

Terms and conditions of sale

1. In these terms and conditions of trade, unless the context otherwise requires.

- 1.1. "The seller" means Joinery Hardware and includes its agents, employees, successors and assigns.
- 1.2. "Purchaser" and "buyer" means any person, firm, organisation or corporation that has requested the supply of goods from the seller, and includes employees, agents, successors, administrators and assigns of the purchaser.
- 1.3. "Goods" means any item available for sale to the purchaser by the seller.

2. Applicability

The conditions of sale set out below shall apply to all contracts for the supply of goods ("goods") made with the seller and the person purchasing the goods ("buyer") and shall not be deemed or construed to be modified, rescinded or waived in whole or in part except by written amendment by the parties.

3. Acceptance

Acceptance of delivery of any goods will be deemed to be acceptance by the buyer of these terms and conditions, notwithstanding anything that may be stated to the contrary in the buyer's inquiries or on the buyer's orders.

4. Prices

- 4.1. Prices unless otherwise stated are exclusive of Goods and Services Tax, other taxes, import duties, levies or tariffs, freight or insurance charges which if applicable will be an extra charge
- 4.2. Prices may change without notice

5. Payment

- 5.1. Payment of all accounts is to be made by the 20th day of the month ("the payment date") following the month of the date of the invoice. In the event that payment is not received by the payment date default interest may be charged by the seller at the rate of 2% per month on the overdue balance.
- 5.2. No credit shall be extended on overdue accounts, except by prior written agreement with the seller.
- 5.3. Individual deliveries or deliveries of separate instalments may be invoiced separately and shall be paid for accordingly.

6. Delivery

Dates given for delivery are stated in good faith but are not to be treated as a condition of the sale. No claim shall be made by the buyer on account of late delivery however caused. Late delivery shall not constitute a breach of this contract by the seller, and the buyer shall not be able to cancel the contract because of late delivery. Delivery by the seller to a carrier shall be deemed to be delivery to the buyer.

7. Unanticipated events

- 7.1. The seller shall be entitled to cancel or suspend delivery of the goods in the event of any delay or non performance due directly or indirectly to wars, strikes, lockouts, delay or defaults of manufacturers or suppliers, act of god, or any other cause (whether similar or dissimilar) beyond the reasonable control of the seller. The buyer shall have no claim whatsoever against the seller in consequence of any such cancellation or suspension.

8. Risk

- 8.1. The risk in the goods shall pass to the buyer upon delivery
- 8.2. The buyer shall be obliged to insure the goods from the time of delivery to the buyer and, pending payment in full, insure the goods in the name of the seller and buyer for their respective interests.

9. Title

- 9.1. Without prejudice to the liability of the buyer to pay for goods supplied, such goods shall remain the property of the seller as legal and equitable owner pending cleared payment in full of all monies due under this contract or in respect of any other debt owed by the buyer to the seller. The buyer acknowledges that the buyer is in possession of such goods as bailee for the seller pending payment in full.
- 9.2. Until payment in full the seller shall be entitled to retake possession of the goods. To allow the seller to do that, the buyer grants the seller an irrevocable right to enter at any time any premises or place where the goods are held or thought to be held and to remove the goods. The seller may then resell the goods and retain the proceeds of such sale. Any shortfall shall be a debt owed by the buyer to the seller

10. Cancellation

- 10.1. Notwithstanding any other agreement as to the terms of payment, the total purchase price shall immediately become due and payable and the seller shall have the right to forthwith cancel this contract (without prejudice to any other of its rights) upon the occurrence of any of the following events.

Cancellation continued

- (a) the buyer ceases or threatens to cease to carry on business
- (b) the buyer enters into any negotiations for an arrangement or composition with its creditors.
- (c) the buyer is unable to pay its debts (including contingent liabilities) as they fall due.
- (d) the buyer becomes bankrupt or commits an available act of bankruptcy or proceedings are taken for liquidation of the buyers affairs.
- (e) the buyer, being a company, goes into liquidation whether voluntary or compulsory or does anything or fails to do anything which would allow a receiver or manager to be appointed or a receiver or manager to take possession of any of the buyers assets or which would entitle any person to present an application for winding up or is wound up or dissolved or placed under statutory management or enters into a scheme of arrangement with its creditors or any class thereof.
- (f) any distress or execution is levied on the buyer.
- (g) breach by the buyer or any other terms contained in this contract.

- 10.2 Upon the happening of any one or more than one of the above events the seller will be entitled to repossess and resell goods which remain the property of the seller within the terms of clause 9

11. Costs

If the buyer defaults in performing its obligations under this contract and the seller incurs expenses in enforcing its rights under this contract, the buyer shall pay those expenses (including full legal costs) to the seller on demand

12. Claims

- 12.1. Any claim not made in writing within 14 days after delivery of the goods shall be deemed to have been waived.
- 12.2. All claims of any nature must be accompanied by the goods, particulars of the claim and by the relevant invoice.

13. The privacy act 1993

- 13.1. The buyer acknowledges that
 - (a) Personal information collected or held by the seller (whether contained in this document or otherwise obtained) is provided and may be held, used and disclosed for the following purposes.
 - I. administering whether directly or indirectly, the seller's contracts and enforcing the seller's right there under.
 - II. marketing goods and services provided by the seller.
 - III. ascertaining at any time the buyer's creditworthiness and obtaining at any time credit reports, character references or credit statements.
 - IV. enabling the seller to notify any credit agency of any application for credit or default on any obligation of the buyer to the seller to provide such personal information to any credit agency so such credit agency can maintain effective accounting records.
 - V. enabling the buyer to communicate with the seller for any purpose.
- 13.2 The buyer authorises the seller to obtain at any time from any person or entity, any information the seller may require to process and/or accept any application for credit the buyer may make to the seller or to perform or complete any of the other purposes for which the buyer has provided personal information to the seller. The buyer authorises any such person to release to the seller any personal information that person holds concerning the buyer.

14. Liability

- 14.1 The buyer agrees and acknowledges that all supplies of goods from the seller will be acquired for the buyers business purposes and accordingly the provisions of the consumer guarantees act 1993 will not apply as between the buyer and the seller
- 14.2 The conditions, warranties and guarantees contained in the sale of goods act 1908, to the extent permitted, are hereby excluded.
- 14.3 The sellers liability is limited to the amount (excluding GST) invoiced to the buyer for the goods.

15. Personal guarantee of company directors or trustees

If the Buyer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for the Seller agreeing to supply goods and services and grant credit to the Buyer, also sign in their personal capacity and jointly and severally personally guarantee and undertake to the Seller the payment of any and all monies now or hereafter owed by the Buyer to the Seller. Any personal guarantee made by any party shall not exclude the Buyer in any way whatsoever from the liabilities and obligations contained in this contract. The guarantors and the Buyer shall be jointly and severally liable under the terms and conditions of this contract.

Signed _____ Date _____
(For & on behalf of the buyer)

Name _____ Position _____

Signed _____
(On behalf of Joinery Hardware)