
DRAKS STANDARD TERMS AND CONDITIONS

1. Application of Terms and Conditions

- 1.1 The Supplier shall supply, and the Customer shall purchase the Goods and Services in accordance with the quotation and accepted order which shall be subject to these Terms and Conditions; and
- 1.2 The Contract shall be to the 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.

2. Definitions and Interpretation

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day”	means any day other than a Saturday, Sunday or bank holiday;
“Commencement Date”	means the commencement date for the Contract as set out in the accepted order;
“Confidential Information”	Means information, data or materials made available by the Supplier to the Customer in connection with this Contract;
“Contract”	means the contract for the purchase and sale of the Goods and supply of the Services under these Terms and Conditions;
“Contract Price”	means the price stated in the Contract payable for the Goods;
“Customer”	means the person who accepts a quotation or offer of the Supplier for the sale of the Goods and supply of the Services, or whose order for the Goods and Services is accepted by the Supplier;
“Delivery Date”	means the date on which the Goods are to be delivered as stipulated in the Customer’s order and accepted by the Supplier;
“Goods”	means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with these Terms and Conditions;
“Services”	means the Services to be provided to the Customer as set out in the quotation and accepted order; and
“Supplier”	means Draks Interior Door Systems Ltd. Unit 221 Heyford Park, Camp Road, Upper Heyford, Oxfordshire OX25 5HQ and includes all employees and agents of Supplier.

3. Basis of Sale and Service

- 3.1 The Supplier’s employees or agents are not authorised to make any representations concerning the Goods and/or Services unless confirmed by the Supplier in writing. 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.
- 3.2 No variation to these Terms and Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.
- 3.3 Sales literature, price lists and other documents issued by the Supplier in relation to the Goods and Services are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. No contract for the sale of the Goods and Services shall be binding on the Supplier unless the Supplier has issued a quotation which is expressed to be an offer to sell the Goods and Services or has accepted an order placed by the Customer by whichever is the earlier of:
 - 3.3.1 the Supplier’s written acceptance;
 - 3.3.2 delivery of the Goods;
 - 3.3.3 provision of the Services; or
 - 3.3.4 the Supplier’s invoice.
- 3.4 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.
- 3.5 The Customer acknowledges that he or she has carefully checked the floor plan and any drawings provided on the quote and/or order and acknowledges that only the Goods and accessories specified on the drawings will be supplied by the Supplier.

- 3.6 The Customer acknowledges that the drawings are not precise scale drawings, and that the Supplier may make reasonable amendments to the dimensions. As part of the survey process the Supplier aims to ensure that the Goods ordered will fit the required location. Occasionally there may be alterations to the original drawings which may result in the order value being amended. The Customer will be notified of any amendments before he or she becomes responsible for them. Any new drawing(s) will replace any that have been provided previously and will become the drawing(s) the Supplier will deliver and fit to.

4. The Goods

- 4.1 No order submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in writing by the Supplier's authorised representative.
- 4.2 The specification for the Goods shall be that set out in the quotation and accepted order.
- 4.3 Illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Supplier are intended as a guide only and shall not be binding on the Supplier.
- 4.4 The Supplier reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Customer's specification, which do not materially affect their quality or performance.
- 4.5 No order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier on the terms that the Customer shall indemnify the Supplier 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 Supplier as a result of such cancellation.

5. The Services

- 5.1 With effect from the Commencement Date the Supplier shall, in consideration of the price being paid in accordance with Clauses 6 and 7 will provide the Services expressly identified in the quotation and accepted order.
- 5.2 The Supplier will use reasonable care and skill to perform the Services identified in the quotation and accepted order.
- 5.3 The Supplier shall use its reasonable endeavours to complete its obligations under the Contract, but time will not be of the essence in the performance of such obligations.

6. Price and Payment

- 6.1 The price of the Goods and Services shall be the price set out in the accepted order or such other price as may be agreed in writing by the Supplier and the Customer.
- 6.2 Where the Supplier has quoted a price for the Goods other than in accordance with the Supplier's published price list the price quoted shall be valid for 28 days only or such lesser time as the Supplier may specify.
- 6.3 For Buyers with an Account that has not reached its credit limit, payment will be made according to the agreed payment terms. For Buyers without an account, or with an account that has reached its credit limit, goods and services shall be paid for at the time of order, or on delivery as directed by Draks. Time for payment shall be of the essence.
- 6.4 Draks reserves the right to exercise its absolute discretion and cancel the Account by notice.
- 6.5 Draks reserves the right to suspend the Account if it decides. If Draks exercises its right to cancel or suspend the Account, as sums owed to Draks by the Buyer at the date of cancellation or suspension shall be payable on demand and Draks may continue trading with the Buyer on the basis set out in Condition 6.3 above. For Buyers without an Account
- 6.6 No payment shall have been deemed to have been received until Draks has received cash or cleared funds and all sums payable to Draks under a Contract shall become due immediately on its termination, however arising.
- 6.7 The Buyer shall make all payments due under the Contract in full without any deduction whether by way of set off, counterclaim discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by Draks to the Buyer.
- 6.8 Without prejudice to any of its other remedies, if any amount due from the Buyer is not paid in accordance with the Conditions Draks may do all or any of the following:
- 6.9 Treat any or all Contracts as repudiated by the buyer
- 6.10 Without notice suspend or cancel delivery of the Goods under the Contract, and any other Contract, until the Buyer pays the outstanding amount in full.
- 6.11 Appropriate any payment made by the Buyer under any other Contract until the buyer pays the outstanding amount in full
- 6.12 Except as otherwise stated under the terms of any quotation and accepted order or in any price list of the Supplier, and unless otherwise agreed in writing between the Customer and the Supplier, all prices are inclusive of the Supplier's charges for packaging and transport.
- 6.13 The price is exclusive of any applicable value added tax, excise, sales taxes or levies of a similar nature

which are imposed or charged by any competent fiscal authority in respect of the Goods and Services, which the Customer shall be additionally liable to pay to the Supplier.

6.14 provision may not have taken place and/or that the property in the Goods has not passed to the Customer. The time for the payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

6.15 All payments shall be made to the Supplier as indicated on the form of acceptance or invoice issued by the Supplier.

7. **Delivery and Performance**

7.1 Delivery of the Goods shall be made by the Supplier delivering the Goods to the place in the United Kingdom specified in the quotation and accepted order.

7.2 The Delivery Date is approximate only and time for delivery shall not be of the essence unless previously agreed by the Supplier in writing. The Goods may be delivered by the Supplier in advance of the Delivery Date upon giving reasonable notice to the Customer.

7.3 With effect from the Commencement Date the Supplier shall, in consideration of the price being paid in accordance with these Terms and Conditions and the quotation and accepted order provide the Services expressly identified in the quotation and accepted order.

7.4 In relation to delivery of the Goods and the supply of the Services the Customer agrees: (i) to make sure that the Supplier's fitter has access to the site at reasonable times (between 8.30am and 6.30pm on weekdays) or otherwise as agreed; (ii) to make sure that any re-routing or installation of plumbing (including water, radiators, drainage, gas, sewage and the like), or electrics, removal of existing furniture and carpets have been carried out to a good workman-like standard prior to the fitting date; (iii) to make sure that the Supplier's fitter can use the mains electricity supply from a standard 13A 240V socket free of charge, and that the supply is installed to the usual standards in force at the time; (iv) that the Customer will not make any material alterations in the rooms to be fitted and have not installed, relocated or removed any fixed items; (v) to ensure that he or she has permission to use any plans or drawings supplied to the Supplier; (vi) to provide reasonable access to the room to be fitted (ladder access is not acceptable) to clear the room to provide sufficient working space for the Supplier's fitter, and co-operate in reducing health and safety risks to an acceptable level; (vii) to confirm any particular features known about the site or its construction which may make the installation more difficult; and (viii) not to decorate rooms prior to installation, the Supplier will not be liable for decorative damage caused by or during installation.

8. **Non-Delivery of Goods and Services**

8.1 If the Supplier fails to deliver the Goods or provide the Services or any of them on the Delivery Date (or Commencement Date, as appropriate) other than for reasons outside the Supplier's reasonable control or the Customer's or its carrier's fault:

8.1.1 if the Supplier delivers the Goods and/or provides the Services within ten Business Days thereafter the Supplier shall have no liability in respect of such late delivery; or

8.1.2 if the Customer gives written notice to the Supplier within five Business Days after the Delivery Date (or Commencement Date, as appropriate) and the Supplier fails to deliver the Goods and/or Services within ten Business Days after receiving such notice the Customer may cancel the order and the Supplier's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods or services to those not delivered or provided over the price of the Goods or Services not delivered or provided.

9. **Risk and Retention of Title**

9.1 Risk of damage to or loss of the Goods shall pass to the Customer at:

9.1.1 in the case of Goods to be delivered at the Supplier's premises, the time when the Supplier notifies the Customer that the Goods are available for collection.

9.1.2 in the case of Goods to be delivered otherwise than at the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods; or

9.1.3 in the case of Goods being installed by the Supplier, the time that the Supplier notifies the Customer that the installation is complete.

9.2 Until payment has been made to the Supplier in accordance with these Conditions and title in the Goods has passed to the Customer, the Customer shall be in possession of the Goods as bailee for the Supplier and the Customer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Supplier and shall insure the Goods against all reasonable risks.

10. **Assignment**

10.1 The Supplier may assign the Contract or any part of it to any person, firm or company without the prior written consent of the Customer.

- 10.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier.

11. Defective Goods

- 11.1 If on delivery any of the Goods are defective in any material respect and either the Customer lawfully refuses delivery of the defective Goods or, if they are signed for on delivery as "condition and contents unknown" the Customer gives written notice of such defect to the Supplier within five Business Days of such delivery, the Supplier shall at its option:

11.1.1 replace the defective Goods within thirty Business Days of receiving the Customer's notice; or

11.1.2 refund to the Customer the price for those Goods (of parts thereof, as appropriate) which are defective.

but the Supplier shall have no further liability to the Customer in respect thereof and the Customer may not reject the Goods if delivery is not refused, or notice given by the Customer as set out.

- 11.2 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to normal conditions, failure to follow the Supplier's instructions (whether given orally or in writing), misuse or alteration of the Goods without the Supplier's prior approval, or any other act or omission on the part of the Customer, its employees or agents or any third party.

- 11.3 Subject as expressly provided in these Terms and Conditions, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

12. Customer's Default

- 12.1 If the Customer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:

12.1.1 cancel the order or suspend any further deliveries or provision of Goods and Services to the Customer

12.1.2 appropriate any payment made by the Customer to such of the Goods and/or Services (or the goods and/or services supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer); and

12.1.3 charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of five % per annum above the Bank of England base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

13. Liability

- 13.1 The Supplier will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of the Contract (or these Terms and Conditions), be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Supplier's servants or agents or otherwise) which arise out of or in connection with the supply of the Goods and Services.

- 13.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

- 13.3 The Customer shall indemnify the Supplier against all damages, costs, claims and expenses suffered by arising from loss or damage to any equipment (including that of third parties) caused by the Customer, its agents or employees.

- 13.4 The Supplier shall not be liable to the Customer or be deemed to be in breach of these terms and conditions by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.

- 13.5 Nothing in these Terms and Conditions excludes or limits the liability of the Supplier:

13.5.1 for death or personal injury caused by the Supplier's negligence

13.5.2 for any matter which it would be illegal for the Supplier to exclude or attempt to exclude its liability; or

13.5.3 for fraud or fraudulent misrepresentation.

- 13.6 Subject to the remaining provisions of this Clause 14:

13.6.1 the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract Price; and

13.6.2 the Supplier shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

14. **Confidentiality**

The Customer will keep confidential all Confidential Information during the term of this Contract and for 5 years after this Contract ends.

15. **Communications**

All notices under these Terms and Conditions and under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

16. **Force Majeure**

Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: epidemic or pandemic, power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

17. **Waiver**

The Parties agree that no failure by either Party to enforce the performance of any provision in these Terms and Conditions or under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

18. **Severance**

The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions or the Contract are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (and, by extension, the Contract). The remainder of these and the Contract shall be valid and enforceable.

19. **Third Party Rights**

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

20. **Law and Jurisdiction**

These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales and any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or to the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.