

PERFORMANCE DOORSET SOLUTIONS LIMITED - CONDITIONS OF SALE

1. The "**Company**" means Performance Doorset Solutions Ltd, the "**Conditions**" mean the terms and conditions set out in this document as amended from time to time, the "**Contract**" means the contract between the Company and the Customer for the sale and purchase of goods in accordance with these Conditions, the "**Customer**" means the person, firm or company whose order is accepted by the Company, the "**goods**" mean the goods set out in the order.
2. **Basis of Contract**
 - 2.1 These Conditions apply to the Contract to the exclusion of any terms or conditions that the Customer may seek to impose or incorporate. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract. No variation to the Contract shall be binding unless agreed in writing and signed by a duly authorised signatory of the Company
 - 2.2 An order constitutes an offer by the Customer to purchase the goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the order and any applicable specification submitted by the Customer are complete and accurate.
 - 2.3 The Customer's order shall only be deemed to be accepted when the Company issues a written acceptance of the order, at which point the Contract shall come into existence.
 - 2.4 A quotation for the goods given by the Company shall not constitute an offer. Unless previously withdrawn, the Company's quotation shall be valid for a period of 30 days from its date of issue unless otherwise stated.
 - 2.5 All samples, drawings, descriptive matter, price lists or advertising material produced by the Company are produced for the sole purpose of giving an approximate idea of the goods described in them. They shall not form part of the Contract.
 - 2.6 The Company makes no representation or warranty that the goods ordered by the Customer are suitable for the Customer's purpose and it shall be the Customer's sole responsibility to ascertain that any goods ordered are sufficient and suitable for its intended purposes.
3. **Delivery**
 - 3.1 **Any time or date for either the despatch or delivery of the goods provided at any time by the Company shall be deemed to be an estimate only given by the Company in good faith. No such time or date shall be binding upon the Company and the time of delivery shall not be of the essence. The Company shall not be liable for any loss or damage sustained by the Customer in consequence of failure by the Company to deliver within such time or by such date, or in consequence of any other delay to delivery however caused.**
 - 3.2 The Company may deliver the goods at any time after the Company notifies the Customer that the goods are ready, to the location agreed in writing between the parties. Where the goods do not amount to any minimum order quantity specified by the Company from time to time, the Company may charge an additional delivery charge.
 - 3.3 Delivery shall be deemed to occur when the Company (or its agent) delivers the goods to such location as is agreed in writing between the parties. The risk in the goods shall pass to the Customer upon delivery.
 - 3.4 The Company may deliver the goods by instalments, each forming a separate contract, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
 - 3.5 If delivery of the goods is delayed through any act or omission of the Customer, the Company may store the goods at the Customer's expense and both delivery and the passage of risk in the goods shall be deemed to occur when the Company informed the Customer that the goods were available for delivery.
 - 3.6 The Customer undertakes to inspect the goods on delivery and unless the Customer provides written notice to the contrary to the Company, shall be deemed to have accepted the goods on the earlier of payment of the goods or one month after the date of delivery.
 - 3.7 Where the Customer rejects the goods on the grounds that there is damage to the goods a) which is reasonably apparent from inspection at the time of delivery, then the Customer shall provide written details of a claim on the delivery note accompanying the goods; or b) which is not reasonably apparent from inspection at the time of delivery, then the Customer must notify the Company in writing of the damage within 48 hours of the time of delivery.
 - 3.8 The Company's liability for damage in transit to the goods shall not exceed the net invoiced value of the goods. The Company shall in no circumstances be liable for any indirect or consequential loss to the goods caused during transit or delivery.
4. **Price**
 - 4.1 The price of the goods shall be the price ruling at the date of despatch of the goods notwithstanding any price specified in any order or any acceptance of any order.
 - 4.2 The Company may, by giving the Customer written notice at any time before despatch of the goods, increase the price of the goods to reflect i) any increase in the cost to the Company beyond its reasonable control (including increases in labour costs, material costs and other manufacturing costs); ii) any request by the Customer to change the delivery date, quantity or specification of the goods; or iii) any delay caused by the Customer's instructions or the Customer's failure to provide adequate information or instruction.
 - 4.3 The price of the goods shall be subject to the addition of value added tax (VAT) and other taxes at the prevailing rate in force at the date any payment is required from the Customer.
 - 4.4 The Company may invoice the Customer for the goods on or at any time after delivery.
5. **Payments**
 - 5.1 Unless otherwise agreed in writing by the Company, the Customer shall pay the invoice in full and in cleared funds by the end of the month following the month the invoice was dated. Payment shall be made to the bank account nominated in writing by the Company. Time of payment is of the essence.
 - 5.2 If the Customer fails to make any payment due to the Company under the Contract by the due date for payment (**due date**) then: a) the Company reserves the right to charge interest on overdue accounts at the rate of 4% per month above the Barclays Bank plc base lending rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment; b) the Company shall be entitled to require the Customer to make a payment in advance of delivery of any goods not yet supplied; c) the Company shall be entitled to not provide any further goods; and/ or d) the Company may cancel any early settlement discounts agreed in writing between the parties and the amount due shall be such amount as if any agreed discount did not apply.
 - 5.3 The Customer shall pay all amounts due under the Contract in full without any deduction, discount, set-off or abatement except as required by law.
6. **Quality**
 - 6.1 The Company warrants that on delivery and for a period of 12 months from the date of delivery (**Warranty Period**) the goods shall a) conform in all material respects with their description; and b) be free from material defects in design, material and workmanship.
 - 6.2 Subject to clause 6.3, if: a) the Customer gives written notice to the Company during the Warranty Period within one month of discovery that some or all of the goods do not comply in all material respects with the warranty set out in clause 6.1; b) the Company is given a reasonable opportunity of examining such goods; and c) the Customer (if asked to do so by the Company) returns such goods to the Company's premises at the Customer's cost, then the Company will, in its absolute discretion, repair or replace the defective goods free of charge, or refund the price paid for the defective goods. Any goods so repaired or replaced will be delivered free in the UK or in the case of goods for export F.O.B. port of shipment.
 - 6.3 The Company shall not be liable for the failure of the goods to comply with any warranty where: a) at any time after delivery, the goods have not been stored flat in a dry place, slightly raised from the ground and protected from the weather; b) the goods include internal joinery, such goods have been stored or installed in a building which has not adequately dried out; c) the goods include joinery supplied unprimed are not knotted or are not primed by the Customer immediately on receipt; d) the goods include joinery, whether primed or in the white, and the Customer does not supply further coats of paint or stain as soon as possible following delivery; e) the Customer does not treat all cut surfaces (particularly those exposing end grain) with a proprietary wood preservative and further prime with paint or base-coat stain as appropriate before fixing; f) the Customer (or its agent or any end user) does not install or decorate the goods in accordance with normal and proper trade practices or does not adequately maintain the goods thereafter or permits moisture to penetrate into any timber present in the goods; g) any goods comprising double glazing units are not fitted in full compliance with Glass and Glazing Federation recommendations; h) the Customer (or its agent or any end user) makes any further use of the goods after giving notice in accordance with clause 6.2; i) the defect arises as a result of the Company following any specification provided by the Customer (or its agent or any end user); j) the Customer (or its agent or any end user) alters or repairs such goods without the Company's prior written consent; k) the defect arises as a result of fair wear and tear, willful damage, negligence, or abnormal storage or working conditions; l) the Customer has not paid in full by the due date for payment; or j) the Customer has not notified the Company of any defect within one month of the defect becoming apparent.
 - 6.4 The Company's warranty shall not include parts, materials or equipment not manufactured by the Company and the Customer in such circumstances shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer or supplier (as the case may be) to the Company to the extent

- that the Company is entitled, at no cost to itself, to pass on the benefit of such warranty.
- 6.5 Upon the Customer serving a written notice on the Company pursuant to clause 6.2, the Company will issue the Customer with a complaint reference number. The Customer must quote this reference number in all correspondence with the Company concerning the complaint. If the Customer is unable to provide the Company with a reference number then this shall be conclusive proof that the Company has not previously been made aware of the Customer's complaint.
- 6.6 Except as provided in this clause 6, the Company shall have no liability to the Customer in respect of the failure of the goods to comply with the warranty set out in clause 6.1.
- 6.7 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 6.8 Should the Company reject a claim made by the Customer under this clause 6, the Company may in its discretion charge an administration fee to the Customer of £100 or the costs reasonably incurred by the Company in investigating the claim, whichever is the greater. Any such administration fee shall be invoiced to the Customer and shall be payable within 30 days of the date of invoice.
7. **Title**
- 7.1 No legal or beneficial title to or property in the goods shall pass to the Customer unless and until the Company has received payment in full in cleared funds for a) the goods; b) any other goods that the Company has supplied to the Customer; and c) any other charges or fees due from the Customer to the Company.
- 7.2 Until title to the goods has passed to the Customer, the Customer shall: a) hold the goods on a fiduciary basis as the Company's bailee; b) store the goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property; c) not remove, deface or obscure any identifying mark or packaging on or relating to the goods; d) maintain the goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; e) notify the Company immediately if it becomes subject to any event of force majeure; and f) give the Company such information relating to the goods as the Company may require from time to time. However, the Customer may resell or use the goods in the ordinary course of its business and shall hold the proceeds from the sale of such goods on trust for the Company and which shall not be mingled with other monies and shall be at all times identifiable as the Company's monies.
- 7.3 If before title to the goods passes to the Customer, the Customer becomes subject to any of the events listed in clause 9.1, or the Company reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the goods have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy the Company may have, the Company may at any time require the Customer to deliver up the goods and, if the Customer fails to do so promptly, the Company may enter any premises of the Customer or of any third party where the goods are stored in order to recover them. The Customer shall provide all reasonable assistance to the Company to effect such recovery.
8. **Limitation of Liability**
- 8.1 Nothing in these conditions shall limit or exclude the Company's liability for: a) death or personal injury caused by negligence; or b) fraud or fraudulent misrepresentation; or c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession).
- 8.2 **Subject to clause 8.1, the Company shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise for i) any loss of profit; ii) loss of business; iii) reduction in goodwill; iv) any indirect or consequential loss or damage arising under or in connection with the Contract.**
- 8.3 **Subject to clause 8.1, the Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in i) contract; ii) tort (including negligence); iii) breach of statutory duty; or iv) otherwise, shall not exceed the net price paid by the Customer for the goods forming the subject of the claim (or, where the goods are to be delivered in installments, the price paid for the goods in the relevant installment), except where agreed otherwise in writing between the parties.**
9. **Termination and Suspension**
- 9.1 If the Customer (being an individual) a) shall fail to pay to the Company on the due date any sum payable hereunder, or b) has a bankruptcy order made against him, or c) makes any arrangement with his creditors or (being a body corporate) d) shall have a receiver appointed or e) if any order shall be made or any resolution passed for winding up the same, or (being an individual or a body corporate) f) fails to take delivery of the goods under any Contract with the Company otherwise than in accordance with the Customer's contractual rights, or g) suffers a deterioration in its financial position that in the Company's opinion the Customer's capability to adequately fulfill its obligations under the Contract has been placed in jeopardy, 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.
- 9.2 If the Customer cancels an order, the Company shall be entitled to recover from the Customer any loss sustained.
10. **Force Majeure**
- 10.1 If the performance of the contract by the Company shall be delayed by any circumstance or conditions beyond the reasonable control of the Company, the Company shall have the right at its option a) to suspend further performance of the Contract until such time as the cause of the delay shall no longer be 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 thereupon pay the contract price less a reasonable allowance for what has not been performed by the Company and the Company shall not be liable for any loss other than the price already paid for any goods not supplied less the Company's expenses.
11. **General**
- 11.1 **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 modification as may be necessary to make it valid and effective.
- 11.2 **Variation.** Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Company.
- 11.3 **Assignment.** The Customer shall not assign, transfer, charge, subcontract or deal with in any other manner, its rights or obligations under these Conditions in whole or in part to any third party without the prior written consent of the Company.
- 11.4 **Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 11.5 **Governing Law and Jurisdiction.** The Contract shall be governed by and construed according to English law and the parties irrevocably submit to the exclusive jurisdiction of the English Courts over all disputes arising out of or in connection with this contract.