions regarding the above, please contact us.

Any claim under this Clause 10 must be in writing and must contain full details of the claim including a full description of any allegedly defective Product(s). The Customer shall afford the Company a reasonable opportunity and facilities to investigate any claims made under this Clause 10, and the Customer shall if applicable, and if so requested in writing by the Company, property return any Product(s) subject to the claim and any packing materials securely packed and carriage paid to the Company for examination. The Company reserves the right to refuse any claim in respect of which the Customer has not complied with the claims procedure set out in this Clause 10.

If the Customer establishes that any Product(s) have not been delivered, have been delivered damaged, are not of the correct quantity, or do not comply with their description, the Company shall, at its option, replace with

similar goods any Product(s) which are missing, lost or damaged or do not comply with their description, allow the Customer credit for their invoice value or repair any damaged Product(s).

If the Customer establishes that any product(s) are defective the Company shall, at its option, replace with similar goods or repair any defective Product(s), allow the Customer credit for their invoice value or to the extent that the goods are not of the Company's manufacture, assign to the Customer (so far as the Company is able to do so) any warranties given by the manufacturer of the goods to the Company.

The delivery of any repair or replacement Product(s) shall be at the Customer's site or other delivery point specified for the original Product(s).

The right to replacement Product, repair of the Product or a refund as set out in this Clause 10 shall be the Customer's sole and exclusive remedy.

## **11. GUARANTEE**

The Company will use its reasonable endeavours to repair or replace free of charge, any coating which is found to be delaminating or discoloured within a period of 12 months from the Delivery Date. This Guarantee is subject to full payment for all Product(s), charges, fees, and reasonable notice by the Customer of such a fault to the Company. The Customer must maintain and clean the Product(s) in a proper manner. This excludes wilful damage and normal wear and tear. Guarantee is valid for twelve (12) months from the installation date.

This Guarantee only applies to (a) the Customer noted on the Order Form and is not transferable and (b) Products installed by the Company's approved trained installers.

This Guarantee does not cover any defects caused by mistreatment of the glass caused by cleaning agents either chemical or abrasive. The Company will not be responsible for any claims in respect of measuring errors when the Company's site surveyor has not taken the measurements. The Company will not be held responsible for breakages or damage caused during transit where the Company is not paying for the cost of freight. Where the Company does not supply glass, any imperfections or damage during handling are not the responsibility of the Company.

## **12. LIMITATION OF LIABILITY**

Under no circumstances shall the Company have any liability of any kind for: (a) any defects resulting from wear and tear, accident, improper use by Customer or use by the Customer except in accordance with the instructions or advice of the Company or neglect; (b) any Product(s) that have been adjusted, modified or repaired except by the Company; (c) the suitability of the Product(s) for any particular purpose or use under specific conditions whether or not the purpose or conditions were known or communicated to the Company; (d) any substitution by the Customer of any materials or components not forming part of any specification of the Product(s) unless agreed in writing by the Company; (e) any descriptions, illustrations, specifications, figures as to performance, drawings and particulars of weights and dimensions submitted by Company contained in the Company's catalogues, price lists or elsewhere since they are merely intended to represent a general ideal of the Products and are not to form part of these terms or be treated as representations; (f) any technical information, recommendations, statements or advice furnished by Company, its servants or agents not given in writing in response to a specific written request from the Customer prior to the incorporation of these Terms; or (g) any variations in the quantities or dimensions of any Product(s) or changes of their specifications or substitution of any materials or components, if the variation or substitution does not materially affect the characteristics of the subject matter, and the substituted materials or components are of a quality equal or superior to those originally specified.

The Company shall have not liability to the Customer for any loss or damage of any nature arising from any breach of any express or implied warranty or condition of these Terms or any negligence, breach of statutory or other duty on the part of the Company or in any other way out of or in connection with the performance or purported performance of or failure to perform under these Terms except: (a) for death or personal injury resulting from the Company's negligence; or (b) as expressly stated in these conditions.

In no circumstances shall the liability of the Company to the Customer under these Terms exceed the invoice value of the Product(s).

**13. PRODUCT CARE**

It is the responsibility of the Customer to follow the manufacturer's instructions and to treat the Product(s) with due care and attention, as no responsibility can be accepted by the Company for damage caused by incorrect use or cleaning with products that contain bleach or other corrosive agents. Glass should be cleaned with glass cleaning products or disinfectant.

**14. GENERAL**

These terms shall be governed by laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the English courts.

The parties agree that these Terms and the Order Form constitute the entire agreement and understanding between the parties. These Terms and the Order Form supersede all understandings, representations and agreements made between the parties. However, neither party seeks to exclude or limit liability for any fraudulent misrepresentations.

The waiving (which must be in writing and signed by an authorised representative of the relevant party) on a particular occasion by either party of rights under these Terms does not imply that other rights will be waived. If a party has a right arising from the other party's failure to comply with an obligation under these Terms and delays in exercising or does not exercise that right, such delay in exercising or failure to exercise is not a waiver of that right or any other right.

Each clause of these Terms is a separate term and is intended to stand alone. Should any provision of these Terms be held to be invalid or unenforceable, such provision shall be severed from the remainder of the rest of these Terms which will continue to be valid and enforceable to the fullest extent permitted by law.