**Definitions**

**In these terms and conditions:** “Conditions” means these terms and conditions of sale; “Contract” means the contract for the sale by us and purchase by you of our Goods and/or Services; “Goods” means curtains, blinds, window dressings, bed spreads, soft furnishings, curtain poles and any other Goods supplied by us following your Order; “Order” means an order made by you for the supply of Goods and/or Services by us; “Price” means the price of the Goods, plus any delivery charges; “Services” means measuring windows, interior design service and/or fitting of the Goods; “me, my, our, I, we, our, us” means Mark Howden Professional Track Fitting whose principal place of business is 14 Rusthall Rd, Rusthall, Tunbridge Wells, Kent TN4 8RD; “you and your” means the person who buys or agrees to buy Goods from us;

**Contract**

1.1 These are the only Terms which will apply when you purchase Goods and/or Services from me. You may only vary these Terms or your Order if you have my agreement in writing.

1.2 Contracts may be verbal agreements, and are equally binding to written. An agreement to commence work, whether formal or informal, implies acceptance of these terms and conditions.

**Measuring**

2.1 Unless you use my measuring service, Goods are manufactured in accordance with the measurements provided by you, and it is therefore your responsibility to ensure that you have provided us with the correct measurements. Please follow the directions on how to measure your windows which is available on request. Alternatively, please call me and I will happily advise you over the telephone.

2.2 Following fitting of any curtain hanging system, i.e. poles or tracks, final sizes will be provided for your curtain maker.

**Fitting**

3.1 A quote for fitting of Goods is available upon request. Fitting charges are quoted on the basis that I am able to obtain good fixings for the tracks, poles and battens and I am able to obtain unobstructed access to your window on my first visit for fitting. If at the time of fitting the Goods it is discovered that due to the condition of your walls or substandard building work good fixings cannot be obtained, or I do not have free unobstructed access to your window, or for reasons of Health and Safety of the fitter, I will not fit the Goods ordered until building work necessary to allow us to obtain good fixings has been completed correctly or you have cleared the access to your window, or until you have provided a safe environment for my fitter to work. I will not be responsible for carrying out any building work or for moving any furniture to clear access to your windows. I reserve the right to make an additional charge if I have to return to your property on a second occasion to complete the fitting of your Goods after such building work has been completed or access cleared, or health and safety issues resolved. Whilst every care will be taken, I will not be responsible for any loss or damage to obstructing items, howsoever caused. The fitter will not move any television or other electrical appliances. Furthermore my fitters have the right to refuse to work in any premises where the householder is smoking, and refuses polite requests to desist whilst the fitter is on that premises.

3.2 Whilst all reasonable care will be taken, it is your responsibility to ensure that all ornaments and objects are removed from the immediate working area; I will not be responsible for any damage or breakages to any such objects, howsoever caused.

* 1. All fixings will be carried out using *Fischer* plugs for solid and/or dry-lined/stud walls, and *Spax* screws as standard and free of charge. Should a fixing require an alternative fixing, such as a toggle, inset, cavity or resin injection, a further charge will be applicable, which may be levied without notice.
	2. Please note that whilst fixing points will always be scanned for buried cables and pipes, a scanner cannot differentiate between a copper pipe and other non-ferrous objects such as plaster beads, wall ties and Cormet type studwork. Good building practice would not place a water pipe near a window and electrical cabling should never be buried in proximity to any aperture. Current regulations do not allow water pipes to be buried behind the wall face, and buried electrical cables must be in vertical runs, The fitter, therefore, cannot be held responsible for any such object struck not complying with current regulations or within 30cm of any aperture, and will not be held responsible for striking any buried plastic water pipe where ever sited. In this case buried means hidden behind the wall face.
	3. **I have to comply with Legislation and Regulations, ie EN13120. These Regulations have been introduced to help prevent accidental death by way of strangulation to young children caused by them becoming entangled in Blind , Curtain & Drapery cords. I take my obligations under the Regulations extremely seriously. These provide that safety devices supplied with the goods must be fitted by me at the time of installation otherwise I may be negligent and perhaps be in breach of the Regulations. Therefore, if the goods contain any safety device, I will fit this device and ensure that I have complied with the Regulations, In the event that you should instruct me that you do not wish to have such a safety device fitted, then I will refuse to install the goods. In such an instance you will still be liable to pay my fitting charge as agreed.**
	4. **You agree that you will not treat my refusal to install the goods for the reasons set out in clause 3.5 above, or because the goods do not comply with EN13120 2009 + 2014, as a fundamental or any breach of the contract and that you will still be bound under the Contract to take delivery of the goods and or pay my fitting charge as agreed**
	5. **For the avoidance of doubt I consider clauses 3.5 and 3.6 to be reasonable in all the circumstances given my obligations under the Regulations. This will not affect your legal rights as a consumer in relation to any Goods that are faulty or not as described.**

**Pricing**

4.1 Prices shall be charged at the following day rates or hourly rates:

Trade Rate – for VAT registered clients with a retail outlet and accredited trade accounts and making fixed regular bookings on a minimum of twice a month making a mark-up

Retail Rate – For “end-user” clients with installation in their own premises, be they domestic or commercial properties.

Contract Rate – For re-fits and fit-outs of commercial properties. Travel to and from site as well as overnight stays will be separately charged as published.

A working day is 8 hours door to door. If 8 hours on-site is required, a separate levy for travel time may be charged

Estimates will be provided if required, however jobs will still be estimated on a day/hourly rate basis. No price will be given on a Job Rate basis.

Out of hours surcharge (Work starting past 6pm and or week-ends) is plus 50%

**Payment and Title**

5.1 Unless agreed otherwise, all payments must be in sterling and must be made on completion of the installation. Credit terms are not available.

5.2 If payment cannot be made on completion of work (or by the due date) then a surcharge of £10 per invoice per 14 days shall be applied. I will always seek to recover non-payment of any amount via the Small Claims Courts.

* 1. Work carried out to any London postcode address shall carry a 50% surcharge, and work in the central London Congestion area, **Brighton** and or the London Boroughs of Chelsea, Lambeth, or Westminster will not be entertained, unless private off-road parking is available on-site. You shall furthermore be liable for any emission, congestion or parking charge, fee or fine incurred in any area including clamp release fees, tow charges, and any other charges related to not having free or private off-road parking provided in any area. The minimum time charged for jobs within the London Postcode area will be 1 day. **Furthermore No work will be undertaken AT ALL in the London borough of Hammersmith & Fulham.**
	2. Where supply of goods is required, full payment shall be required in advance, before any order shall be processed, and an appropriate pro-forma invoice shall be issued.
	3. I reserve the right to claim interest at the rate of 4% per annum above the minimum base lending rate for the time being of Lloyds TSB Bank, calculated on a daily basis on all sums due to me and unpaid from the date on which payment is due under these Conditions until the date on which payment is made, both including the period before and after judgment.
	4. Risk in the Goods shall pass to you when the goods are delivered to, or collected by, you or your agent.
	5. Notwithstanding risk in the Goods passing in accordance with Clause 6.6 of these Conditions, title in the Goods shall not pass to the you until both (i) payment is received by us for the Goods; and (ii) no other amounts are then outstanding from you to me in respect of any other goods supplied by me to you.
	6. Before title has passed to you under the terms of Clause 6.7 and without prejudice to any of its other rights, I shall have the right to recover or resell the Goods or any of them and may enter your premises by my servants or agents for that purpose. If so required, you will store the Goods separately from your own goods to make them readily identifiable to us.

**Cancellation**

* 1. If you are a consumer and you have ordered Goods that are not made to your specification you have a right to cancel your Order for any reason whatsoever providing you notifying us at any time before delivery of the Goods has taken place; or within 7 working days from the date of delivery of the Goods providing that you have not fitted the Goods or used them and have taken reasonable care of the Goods, however a restocking charge of £20 and a collection charge of £10 may be applied
	2. If you have ordered Services you may cancel the Order providing you notify me no later than 72 hours before the Services are scheduled to start. Cancellations within that timescale may be levied with a 25% charge of time booked. Cancellations or no shows on the day of fitting will be charged at the full rate of the time booked.
	3. If you cancel your Order under Condition 7.1 I will refund all monies paid by you excluding any delivery charges you have paid, under the provisos of Condition 7.1 I will refund any monies to you within a maximum of 30 days of receiving your cancellation notice.
	4. If you have ordered bespoke Goods made to your specification, you may cancel the Order at any stage up to 2 days after receiving the Goods. I will retain 50% of the price to cover the cost of labour and materials, plus any delivery and fitting charge and refund the balance to you.
	5. Where you fail to return the Goods to us, I shall be entitled to charge you for the reasonable costs of collecting the Goods from you. I reserve the right to deduct such costs from any refund due to you.
	6. **If the Contract includes installation, you may not cancel or terminate the Contract if, for any reason, you should decide that you will not allow me to install any safety device that accompanies the Goods which means that, as a result, I cannot install the Goods at all (as detailed in 3.5 above). In such circumstances you will still be liable to pay me the full price due under the contract (but this will not affect your rights as a consumer in relation to any goods that are faulty or not as described).**

**Warranties & Liabilities**

* 1. Subject to the Terms set out below I warrant that upon delivery the Goods will correspond with their specification, will approximately correspond with the approximate description given by us and will be free from defects provided that I shall be under no liability arising from failure by any person, other than myself or my employees or contractors, to follow my instructions (whether oral or in writing), inappropriate storage, improper use, further treatment of or process to the Goods or any defect caused as a result of reasons which are under your control.
	2. Unless these Terms provide otherwise, any other warranty, condition or other term expressed or implied by statute, common law or otherwise is excluded save that nothing in these Conditions shall affect the statutory rights of a consumer which cannot be excluded by law. In particular, I make no warranty as to the fitness of the Goods for any particular purpose other than the normal purpose for which the Goods are used even if that purpose is stated in your order unless I specifically confirm in writing that the Goods are fit for such a purpose. This exclusion includes recommendations or advice from me to you relating to a specific enquiry. You must satisfy yourself as to the fitness for the purpose for which the Goods are intended.
	3. Certain Goods may have particular characteristics which affect shade, shape, size or suitability for certain types of uses or use in certain types of environments
	4. No responsibility shall be accepted for damage, howsoever caused, to any item insufficiently or inappropriately, wrapped, covered, packaged or protected for carriage, transit, storage, transportation and or process
	5. All fitting is guaranteed for a period of 12 months with the following exceptions: No fixing into lathe & plaster shall be guaranteed, No fitting of an item customised beyond the manufacturer’s original specification shall be guaranteed, No fixing shall be guaranteed if the weight of curtain exceeds the fitting’s rating, and the guarantee shall be immediately void if the fitting is removed and refitted by any person other than the original fitter
	6. You shall not be entitled to reject the Goods where the alleged defect or breach of contract is so slight that it would be unreasonable for you to do so.
	7. Any claim by you which is based on any defect in the quality or condition of the Goods or their failure to correspond with the specification shall be notified to me immediately upon discovery of the defect or failure and in any event any valid claim so made shall not be accepted by me unless made within 7 days from the date of delivery of the Goods. Any claim for items missing from your Order must be made within 3 days of the delivery date.
	8. Nothing in these Terms excludes or limits the liability of us for death or personal injury caused by my negligence.
	9. I shall not be liable to you nor be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform, any of my obligations in relation to the Contract, if the delay or failure was due to any cause beyond my reasonable control such as (but without limitation) any strike, lock-out or other form of industrial action, reduction in or unavailability of power at my works or those of my suppliers, breakdown of manufacturing or other equipment and unavailability of raw materials.

**General**

* 1. You must not copy any of my designs without obtaining my permission in writing.
	2. Any written notice you want to send us must be sent to us at Mark Howden Professional Track Fitting Ltd, 14 Rusthall Rd, Rusthall, Tunbridge Wells Kent, TN4 8RD by hard copy. Electronic transmissions of any kind such as e-mail or SMS will not be acceptable, unless otherwise arranged. If I want to send you a written notice I will send it to the address on your Order form, unless you notify us otherwise.
	3. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions shall remain in full force and effect.
	4. If I do not enforce a term of these conditions now, I am not prevented from doing so at a later stage.
	5. A person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Conditions but this does not affect any right or remedy of a third party which exists or is available apart from that Act.
	6. The Contract shall be governed by the laws of England, and the Customer agrees to submit to the non-exclusive jurisdiction of the English courts.
	7. The commencement of any work on your property is acceptance of contact and approval of these terms and conditions.
	8. The relationship between myself, a trade customer and their customer, is that I am a sub-contractor, and the trade customer is the contractor to the final customer.
	9. These terms and conditions are subject to revision without notice **Recent revisions are highlighted**