**TERMS AND CONDITIONS WITH OUR SUPPLIERS**

**1. Interpretation**

**1.1 Definitions**

In these Conditions, the following definitions apply:

**Business Day:** a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

**Commencement Date:** has the meaning set out in clause 2.2.

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 14.8.

**Contract:** the contract between us and you for the supply of Goods and/or Services in accordance with these Conditions.

**Customer / we / us:** Humber Industrial Doors Ltd registered in England and Wales with company number 15161885.

**Customer Materials:** has the meaning set out in clause 5.3(i).

**Deliverables:** all documents, products and materials developed by you or your agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Goods:** the goods (or any part of them) set out in the Order.

**Goods Specification:** any specification for the Goods, including any related plans and drawings and descriptions that we have sent to you.

**Intellectual Property Rights:** all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Losses:** all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses.

**Order:** our order for the supply of Goods and/or Services to be supplied by you, as set out in our purchase order form in our written acceptance of your quotation or as set out in our written instruction to you.

**Services:** the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

**Service Specification:** the description or specification for Services that we have sent to you.

**Supplier / you:** the person or firm from whom we purchase the Goods and/or Services.

**1.2 Construction.**
In these Conditions, the following rules apply:

**(a)**   references to we, us, ours or ourselves refers to the Customer;

**(b)**   references to you, your, yours or yourselves refers to the Supplier;

**(c)**   a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

**(d)**   references to a party includes its personal representatives, successors or permitted assigns;

**(e)**   a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

**(f)**   any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

**(g)**   any reference to our Group will include any of our subsidiary companies, our parent company and any subsidiary company of our Parent company; and

**(h)**   a reference to writing or written includes faxes and e-mails.

**2. Basis of contract**

**2.1** The Order constitutes an offer by us to purchase Goods and/or Services from you in accordance with these Conditions.

**2.2** The Order shall be deemed to be accepted by you on the earlier of:

**(a)**   you issuing written acceptance of the Order; or

**(b)**   any act by you consistent with fulfilling the Order; or

**(c)**   5 Business Days from the date of the Order if you have failed to respond to us before that date
at which point and on which date the Contract shall come into existence **(Commencement Date)**.

**2.3** These Conditions apply to the Contract to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
**2.4** All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

**3. Supply of Goods**

**3.1** You shall ensure that the Goods shall:

**(a)**   correspond with their description and any applicable Goods Specification;

**(b)**   be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by you or made known to you by us, expressly or by implication, and in this respect we rely on your skill and judgment;

**(c)**   where applicable, be free from defects in design, materials and workmanship and remain so for 12 months after delivery; and

**(d)**   comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

**3.2** You shall ensure that at all times you have and maintain all the licences, permissions, authorisations, consents and permits that you need to carry out your obligations under the Contract in respect of the Goods.

**3.3** We shall have the right to inspect and test the Goods at any time before delivery.

**3.4** If following such inspection or testing we consider that the Goods do not conform or are unlikely to comply with your undertakings at clause 3.1, we shall inform you and you shall immediately take such remedial action as is necessary to ensure compliance.

**3.5** Notwithstanding any such inspection or testing, you shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect your obligations under the Contract, and we shall have the right to conduct further inspections and tests after you have carried out any remedial actions.

**3.6** If the Goods do not comply with your warranty given in clause 3.1, we will notify you within a reasonable timescale of becoming aware of such non-compliance and we will be entitled to those remedies as set out in clause 6.3.

**4. Delivery of Goods**

**4.1** You shall ensure that:

**(a)**   the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

**(b)**   each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

**(c)**   if you require us to return any packaging material for the Goods to you, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to you at your cost.

**4.2** You shall deliver the Goods:

**(a)**   on the date specified in the Order;

**(b)**   to our premises at Unit 116, Louis Pearlman Centre, 94 Goulton Street, Hull, HU3 4DL or such other location as is set out in the Order or as instructed by us before delivery (Delivery Location);

**(c)**   during our normal hours of business on a Business Day, or as instructed by us.

**4.3** Delivery of the Goods shall be completed following the completion of unloading of the Goods at the Delivery Location.

**4.4** You shall not deliver the Goods in instalments without our prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by you to deliver any one instalment on time or at all or any defect in an instalment shall entitle us to reject all instalments and we shall be entitled to the remedies set out in clause 6.1.

**4.5** Title and risk in the Goods shall pass to us on completion of delivery in accordance with clause 4.3.

**5. Supply of Services**

**5.1** You shall from the date set out in the Order and for the duration of this Contract provide the Services to us in accordance with the terms of the Contract.

**5.2** You shall meet any performance dates for the Services specified in the Order or notified to you by us.

**5.3** In providing the Services, you shall:

**(a)**   co-operate with us in all matters relating to the Services, and comply with all of our lawful instructions;

**(b)**   perform the Services with the best care, skill and diligence in accordance with best practice in your industry, profession or trade;

**(c)**   use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that your obligations are fulfilled in accordance with this Contract;

**(d)**   ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by us;

**(e)**   provide all equipment, tools and vehicles and such other items as are required to provide the Services;

**(f)**   use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to us, will be free from defects in workmanship, installation and design;

**(g)**   obtain and at all times maintain all necessary licences and consents necessary to perform the Services in a lawful manner, and comply with all applicable laws and regulations;

**(h)**   observe all health and safety rules and regulations and any other security requirements that apply at any of our premises and any sites you work on or visit;

**(i)**   hold all materials, equipment and tools, drawings, specifications and data supplied to you by us (Customer Materials) in safe custody at your own risk, maintain the Customer Materials in good condition until returned to us, and not dispose or use the Customer Materials other than in accordance with our written instructions or authorisation;

**(j)**   not do or omit to do anything which may cause us to lose any licence, authority, consent or permission upon which we rely for the purposes of conducting our business, and you acknowledge that we may rely or act on the Services.

**6. Customer remedies**

**6.1** If you fail to deliver the Goods and/or perform the Services by the applicable date, we shall, without limiting its other rights or remedies, have one or more of the following rights:

**(a)**   to terminate the Contract with immediate effect by giving written notice to you;

**(b)**   to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which you attempt to make;

**(c)**   to recover from you any Losses incurred by us in obtaining substitute goods and/or services from a third party;

**(d)**   where we have paid in advance for Services that have not been provided by you and/or Goods which have not been delivered by you, to have such sums refunded by you; and

**(e)**   to claim damages for any Losses and additional costs, loss or expenses incurred by us which are in any way attributable to your failure to meet such dates.

**6.2** If the Goods are not delivered by the applicable date, we may, at our option, claim or deduct 20 per cent of the price of the Goods for each week’s delay in delivery by way of liquidated damages, up to a maximum of 100 per cent of the total price of the Goods.

**6.3** If you have delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting our other rights or remedies, we shall have one or more of the following rights, whether or not we have accepted the Goods:

**(a)**   to reject the Goods (in whole or in part) whether or not title has passed and to return them to you at your own risk and expense;

**(b)**   to terminate the Contract with immediate effect by giving written notice to you;

**(c)**   to require you to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

**(d)**   to refuse to accept any subsequent delivery of the Goods which you attempt to make;

**(e)**   to recover from you any Losses or other expenditure incurred by us in obtaining substitute goods from a third party; and

**(f)**   to claim damages for any additional Losses incurred by us arising from your failure to supply Goods in accordance with clause 3.1.

**6.4** These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by you.

**6.5** Our rights under this Contract are in addition to its rights and remedies implied by statute and common law.

**7. Our obligations**

We shall provide such information as you may reasonably request for the provision of the Services or the supply of Goods and that we consider reasonably necessary for the purpose of providing the Services or the Goods.

**8. Charges and payment**

**8.1** The price for the Goods:

**(a)**   shall be the price set out in the Order; and

**(b)**   shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by us. No extra charges shall be effective unless agreed in writing and signed by us.

**8.2** The charges for the Services shall be set out in the Order and shall be your full and exclusive remuneration in respect of the performance of the Services. Unless otherwise agreed in writing by us, the charges shall include every cost and expense of you directly or indirectly incurred in connection with the performance of the Services.

**8.3** In respect of Goods, you shall invoice us on or at any time after completion of delivery. In respect of Services, you shall invoice us on completion of the Services. Each invoice shall include such supporting information required by us to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

**8.4** In consideration of the supply of Goods and/or Services by you, we shall pay the invoiced amounts within 60 days after the end of the month in which we receive a correctly rendered invoice to a bank account nominated in writing by you.

**8.5** All amounts payable by us under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by you to us, we shall, on receipt of a valid VAT invoice from you, pay to you such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

**8.6** You shall maintain complete and accurate records of the time spent and materials used by you in providing the Services, and you shall allow us to inspect such records at all reasonable times on request.

**8.7** We may, without limiting its other rights or remedies, set off any amount owing to it by you against any amount payable by us to you under the Contract.

**9. Intellectual property rights**

**9.1** In respect of the Goods and any goods that are transferred to us as part of the Services under this Contract, including without limitation the Deliverables or any part of them, you warrant that you have full clear and unencumbered title to all such items, and that at the date of delivery of such items to us, you will have full and unrestricted rights to sell and transfer all such items to us.
**9.2** You assign to us, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.
**9.3** You shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
**9.4** You shall, promptly at our request, do (or procure to be done) all such further acts and things and the execution of all such other documents as we may from time to time require for the purpose of securing for us the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to us in accordance with clause 9.2.
**9.5** All Customer Materials are our exclusive property.

**10. Indemnity**

**10.1** You shall keep us indemnified in full against all Losses awarded against or incurred or paid by us as a result of or in connection with:

**(a)**   any claim made against us by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of you, your employees, agents or subcontractors;

**(b)**   any claim made against us by a third party arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by you, your employees, agents or subcontractors; and

**(c)**   any claim made against us for actual or alleged infringement of a third party’s Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services.

**10.2** For the duration of the Contract and for a period of 6 years thereafter, you shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on our request, produce both the insurance certificate giving details of cover and the receipt for the current year’s premium in respect of each insurance.

**10.3** This clause 10 shall survive termination of the Contract.

**11. Confidentiality**

You shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature that we have disclosed to you, your employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party’s business or our products or our services which you may obtain. You shall restrict disclosure of such confidential information to such of your employees, agents or subcontractors as need to know it for the purpose of discharging your obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind you. This clause 11 shall survive termination of the Contract.

**12. Termination**

**12.1** Without limiting its other rights or remedies, we may terminate the Contract with immediate effect by giving written notice to you if:

**(a)**   you commit a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 Business Days of receipt of notice in writing of the breach;

**(b)**   you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit inability to pay your debts or (being a company) are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) are deemed either unable to pay your debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) have any partner to whom any of the foregoing apply;

**(c)**   you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with your creditors;

**(d)**   a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up (being a company) other than for the sole purpose of a scheme for your solvent amalgamation with one or more other companies or your solvent reconstruction;

**(e)**   you (being an individual) are the subject of a bankruptcy petition order;

**(f)**   a creditor or encumbrancer of you attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 5 Business Days;

**(g)**   an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over you (being a company);

**(h)**   a floating charge holder over your assets (being a company) has become entitled to appoint or has appointed an administrative receiver;

**(i)**   a person becomes entitled to appoint a receiver over your assets or a receiver is appointed over your assets;

**(j)**   any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.1(b) to clause 12.1(i) (inclusive);

**(k)**   you suspend or threaten to suspend, or cease or threaten to cease to carry on, all or a substantial part of your business; or

**(l)**   you (being an individual) die or, by reason of illness or incapacity (whether mental or physical), are incapable of managing your own affairs or become a patient under any mental health legislation.

**12.1** Without limiting its other rights or remedies, we may terminate the Contract:

**(a)**   in respect of the supply of Services, by giving the Supplier 2 Business Days’ written notice; and

**(b)**   in respect of the supply of Goods, with immediate effect by giving written notice to you, in which case we shall pay you fair and reasonable compensation for any work in progress on any other Goods at the date of termination but such compensation shall not include loss of anticipated profits or any consequential loss and such compensation will not be in excess of 10 per cent of the value of the Contract.

**12.2** In any of the circumstances in these Conditions in which we may terminate the Contract, where both Goods and Services are supplied, we may instead terminate part of the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

**13. Consequences of termination**

On termination of the Contract or any part of it for any reason:

**(a)**   where the Services are terminated, you shall immediately deliver to us all Deliverables, whether or not then complete, and return all Customer Materials. If you fail to do so, then we may without limiting its other rights or remedies enter your premises and take possession of them. Until they have been returned or delivered, you shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;

**(b)**   the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and

**(c)**   clauses which expressly or by implication have effect after termination shall continue in full force and effect.

**14. General**

**14.1** Force majeure: Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable. If such event or circumstances prevent you from supplying the Goods and/or Services for more than 2 weeks, we shall have the right, without limiting its other rights or remedies, to terminate this Contract with immediate effect by giving written notice to you.

**14.2** Assignment and subcontracting:

**(a)**   You shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without our prior written consent.

**(b)**   We may at any time assign, transfer, charge, subcontract, or deal in any other manner with all or any of our rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent or to any company within our Group.

**14.3 Notices:**

**(a)**   Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business.

**(b)**   Any notice or communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier’s delivery receipt is signed.

**(c)**   This clause 14.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this service of legal proceedings or other documents in any legal action, such proceedings or documents will only be deemed to have been correctly served if such proceedings or documents have been personally delivered or posted to the party’s registered office or usual place of business and address to a director or partner or owner of that party. For the avoidance of doubt, legal proceedings or other documents in any legal action will not be deemed validly served if sent by e-mail or by fax.

**14.4 Waiver and cumulative remedies:**

**(a)**   A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

**(b)**   Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

**14.5 Severance:**

**(a)**   If a court or any other competent authority finds that any provision (or part of any provision) of the Contract is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

**(b)**   If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

**14.6 No partnership:** Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

**14.7 Third parties:** A person who is not a party to the Contract shall not have any rights under or in connection with it.

**14.8 Variation:** Any variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Customer.

**14.9 Governing law and jurisdiction:** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.