

## CONDITIONS OF SALE

### 1. Interpretation

1.1 In these Conditions of Sale, the following expressions shall (unless the context otherwise requires) have the following meanings:

"Products" means the products sold by VELUX Commercial with or without accessories as referred to in the VELUX Delivery Agreement.

"Project" means the project, development or building where the Products are to be installed.

"VELUX" means VELUX Company Ltd registered in Scotland (reg. no. SC070286) and having its registered office at Woodside Way, Glenrothes East, Fife KY7 4ND, United Kingdom and VELUX Company Ltd registered in Ireland (reg. no. 903275) at Unit 1, Willsborough Cluster, Willsborough Industrial Estate, Clonshaugh, Dublin 17, Ireland.

1.2 A reference to a party includes its personal representatives, successors or permitted assigns.

### 2. Basis of contract

2.1 A proposal for the Products shall only be valid for a period of thirty (30) days from its date of issue.

2.2 We reserve the right to recover price fluctuations post order relevant to contribution, levy, tax and materials increases.

2.3 These Conditions of Sale apply to the contractual agreement between VELUX and the buyer of the Products and they exclude the use of any other terms that the buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.4 A contract shall come into existence when the buyer signs and returns a copy of the VELUX Delivery Agreement or the buyer otherwise confirms its acceptance of the same by conduct. All other exchanges between the parties in regard to the Products shall be treated as pre-contractual.

2.5 Any samples, drawings, descriptive matter or advertising produced by VELUX and any descriptions or illustrations contained in the catalogues or brochures of VELUX are produced for the sole purpose of giving an approximate idea of the Products and other goods described in them. They shall not form part of the contract or have any contractual force.

### 3. Payment

3.1 Unless otherwise agreed, payments shall be made by the buyer no later than thirty (30) days from the date of the invoice from VELUX. The time of payment of invoices shall be of the essence under the contract. All amounts due from the buyer shall be payable in full against the invoice(s) of VELUX without any set-off or counterclaim.

3.2 If the buyer is delayed in taking delivery of the Products then, without prejudice to any other rights or remedies available to VELUX under the contract or otherwise, all charges incurred by VELUX, including, without prejudice to the foregoing, a charge for storage (whether in the premises of VELUX or otherwise) and insurance of the Products, as a result of such delay shall be added to the price payable by the buyer.

3.3 All payments payable to VELUX under the contract shall become due immediately upon termination of the contract and this right is without prejudice to the right of VELUX to claim interest or otherwise under the law or under the contract.

#### 4. **Delivery/shipment/collection**

4.1 Any time or date named by VELUX in the VELUX Delivery Agreement is given as and shall constitute an estimate only and VELUX shall not be liable to make good any damage or loss to the buyer arising directly or indirectly out of delay in delivery and delays in delivery shall not entitle the buyer to refuse delivery or to terminate the contract.

4.2 VELUX shall be entitled to satisfy any order for the Products by way of part deliveries. Each part delivery shall be deemed to constitute a separate contract and default by VELUX in relation to one such delivery shall not entitle the buyer to terminate the whole of any contract relating to the supply of the Products. VELUX shall be entitled to payment for such part deliveries in accordance with Condition 3.

4.3 Any receipt obtained by VELUX signed by or on behalf of the buyer or by any carrier or nominated agent of the buyer accepting or taking delivery of the Product shall be conclusive evidence of delivery by VELUX to the buyer of the Products or of such part thereof as is indicated by such receipt.

4.4 VELUX can provide proof of delivery documents for deliveries received up to six (6) months from the delivery date. If no proof of delivery has been requested within six (6) months, VELUX will deem this as proof that the delivery has been received and will not be required to provide documentation in order for the invoice to be honoured in full.

4.5 Deliveries to building sites will be made only if immediately accessible on road with sufficient bearing capacity and will be made loaded at the rim of the vehicle/lorry/trailer as determined by the driver.

#### 5. **Notice of non-conformity**

5.1 The buyer shall examine the Products as soon as reasonably practicable following delivery or collection thereof and shall within seven (7) days from such delivery or collection serve written notice upon VELUX of any matter or thing by reason of which the buyer alleges that the Products so delivered or collected do not conform to the contract. In the event of the buyer alleging that the Products do not conform to the contract, the buyer shall keep the Products separate from all other goods and shall store the Products in such manner so as to prevent deterioration of the Products pending inspection by VELUX or its agents. If the buyer fails to serve such notice and/or to store the Products as aforesaid, the Products shall be conclusively presumed to be in all respects conforming to the contract and free from any shortage or defect which would be apparent on reasonable examination of the Products, and the buyer shall be deemed to have accepted the Products accordingly.

5.2 VELUX may (at its sole discretion) replace Products which do not conform to the contract and which have been rejected by the buyer, provided always that the Products in question are returned to VELUX if VELUX so requires.

5.3 As the Products are produced specifically for each order, VELUX does not accept, and shall have no obligation to accept, any returns of the Products after the buyer's signing of the VELUX Delivery Agreement, subject only to Condition 5.2 and Condition 6.2.

#### 6. **Liability**

6.1 The table below in Condition 6.2 identifies the types of Products and the periods to which this guarantee in Condition 6 relates.

6.2 In the event that the Products or any part thereof are found to be faulty in design, workmanship or materials then, within the periods for each type of Product as set out in the table and commencing from the date of acceptance by the buyer as provided for in Condition 5, VELUX may (at its sole discretion) replace or repair the Products or refund the invoice price PROVIDED THAT (i) the Products have been treated properly at all times and, if appropriate, installed in accordance with all installation instructions and (ii) no alteration, modification, repair or addition has been made to the Products or any part thereof.

Product type	Guarantee period
VELUX Modular Skylights including glazing and flashings.	10 years
VELUX Modular Rooflights	10 years
VELUX sun screening products for VELUX Modular Skylights.	3 years
VELUX motors for window control and sun screening for VELUX Modular Skylights, including motors pre-installed by VELUX in VELUX Modular Skylights and VELUX Modular Rooflights. VELUX products for electrical operation, including electrical components pre-installed by VELUX in VELUX Modular Skylights.	3 years
VELUX Glazing Panels including insulating glazing units. VELUX flashings for VELUX Glazing Panels.	10 years
VELUX motors for window control, including motors installed in/at VELUX Glazing Panels. VELUX products for electrical operation, including electrical components delivered by VELUX for VELUX Glazing Panels.	3 years

6.3 If VELUX undertakes to repair or replace a VELUX product under this guarantee, the original guarantee period shown above in clause 6.2 shall continue to apply. The guarantee period is not extended.

6.4 Nothing shall limit or exclude the liability of VELUX for (a) death or personal injury resulting from negligence, (b) fraud or fraudulent misrepresentation or (c) which liability may not by statute lawfully be excluded subject to which, liability for any statements, conditions, guarantee representation or warranty, express or implied, statutory or otherwise, as to the performance, description, quality, merchantability, suitability or fitness for any particular purpose of the Products is hereby excluded.

6.5 Without prejudice to any other provision, VELUX shall not under any circumstances whatsoever be liable towards the buyer, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any (a) loss of profit, (b) loss of goodwill, loss of business, (d) loss of business opportunity, (e) loss of anticipated saving, (f) loss or corruption of data or information; (g) special, indirect or consequential damage suffered by the buyer that arises under or in connection with the contract.

6.6 The maximum liability of VELUX howsoever arising from or in connection with the supply of the Products (whether for contract, tort (including negligence), restitution, breach of statutory duty or misrepresentation or otherwise) shall be limited to the invoice price of the Products.

6.7 VELUX is a supplier of building components and is only responsible for its own description of the properties of the Products. VELUX is not responsible for the design, the specifications, measurements, the sub-construction for VELUX Modular Skylights, or the construction of the installation of its products such as may be prepared or undertaken by others or as included in any tender documentation. Please contact VELUX for information on the properties of the Products. The buyer is responsible with regard to the installation of the Products of VELUX and for satisfying the applicable building, fire and other legal requirements. The Products, the sub-construction and the installation must be designed, specified and dimensioned to fit the specific requirements of the Project as well as the applicable architectural and engineering requirements and practices, along with the requirements and practices of third party providers to the Project.

- 6.8 Advice, suggestions, proposals and/or consultation of any kind rendered by VELUX in regard to the Products or the Project are given by way of guidance only and are not intended to be relied upon by the buyer whether in deciding to proceed with any offer from VELUX or otherwise and are not to be treated as a substitute for the buyer taking and relying upon appropriate construction consultancy advice. The employees, contractors and agents of VELUX are not authorised to make or give any representations, contractually binding statements or advice concerning the Products or their installation.
- 6.9 VELUX shall not be liable for defects or damage caused (1) by the buyer, (2) by faulty installation, (3) by the lack of, or insufficient, maintenance, (4) during transportation, (5) by incorrect storage or mishandling of the delivery, (6) by the buyer's processing or installation of the delivery, or (7) by weather conditions or by the influence of sunlight or moisture. VELUX does not assume liability for (1) cosmetic conditions including discoloration, change of colour, fading, optical interference effects, effects specific to multiple glazing, and/or anisotropy, (2) inevitable and/or expected reduction of the efficiency of the products of VELUX, and/or (3) variations that occur naturally in the materials used.
- 6.10 VELUX shall not be liable for defects, damage, loss or personal injury caused by (1) the building owner's failure to provide a sufficient aerodynamic area for smoke ventilators, (2) the application of fixed, opaque insulating infill panels that are not properly fitted or are inappropriate for the purpose, (3) installation of Products in swimming pool environments or other indoor environments with high levels of humidity, salt, chloride etc. or (4) installation of the Products below 2.5 metres from floor level (inside) or from the ground (outside) as Products installed lower than this present a hazard that could result in injury or even death.
- 6.11 VELUX represents that the Products will at the time they leave VELUX's works conform to the agreed specifications as set out or referred to in the VELUX Delivery Agreement. However, VELUX does not represent or warrant that the Products are fit for buyer's purposes, and nor does VELUX make or give any other representation or warranty concerning the Products. All representations, warranties and conditions concerning the Products, including but not limited to any such relating to quality or fitness for any particular purpose, that are not expressly set out or referred to in the VELUX Delivery Agreement are excluded to the fullest extent permitted by applicable law.
- 7. Property and risk**
- 7.1 Risk of damage to or loss of the Products shall pass to the buyer at the time of delivery or, if the buyer wrongfully fails to take delivery of the Products, at the time when VELUX has tendered delivery.
- 7.2 Notwithstanding delivery and the passing of risk in the Products, or any other provision of these Conditions of Sale, the property of the Products shall not pass to the buyer until VELUX has received in cash or cleared funds payment in full of the price of the Products and all other goods agreed to be sold by VELUX to the buyer for which payment is then due.
- 7.3 Until such time as the property of the Products passes to the buyer, the buyer shall keep the Products separate from those of the buyer and third parties and properly stored, protected and insured and identified as the property of VELUX.
- 7.4 Until such time as the property of the Products passes to the buyer, VELUX shall be entitled at any time to require the buyer to return the Products to VELUX and, if the buyer fails to do so forthwith, to enter any premises of the buyer or any third party where the Products are stored to repossess the Products.
- 7.5 The buyer shall not be entitled to pledge or in any way charge by way of security for indebtedness any of the Products which remain the property of VELUX, but if the buyer does so, all monies owing by the buyer to VELUX shall (without prejudice to any other right or remedy of VELUX) forthwith become due and payable.

8. **Default by the buyer/remedies of VELUX**

- 8.1 If any of the terms and conditions of the contract and, in particular but without prejudice to the foregoing generality, if the terms of payment thereunder are not strictly observed by the buyer, payment of the price of all the Products at that date delivered by VELUX to the buyer shall become immediately due and payable to VELUX by the buyer whether or not payment would otherwise be due under the provisions of the contract and VELUX shall have the right to withhold further deliveries and/or collections (whether under the contract or otherwise) and/or to terminate the contract.
- 8.2 Where the buyer fails to make payment for the Products in accordance with the contract it shall pay interest to VELUX on the amount of the outstanding balance at the rate of 8% per annum above the Bank Rate from time to time of the Bank of England (accruing on a daily basis and compounded monthly) until the date of actual payment, whether before or after judgment, provided that this condition shall in no way prejudice any other rights or remedies available to VELUX under the contract or otherwise.
- 8.3 Where any delay in delivery or collection of the Products is occasioned by the default of the buyer, VELUX shall have the option to terminate the contract so far as it relates to the Products not yet delivered or collected.
- 8.4 VELUX shall have a general lien over and right of retention of all goods belonging to the buyer in the custody of VELUX or under its control for all sums due or which may become due to VELUX by the buyer, whether such sums are or may become due in relation to the Products or under the contract or otherwise.
- 8.5 VELUX shall be entitled to set-off any sum owing to it by the buyer against any sum owing by it to the buyer, whether any such sum is owing in relation to the Products or under the contract or otherwise.
- 8.6 If the buyer shall default in or commit a breach of any term of the contract, if the buyer shall be in default under any other contract between VELUX and the buyer, if any diligence, distress or execution shall be levied or enforced or sued upon or against any of the buyer's property or assets, if the buyer shall make or offer to make any arrangement or composition with creditors, or shall become bankrupt or be sequestrated, if any petition or receiving order in bankruptcy shall be presented or made against the buyer, or if the buyer is a company and any resolution or petition for winding up the buyer shall be passed or presented or a receiver, administrative receiver, manager, administrator, judicial factor or committee shall be appointed to the buyer's undertaking, property and assets or any part thereof, then and in any of those events VELUX shall be entitled to exercise all or any of the following rights and remedies:
- 8.6.1 to treat the contract or any part thereof as repudiated and recover from the buyer by way of damages any loss or expenses which VELUX may suffer or incur thereby;
- 8.6.2 to rescind forthwith or suspend for a definite or indefinite period performance by VELUX of any other contract between VELUX and the buyer (but so that VELUX shall not be liable to the buyer in damages or otherwise in respect of such rescission or suspension and so that the buyer shall not be entitled to treat any such suspension as a repudiation by VELUX);
- 8.6.3 to withhold delivery of the Products or any part thereof until payment is made in full;
- 8.6.4 to store the Products at the expense and risk of the buyer; and
- 8.6.5 to repossess any goods held by the buyer in respect of which full payment has not been made.
- 8.7 The rights and remedies of VELUX set out in these Conditions of Sale shall be in addition and without prejudice to any other right or remedy which may be available to VELUX at common law or under statute.

9. **Force majeure**

9.1 If the execution of the contract is hindered or prevented by an event beyond the control of VELUX (or any person acting on its behalf), which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including without limitation, acts of God, storms, floods, riots, fires, sabotage, civil commotion or civil unrest, interference by civil or military authorities, acts of war (declared or undeclared), armed hostilities or other national or international calamity, one or more acts of terrorism or failure of energy sources, VELUX shall have the right without incurring any liability towards the buyer either:

9.1.1 to extend the contractual time for delivery by such period as VELUX considers reasonable (and of which due notice shall be given to the buyer); or

9.1.2 to terminate the contract in whole or in part.

10. **Whole agreement**

The contract constitutes the whole agreement between VELUX and the buyer. The buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of VELUX which is not set out in the contract. The VELUX Delivery Agreement and these Conditions of Sale shall override any general or standard conditions put forward by the buyer, whether or not such general or standard conditions are or were incorporated expressly or by reference or implication in any communication between VELUX and the buyer, and such general or standard conditions are excluded. Even if the buyer's general or standard terms and conditions contain the same or a similar overriding provision, the VELUX Delivery Agreement and these Conditions of Sale shall prevail and such standard terms and conditions shall be excluded and shall not apply. If any part of the VELUX Delivery Agreement or these Conditions of Sale shall be found to be invalid, ineffective or unenforceable, such invalidity, ineffectiveness or unenforceability shall not affect any other part hereof.

11. **Notices**

11.1 Any notice (including but not limited to notices of non-conformity, cf. clause 5.1) or communication to be sent in connection with the contract shall be deemed to be sufficiently served if it is sent by recorded delivery post or by e-mail or facsimile, in the case of VELUX, to its address quoted at the web site of VELUX Commercial and, in the case of the buyer, to any place of business of the buyer. In the case of a letter sent by recorded delivery post, it shall be deemed to have been received forty-eight (48) hours after posting or sending.

12. **Proper law and venue**

12.1 The construction, validity and performance of the contract (including, for the avoidance of doubt, these Conditions of Sale) shall be governed by and construed in accordance with the law of England and both VELUX and the buyer agree to submit to the jurisdiction of the English Courts. No term of the contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to the contract.

13. **Alterations**

13.1 No alterations to the contract (including, for the avoidance of doubt, these Conditions of Sale) shall be binding on VELUX unless made in writing with its consent and signed on its behalf by one of its officers.

