

## **TERMS AND CONDITIONS**

### **Background**

These Terms and Conditions are the standard terms for the sale of goods by Ark Blinds and Curtains Limited, a company registered in England under of 08876071. 62 The Street, Ashted. Surrey. KT21 1AT

### **1 Definitions and Interpretation**

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day”

means, any day other than a Saturday, Sunday or bank holiday;

“Calendar Day”

means any day of the year;

“Commercial Unit”

means a delivery of Goods, the character and/or value of which would be materially impaired if divided;

“Contract”

means the contract for the purchase and sale of Goods, as explained in Clause 2;

“Goods”

means the goods which are to be supplied by Us to you as specified in your Order (and confirmed in Our Order Confirmation);

“Month”

means a calendar month;

“Price”

means the price payable for the Goods;

“Order”

means your order for the Goods [as attached] OR [as shown overleaf];

“Order Confirmation”

means Our acceptance and confirmation of your Order as described in Clause 2;

“We/Us/Our”

means Ark Blinds and Curtains Limited, a company registered in England under 08876071 of 62 The Street, Ashted. Surrey. KT21 1AT. and includes all employees and agents of Ark Blinds and Curtains Limited.

1.2 Each reference in these Terms and Conditions to “writing” and any similar expression includes electronic communications whether sent by e-mail, [text message,] fax or other means.

## **2 The Contract**

2.1 These Terms and Conditions govern the sale of goods by Us and will form the basis of the Contract between Us and you. Before making your Order, please ensure that you have read these Terms and Conditions carefully. If you are unsure about any part of these Terms and Conditions, please ask Us for clarification.

2.2 Nothing provided by Us including, but not limited to, sales and marketing literature, price lists and other documents constitutes a contractual offer capable of acceptance. Your Order constitutes a contractual offer that We may, at our discretion, accept.

2.3 A legally binding contract between Us and you will be created upon our acceptance of your Order, indicated by our Order Confirmation. Order Confirmations will be provided in writing.

2.4 We shall ensure that the following information is given or made available to you prior to the formation of the Contract between Us and you, save for where such information is already apparent from the context of the transaction:

2.4.1 The main characteristics of the Goods;

2.4.2 Our identity (set out above in sub-Clause 1.1) and contact details (set out below in Clause 13);

2.4.3 The total Price for the Goods including taxes or, if the nature of the Goods is such that the Price cannot be calculated in advance, the manner in which it will be calculated;

2.4.4 Where applicable, all additional delivery charges or, where such charges cannot be calculated in advance, the manner in which they will be calculated;

2.4.5 Where applicable, the arrangements for payment, delivery and the time by which We undertake to deliver the Goods;

2.4.6 Our complaints handling policy;

2.4.7 We shall ensure that you are aware of Our legal duty to supply goods that are in conformity with the Contract;

2.4.8 Where applicable, details of after-sales services and commercial guarantees;

2.4.9 Where applicable, the functionality, including appropriate technical protection measures, of digital content; and

2.4.10 Where applicable, any relevant compatibility of digital content with hardware and software that We are aware of or might reasonably be expected to be aware of.

## **3 Description and Specification of Goods**

3.1 We have made every reasonable effort to ensure that the Goods conform to illustrations, photographs and descriptions provided in Our sales and marketing literature [and descriptions provided by Our salespeople]. We cannot, however, guarantee that all descriptions, illustrations

and/or photographs will be precisely accurate [due to [discrepancies that may arise during the printing process] AND/OR [differences in the colour reproduction of electronic displays]].

3.2 If you receive any Goods that do not conform to illustrations, photographs or descriptions under sub-Clause 3.1 you may not return those Goods to Us as provided in Clause 7.

3.3 If We find, or are made aware of, any typographical, clerical or other accidental errors or omissions in any sales and marketing literature, price lists or any other documents We will make every reasonable effort to correct such errors or omissions as soon as is reasonably possible. If, as a result of any such error or omission, you have received the wrong Goods, you may return those Goods to Us as provided in Clause 7. If, as a result of any such error or omission, you have paid too much, We will refund the excess paid for the Goods.

3.4 We reserve the right to make any changes in the specification of the Goods that may be required to conform to any applicable safety or other legal or regulatory requirements without notice.

#### **4 Orders**

4.1 All Orders for Goods made by you will be subject to these Terms and Conditions.

4.2 You may not change your Order at any time before we despatch the Goods if you do wish

4.3 If your Order is changed We will inform you of any change to the Price in writing.

4.4 You may cancel your Order within 7 days from the date of placement. Deposits that have been paid are not refundable.

#### **5 Price and Payment**

5.1 The Price of the Goods will be that shown on our written or verbal quotations. If the Price shown in your Order differs from Our current Price We will inform you upon receipt of your Order.

5.2 If We quote a Special Price which is different to the Price shown in Our current price list, the Special Price will be valid for 7 calendar days or, if the Special Price is part of an advertised special offer, for the period shown in the advertisement. Orders placed during this period will be accepted at the Special Price even if We do not accept the Order until after the period has expired.

5.3 Our Prices may change at any time but these changes will not affect any Orders that We have already accepted.

5.4 We have made every reasonable effort to ensure that our Prices, as shown in Our current quotations are correct. Prices will be checked when We process your Order. If the actual Price of the Goods is lower than that stated in your Order, you will be charged the lower Price (unless the lower price was an obvious mistake that you could have reasonably recognised). If the actual Price of the Goods is higher than that stated in your Order, We will ask you how you wish to proceed.

5.5 All Prices include VAT. If the rate of VAT changes between the date of your Order and the date of your payment, We will adjust the rate of VAT that you must pay. Changes in VAT will not affect any Prices where We have already received payment in full from you.

5.6 Our Prices [include] OR [exclude] the cost of delivery. [Delivery costs will be added on to the final sum due.]

50% payment must be paid on placement of order. A further 45% must be paid 1 day before delivery and installation. Final 5% payment must be paid on the installation completion and before the installers leave the property. For Goods that are to be supplied only full payment must be made in advance before We can despatch the Goods to you.

5.7 We accept the following methods of payment:

5.7.1 Cash

5.7.2 Credit or Debit card ( EXCLUDING AMERICAN EXPRESS );

5.7.3 Direct bank transfer;

5.7.4 Cheque ( Payment must cleared before delivery is made);

5.8 If you do not make payment to us by the due date [as shown in clause 5.6] We may charge you interest on the overdue sum at the rate of 8.7% per annum. Interest will accrue on a daily basis from the due date for payment until the actual date of payment of the overdue sum, whether before or after judgment. You must pay any interest due when paying an overdue sum.

5.9 The provisions of sub-Clause 5.10 will not apply if you have promptly contacted Us to dispute an invoice in good faith. No interest will accrue while such a dispute is on-going.

## **6 Delivery**

6.1 Please note that delivery is currently only possible within [the United Kingdom and Scotland

6.2 When We provide you with an Order Confirmation, We will provide an estimated delivery date. Please note that estimated delivery dates may vary according to the availability of Goods, your location, and circumstances beyond our control. Unless agreed otherwise, the Goods will be delivered without undue delay however we will not be held responsible for any kind of compensation for any delivery delays.

6.3 If you indicate in your Order that you wish to collect the Goods from Us yourself you may do so after receiving Our Order Confirmation, during Our business hours of Monday 10am – 3pm. Tuesday – Friday 9.30am – 4pm. Saturday 10am – 3pm.

6.4 Delivery will be deemed to have taken place when the Goods have been delivered to the delivery address indicated in your Order and you (or someone identified by you) have taken physical possession of the Goods or, if you are collecting the Goods from Us yourself, when you have collected the Goods.

6.5 If for any reason We are unable to deliver the Goods at your chosen delivery address, We will leave a note informing you that the Goods have been returned to Our premises, requesting that you contact Us to arrange re-delivery.

6.6 The responsibility (sometimes referred to as the “risk”) for the Goods remains with Us until delivery is complete as defined in sub-Clause 6.4 at which point it will pass to you. Please note, however, that if you do not wish to collect the Goods and do not wish to use Our nominated carrier to deliver them, instead choosing your own carrier, the risk in the Goods will pass to you as soon as they are passed to your chosen carrier.

6.7 You own the Goods once We have received payment in full for them.

6.8 [Please note that delivery to the following areas may require more time:

6.8.1 London. Wales. Midlands. North & Scotland

6.9 Please note carefully the following:

6.9.1 If We refuse to deliver the Goods, you may treat the Contract as being at an end and We will reimburse you without undue delay.

6.9.2 If delivery of the Goods within the agreed time period or at the agreed time was essential (taking into account the relevant circumstances at the time the Contract was formed) and We fail to deliver, you may treat the Contract as being at an end and We will reimburse you without undue delay.

6.9.3 If you have told Us that delivery within the agreed time period or at the agreed time was essential and We fail to deliver, you may treat the Contract as being at an end and We will reimburse you without undue delay.

6.10 If any of the events in sub-Clause 6.9 occur you may, instead of treating the Contract as being at an end, specify a new delivery time or time period. If We continue to fail to deliver the Goods, you may treat the Contract as being at an end and We will reimburse you without undue delay.

6.11 If, despite the events in sub-Clause 6.9 and 6.10, you choose not to treat the Contract as being at an end, your right to cancel your Order or to reject the Goods will be unaffected. If you do so, We will reimburse you without undue delay.

6.12 If the Goods form a Commercial Unit, you may only reject or cancel all of the Goods, not a portion of them.

## **7 Returning Incorrect Goods**

7.1 If you receive Goods that are incorrect, caused by a mistake made by Us in delivery or by Our incorrect description or information (see sub-Clauses 3.2 and 3.3), you have the right to return them in exchange for a refund or a replacement, subject to the provisions of this Clause 7. This Clause 7 does not apply to Goods that you are merely not satisfied with or to Goods that are faulty. For Goods that you are dissatisfied with or faulty Goods, please see Clauses 8 or 9 respectively.

7.2 If you wish to return Goods to Us under this Clause 7 you must do so within a reasonable time of taking delivery (or collecting them from Us).

7.3 All Goods must be returned to Us under this Clause 7 in their original condition [, in their original, un-opened packaging], accompanied by proof of purchase.

7.4 You may return Goods to Us in person during Our business hours of Monday 10am – 3pm. Tuesday – Friday 9.30am – 4pm. Saturday 10am – 3pm or you may return them by post or another suitable delivery service of your choice. For Goods returned under this Clause 7 We will reimburse you for any reasonable postage or shipping costs.

7.5 [You may request that We collect the Goods from you. Please ensure that the Goods are ready for collection at the agreed time and location. We are solely responsible for the cost of collecting the Goods under this Clause 7.]

7.6 Refunds or replacements will be issued to you within 25 business days

## **8 Returning Goods If You Change Your Mind**

8.1 If you are not satisfied with any Goods purchased from Us you have the right to return them for a replacement. Subject to the provisions of this Clause 8. This Clause 8 does not apply to Goods that are faulty. For incorrect faulty Goods please Clauses 7 or 9 respectively.

8.2 If you wish to return Goods to Us under this Clause 8 you must do so within 14 calendar days of taking delivery (or collecting them from Us), telling Us why you wish to return the Goods.

8.3 All Goods must be returned to Us under this Clause 8 in their original condition [, in their original, un-opened packaging], accompanied by proof of purchase.

8.4 You may return Goods to Us in person during Our business hours of Monday 10am – 3pm. Tuesday – Friday 9.30am – 4pm. Saturday 10am – 3pm or you may return them by post or another suitable delivery service of your choice. You are solely responsible for the cost of returning Goods to Us under this Clause 8.

8.5 [You may request that We collect the Goods from you. Please ensure that the Goods are ready for collection at the agreed time and location. You are solely responsible for the cost to Us of collecting the Goods under this Clause 8.]

8.6 Refunds or replacements will be issued to you within 28 days. If you return Goods to Us in person or within 28 days of Our receipt of the Goods if you return Goods to Us by post or similar delivery service [or if We collect the Goods from you.]

## **9 Returning Damaged or Faulty Goods**

9.1 If you receive Goods that are damaged or faulty you have the right to return them in exchange for a refund, replacement or repair, subject to the provisions of this Clause 9. This Clause 9 does not apply to Goods that are incorrect or Goods that you wish to return because you have changed your mind. Please refer to Clauses 7 or 8 above for incorrect Goods or returns if you have changed your mind.

9.2 If you wish to return Goods to Us under this Clause 9 please do so as soon as reasonably possible after discovering the damage or fault [and in any event within seven years]. Please contact Us to inform Us of the fault and to arrange the return and your, replacement or repair.

9.3 This Clause 9 only applies to Goods that are damaged or faulty when you receive them. Faults or damage caused by normal wear and tear or improper treatment does not entitle you to return Goods under this Clause 9. We may require you to prove that the Goods in question were faulty if you return them to Us under this Clause 9 more than six months after the delivery date.

9.4 This Clause 9 does not apply if you purchased the Goods having been told by Us of the particular damage or fault (If, for example, the Goods were sold as 'seconds', or at a discounted rate).

9.5 You may return Goods to us in person during Our business hours of Monday 10am – 3pm. Tuesday – Friday 9.30am – 4pm. Saturday 10am – 3pm or you may return them by post or another suitable delivery service of your choice. For Goods returned under this Clause 9 We will reimburse you for any reasonable postage or shipping costs.

9.6 [You may request that We collect the Goods from you. Please ensure that the Goods are ready for collection at the agreed time and location. We are solely responsible for the cost of collecting the Goods under this Clause 9.]

9.7 Refunds or replacements will be issued to you within 25 working days

9.8 If Goods are to be repaired We will give you a repair estimate within 25 working days of your returning the Goods to Us in person or of Our receipt of the Goods if you return Goods to Us by post or similar delivery service [or if We collect the Goods from you.]

### **Guarantee**

9.9 For internal/external horizontal motorised or crank operated tensioned skylight ZIP blinds, awnings/canopies/Sottezza and WGM roof blinds. [As the supplier & installer of the Goods, We guarantee that for a period of 7 years from the date of delivery, the Goods will be free from material defects. This guarantee is subject to the exceptions listed in sub-Clause 9.10.6 and 9.13

9.10 Our guarantee and the manufacturers does not apply to any defects in the Goods caused by:

9.10.1 Normal wear and tear;

9.10.2 Deliberate damage and/or misuse of the Goods;

9.10.3 Accidental damage;

9.10.4 Failure to use the Goods in accordance with their instructions; or

9.10.5 The alteration or repair of by you or any third party that is not authorized by Us.

9.10.6 Failure to maintain/service the product

9.11 Our guarantee exists in addition to your legal rights as a consumer (that the Goods match Our description, that they are of satisfactory quality and that they are fit for purpose). More information on your rights as a consumer can be obtained from your local Citizens Advice Bureau or from the Office of Fair Trading.]

9.12 For internal manually operated or motorised window/door and conservatory pleated roof blinds. [As the supplier & installer of the Goods, we guarantee that for a period of 12 months from the date of delivery, the Goods will be free from material defects.

9.13 Internal horizontal motorised or crank operated tensioned skylight ZIP blinds, external awnings/canopies/sotteza and WGM roof blinds must be maintained/serviced on a yearly basis or any other intervals specified by ARK BLINDS AND CURTAINS LIMITED. Our Guarantee will be void if maintenance/servicing is not carried out by ARK BLINDS AND CURTAINS LIMITED on the correct intervals. ARK BLINDS AND CURTAINS LIMITED do not authorise any other person or company to tamper, maintain/service, remove or attempt repair or any adjustments to the blinds or awnings/canopies during the 7-year guarantee period. Failure to comply with this will invalidate your warranty.

9.14 The manufacturer's guarantee exists in addition to your legal rights as a consumer (that the Goods match Our description, that they are of satisfactory quality and that they are fit for purpose). More information on your rights as a consumer can be obtained from your local Citizens Advice Bureau or from the Office of Fair Trading.)

## **10 Our Liability**

10.1 We will not be responsible for any foreseeable loss or damage that you may suffer because of Our breach of these Terms and Conditions or because of Our negligence. Loss or damage is foreseeable if it is an obvious consequence of Our breach or negligence or if it is contemplated by you and Us when the Contract is created. We will not be responsible for any loss or damage that is not foreseeable.

10.2 Furthermore, nothing in these Terms and Conditions seeks to exclude or limit Our liability for the following with respect to your rights as a consumer:

10.2.1 Breach of your right to title and quiet possession as implied by section 12 of the Sale of Goods Act 1979;

10.2.2 Breach of terms relating to description, satisfactory quality, fitness for purpose and samples as implied by sections 13, 14 and 15 of the Sale of Goods Act 1979;

10.2.3 Our liability relating to defective products as set out in the Consumer Protection Act 1987.

## **11 Events Outside of Our Control (Force Majeure)**

11.1 We will not be liable for any failure or delay in performing Our obligations where that failure or delay results from any cause that is beyond Our reasonable control. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, explosion, flood, storms, earthquakes, subsidence, acts of terrorism, acts of war, governmental action, epidemic or other natural disaster, or any other event that is beyond Our control.

11.2 If any event described under this Clause 12 occurs that is likely to adversely affect Our performance of any of Our obligations under these Terms and Conditions:

11.2.1 We will inform you as soon as is reasonably possible;



11.2.2 Our obligations under these Terms and Conditions will be suspended and any time limits that We are bound by will be extended accordingly;

11.2.3 We will inform you when the event outside of Our control is over and provide details of any new dates, times or availability of Goods as necessary;

11.2.4 If the event outside of Our control continues for more than 4 months We will cancel the Contract and inform you of the cancellation. Any refunds due to you as a result of that cancellation will be paid to you as soon as is reasonably possible;

11.2.5 If an event outside of Our control occurs and you wish to cancel the Contract, you may do so in accordance with your right to cancel under sub-Clause 4.4 above.

## **12 Communication and Contact Details**

12.1 If you wish to contact Us, you may do so by telephone at 01293 774818 or by email at info@arkcl.co.uk

12.2 In certain circumstances, you must contact Us in writing (when cancelling an Order, for example). When contacting Us in writing you may use the following methods:

12.2.1 Contact Us by email at info@arkcl.co.uk

12.2.2 Contact Us by pre-paid post at Ark Blinds and Curtains Limited, 86 Victoria Road, Horley, Surrey. RH6 7AB.

## **13 Complaints and Feedback**

13.1 We always welcome feedback from Our customers and, whilst We always use all reasonable endeavours to ensure that your experience as a customer of Ours is a positive one, We nevertheless want to hear from you if you have any cause for complaint.

13.2 All complaints are handled in accordance with Our complaints handling policy and procedure. If you wish to complain about any aspect of your dealings with Us, please contact Us in one of the following ways:

13.2.1 [In writing, addressed to 86 Victoria Road, Horley, Surrey. RH6 7AB

13.2.2 [By email, addressed to info@arkcl.co.uk

## **14 How We Use Your Personal Information (Data Protection)**

14.1 All personal information that We may collect (including, but not limited to, your name and address) will be collected, used and held in accordance with the provisions of the Data Protection Act 1998 and your rights under that Act.

14.2 We may use your personal information to:

14.2.1 Provide Our Goods and services to you;

14.2.2 Process your payment for the Goods; and

14.2.3 Inform you of new products and services available from Us. You may request that we stop sending you this information at any time.

14.2 In certain circumstances (if, for example, you wish to purchase Goods on credit), and with your consent, We may pass your personal information on to credit reference agencies. These agencies are also bound by the Data Protection Act 1998 and should use and hold your personal information accordingly.

14.4 We will not pass on your personal information to any other third parties [without first obtaining your express permission].

## **15 Other Important Terms**

15.1 We may transfer (assign) Our obligations and rights under these Terms and Conditions (and under the Contract, as applicable) to a third party (this may happen, for example, if We sell Our business). If this occurs you will be informed by Us in writing. Your rights under these Terms and Conditions will not be affected and Our obligations under these Terms will be transferred to the third party who will remain bound by them.

15.2 [You may transfer (assign) the benefit of the guarantee in Clause 10 to any person who purchases the Goods from you after you have completed purchasing the Goods from Us.]

15.3 You may not transfer (assign) your [other] obligations and rights under these Terms and Conditions (and under the Contract, as applicable) without Our express written permission.

15.4 The Contract is between you and Us. It is not intended to benefit any other person or third party in any way and no such person or party will be entitled to enforce any provision of these Terms and Conditions. [This is subject to sub-Clause 15.2 and any purchaser to whom the guarantee has been transferred under that sub-Clause will be entitled to enforce the guarantee.]

15.5 If any of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable by any court or other authority, that / those provision(s) shall be deemed severed from the remainder of these Terms and Conditions. The remainder of these Terms and Conditions shall be valid and enforceable.

15.6 No failure or delay by Us in exercising any of Our rights under these Terms and Conditions means that We have waived that right, and no waiver by Us of a breach of any provision of these Terms and Conditions means that We will waive any subsequent breach of the same or any other provision.

## **16 Governing Law and Jurisdiction**

16.1 These Terms and Conditions (and the Contract) (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.

16.2 Any dispute, controversy, proceedings or claim between Us and you relating to these Terms and Conditions (or the Contract) (including any non-contractual matters and obligations arising

therefrom or associated therewith) shall fall within the non-exclusive jurisdiction of the courts of England and Wales.