

# The Dales Collection

*the ideal way to make an entrance*



## Product Guarantee



All together better

## Eurocell Profiles Limited

Registered Office: Fairbrook House, Clover Nook Road, Alfreton, Derby DE55 4RF

## 1. Definitions and Interpretation

**1.1** In this Guarantee, the definitions in EUROCELL's Terms shall apply except where superseded by the expressions listed in Schedule 1.

**1.2** The word "including" shall not limit the generality of any preceding words or be construed as being limited to the same class as the preceding words where a wider construction is possible. References in the singular shall include the plural and vice versa.

## 2. Guarantee

**2.1** Subject to the terms of this Guarantee, EUROCELL guarantees that the Goods will comply with the following:

**2.1.1** for 25 years from the date of manufacture, subject to the manufacturer's terms and conditions:

**2.1.1.1** Door furniture (handles, letterplate, knocker/spyholes and numerals). Provided that products are installed and operated correctly in accordance with instructions. Products must be maintained in accordance with instructions. Should a product fail due to design, wear and tear or defective materials, replacement products will be supplied or the purchase price refunded. Note! Full details of the failure and the product must be viewed and assessed either on site or returned to the manufacturer for evaluation and consideration. Should the causes still be unclear, independent laboratory evaluation can be undertaken and should the manufacturer not be at fault, this cost will be passed to the customer. The manufacturer will not accept liability for any additional costs as a result of failure. Use of abrasive or highly corrosive substances will invalidate any guarantee. Modification of products away from the original design will invalidate any guarantee. The manufacturer reserves the right to charge £150 for site visits where poor fitting or damage has been inflicted.

**2.2.1** for 10 years from the date of manufacture:

**2.2.1.1** Door leaf. In normal use will not crack, chip, blister flake or peel. When exposed to direct sunlight over long periods of time discolouration may occur, but this will be within the accepted tolerances contained within GRS (Grey Scale Rating) 3-4 according to BS EN11341 – paints and varnishes.

**2.2.1.2** Frame. Those Goods that are PVC-U profiles and PVC-U fittings will not crack or warp. Exposure to normal weathering will not result in any significant part of the Goods comprising profiles or fittings changing colour from EUROCELL's relevant colour specification.

**2.2.1.3** Hinges. Subject to the manufacturer's terms and conditions and subject to the door being maintained in accordance with any guidance provided by EUROCELL.

**2.3** for 5 years from the date of manufacture:

**2.3.1** Composite door glazing units. Subject to the manufacturer's terms and conditions and subject to the door being maintained in accordance with any guidance provided by EUROCELL. Excludes obstruction of vision arising from deposition of moisture or deterioration of inner glass.

**2.4** In the event that a claim for a Performance Defect is made which in EUROCELL's opinion is valid and complies with the provisions of this Guarantee, EUROCELL shall (at its option) either:

**2.4.1** repair any damage to the Goods directly caused by the Performance Defect, or

**2.4.2** credit to the Customer the equivalent cost of such repair which EUROCELL approves, or

**2.4.3** supply replacement Goods to replace the part that is the subject of the valid Claim.

("the Repairs").

## 3. Exclusion

**3.1** For the purposes of Clause 2.1.1.2

**3.1.1** the Guarantee shall not apply to any colour change or other change in appearance, resulting from any form of shading (such as, but not limited to, any overhang or any obstruction of the sun by any permanent or temporary structure, vehicle, landscape, vegetation or, without limitation, tree); and

**3.1.2** the Guarantee shall not apply to any colour change or other change in appearance between different sides or orientations; and

**3.2** Clause 2.1 shall not apply to, and EUROCELL shall have no obligation to make any payment to the Customer or effect any Repairs in respect of the matters stated or referred to in or to the extent that it results from or is made worse by reason of matters stated in Schedule 2.

**3.3** If the Customer fails to give due notice in accordance with clause 4.1.1 below then all claims in respect of the Goods, whether pursuant to this Guarantee or otherwise, and whether in contract or in tort, (including negligence) or otherwise, in respect of which the Performance Defect has occurred shall thereafter be wholly barred and taken to have been waived with the exception of a claim or EUROCELL's fraudulent misrepresentation or for death or personal injury arising from its negligence.

**3.4** If there is a Performance Defect then the Customer must obtain EUROCELL's consent in writing before any Repairs are attempted. Failure to do so shall render this Guarantee invalid in relation to the Goods in which the Performance Defect has occurred.

**3.5** Goods repaired or replaced by EUROCELL under this Guarantee shall receive the benefit only of the unexpired duration of the Guarantee Period applicable to the Goods originally supplied.

**3.6** The total cost of Repairs shall not exceed the Relevant Amount and, without limitation, in no circumstances shall EUROCELL be liable to pay for the cost of the Customer or any third party installing any Repairs.

**3.7** All Goods returned to EUROCELL shall belong to EUROCELL.

**3.8** EUROCELL must be paid in full for the Goods in respect of which the Performance Defect is alleged to have occurred before the Customer can make any Claim in respect thereof.

## 4. Claim process and limits of Guarantee

**4.1 Obligations** This Guarantee shall only apply if the Customer:

**4.1.1** serves written notice on EUROCELL promptly (and in any event within 30 days) on the discovery of any Performance Defect (and if such Performance Defect is apparent on reasonable inspection on delivery, within 30 days from the date of delivery) with details of the performance Defect and the relevant location for inspection; and

**4.1.2** gives EUROCELL a reasonable opportunity, within 30 days of EUROCELL receiving the notice under clause 4.1.1, to access the location where the Performance Defect is alleged to have occurred and to conduct an examination of the Material and/or the Goods and/or the part of the Goods concerned (whichever EUROCELL consider is relevant), or at EUROCELL's option the Customer shall (at its cost unless EUROCELL upholds the Claim) return any relevant Goods to EUROCELL's nearest premises if EUROCELL so requests to allow EUROCELL to inspect the Goods and investigate the Claim. The Customer's failure to do so will invalidate the Claim and this Guarantee.

**4.2 Limitations**

**4.2.1** [Without prejudice to condition 3 in the EUROCELL Terms], the Customer agrees that its use of the Goods is made in reliance solely upon this Guarantee and not upon any other written or oral representation of EUROCELL. This Guarantee cancels and supersedes all other warranties and statements of performance (whether express or implied) made in the past or to be made in the future by EUROCELL for or in relation to elements of the Goods, unless such statement is made in writing as an express amendment of this document. [For the avoidance of doubt this Guarantee is in addition to condition 7.7 of the EUROCELL Terms as to non-white Profile and not in place of the terms exclusions and limitations otherwise contained in the EUROCELL Terms]<sup>1</sup>.

**4.2.2** Nothing in this Guarantee shall exclude or limit the liability of EUROCELL for fraud or death or personal injury caused by its negligence.

**4.2.3** EUROCELL shall not be liable to the Customer in contract, tort (including negligence and breach of statutory duty) or otherwise howsoever and whatever the cause thereof for any economic loss of any kind whatsoever (save to the extent of a credit under Clause 2.2) or for loss of profit, business contracts, revenues or anticipated savings or damage to the Customer's reputation or goodwill or special, indirect or consequential loss or damage resulting from any Performance Defect in the Goods or any part of the Goods.

#### 4.3 Exclusion

**4.3.1** This Guarantee is in lieu of any guarantee or other provision relating to merchantability or satisfactory quality, fitness for a particular purpose, whether express or implied by statute or common law, and whether written or oral, all of which are hereby excluded.

**4.3.2** Payment or credit of the sums specified in this Guarantee in respect of Claims in the manner and in respect of the period of time provided in this Guarantee shall constitute fulfilment of all liabilities of EUROCELL to the Customer with respect to or arising out of Performance Defects or any other deficiency in any element of Goods whether based on contract, negligence, tort or otherwise howsoever.

#### 4.4 General Provisions

**4.4.1** There shall be no waiver of this Guarantee either where the Customer is not required by EUROCELL to comply strictly with its obligations or where EUROCELL takes steps for the Customer's benefit that exceed the express scope of this Guarantee and no such action shall constitute an alteration of the rights of EUROCELL or the Customer unless agreed otherwise in writing.

**4.4.2** This Guarantee is provided only to the Customer. It is not transferable or assignable to any other party by the Customer but any right or obligation may be assigned by EUROCELL to any of its group companies or representatives from time to time.

**4.4.3** In the event of any inconsistency between the provisions of this Guarantee and the provisions of the other terms and conditions governing the sale and purchase of components of Goods from time to time (whatever their respective dates) the provisions of this Guarantee shall prevail.

**4.4.4** Any notice to be given under this Guarantee shall be validly given if left at or hand delivered to or sent by first class post to the registered office of the relevant party or if none then to the address of the party concerned set out in this Guarantee or such other address as that party may have notified to the other, in accordance with the terms of this clause 4 for such purpose.

**4.4.5** Any notice served in accordance with clause 4.4.4 shall be deemed to have been received at the time of hand delivery or at the time which it is left at the premises concerned, or 2 days after posting in the case of service by post.

**4.4.6** Where any sum is owing under this Guarantee or under any other agreement between EUROCELL and the Customer or any of their respective group companies, EUROCELL shall be entitled to set off any such sum against any other such sum.

**4.4.7** No person who is not a party to this agreement shall have any rights under the Contract (Rights of Parties) Act 1999 to enforce any of its terms.

**4.4.8** This Guarantee shall be governed by and construed in accordance with English law and both of EUROCELL and the Customer agree to submit to the exclusive jurisdiction of the English Courts.

## Schedule 1

#### Definitions

- 1. Allowable Costs** means the cost of replacement Goods;
- 2. Claim** means a valid claim of a Performance Defect in the Goods made by the Customer under and in strict accordance with the terms of this Guarantee;
- 3. Customer** means the customer to whom the Goods are supplied by Eurocell;
- 4. Delta** is the BS3900 Parts D8, D9 and D10, 1986 determined measurement
- 5. EUROCELL Terms** means the [EUROCELL standard terms of supply (v 28/3/08) as updated from time to time by EUROCELL and notified to the Customer]
- 6. Goods** means together those composite doors, supplied by EUROCELL to the Customer;
- 7. Grey Scale** is the ISO 105 A02 measurement
- 8. Guarantee Period** means the relevant period stated in Clause 2.1

**9. Material** means, subject to the terms of this Guarantee, the material to which the Goods have been or are to be attached or affixed temporarily or permanently;

**10. Performance Defect** means, subject to the terms of this Guarantee, a failure to comply with the relevant Guarantee in Clause 2.1;

**11. Relevant Amount** means the lower of:

**11.1** the Allowable Costs; and

**11.2** the amount actually paid by the Customer to EUROCELL for the Goods net of VAT;

in each case in respect or concerning the subject matter of a Claim;

**12. Repairs** means those repairs or replacements referred to in Clause 2.3;

**13.** This **Guarantee** means this Guarantee, subject to the terms set out or referred to in it.

## Schedule 2

#### Exclusions

- any risks actually or usually insured against, including lightning, wind, fire and flood;
  - fair wear and tear, wilful damage or incorrect installation of the Material or the Goods or damage resulting from any negligence, default, act or omission of any person other than EUROCELL;
  - structural failures of, defects in (including failure to meet relevant building or construction or manufacturing standards whether industry standards, standards specified by EUROCELL or otherwise) or external impact to the Material or the Goods, including the supporting structure to which the Material or the Goods has been applied or attached and/or any installation to which the Material or the Goods was not applied;
  - [any drawing, design or specification supplied by the Customer or by any other person apart from EUROCELL;]
  - any change of use, alteration or repair of or application of any coating or process to, discharge of any substance (chemical or otherwise) on, use of acids, alkalis and other strong or abrasive solvents for cleaning Goods or to clean, the Material or the Goods or the supporting structure to which it has been applied (unless such alteration or repair has been approved by EUROCELL);
  - damage caused to the Goods, such as chipping, staining, abrasion, for example without limitation, ladders, aggressive flora, unsecured cables etc;
  - damage of the Goods in transit or when the Goods are installed, unless the Goods are promptly repaired in accordance with EUROCELL instructions, as provided or request but subject to this Guarantee;
  - failure to clean the Goods so leading to mould growth (more likely to occur where North facing);
  - if the Goods have been stored, installed or used in severe exposure conditions beyond the capability of the Goods or, without limitation:
    - outside Mid to Northern Europe (latitude 45 to 60 degrees); and/or
    - in climate zones where ambient temperatures exceed 40 degrees Celsius or falls below minus 10 degrees Celsius; and/or
    - at elevations above 1800 metres above sea level;
    - Bowing door panels in conditions where there are or have been extreme temperature variations
  - if the Goods have been exposed, in storage or end-use, to atmospheric pollution, industrial pollution, acid rain, harmful chemicals or vapours, fire, lightening, flood, abnormal winds or earthquake, or the effects of external heat sources or reflective surfaces, or undue wear and tear, vandalism, terrorism, damage caused by aircraft, or, without limitation, other unusual conditions;
  - any defect to the extent it results from non-compliance with any provision of relevant EUROCELL instructions relating to the Goods, including use, installation, maintenance, storage of the Goods, or the condition of the Material;
- Notes**
- <sup>1</sup>: Our standard Terms and Conditions of Supply can be found on the reverse of this Guarantee document

