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Terms & conditions

Interpretation

In these conditions:

“Company” means Absolute Glazing Ltd a registered Company in England under 9465704.

“Contract” means the Quotation, Order Acknowledgement and these Terms and Conditions and further documents (if appropriate) expressly referred to therein, which collectively are the Contract.

“Conditions” means the standard terms and conditions of sale and for the supply of services set out in this document.

“Customer” means the person, firm or company who accepts a quotation of the Company for the sale of the Product or the supply of Services or whose order for the Product or supply of Services is accepted by the Company.

“Party” means The Company and the Customer.

“Product” means the product or products which the Company is to supply in accordance with these Conditions (including any part or parts of them).

“Services” means the services to be supplied by the Company.

“Works” means the work specifically described in the Order Acknowledgement and associated Quotation.

“Writing” includes email and comparable means of communication.

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

Marginal notes and headings in these conditions do not form part of the conditions and are inserted for ease of reading only.

Words in the singular include the plural and in the plural include the singular.

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General

2.1 Any provisions of these conditions which in any way now, or subsequently, contravene the Law shall be deemed severable and shall not affect any other provisions herein.

2.2 This contract shall be subject to and shall be in accordance with the Law of England and shall be subject to the jurisdiction of the English Courts only, whereby any dispute shall be finally determined.

2.3 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. Any notice shall be deemed to have been received if sent by pre-paid first class post 2 working days after posting (excluding the day of posting) or if delivered by hand on the day of delivery.

2.4 No waiver by the Company of any breach of or any default under the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision and will in no way affect the other terms of the Contract.

2.5 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

2.6 Each right and remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

2.7 The Parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

2.8 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company. The Company may assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract or any part of it to any person, firm or company.

2.9 The Contract and these Conditions constitute the entire agreement and understanding of the Parties and supersede any previous agreement between the Parties relating to the subject matter thereof. Each of the Parties acknowledges and agrees that in entering into the Contract it does not rely on and shall have no remedy in respect of any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether a party to the Contract or not) other than as expressly set out in the Contract and these Conditions. The only remedy available to it shall be for breach of contract under the terms of the Contract. Nothing in this Condition shall, however, operate or limit or exclude any liability for fraud.

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Offer & acceptance

3.1 Any additional terms and conditions proposed by the Customer that conflict with these Conditions are totally rejected by the company and will have zero effect unless specifically agreed in writing on the Company's letter headed paper and signed by authorised employees of the Company.

3.2 The Company shall sell and the Customer shall purchase the Product and/or Services in accordance with any written quotation of the Company which is accepted by the Customer, any order of the Customer which is accepted by the Company, are subject in either case to these Conditions, which shall govern the Contract to the express exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.

3.3 No terms or conditions endorsed upon, delivered with or contained in the Customer's purchase order, confirmation of order, acceptance of a quotation or specification or other document will form part of the Contract simply as a result of such document being referred to or in the Contract.

3.4 Each acceptance by the Customer of a written quotation from the Company or each written order of the Customer which is accepted by the Company for the Product or Services shall be deemed to be an offer by the Customer to buy the Product or Services specified in subject to these Conditions.

3.5 No variation to these Conditions shall be binding unless agreed in writing on the Company's letter headed paper and signed by the authorised representatives of the Company. The Company's employees or agents are not authorised to make any representations concerning the Product or Services unless confirmed by the Company in writing in the quotation accepted by the Customer. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

3.6 Any advice or recommendation given by the Company, its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Product which is not confirmed in writing on letter headed paper by the Company is followed or acted upon entirely at the Customer's own risk and the Company shall not be liable for any such advice or recommendation which is not so confirmed.

3.7 In placing an order the Customer is deemed to acknowledge that there is no inclusion in the Contract of any warranty, description, condition, statement or any other representation contained in or arising from any prior correspondence, discussions, statements, or technical literature unless expressly included in the Quotation.

3.8 Quotations will remain open for acceptance for a period of 3 months from the date thereof.

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3.9 The Company may withdraw any Quotation without penalty at any time up to it receiving a signed Order Acknowledgement.

3.10 All orders to the Company must be in the form of a signed Order Acknowledgement and accompanied by the initial payment set out in our first application for payment.

Orders & specification

4.1 The quantity, price, and description of the Product and the price, timing and description of the Services shall be those set out in the Order Acknowledgement, subject to Clause 5.

4.2 The Company shall not be liable for any variations in any specification or description of the Product which do not materially affect the specification, use and operation of the Product. The Company shall be entitled to substitute any Product ordered with product of similar quality and capacity. The Company reserves the right to make any changes in the specification of the Product and/or Services so as to conform to any applicable safety or other statutory requirements.

4.3 No order which has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

Prices

5.1 All prices, unless specifically stated, are based upon costs current at the time of issue of the Order Acknowledgment.

5.2 Prices are fixed for a period of 3 months from the date of issue of the Order Acknowledgement. Should a signed agreement and/or payment not be received within this period the works will be subject to variable price.

5.3 Where Quotations are based upon specifications, drawings, quantities and other information provided by the Customer they will be subject to re-measurement and the final account payable by the Customer shall be based upon the re-measurement. The Company reserves the right to adjust quoted prices in the event of significant variations in quantities.

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5.4 The Company reserves the right, by giving notice in writing from time-to-time to the Customer, to increase the price of the Product and/or the charges for the Services at its discretion to reflect any increase in the cost to the Company for any reason whatsoever.

Payment terms

6.1 Unless otherwise expressly agreed in writing the Company shall present accounts and/or applications for payment to the Customer which shall be paid in full by the due date stated. No payment shall be deemed to have been received until the Company has received cleared funds. Receipts for payment will be issued only upon request.

6.2 Subject to any special terms agreed in writing between the Customer and the Company, the Company shall be entitled to invoice the Customer for the price of the Product or the provision of the Services on or at any time after delivery of the Product or the supply of Services. The Company shall also be entitled to request payment or part-payment for the Product or Services from the Customer in advance of delivery of the Product or supply of the Services.

6.3 If the Customer fails to make any payment on the due date or the Company has reasonable grounds for believing that the Customer may default in making any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company will be entitled to:

cancel or terminate the Contract or suspend any further deliveries or all Services provided to the Customer; and

any sum as it falls due shall carry interest at a rate specified by the Company on a daily basis until payment is received by the Company. Interest will be charged at Bank of England Base Rate at the time plus 8% in accordance with the Late Payment of Commercial Debts (Interest) Act 1998

6.5 All payments payable to the Company under the Contract shall become due immediately upon termination of the Contract despite any other provision.

6.6 The Customer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise for breach of contract, negligence or any other remedy by any other means whatsoever whether statutory or otherwise unless the Customer has a valid court order requiring any amount equal to such deduction to be paid by the Company to the Customer.

6.7 The Company also reserves the right to make a charge for all costs relating to the recovery of monies due. This is in addition to interest.

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6.8 Where provision is accepted for progress payments, such accounts will be presented to the Customer at intervals throughout the manufacturing process. The final application for payment will be presented, and is due, immediately upon completion.

6.9 Accounts and/or applications for payment presented to the Customer by the Company shall comprise the total value of all work executed in accordance with the Contract including all variations, the value of all un-fixed goods and materials delivered to the site for use in the Works and increased costs and other sums payable under any other provision of the Contract.

6.10 The Company retains absolute discretion regarding quantities and dates of material deliveries.

6.11 Where goods and materials have been purchased or produced specifically for the Contract but cannot be delivered to site for reasons beyond the control of the Company the value of such goods and materials shall be included in accounts and/or applications for payment presented.

6.12 The Company further reserves the right to charge the Customer for any resultant storage or additional handling costs.

6.13 In the event of default in payment by the Customer the Company shall be entitled without prejudice to any other rights or remedies to suspend all further operations on the Works under this or any other Contract between the Parties, including the suspension of any deliveries due to the Customer.

6.14 Any sum as it falls due shall carry interest at a rate specified by the Company on a daily basis until payment is received by the Company. Interest will be charged at Bank of England Base Rate at the time plus 8% in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

6.15 The Company also reserves the right to make a charge for all costs relating to the recovery of monies due. This is in addition to interest.

Title of goods

7.1 All goods and materials shall remain the property of the Company until the Company has received payment in full in accordance with accounts and/or applications for payment presented as provided under Clause 5, notwithstanding that the goods and materials have been delivered to the site or that they have been incorporate in the Works, the Company shall have the absolute right to recover such materials and goods where payment in full has not been received.

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7.2 In the event that the Customer purports to have sold the materials and goods to a third party the proceeds of such a sale shall be paid into a separate Bank Account and kept intact until payment in full has been received by the Company from the Customer. It is expressly agreed that the Company shall have the right to trace its title to the materials and goods into any such sub-sales. The Company may also require the Customer to assign the right to receive payment arising from such sub-sales.

7.3 Where the Contract is supply-only (installation by others) the Company shall be under no liability in respect of any defects or loss arising from failure to follow the Company's written instructions as to assembly or positioning of any Product supplied by the Company.

7.4 Risk of damage to or loss of the Product shall pass to the Customer:-

in the case of the product to be collected by the Customer from the Company's premises, at the time when the Company notifies the Customer that the Product is available for collection; or

in the case of the Product to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Product, the time when the Company has tendered delivery of the Product.

7.5 Notwithstanding delivery and the passing of risk in the Product, or any other provision of these Conditions, the property or title in the Product shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the price:-

of the Product; and all other sums then due and payable by the Customer to the Company

7.6 Until the property in the Product passes to the Customer, the Customer:-

must hold the Product on a fiduciary basis as the Company's bailee;

must maintain the goods in satisfactory condition and keep the Product separate from all other goods of the Customer and third parties and properly stored, protected and insured (for their full price against all risks) and clearly identified as Absolute Glazing's property (at no cost to the Company);

must not destroy, deface or obscure any identifying mark or packaging on or relating to the Product;

must hold the proceeds of any insurance on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account; and

shall not deal with or dispose of the Product or any interest therein (other than by a sale to an independent purchaser buying for full value in the ordinary course of the Customer's business).

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7.7 Until such time as the property in the Product passes to the Customer (and provided the Product is still in existence and has not been resold), the Company shall be entitled at any time to require the Customer to deliver up the Product to the Company and if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Product is stored and repossess the Product.

7.8 The Customer's right to possession of the Product shall terminate immediately on the occurrence of any of the events detailed in Claus 8.

7.9 The Company shall be entitled to recover payment for the Product notwithstanding that ownership of any of the Product has not passed from the Company.

7.10 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the Product is or may be stored in order to inspect it, or, where the Customer's right to possessions has terminated, to recover such Product.

7.11 Where the Company is unable to determine whether any product is the product in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all goods of the kind sold by the Company to the Customer in the order in which they were invoiced to the Customer.

7.12 On termination of the Contract, howsoever caused, the Company, (but not the Customer's) rights contained in this Condition shall remain in effect.

7.13 The Customer will be liable for all costs incurred by the Company in obtaining payment from the Customer for any Product or Service. These include but are not limited to: Court fees and costs, legal fees and costs, administration fees, interest on outstanding accounts.

Bankruptcy of customer

8.1 If the Customer commits an act of Bankruptcy or makes arrangements with his or her creditors or being a Company enters into Liquidation, whether compulsory or voluntarily (other than the purpose of amalgamation or reconstruction) or if a receiver or manager is appointed of all or part of its assets or undertakings or he or she suffers any execution whether legal or equitable to be levied upon his or her property or obtained against him or her then the Company may without prejudice to any other rights or remedies by written notice forthwith determine this Contract and shall have the right to recover or to deduct from or set off against such amount otherwise due under this or any other Contract the amount of damage suffered loss and expense incurred by the Company by reason of such determination under this Clause.

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Information

9.1 The Company shall not be liable for the accuracy of any information provided by the Customer nor for any defects arising out of incorrect drawings, specifications, calculations, quantities, dimensions or instructions etc. so provided. The cost of rectifying such defects will be charged to the Customer in accordance with Clause 10.

9.2 The Customer shall indemnify the Company against all actions which may arise due to the carrying out of the Works in accordance with the information provided by the Customer where it is alleged that such information infringes a patent registered design, copyright or other exclusive right.

9.3 All drawings, specifications, calculations and other information supplied by the Company are supplied on the express understanding that copyright is reserved by the Company. Such information shall not be used by the Customer in any way except in connection with the Contract for which it is issued.

Drawings

10.1 The Company shall provide the Customer on request and free of charge with copies of any drawings, sketches or calculations agreed to be necessary for completion of the Works. Such drawings, sketches or calculations shall be limited to the data essential to the manufacture and installation operations associated with the Contract.

10.2 All dimensions, datums, lines and other construction details shown on any drawings and sketches and any calculations provided by the Company shall be deemed to have been checked and accepted by the Customer for accuracy or discrepancy with all other drawn, written or site data or information. The Customer shall indemnify the Company from and against any defects and resultant actions or costs due to any such errors or discrepancies.

10.3 Only when drawing approval in writing has been received from the Customer by the Company will manufacture of the Order commence with any fiscal agreements having been confirmed to the Company's complete satisfaction.

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Installation

11.1 Installation is to be carried out during normal working hours in a single continuous visit unless otherwise agreed in writing by the Company or notified in writing by the Company to the Customer. The Customer will be charged with any costs incurred where for reasons beyond the control of the Company overtime or extra visits prove necessary.

11.2 The Customer shall provide the Company with a completed 'Site Confirmation' document before any installation will be scheduled by the Company. Failure to do so will result in the project being placed on hold until the document is received and will be subject to a two week remobilisation period.

11.3 If the commencement, progress or completion of the Works is materially affected by any act, omission or default of the Customer, his servants or agents or other sub-contractors, or his client or others outside the control of the Company, then any costs so incurred by the Company shall be charged to the Customer.

11.4 Notwithstanding any specifications the Customer agrees with the Company, the Product is manufactured to the descriptions, weights and dimensions as set out in the Contract and the drawings supplied. It shall be the sole responsibility of the Customer to ensure that their structure is capable of withstanding all dead and live loads that may be imposed upon it by the Product and that any deflections in the supporting structure are within the allowed limited for the Product being supplied.

11.5 For all installations carried out by the Company, the Customer has 14 days from day of completion to notify the Company in writing of all perceived issues with the work completed. After this period the Company will not accept liability for issues relating to the installation of the Product.

Variations

12.1 Variations by the Customer to the Contract Works will only be accepted by the Company if such variations are reasonable and do not substantially change the scope of the Works.

12.2 No work shall be omitted by the Customer from the Contract if that omission is with the intention of placing work with others.

12.3 Variations are required to be issued in writing by the Customer. If the Customer issues verbal instructions the Company may confirm the details of them in writing to the Customer whereupon they will be deemed to constitute accepted variations to the Contract.

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12.4 Variations will be priced, where it is reasonable to do so, on the Basis of the Contract prices. If this is not reasonable they will be priced as day work.

12.5 Where variations require significant drawing office work the Company reserves the right to charge the Customer with the resultant costs in addition to the valuations of variations under any other provision of the Contract.

12.6 If compliance with an accepted variation substantially changes the conditions under which any other work shall be carried out, it shall be treated as if it had also been the subject of a variation and shall be valued accordingly.

Statutory notices

13.1 The Customer shall ensure that all Notices are given and all permissions sought and granted to satisfy the requirements of statutory bodies, local authorities and the like. The Customer shall indemnify the Company from and against all action arising out of failure to comply with such requirements and shall be liable for any resultant costs incurred by the Company.

Health & Safety / Factories / Acts

14.1 The Company will for its part comply with the requirements of the Factories Acts, Health & Safety at Work Acts and any other statutory regulations for the time being in force so far as they apply to the agreed scope of the Works. The Customer will for its part comply with these regulations so far as they apply to any provisions of this Contract.

Loss, damage or injury

15.1 The Customer shall be liable for the replacement cost of any materials, whether or not properly incorporated in the Works that have been damaged, stolen, lost or destroyed by any persons or cause whatsoever other than by the Company or any of its employees.

15.2 Save where the Company is legally proved to have failed to exercise reasonable care in the performance of the Contract and such failure results in death or personal injury the Company shall not be liable in respect of claims arising by reason of death or personal injury in connection with the Contract.

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15.3 Any liability for negligence or breach of statutory or legal duties by any of the Company's employees will only be accepted by the Company where such negligence or breach of duty is directly connected to the performance of the Contract.

15.4 Under no circumstances whatsoever shall the Company be liable for consequential loss, loss of profits or damage to property

Warranty

16.1 Subject to the Conditions set out below the Company warrants that the Product will correspond with its specification and be free from defects at the time of delivery.

16.2 Where the Company is not the manufacturer of the Product the Company shall endeavour to transfer to the Customer the benefit of any warranty or guarantee given to the Company by such manufacturer.

16.3 The above warranty is given to the Customer subject to the condition that the Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to install correctly, misuse or alteration of the Product without the Company's prior approval.

16.4 Any claim by the Customer which is based on any defect in the quality or condition of the Product or its failure to correspond with specification or quantity ordered shall (whether or not delivery is refused by the Customer) be notified to the Company by close of business on the day of delivery or (where the defect or failure was not apparent on reasonable inspection) within 2 days after discovery of the defect or failure, whichever is the earlier.

16.5 If delivery is not refused, and the Customer does not notify the Company accordingly, the Customer shall not be entitled to reject the Product and the Company shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Product had been delivered in accordance with the Contract.

16.6 Where any valid claim in respect of the Product which is based on any defect in the quality or condition of the Product or its failure to meet specification is notified to the Company in accordance with these Conditions, the Company shall investigate the claim and, where appropriate, inspect the Product and test a sample. At the sole discretion of the Company and only when it is satisfied that the claim is valid, the Company shall be entitled take action to remedy the defect free of charge but the Company shall have no further liability to the Customer in respect of such Product.

16.7 Under no circumstances should the Customer alter or repair any goods supplied by the Company without written confirmation from the Company, this will deem the Warranty invalid.

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16.8 If the Company offers a replacement for an existing Product with a new Product of the same kind, type and quality, if at the time when the complaint is made the Product is no longer in Production or it is not made in exactly the same version, the Company shall be entitled to replace it with a similar Product.

16.9 The Company reserves the right to make a charge if a site visit concerning 'Warranty work' is necessary at the investigation stage. If the Company accepts liability the charge will be refunded to the Customer.

16.10 Under no circumstances is the warranty transferable except when expressly agreed by the Company in writing. For this to occur there will be a charge decided by the Company.

16.11 The use of some pointing and sealing materials may when in contact with surface coatings on our Products have a corrosive and destabilising effect. It is the client's duty to avoid this and we cannot be held responsible for any damage that may result.

Cancellation

17.1 In the event of cancellation any deposits may be forfeited as a result of costs incurred by the Company.

17.2 Where a signed Order Acknowledgement has been received by the Company from the Customer and that order is then terminated for whatever reason by the Customer, the Customer accepts that the Company has an express right to pursue the Customer for any reasonable costs the Company may have incurred plus any loss of profit. These costs will be liable for VAT in the usual way. Payment will be due to the Company within 7 days of the Customer cancelling the order.

17.3 In the event of cancellation by the Customer any costs incurred by the Company will be deducted from the deposit and the net balance (if there is any) returned to the Customer. The Company reserves the right to pursue any other costs it might have incurred.

Delivery

18.1 Due to the bespoke nature of our Products, any dates or timescales quoted for delivery of the Product are approximate only.

18.2 The Company shall not be liable for any delay in delivery of the Product and/or provision of the Services nor any direct or indirect or consequential loss or damage (including loss of profit), costs, charges or expenses caused directly or indirectly by any

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delay in the delivery of the Product or provision of the Services (even if caused by the Company's negligence), nor will any delay entitle the Customer to terminate or rescind the Contract unless such delay exceeds 90 days.

18.3 Production lead times outlined in the Company's Order Acknowledgment are the times required to manufacture the Products from approval of signed-off drawings based on the Company's current workload. The Company reserves the right to extend these lead times without prior notice at any point during the manufacturing process.

18.4 If the Customer fails to take delivery of the Product or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Company may store the Product until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage.

18.5 On delivery of a defective Product the matter must be brought to the attention of the Company within 48 hours, after 48 hours no claims will be considered.

18.6 Under no circumstances must a known defective Product be installed. If it is installed the Company will not be responsible for any of the costs that result from it having to be removed for remedial work to be carried out.

Force majeure

19.1 The Company reserves the right to defer the date of delivery of the Product or the Services or to cancel the Contract or reduce the volume of Product ordered by the Customer (without liability to the Customer) if it is prevented from or delayed in performing its obligations under the Contract or from the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, government actions, war or national emergency, acts of terrorism, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), compliance with any law or governmental order, rule, regulation or direction, failure of a utility service or transport network, or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials or default of suppliers or sub-contractors provided that, if the event in question continues for a continuous period in excess of 180 days, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.

These terms and conditions do not affect your statutory rights.