

# windsor doors

MANUFACTURERS OF QUALITY GARAGE DOORS

## TERMS & CONDITIONS OF TRADE

### 1. DEFINITIONS

- 1.1 "Seller" shall mean WINDSOR DOORS (S.I.) LTD.
- 1.2 "Buyer" shall mean the buyer or any person or company acting on behalf of and with the authority of the buyer.
- 1.3 "Goods" has the same meaning as in Section 2 of the Sale of Goods Act 1908 and are any goods supplied by the seller to the buyer.
- 1.4 "Services" shall mean all services and goods supplied by the seller to the buyer and includes any work done on a time in attendance basis and advice or recommendations.

### 2. ACCEPTANCE

- 2.1 Any instructions received by the seller from the buyer for the supply of goods shall constitute acceptance of the terms and conditions contained herein.

### 3. PRIVACY ACT

- 3.1 The buyer authorises the seller to collect, retain and use any information about the buyer, or for the purpose of assessing the buyer's credit worthiness, enforcing any rights under this contract, or marketing any goods and services provided by the seller to any other party.
- 3.2 The buyer authorises the seller to disclose any information obtained to any person for the purposes set out in clause 3.1.

### 4. PAYMENT

- 4.1 Payment for goods shall be made by way of 50% deposit of the full price with the order, or in full on or before the 20th day of the month following the date of the invoice, or on completion or on delivery of goods, whichever is the earlier ("the due date").
- 4.2 Interest may be charged on any amount owing after the due date at the rate of 5% per month or part month.
- 4.3 Any expenses, disbursements and legal costs incurred by the seller in the enforcement of any rights contained in this contract shall be paid by the buyer, including any reasonable solicitor's fees or debt collection agency fees.

### 5. QUOTATION

- 5.1 Where a quotation is given by the supplier for goods:
  - 5.1.1 The quotation shall be valid for one month from the date of issue.
  - 5.1.2 The quotation shall be exclusive of Goods and Services Tax unless specifically stated to the contrary.
- 5.2 Where goods are required in addition to the quotation the customer agrees to pay for the additional cost of such goods.

### 6. RISK

- 6.1 The goods remain at the seller's risk until the delivery to the buyer, but when title passes to the buyer the goods are at the buyer's risk whether delivery has been made or not.
- 6.2 Delivery of goods shall be deemed complete when the seller gives possession of the goods for delivery to the buyer, or possession of the goods is given to a common carrier or other bailee for the purposes of transmission to the buyer.
- 6.3 The time agreed for delivery shall not be an essential term of this contract unless the buyer gives written notice to the seller making time of the essence.
- 6.4 Where the seller delivers goods or services to the buyer by instalments and the seller fails to deliver one or more instalments the buyer shall not have the right to repudiate the contract but shall have the right to claim compensation as a severable breach.

### 7. TITLE

- 7.1 If the goods are ascertained and in a deliverable state, title in the goods passes to the buyer when the buyer has made payment for all goods supplied by the seller.
- 7.2 If the goods are attached, fixed, or incorporated into any property of the buyer, by way of any manufacturing or assembly process by the buyer or any third party, title in the goods shall remain with the seller until the buyer has made payment for all goods, and where those goods are mixed with other property so as to be part of or a constituent of any new goods, title to these new goods shall be deemed to be assigned to the seller as security for the full satisfaction by the buyer of the full amount owing between the seller and buyer.
- 7.3 The buyer irrevocable authority to the seller to enter any premises occupied by the buyer, at any reasonable time, to remove any goods not paid for in full by the buyer. The seller shall not be liable for costs, damages or expenses or any other losses supplied by the buyer as a result of this action, nor liable in tort or contract in any way whatsoever.

### 7. RETURN OF GOODS

- 7.1 The buyer shall be deemed to have accepted the goods unless the buyer notifies the seller otherwise within 24 hours of delivery of the goods to the buyer.
- 7.2 If the goods are not accepted according to clause 7.1 of this contract the buyer shall pay for the delivery of the returned goods to the seller.

### 8. LIABILITY

- 8.1 The seller shall not be liable for any loss of profits, or any consequential, indirect or special loss, or damage, or loss of any kind, arising directly or indirectly from any breach of the seller's obligation under this contract or in tort.
- 8.2 Where the seller is liable to the buyer, the maximum cost of any liability shall not exceed the value of the goods or service provided by the seller to the buyer.

### 9. CONSUMER GUARANTEES ACT

- 9.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the buyer acquires goods or services from the seller for the purposes of a business.
- 9.2 If the buyer on sells the goods to a third party, the buyer shall indemnify the seller for any losses incurred due to third party claims against the seller.

### 10. JURISDICTION

- 10.1 The law of New Zealand shall apply to this contract except to the extent expressly negated or varied by this contract.

### 11. PREVAILING

- 11.1 Where the terms of this contract are at variance with the order or instruction from the buyer, this contract shall prevail.

### 12. NON-WAIVER

- 12.1 Failure by the seller to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations the seller has under this contract.

### 13. GUARANTORS

- 13.1 Any personal guarantee made by any third party shall not exclude the buyer in any way from the liabilities and obligations contained in this contract. The guarantors and buyer shall be jointly and severally liable under the terms and conditions of this contract.

### 14. CANCELLATION

- 14.1 The seller shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of goods to the buyer if the buyer fails to pay any money owing after the due date or the buyer commits an act of bankruptcy as defined in 19 of the Insolvency Act 1967.
- 14.2 Any cancellation or suspension under clause 14.1 of this agreement shall not effect the seller's claim for money due at the time of cancellation or suspension or for damages for any breach of any terms of this contract.

### 15. FORCE MAJEURE

- 15.1 The seller shall not be liable for delay or failure to perform its obligations if the delay or failure is beyond its control.

### 16. ASSIGNMENT

- 16.1 The buyer shall not assign all or any of its rights or obligations under this contract without the written consent of the seller.

### 17. WARRANTIES BY WINDSOR DOORS (S.I.) LTD

- 17.1 No representation, condition, warranty or premise expressed or implied by law or otherwise applies to goods except where goods are supplied pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this contract.
- 17.2 WINDSOR DOORS (S.I.) LTD does not provide any warranty that the goods are fit and suitable for the purpose for which they are required by the customer and shall not be liable if they are not.
- 17.3 Where a warranty is provided by WINDSOR DOORS (S.I.) LTD in writing at the time of purchase of goods in addition to that expressed in this contract that warranty shall prevail.
- 17.4 Warranties for cedar & steel doors (Rust & Corrosion) motor hardware, for automatic doors, or defective hardware, is for 2 years. Extended warranties are only provided for Aluminium doors (Rust & Corrosion), a period of 10 years.

### 18. MISCELLANEOUS

- 18.1 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 18.2 Supply of goods or services do not include building alterations or additions required for the installation of our product unless specifically quoted in writing.
- 18.3 A call out charge maybe applied if the site is not ready for installation on the date arranged by the buyer.

### 19. GENERAL LIEN

- 19.1 The customer agrees that WINDSOR DOORS (S.I.) LTD may exercise a general lien against any goods or any property belonging to the customer that is in the possession of WINDSOR DOORS (S.I.) LTD for all sums outstanding under this contract and any other contract to which the customer and company are parties.
- 19.2 If the lien is not satisfied within 7 days of the due date WINDSOR DOORS (S.I.) LTD may having given notice of the lien at its option either:
  - 19.2.1 Remove such goods or property and store them in such a place and in such a manner as WINDSOR DOORS (S.I.) LTD shall think fit and proper and at the risk and expense of the customer, or
  - 19.2.2 Sell such goods or property or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.