

## **IDM Doors Limited Conditions of Sale**

### **1. General**

- (1) "The Company" means IDM Doors Limited and "the Customer" means the person, firm or company to whom a quotation is addressed or whose order is accepted by the company and "the goods" means the goods the subject of such quotation or order.
- (2) All prices quoted by the Company are based upon these Conditions of Sale and reflect the limitations upon the Company's liability, which they contain. Should any customer wish to contract to the Company otherwise than on the terms of such Conditions of Sale special arrangements can be made and a revised price quoted by the Company.
- (3) In the absence of any such special arrangement (which shall not bind the Company unless made in writing and signed on the Company's behalf by a person duly authorised for that purpose) all quotations given and all contracts made by the Company and any additions or amendments there to shall be subject to these Conditions of Sale which supersede and shall be taken to override any terms or conditions proposed or stipulated by the customer.
- (4) No agent of salesman of the Company has authority to give any guarantee or warranty on behalf of the Company or to transact business other than on the (unamended) terms of these Conditions of Sale.

### **2. Limits of Contract**

No binding contract is created until an order is accepted by the Company and all prior correspondence or oral communications are to be regarded as superseded and not forming part of the contract. Prices quoted are subject to revision for errors and omissions at any time.

### **3. Technical Data**

All drawings, descriptive matter, price lists or advertisements, whether or not supplied with this quotation or tender are approximate only and intended merely to give a general idea of goods described therein and shall not form part of the contract. The Company offers its designs for the Customer's approval. Unless supplied or approved by the Company it undertakes no responsibility for sites or foundations, or for any framework or support, or for compliance with any local byelaws or statutory regulations, or for the fulfilment of any special requirements which the Customers may be bound to observe or fulfil.

### **4. Title**

The implied undertakings as to title etc. set out in Sections 12 of the Sale of Goods Act 1979 shall be express terms of the contract between the Company and the Customer.

### **5. Price**

- (1) Unless a quotation or tender has been submitted the price of the goods shall be the price ruling at the date of despatch not withstanding any price specified in any order or order acceptance.
- (2) If a quotation or tender has been submitted by the Company it will accept orders which are received within the time specified therein at the price stated in that quotation or tender.
- (3) The price of the goods shall be subject to the addition of Value Added and other taxes and the costs of any special packing required by the Customer.
- (4) Any increase in costs or expenses arising from any act of omission or any special requirement of the Customer or any modifications made at the Customer's request may, at the Company's option, be charged to the Customer.

### **6. Variations to Specification**

- (1) The goods shall conform to the Company's specifications for the goods a copy of which is available from the Company for inspection.
- (2) The Company reserves the right to substitute other components or material or equivalent strength and quality when the component or materials specified are not readily available. Further the Company reserves the right to make modifications to any product without prior notice in the interest of technological improvements.

### **7. Customer's Pattern**

- (1) In the case of goods made specially at no time after the manufacture of such special goods is commenced can the Customer cancel an order.
- (2) When the goods are made to the Customer's specification or pattern the Customer warrants that any designs drawings or similar information or any models specimens or similar articles provided to the Company are his own unencumbered property and will indemnify the Company against all and any costs expenses damages or penalties as a result of or in connection with any infringement or alleged infringement of any patent or design or any other right whether or not of the same nature as the foregoing in relation to which any third party may be entitled arising out of any drawings designs specifications models or specimens or other information or articles furnished by or instructions given from the Customer.

### **8. Delivery**

- (1) Any time or date for the despatch of delivery of goods or for the completion of work whether specified in the Company's quotation or otherwise given by the Company shall be taken as an estimate made by the Company in good faith but shall not be binding upon the Company either as a term of the contract or otherwise. In no circumstances shall the Company be liable for any loss or damage sustained by the Customer in consequence of failure to deliver within such time or by such date or in consequence of any other delay in delivery however caused.
- (2) Unless otherwise agreed in writing delivery shall be made at the premises specified by the Customer. Subject to Condition 8 (4) the risk in the goods shall pass to the Customer upon delivery.
- (3) The Company may deliver the goods in instalments and invoice the Customer as if each instalment comprised a separate contract upon the terms of these Conditions of Sale.
- (4) If delivery of the goods is delayed through any act of omission of the Customer, the Company may put the goods into storage at the Customer's risk and expense.
- (5) All goods will be conveyed free except orders below the minimum level at the time of placing an order. Such minimum level having been notified to the Customer prior to the date of any such order.
- (6) No allowance can be made for carriage where the Customer collects goods from the company's warehouse or where goods are delivered to the Customer's local depot.
- (7) No carriage will be paid by the Company on any goods sent by passenger train parcel post or by air unless the Company has accepted prior responsibility.
- (8) The Company reserves the right to charge for pallets and other such containers.

### **9. Loss or Damage in Transit**

- (1) The Company shall not in any event be liable for any loss of or damage to the goods whilst in transit unless written notice thereof is given to the Company by the Customer (a) in the case of loss of or damage to goods delivered to the Customer within 3 days of the date of delivery of (b) in the case of goods not delivered within 7 days of the date which the Customer is notified that the goods have been consigned for delivery. Provided that if the Customer proves
  - (i) That if was not reasonably possible for him to give such notice to the Company within the appropriate period and
  - (ii) That notice was given within a reasonable time the Company shall not be entitled to rely on the time limits stipulated by this Condition.
- (2) The Company shall not in any event be liable for any loss of or damage to the goods where the goods are transported by an outside freight carrier unless the Customer has complied in all respects with the freight carrier's condition of carriage for notifying claims for loss or damage in transit.
- (3) Any liability which the Company may incur for loss of or damage to the goods whilst in transit shall in no case exceed the invoice value of the goods and in no circumstances shall the Company be liable for any indirect or consequential loss however caused.

### **10. Payment**

- (1) Unless otherwise agreed in writing, all accounts shall be paid net at the Company's registered office on or before the last day of the month following the date of the Company's invoice. Only the Company's official receipt will be treated as valid.
- (2) The Company shall be entitled to charge interest on all overdue accounts at a rate of 2% per month on the outstanding balance.
- (3) Notwithstanding Condition 10 (1) the Company shall without prejudice to its other rights have the right by notice in writing to the Customer to demand immediate payment of all monies due from the Customer to the Company for any goods delivered at any time.
- (4) If payment of any account shall not take place on or before the date for payment specified in Condition 10 (1) or, 10 (3) (as appropriate) or if the Company's rights under Condition 12 shall become exercisable, any trade discount which the Company shall allow Customer on the full quoted price shall forthwith cease to apply and the full quoted price shall be due and payable by the Customer to the Company.

### **11. Passing of Property**

- (1) The goods shall remain the sole and absolute property of the Company until such a time as the Customer shall have paid to the Company the agreed price together with the full price of any other goods the subject of any other contract with the Company.
- (2) The Customer acknowledges that the Customer is in possession of goods solely as bailee for the Company until such time as the full price thereof is paid to the Company together with the full price of any goods the subject of any other contract with the Company.
- (3) Until such a time as the Customer becomes the owner of the goods, the Customer will store them on his premises separately from the Customer's own goods or those of any other person and in a manner which makes them readily identifiable as the goods of the Company.
- (4) The Customer's right to possession of the goods shall cease if he, not being a company, commits and available act of bankruptcy or if he, being a company does anything which would entitle a Receiver to take possession of any assets of which would enable any person to present a petition of winding-up. The Company may for the purpose of recovery of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.
- (5) Subject to the terms hereof the Customer is licensed by the Company to agree to sell the Company's goods subject to the express condition that such an agreement to sell shall take place as agents and bailees for the trust for the account and shall be at all times identifiable as the Company's monies.
- (6) If the Customer has not received the proceeds of any such sale, he will upon being called upon so to do so by the Company, within seven days thereof assign to the Company all rights against the person or persons to whom the Customer has supplied the goods.

### **12 Suspension or Cancellation of Deliveries**

- (1) If the Customer shall fail to pay to the Company on the due date any sum payable hereunder, or shall have a receiving order in bankruptcy made against him, or make any arrangements with his creditors, or being a body corporate shall have a receiver appointed or if any order shall be made or any resolution passed for winding up the same, the Company may, without prejudice to its other rights, demand immediate payment by the Customer of all unpaid accounts and suspend further deliveries and cancel this and any other contract between the Company and the Customer without any liability attaching to the Company in respect of such suspension or cancellation and debit the Customer with any loss sustained thereby.
- (2) If the Customer cancels his order, the Company shall be entitled to recover any loss sustained thereby from him.

### **13 Guarantee**

- (1) Subject to conditions 13 (2) and 14 (2) the Company undertakes at its option to repair or replace the goods (or part in question) which are shown to be defective (fair wear and tear excepted) in materials or workmanship within 12 months or the period indicated in the Company's specification for the goods of delivery free or charge.
  - (2) The Customer shall give the Company the opportunity to inspect and test any goods which are alleged to be defective at the place of installation and shall, if requested by the Company so to do, return the defected goods to the Company at the Customer's expense if so requested by the Company. Any repaired or replaced goods shall be delivered by the Company free of charge to the original point of delivery but otherwise in accordance with and subject to these conditions. The Customer shall pay the Company the Company's reasonable costs in inspecting the goods under this condition if the Company finds that the goods are not defective by reason of any act, neglect or default of the Company.
  - (3) The Company shall be under no liability under Condition 13 (1) if:
    - (a) The Customer has not complied with the fitting instructions of the Company in respect of the goods; or
    - (b) The Customer has failed to maintain the goods in accordance with the recommended maintenance procedures;
    - (c) The Customer fails or refuses to pay in full for the goods; or
    - (d) The Customer has executed or attempted to execute repairs or alterations to the goods which are not authorised by the Company; or
    - (e) The Company has not been notified of any defect in the goods within one month of the defect becoming apparent.
  - (4) The Company is willing to provide agreed training in the fitting and use of the goods to the Customer and its sub-contractor or customer of the Customer upon request to assist in compliance with the fitting instructions
- The Company undertakes to repair or replace, at the option of the company, any goods which are shown to be defective in material or workmanship within twelve months of delivery. Provide that the Company shall be under no liability under the said guarantee if
- (a) The Customer has not paid in full for the goods of
  - (b) The Customer has executed or attempted to execute repairs or alterations to goods which are not authorised by the Company or has failed in any other respect to adhere strictly to the terms hereof or
  - (c) The Company has not been notified on any defect within one month of the becoming apparent.
  - (d) The Company has an additional Warranty sheet outlining additional provisos not necessarily covered here. Said Warranty also forms part of the Company's trading agreement and copies of the Warranty are available on request.

### **14. Exclusion of Liability**

- (1) The Company's guarantee is provided by the Company and accepted by the Customer in substitution for all expenses of implied representation conditions and warranties statutory or otherwise as to (a) the state quality fitness for purpose or performance of the goods and (b) the standard of the Company's workmanship and the state quality fitness or performance of any materials used in connection therewith and all such representations conditions and warranties are hereby expressly excluded.
- (2) Except for any liability which it may incur for death or personal injury resulting from negligence the Company shall not be liable in any manner whatsoever whether in contact, in tort, in misrepresentation or otherwise for any consequential or other loss damage or injury however caused which may arise out of or in connection with the supply of goods to or the execution or any work for the Customer (including goods supplied and work executed under the said guarantee)
- (3) The Company shall incur no liability howsoever arising by reason of the goods defective in design.
- (4) Should the goods be subjected to any process or processes after leaving the Company's premises then the Company shall have no liability in relation to these goods howsoever such a liability shall arise.
- (5) For the guarantee set out in Condition 13 (1) to apply it shall be for the Customer to demonstrate that each unit of the goods if defective and, for the avoidance of doubt, the Company shall be under no obligation to replace some or all of the goods supplied merely by virtue of the fact that one or more of the goods is shown to be defective.

### **15. Lien**

The company shall have a general lien in respect of all sums due from the Customer upon all goods to be supplied to such Customer or upon which work has been on the Customer's behalf and, upon 14 days written notice to the Customer, may sell goods and apply the proceeds towards the satisfaction of the sums due to the Company.

### **16. Force Majeure**

If the performance of the contract by the Company shall be delayed by any circumstances or conditions beyond the control of the Company the Company shall have the right as its option (a) to suspend further performance of the contract until such time as the cause of the delay shall no longer by present or (b) to be discharged from further performance of and liability under the contract and if the Company exercises such right the Customer shall there upon pay the contract price less a reasonable allowance for what has not been performed by the Company.

### **17. Severance**

If any condition herein shall be deemed void for any reason whatsoever, but would be valid if part of the wording thereof were deleted any such condition shall apply with such modifications as may be necessary to make it valid and effective.

### **18. "Deals as Consumer"**

Nothing in these Conditions shall effect the statutory rights of a customer who in relation to the Company "deals as customer" as defined in Section 12 of the Unfair Contract Terms Act 1977 or any amendment or modification thereof.

19. This Contract shall be construed in accordance with English Law and shall be subject to the jurisdiction of the English Courts and parties agree to the exclusive jurisdiction of the County Court as appropriate.