

Fire Door Supply and Installation of Fire Doors / Internal Doors

"We" and "Us" the company Prosol UK Limited" specified in our estimate or order confirmation.

"You" means the person, firm or company seeking to purchase Goods from Us and "Your" shall be interpreted accordingly.

"This Agreement" means the agreement between Us and You and comprising any quotation from Us together with the purchase order submitted by You and Our order confirmation as well as, in all cases, these Terms.

"Goods" means the Goods and/or services to be supplied by Us.

"Company Signatory" means a manager employed by Us.

"Terms" means these terms and any special terms agreed in writing between a Company Signatory and You.

"Insolvent" has the meaning set out in clause 17 of these Terms.

"Fire Doors/ Door Sets" "Acoustic Doorsets" means doorsets to which Fire / acoustic test evidence applies.

"Sales to Arrive" means sales subject to the safe arrival of the Goods or any part of the Goods in the United Kingdom.

Terms & Conditions of Sale

Registered Office:

Prosol UK Limited The Studio Second Avenue Trafford Park Manchester M17 1DZ

Registered in England No. **04377430**

1 Definitions

2. THE CONTRACT

1. 2.1 All orders are accepted by Us only under these Terms which may not be altered except with the written agreement of a Company Signatory. Any contrary or additional terms unless so agreed are excluded.
2. 2.2 Estimates and tenders do not constitute offers and We may withdraw or amend them at any time before they are accepted. If We withdraw an estimate or tender We will do so in writing. All estimates and tenders are

automatically withdrawn on the 90th day after their date without requirement of notification in writing.

3. 2.3 We may provide information for prospective purchasers in marketing literature or other collateral and through salesmen. Such information is for guidance only and, unless expressly set out in this Agreement, is not intended to and does not constitute a warranty, representation or undertaking made on Our behalf.
4. 2.4 Estimates and tenders provided by us are based upon information supplied by You and You are responsible for the accuracy and sufficiency of that information. You must check and confirm all measurements, sizes and quantities. We shall not be liable if material information is withheld or is concealed. Our decision as to what is material information is final.
5. 2.5 This Agreement sets out the entire agreement and understanding between You and Us and You agree that You have not entered into it in reliance upon any representation by Us which is not set out in this Agreement including any such representation made by Our employees or agents to You as to the condition of the Goods their fitness for any purpose or as to specification, quantity or measurement.
6. 2.6 We may make changes to the specification of the Goods necessary to conform to any applicable statutory or EC requirements or where the Goods are supplied to Our specifications and the changes do not materially affect their quality or performance without having to provide you with prior notice.
7. 2.7 We may charge You an extra sum for any site visits and abortive or excessive numbers of tenders prepared.
8. 2.8 Orders may be cancelled only with the written agreement of a Company Signatory and You will indemnify Us against all losses damages costs and expenses We incur as a result of that cancellation. Unused Goods will be accepted for return at Our discretion and on terms agreed with Us.
9. 2.9 The Parties intend that We should be able to enforce the Terms subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.
10. 2.10 It is Your responsibility to check the accuracy of Our written acceptance of the order is correct. Any discrepancy between Your order and Our acceptance must be notified to Us in writing within 7 working days of the date of such acceptance. In the absence of such notification We shall be entitled to supply Goods in accordance with the acceptance, and you shall be obliged to pay the agreed contract price thereof.

3. SPECIFICATION CHANGES

We reserve the right to make any alteration in the specification or design of any Goods without notice and to deliver Goods conforming to the altered specification or design in fulfilment of any order for Goods provided that the Goods delivered are suitable for general use or for such specific purpose of which You have given written notice to Us.

4. FIRE DOORS/DOORSETS

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Where the Goods are, in whole or in part, fire doors/door sets, fire test evidence which is available for inspection by You upon request is deemed to have been approved by You before placing your order.

5. ACOUSTIC DOORSETS

Where the Goods are, in whole or in part, acoustic doorsets, acoustic test evidence which is available for

inspection by You upon request is deemed to have been approved by You before placing any order.

6. INSTALLATION OF DOOR SETS

7. We are not accountable and will not be held liable for any adjustment required to doors or door sets which We supply.

8. SALES "TO ARRIVE"

Any Goods sold on a "To Arrive" basis are sold subject to their safe arrival in the United Kingdom. We shall not be liable for failure to provide such Goods to you if they have not so arrived, have arrived late or have arrived damaged. Any variation in costs due to increases in shipping costs, dock charges, taxes, levies and import or export duties as well as any requirement for (or increased cost of) war risk insurance shall be paid by You.

9. PRICE

1. 9.1 Unless We agree otherwise in writing the price that You are liable to pay shall be that set out in our order confirmation or if no price is there stipulated then in our final written estimate. This price is however subject to variation to take account of changes in wages, materials and other costs since the date of the order confirmation or estimate. We reserve the right to adjust the invoice price by the amount of any increase or decrease in such costs and the invoice so adjusted shall be payable as if it were the original contract

price. Any discounts deductions or rebates agreed are only available if the price is paid in full by the due date.

2. 9.2 If Our price includes delivery such is on the basis of a single delivery to premises which are on a ground floor or fitted with adequate lifts or hoists, easily accessible and available to accept the delivery. If such is not the case or if more than one delivery is required or is requested by You then a separate charge may be made for each delivery and for any additional packing required.
3. 9.3 The price quoted as payable for the Goods is based upon the manufacture and delivery of the Goods being carried out during Our normal working hours (which are from 7:00am to 4:00pm Monday to Thursday inclusive and from 7:00am to 12:00pm on Friday). If You require Us to work outside these hours We shall be entitled to charge You for all overtime worked at the rate to be notified in advance to You in writing.

10. ADDITIONAL COSTS

1. 10.1 Prices stated or quoted are applicable to the quantity, specification, delivery dates, delivery method and information provided by You. If You wish to vary any such matter and if We agree the variation We shall nonetheless be entitled to adjust the price so as to reflect any loss or extra cost incurred by Us. You also agree to pay for any loss or extra cost incurred by Us through failure or delay in taking delivery or through any act or default on Your behalf, Your servants, agents or employees.
2. 10.2 We reserve the right to make an additional charge for any extras ordered by You and not specified in the estimate and also for the expense of all inspections, tests, alterations or additions or any other work undertaken at Your request. In particular, but without prejudice to the generality of the foregoing, We may impose a charge for inspecting and/or testing Goods alleged by You to be defective or not in compliance with their contractual description, if We determine that the Goods are not defective and/ or do not comply with their contractual description and/or any defects are not the responsibility of Us under the terms of the contract.

11. PAYMENT

1. 11.1 Unless We have agreed in writing to give You credit, payment in full is due on receipt of invoice. If we have agreed to give you credit then all sums are to be paid into Our bank account without deduction or retention on the last day of the month following the month in which the Goods are delivered. No payment shall be considered to have been received until We have received cleared funds. Time for all payments is of the essence.
2. 11.2 Credit is granted and may be reviewed at any time at Our discretion. We reserve the right to refuse to execute any order or contract if the arrangements for payment or Your credit rating is not satisfactory to Us. You shall be liable for any loss, damage or expense arising out of any withdrawal or reduction of credit or of any refusal to supply further Goods in accordance with this clause including any loss, damage or expense suffered by Us.
3. 11.3 You may not withhold payment of any invoice or other amount due to Us by reason of any right of set off or counterclaim which You may have or allege to have for any reason.
4. 11.4 Without prejudice to the Conditions hereof, if You wish to raise any queries concerning an invoice rendered by Us to You, You must provide a written query to Our Credit Control Department within seven days of the date of the invoice via email or post.
5. 11.5 If You fail to give notice in accordance with 11.4 above concerning an invoice rendered by Us to You then You will be bound to accept and pay the invoice accordingly.

12. DELIVERY & RISK

12.1 Delivery shall occur when the Goods arrive at the delivery address or 2 working days after delivery or collection is offered to You.

12.2 If You fail to take or make arrangements to accept delivery or to collect the Goods or if We are unable to deliver because of inadequate access or instructions delivery shall be deemed to have taken place and We may do any one or more of the following (without prejudice to any other right or remedy We may have):- (a) make additional charges for any further delivery.

- (b) store the Goods at Your risk and cost.
- (c) invoice You for the Goods.
- (d) suspend or terminate this contract without liability on Our part. (e) recover from You all costs and losses incurred by Us.

12.3 Delivery dates are given in good faith but are estimates only. Time for delivery is not of the essence.

12.4 Standard lead times vary according to product. Time estimates will be revised on receipt of Your order and times will not run until we are in receipt of all information required from You including any written approvals as requested by Us. We reserve the right to vary any time estimate should further information about factory loading become apparent to Us at the time that such loading becomes known.

12.5 We shall not be liable for any damages whatsoever whether direct or indirect (including for the avoidance of doubt any liability to any third party) resulting from any delay by Us in delivery of the Goods or failure to deliver the Goods in a reasonable time where such delay or failure is beyond Our reasonable control.

12.6 The works undertaken by us may on occasion be subject to purchase orders which are called off from time to time as and when product is required.

In relation to any purchase orders for works undertaken by us we hereby confirm that each instalment of works pursuant to a Purchase Order shall be divisible and:

Shall be deemed to arise from a separate contract

Shall be invoiced separately and any invoice for delivery pursuant to a Purchase Order shall be

payable by you in full without deduction or set off in accordance with the terms of payment provided for therein without reference to and notwithstanding any defect or default in the supply of any other instalment or of any other instalment under any other contract.

12.7 You will indemnify Us in respect of all losses damages costs and expenses incurred as a result of delivery in accordance with Your instructions. This indemnity will be reduced in proportion to the extent that such losses damages costs or expenses are due to Our negligence.

12.8 The risk in the Goods shall pass to You on delivery as set out in Clauses 12.1 & 12.2 above. It is Your responsibility to ensure that the Goods are kept safe on site before, during and after installation and are fully insured against fire theft damage and other normal insurance risks for their full replacement costs

12.9 Where goods are handed to a carrier for carriage to You or to United Kingdom port for export any such carrier shall be deemed to be an agent of Us and not of You for the purposes of sections 44, 45 and 46 of the Sale of Goods Act 1979.

12.10 Without prejudice to any other provisions of the Terms You shall not have the right to reject any item of Goods if You:

- (a) ask Us to repair the same or consent for Us to do so.
- (b) agree to resell such item.
- (c) otherwise act in a manner inconsistent with the right to reject.

13. INSPECTION

1. 13.1 You shall inspect the Goods at the place and time of unloading but nothing in these Terms shall require You to break packaging and/or unpack Goods which are intended to be stored before use.
2. 13.2 Unless You advise Us by written notice received by Us within 7 working days of unloading of any claim for loss, damage, short delivery or failure to confirm to the contract apparent on inspection; the Goods will be deemed to have been delivered in accordance with the delivery documents and You shall not be entitled to reject the Goods. In the case of non-delivery such notifications are to be made within 7 working days of receipt of the invoice.
3. 13.3 Our liability for loss damage short delivery or failure of the Goods to conform to the contract which is apparent on inspection is limited to supplying the Goods as ordered or crediting part of the purchase price and We shall not be liable for any damages whatsoever. You remain liable to pay the full invoice price of Goods delivered in accordance with the contract. Any other claim for damages is subject to Clause 16.

14. TITLE

14.1 The title to the Goods shall remain with Us until You pay all monies that you owe to Us in full.

14.2 Until title passes:-

14.2.1 You shall hold the Goods as Our fiduciary agent and Bailee.

14.2.2 The Goods shall be stored separately from any other goods and You shall not interfere with any identification marks labels batch numbers or serial numbers on the Goods.

14.2.3 We agree that You may use or agree to sell the Goods as principal and not as Our agents in the ordinary course of Your business subject to the following express conditions:-

* that You notify Your customer that We remain the legal owner of the Goods until We receive payment in full and We reserve the right to label the Goods accordingly;

*** that You will at Our request and at Your expense assign to Us all rights You may have against Your Customer; and**
*** that Your right to use or sell the Goods may be withdrawn by Us on notice at any time and will automatically cease in the event of You becoming Insolvent.**

14.2.4 If Goods are to become affixed to any land or building You must ensure that they are capable of removal without material injury to the land or building and You shall take all necessary steps to prevent title to the Goods from passing to the owner or landlord of such land or building.

14.3 We shall be entitled at any time to recover any or all of the Goods to which We have title and for that purpose Our employees or agents may with such transport as is necessary enter upon any premises occupied by You or to which You have access and where the Goods may be or are believed to be situated.

14.4 Should You become Insolvent or should You seek to charge, pledge or otherwise encumber the Goods your right or administrators right to possession of them shall cease forthwith.

15. INSTALLATION

15.1 We will not be responsible for faults resulting from the installation of Goods by You, Your representatives or

agents. In such a case it is Your responsibility to commission and test the Goods as installed and to arrange at Your cost for any faults to be rectified.

16 LIABILITIES

1. 16.1 In this Clause "the Defect" shall mean the condition and/or any attribute of the Goods and/or any condition or circumstance arising from Our manufacture or installation of the Goods or of any other service provided by Us and/or any other circumstances which but for the effect of these Terms would have entitled You to reject the Goods or to damages.
2. 16.2 Nothing in these Terms shall exclude or restrict Our liability for death or personal injury resulting from Our negligence or Our liability for fraudulent misrepresentation?
3. 16.3 Subject to Clauses 16.2 of these Terms We shall not be liable in damages nor shall you be entitled to reject the Goods by reason of any breach of contract or of any tortious act by Us (including any negligence) or of any breach of statutory duty or for any other reason whatsoever. Instead of such liability We undertake as set out in Clause 16.4 below.
4. 16.4 Where but for the effect of Clause 16.3 of these Terms You would have been entitled to reject the Goods or to claim damages against Us We shall subject to the conditions set out in Clause 16.5 below and at Our sole discretion either repair the Goods at Our own expense or supply replacement Goods or re-install the Goods free of charge or refund all (or where appropriate part) of the price paid.
5. 16.5 We will not be liable under Clause 16.4 or at all:
 - (a) If the Defect would have been apparent on a reasonable inspection at the time of unloading then unless You give Us written notice within 7 working days of the time of unloading as provided for under Clause 13 of these Terms.
 - (b) If the Defect would not have been apparent on a reasonable inspection at the time of unloading then unless the Defect is discovered within 7 days from the date of delivery and we are given written notice of the Defect within 7 working days of it being discovered.
 - (c) Unless after discovery of the Defect We are given a reasonable opportunity to inspect the Goods before they are used or in any way interfered with. We acknowledge that the costs of suspending works are relevant to the determination of what is a reasonable opportunity and this sub clause shall not apply to any works affecting the Goods which are reasonably necessary in the interests of safety and/or as emergency measures.
 - (d) If the Defect was not present at the time of delivery.
 - (e) If the Goods were supplied manufactured or processed to a drawing design measurement or specification provided by You (including but without prejudice to the generality of the foregoing where the faces of doors have different stresses) unless we have failed to comply to a material extent with such drawing design measurement or specification.
 - (f) For defects in particular warping, bowing or twisting caused by the door leaves being in excess of 2134mm x 914mm (7'0 x 3'0).
 - (g) For damage to Goods subjected to humidity's abnormal in the United Kingdom or to unequal heating of the door faces or to exposure to excessive heat, cold, dryness or sunlight.
 - (h) For damage to external doors ordered without lipping to all four edges or in which apertures or perforation of the face or core have not been required to be waterproofed or sealed prior to external exposure, or which open outwards without adequate additional protection.
 - (i) For damage to Goods caused by the Your failure to apply timely decoration after delivery.
 - (j) For damage to Goods sustained as a result of Your failure to store the Goods in accordance with the Our recommendations (further information available by request).
6. 16.6 If the Goods or a component in the Goods ("the Component") are not manufactured by Us or have been processed by a third party whether at Our or Your request Our liability in respect of any defect in workmanship or materials of the Goods or the Component will be limited to such rights against the manufacturer or the third party as We may have in respect of those Goods or that Component.
7. 16.7 You will unconditionally fully and effectively indemnify Us against all losses damages penalties costs on an indemnity basis and expenses awarded against or incurred by Us in connection with or paid or agreed to be paid by Us in settlement of any claim by any third party arising from the supply or use of the Goods. This indemnity will be reduced in proportion to the extent that such losses damages penalties costs and expenses are due to Our negligence.

16.8 Without prejudice to any other provision of these Terms in any event Our total liability for any claim or for the total of all claims arising from any act or acts of default on Our part (whether arising from Our negligence or otherwise) shall not exceed the purchase price of the Goods the subject matter of any claim or the limit of liability laid down by Our insurers in respect of such claim, whichever is the higher.

16.9 We shall not be liable for imperfect work caused by any inaccuracies in any drawings, bills of quantities or specifications supplied by You.

17. DEFAULT & TERMINATION

17.1 "Insolvent" a person is to be considered insolvent if he is unable to pay his debts as they fall due, has a bankruptcy order made against him, makes a composition with his creditors or seeks the benefit of any statutory provision for the relief of insolvent debtors. A body corporate is to be considered insolvent if it is unable to pay its debts as they fall due, if a resolution is passed or a petition is presented to any court for its winding up, if it convenes a meeting of its creditors (whether formal or informal), if it enters into liquidation (voluntary or compulsory) if it has a receiver and/or manager administrator or an administrative receiver appointed in respect of any part of its undertaking or if it seeks the benefit of any statutory provision for relief against insolvency.

17.2 "Associated Company" means Your subsidiary or holding company as defined in Section 1159 of the Companies Act 2006 or a subsidiary of such holding company, or any company over which Your directors or shareholders have control as defined in Section 1124 Corporation Tax Act 2010

17.3 If You fail to pay any invoice or any sum due to Us under any contract on the due date or Your credit limit is exceeded or You or Your Associated Company becomes Insolvent or there is a material change in Your or Your Associated Company's constitution or You commit a material breach of this contract and fail to remedy that breach within 2 working days of being requested to do so all sums outstanding between You and Us under this and any other contract shall become immediately due and payable and We shall be entitled to do any one or more of the following (without prejudice to any other right or remedy We may have):-

- (a) require payment in cleared funds in advance of further deliveries of Goods.
- (b) charge interest on the monies outstanding at the rate of 2% per month of the invoice price from the due date until date of payment after as well as before judgement.
- (c) suspend or cancel any further deliveries of Goods to You under any contract without liability on Our part.
- (d) suspend or cancel any obligation to install Goods whether under this or any other contract without liability on Our part.
- (e) without prejudice to the generality of Clause 11 of these Terms exercise any of Our rights pursuant to that Clause.
- (f) terminate this or any other contract with You or any Associated Company without liability on Our part.
- (g) insist upon an assignment without charge of all rights, interests and causes of action You may have against Your customer or contractor.

17.4 You shall reimburse Us costs including legal costs on an indemnity basis which We incur in enforcing Our rights under this contract including but not limited to recovery of any sums due.

18. EXPORT TERMS

18.1

Unless We agree otherwise in writing We will not deliver outside the United Kingdom. Further should we agree to deliver outside the United Kingdom then any such delivery shall be on the basis of "Ex Works" terms as defined in Incoterms 2010 that is to say You shall be responsible for all costs, charges and fees referable to the delivery of the Goods following collection from our premises as well as any customs or other duties payable thereon. You shall also be responsible for the costs of stowage and it is your responsibility to arrange and pay for any appropriate insurance.

18.2 You shall be responsible for arranging for inspection of the Goods at Our premises before shipment.

18.3 We shall have no liability for any claim in respect of any defect in the Goods which would have been apparent on inspection and which is made after shipment or in respect of any damage in transit.

18.4 Payment of all amounts due to Us shall be made by irrevocable letter of credit opened by You in favour of Us and confirmed by a United Kingdom clearing bank acceptable to Us or any other method of payment agreed by Us in writing by a Company Signatory.

18.5 Your order will not be accepted by Us until We have evidence of the letter of credit or bill of exchange as the case may be. All costs and charges incurred by us in negotiating and accepting payment methods shall be added to the price of the Goods.

18.6 This payment clause (Cl. 18.) shall also apply if You are resident outside the United Kingdom.

19. GENERAL

1. 19.1 This contract shall be governed and interpreted according to the Law of England and Wales and You agree to submit to the non-exclusive jurisdiction of the English Courts.
2. 19.2 Any reference in these Terms to any Statute or Statutory Provision includes a reference to that Statute or Statutory Provision as from time to time amended extended or re-enacted.
3. 19.3 The headings in these Terms are for convenience only and shall not affect their interpretation.
4. 19.4 We shall not be liable for any loss or damage arising as a direct or indirect result of Our delay or failure to perform Our obligations under this contract by reason of any force majeure circumstances which shall include but not be limited to industrial action, import or export regulations or embargoes, difficulties in obtaining materials, parts components labour or fuel, power failure or breakdown in machinery or vehicles or other circumstance outside Our control.
5. 19.5 The waiver by Us of any breach or default of these Terms shall not be construed as a continued waiver of that breach nor as a waiver of any subsequent breach of the same or any other provision.
6. 19.6 If any clause or sub-clause of the Terms is held by a competent authority to be invalid or unenforceable the validity of the other clauses and sub-clauses of these Terms shall not be affected, and they shall remain in full force and effect.
7. 19.7 You hereby acknowledge that all intellectual property rights pertaining to any specifications, details and drawings prepared by Us in conjunction with any quotation or acceptance of an order, and any subsequent data specifically provided to You belong exclusively to Us and shall remain Our exclusive property. Further You agree to indemnify Us against all costs, claims, losses, expenses and damages incurred by Us or for which We may be liable due to or arising out of any infringement or alleged infringement of any patent, trade mark, copyright, design right or other intellectual property right occasioned by the manufacture or sale of the Goods if made to Your design drawing measurements specification or other requirements. This indemnity will be reduced in proportion to the extent that such costs, claims, losses, expenses and damages are due to Our negligence.
8. 19.8 We accept no responsibility, whether in contract, statutory duty, tort or otherwise howsoever, for loss or damage to free issue materials or components supplied to Us. Such materials or components are not insured by Us and You should therefore arrange adequate insurance cover.
9. 19.9 No statement, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement or communication or made verbally by any of Our agents or employees shall be construed to enlarge, vary or override in any way these Terms.
11. 19.11 This contract is personal to You and it may not be assigned.
12. 19.12 Termination of this contract shall not affect rights and obligations which have already accrued at the time of termination.
13. 19.13 These Terms shall have precedence over any other contractual documentation you may receive or enter into with Us. If there are any inconsistencies between any documentation between Us and You these Terms shall have precedence.
14. 19.14 No statement, description, information, warranty, condition or recommendation contained in any catalogue, price list, advertisement or communication or made verbally by any of Our agents or employees shall be construed to enlarge, vary or override in any way any of these Terms.
15. 19.15 Any written notification from You required under these Terms must be sent to Us by first class registered mail addressed at Our premises or to such other address as may be notified to You in writing from time to time or by email

Footnotes

Fire Doors/Door-sets: Where door leaves only are supplied the final assembly must be constructed in strict compliance with fire test evidence in order to achieve the levels of fire resistance.

Installation of Door Sets: Where doors are factory hung adjustment may be required once the frame is fixed in position and We will not be held accountable or liable for any such adjustment. Doors should be installed with the structure / building watertight and at ambient temperature / humidity.

Veneers: At our discretion veneers may be laid on MDF, or chipboard. Unless otherwise agreed veneers will be of standard grade and not of commercial quality or suiting. Veneers may vary in decorative appearance due e.g. to natural variations in colour, grain direction or other structural features. Light colour woods can sometimes show a shading effect and may result in alternate light and dark leaves. You will be deemed to have accepted all the above when placing the order. Due to the wide variations in decorative appearance and quality that can occur in commercial plywood. We are neither responsible for nor liable to You in respect of the finished appearance of door faces which specified "Plywood for Stain or paint"