

TERMS AND CONDITIONS OF SALE & TRADE

1. Definitions

ACL means Australian Consumer Law

Agreement means these Terms and Conditions of Sale and Trade.

Company/Seller means **KINGS SECURITY DOORS ABN 71153024447**, its successors and assignees or any person acting on behalf of and with the authority of **KINGS SECURITY DOORS ABN 71153024447**.

Customer/Client means the person/s engaging the services as specified in any Agreement, Invoice, Purchase Order or Quotation, and if there is more than one Customer is a reference to each Customer jointly and severally. This includes the executors, administrators, successors and permitted assignees of that person or company;

Goods means all Goods or Services supplied by the Company to the Customer at the Customer's request from time to time in accordance with this Agreement (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other);

Installation means the installation of the Goods at the delivery site requested by the Client;

Price means the Price payable for the Goods as agreed between the Seller and the Client in accordance with clause 5 below.

Purchase Order means any order or request made by the Client for the supply by the Seller of Goods and/or services in any form and includes an oral request for the supply of goods, or an invoice, proposal or quote provided by the Seller at the Client's request;

Service means all services supplied by the Seller to the client in relation to the goods.

2. Sole Terms

- 2.1 These terms of sale apply to all transactions between any person or entity ("the customer") proposing or enquiring to engage the services from **KINGS SECURITY DOORS ABN 71153024447** ("the company") or purchasing or ordering any goods from the company and including all quotations, offers, orders and sales.
- 2.2 These terms will only be waived or varied in writing signed by the company. These terms contain all the warranties and conditions given by the company in connection with goods and services supplied by the company and to the extent that the company may exclude any warranties or conditions which might otherwise be implied by any competent legislation then the company excludes from application all such implied warranties and conditions.
- 2.3 These Terms and Conditions, any Purchase Order will be read and interpreted as a single Agreement but if there is any conflict or inconsistency between these Terms and Conditions and/or any Purchase Order, the various parts of the Agreement will be interpreted and applied in the following order:
 - (a) firstly, these Terms and Conditions of Trade;
 - (b) secondly, the relevant Purchase Order.

3. Quotation

- 3.1 This price quotation is made subject to dimensions found on site remaining constant or being changed in accordance for suitability for door, window grill, fence or gate installation as specifically directed by the Company.
- 3.2 Once a quotation has been issued, it remains open for acceptance for 30 days unless withdrawn by the company, after which a revised quotation may be necessary.
- 3.2 Any variation whatsoever otherwise stated, after commission of this quotation may necessitate a revision of delivery date and price quoted.
- 3.3 Any alteration from the accepted order involving extra material costs or labour will only be undertaken upon a signed variation and will become an additional charge to this agreement. The Company reserves the right to re-quote if work is not commenced within 30 days as a result of the customers delay.
- 3.4 **IMPORTANT TO NOTE** that our measurements are taken from the smallest width point in the door or window frame in order to achieve a square frame. We pack out the adjoining points with washers to secure the frame. We hold no responsibility for the fact your structure is not square.

4. Acceptance

- 4.1 Any instructions received by the Seller from the Client for the supply of Goods and/or the Client's acceptance of Services and/or Goods supplied by the Seller shall constitute acceptance of the terms and conditions contained herein.
- 4.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 4.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the manager of the Seller.
- 4.4 All literature, samples, specifications, dimensions and weights submitted with this quotation are approximate only and the data and descriptions contained in catalogues and other advertising material while being as accurate as possible may not necessarily be identical with products and services the Seller supplies, and the Seller reserves the right to supply products that have minor modifications in specifications as the Seller sees fit.
- 4.5 The descriptions, illustrations and performances contained in catalogues, other advertising material and price lists do not form part of the contract of sale of the products.
- 4.6 By paying the initial deposit to the Seller it is acknowledged of you the customer that you have read, understood and agreed to all the terms and conditions of this Agreement.

5. Payment Terms

- 5.1 Unless otherwise specified in writing, all work is strictly to be paid on completion of installation.
- 5.2 Unless otherwise stated all prices quoted by the company are net, exclusive of Goods and Services Tax (GST).
- 5.3 In any event the Customer will pay the full price of each order to the company as follows:
 - (a) Upon accepting the quote and prior to any works commencing a deposit of 50% is required;
 - (b) The balance of 50% of the price upon the final installation and completion.
- (c) In the event that payment is not made the company may without demand retake possession of the goods and may without notice sell the goods on such terms and in such manner as it may determine and will be entitled to deduct all expenses incurred. For the purpose of recovering possession and without limiting the generality of the foregoing the Customer hereby irrevocably authorises and licenses the company and its servants and agents to enter upon any premises where any goods may be stored and to take possession of the goods.
- 5.4 Payment of the company's invoice is to be made by Credit/Debit cards (MasterCard/Visa), a surcharge of 1.25 per cent is applied for such transactions, Bank Cheque, EFTPOS, electronic transfer to the bank account of the Company (in the case remittance advise must be presented in writing to the Company and given a copy or valid receipt number stated on the invoice) or cash.

6. Delivery times and Installation

- 6.1 The Company will always endeavour to deliver and install the products ordered for specified dates but cannot and will not be held responsible for material shortages supplied by others and/or delays for deliveries of materials. Failure to meet installation deadlines cannot be constituted as a breach of the agreement and will not enable the cancellation of this order by the customer.
- 6.2 The installation times made known to the customer are estimates only. The company is not to be held in any way liable for any loss, damage or delay or liquidated damages or any setoff occasioned to the customer arising from late or non-delivery or late installation of the goods.
- 6.3 The Seller will make reasonable attempts to complete the Installation by the date specified to the client.
- 6.4 The Client will provide the Seller with all reasonable assistance and access to facilities to enable the Seller to comply with its obligations under this clause.
- 6.5 The Seller shall not be liable for any defects or any matters discovered while installing the Goods.

7. Default & Consequences of Default

- 7.1 If the Customer fails to make a payment when due, the Customer will pay to the Company interest on overdue invoices which shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of one and a half percent (1.5%) per calendar month (and at the Seller's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 7.2 If the Client owes the Seller any money the Client shall indemnify the Seller from and against all costs and disbursements incurred by the Seller in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Seller's Contract default fee, and bank dishonour fees).
- 7.3 Further to any other rights or remedies the Company may have under this contract, if a Customer has made payment to the Company by credit card, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Company under this clause 6 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this agreement.

8. Workmanship & Care

- 8.1 ALL RESPONSIBLE CARE will be taken by the Company during the installation of the goods purchased BUT NO LIABILITY shall attach the Company for any damage occasioned by any means whatsoever to electrical wiring, plumbing, masonry or rendered surfaces.
- 8.2 The customer should ensure that all movable items are removed from and around the installation area/work area. All other items subject to damage should be either cleared or protected to enable our installer clear access for the work to be performed without hindrance.
- 8.3 The site is to be prepared and made ready by the customer and all rubbish and waste is to be removed by the client unless specified otherwise.
- 8.4 The Company takes no responsibility on the workmanship and quality of the work of other trades not engaged by us.
- 8.5 All claims against the company regarding the quality, nature, fitness, suitability, conformance with description or defects must be made in writing to the company within 7 days of the work to the Customer.

9. Retention of Title and Irrevocable Authority to enter and repossess goods upon non-payment event

- 9.1 Notwithstanding delivery of the goods and materials, Title in the goods only passes to the customer upon receipt in full by the company of the purchase price for the goods.
- 9.2 Notwithstanding that title remains with the company until payment in full is received, the risk in the goods passes to the customer only upon delivery/
- 9.3 Until title in the goods passes to the customer:
- The customer will hold the goods solely as bailee for the company and the customer will store the goods separately from its own goods and those of other persons and in such a manner as will clearly identify the product as the property of the contractor;
 - In the event that the customer fails to pay for the goods within the normal terms of trade of the company then the company may repossess the goods and the customer hereby irrevocably authorises and licenses the company to enter its premises or any other premises where the goods are stored at any time without notice and without liability for trespass or any resulting damage in order to inspect and/or remove and repossess the goods;
 - The customer hereby agrees not to cut, alter, affix or install the goods until title has passed to the customer; and
 - The company retains its rights as unpaid company in respect of the goods.

10. Security & Charge

- 10.1 In consideration of the Company agreeing to supply the services, the Customer agree to charge all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 10.2 The Company shall have the right to lodge a caveat over any real property to secure the charge in 10.1 above and the Customer consents to the grant of a Caveatable interest by way of an equitable charge to protect and secure the payment of all monies owing to the company.

11. Limitation on Warranty

- 11.1 The Company warrants that the goods specified herein installed with the goods are free from fault or failure for a period of 24 calendar months from date of installation, EXCEPT WHEN such fault of failure is due to or contributed to by fire, tempest, acts of God or any intentional reckless or negligent acts or omissions on the part of the purchaser or of any person using or interfering with the said goods or equipment in any manner whatsoever and whether with or without the consent of the purchaser.
- 11.2 KINGS Security Doors warrants to the owner our Security doors and windows that they are free from defects in workmanship and material under conditions of normal residential use for a period of 2 years from the date of installation. Not included in this warranty are accessory items fitted to the door or window. These items; such as locks, handles, hinges, door closers etc. are independently covered by warranties supplied by the relevant manufacturer or supplier.
- 11.3 Pursuant to this warranty, the Company agrees to replace or repair for the said period of 24 calendar months from the date of installation all or any parts of the specified goods or associated equipment which may be found to be defective through fault or failure as defined in the preceding paragraph provided that it shall be at the absolute discretion of the company as to whether all or any of the parts should be replaced or whether they should be repaired such parts shall be provided free of costs for the said period of 24 calendar months but, in relation to work done by the company in replacing or repairing all or any parts, such works shall be provided free or service charges for a period of only 3 calendar months from the date of installation.
- 11.4 Subject to the provisions of Clause 11 above, no conditions or warranty otherwise than as expressly stated in these Terms shall be included in the contract between the Company and the purchaser AND any such express condition or warranty shall be void and unenforceable in the event of:
- the purchaser not making payment in full within the stipulated time, as specified in Clause 4 above;
 - any alteration whatsoever to the form, content or appearance of the specified goods installed, otherwise than with the consent of the company in writing.
- 11.5 All statutory warranties, which can be lawfully excluded, are expressly excluded.

12. Limitation of Liability

- 12.1 The Customer indemnifies and keeps indemnified the Contractor, its servants and agents in respect of any claim or demand made or action commenced by any person (including, but not limited to, the Customer) against the Company or, for which the Company is liable, in connection with any Loss arising from or incidental to the provision of Goods or Services, any Order or the subject matter of these terms of trade.
- 12.2 This includes, but is not limited to, any legal costs incurred by the Company in relation to meeting any claim or demand or any party/party legal costs for which the Company is liable in connection with any such claim or demand.
- 12.3 This provision remains in force after the termination of these Terms and Conditions of Trade.

13. Disclaimer

- 13.1 The Client hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him by any servant or agent of the Seller and the Client acknowledges that he buys the Goods relying solely upon his own skill and judgement and that the Seller shall not be bound by nor responsible for any term, condition, representation or warranty other than the warranty given by the Manufacturer which warranty shall be personal to the Client and shall not be transferable to any subsequent Client.
- 13.2 The Seller is not liable for physical or financial injury, loss or damage or consequential loss or damage of any kind arising out of:
- the supply, layout, assembly, installation, operation or marketing of the Goods; or
 - the Seller's negligence or other act or omission.
- 13.3 Every effort has been made to ensure the accuracy of the information on the Site. However, product specifications are prone to change by manufacturers and the Seller cannot be held responsible for this.
- 13.4 Whilst every effort has been made to ensure these items are in stock, the highly specialised nature of some items can result in delays in some circumstances
- 13.5 The Seller reserves the right to change product information, availability, range and specifications without notice. Produce images are not necessarily to scale, and for some categories, show the main product within that category; as a result, the item you receive may differ slightly from that shown in the photo.

14. Intellectual Property

- 14.1 Where the Seller has designed the goods for the Client, then the copyright in those designs and drawings shall remain vested in the Seller.
- 14.2 Conversely, in such a situation, where the Client has supplied drawings, the Seller in its sale conditions may look for an indemnity (the specifications and design of the Goods (including the copyright, design right or other intellectual property in them) shall as between the parties be the property of the Seller).
- 14.3 Where any designs or specifications have been supplied by the Client for manufacture by or to the order of the Seller then the Client warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party.
- 14.4 The Client warrants that all designs or instructions to the Seller will not cause the Seller to infringe any patent, registered design or trademark in the execution of the Client's order.
- 14.5 No responsibility is accepted by the Company for loss or damage to Client's patterns and/or goods left in the Company's possession or in transit to or from its premises, such patterns and /or goods being the absolute property of the Client.

15. Australian Consumer Law

- 15.1 To the extent required, the Australian Consumer Law as set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth) is imported into these Terms and Conditions.
- 15.2 To the extent permitted by Australian law, we disclaim all warranties, representations and conditions, express or implied, with regard to any information, software or Products including but not limited to:
- merchantable quality;
 - durability and fitness for a particular purpose;
 - legal title; and
 - non-infringement of Intellectual Property Rights.
- 15.3 To the extent permitted by Australian law, SYW or its sellers are not liable for any Loss suffered by a Buyer or Seller in respect of Products advertised on the Site.
- 15.4 The Seller's goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

16. Severability and Proper law

- 16.1 If any part of these terms is invalid or unenforceable, these terms do not include it. The remainder of these terms continue in full force. These terms will be governed by and construed pursuant to the laws of New South Wales.

17. Jurisdiction/Force Majeure

- 17.1 It is agreed by the parties that these Terms and Conditions will be construed in accordance with the law of NEW SOUTH WALES and each party covenants that it submits to the jurisdiction of the Courts of NEW SOUTH WALES for the resolution of any dispute under the Agreement.
- 17.2 Neither the Company nor the Customer shall be liable for any breach of these terms where the breach arises from an act of God, war, natural disaster, terrorism or any other event beyond the reasonable control of the parties.

By paying the initial deposit to the Seller it is acknowledged of you the customer that you have read, understood and agreed to all the terms and conditions of this Agreement.