

KRGS Doors Pty Limited – Terms & Conditions of Trade

1. Definitions	(g) The Supplier may recover possession of any Goods in transit whether or not delivery has been effected.	conditions the Supplier may suspend or terminate the Supply of Goods to the Customer. The Supplier will not be liable to the Customer for any loss or damage the Customer suffers because the Supplier has exercised its rights under this clause.
1.1 "Supplier" means KRGS Doors, its successors and assigns or any person acting on behalf of and with the authority of KRGS Doors.	(h) The Customer shall not possession or grant an encumbrance over the Goods nor delivery nor otherwise give away any interest in the Goods while they remain the property of the Supplier.	Without prejudice to the Supplier's other remedies at law the Supplier shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable if:
1.2 "Customer" means the person buying the Goods as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.	(i) The Supplier may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.	(a) any money payable by the Supplier becomes overdue, or in the Supplier's opinion the Customer will be unable to make a payment when it falls due;
1.3 "Goods" means all Goods or Services supplied by the Supplier to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).	11.1 Personal Property Securities Act 2009 ("PPSA")	(b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
1.4 "Price" means the Price payable for the Goods as agreed between the Supplier and the Customer in accordance with clause 4 below.	11.2 In a financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.	(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
2. Acceptance	11.3 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods that have previously been supplied and that will be supplied in the future by the Supplier to the Customer.	16. Compliance with Laws
2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods.	11.4 The Customer undertakes to:	16.1 The Customer and the Supplier shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.
2.2 These terms and conditions may only be amended with the Supplier's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and the Supplier.	(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Supplier reasonably requires;	16.2 (a) the responsibility of the Customer to ensure that the necessary council, government, statutory or body corporate approvals, permissions or consent have been obtained prior to delivery of Goods. The Customer indemnifies the Supplier from any liability for failure to obtain such permission, consent or approval.
2.3 None of the Supplier's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Supplier in writing nor is the Supplier bound by any such unauthorised statements.	(b) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;	16.3 The Customer agrees that the site will comply with any occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation.
2.4 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 Goods and Services the Supplier supplies, and the Supplier reserves the right to supply Goods that have modifications in specifications as the Supplier sees fit.	(c) register a financing change statement in respect of a security interest without the prior written consent of the Supplier;	17. Cancellation
2.5 These terms and conditions, including the Warranty section, shall prevail over the Terms and Conditions (particularly the Warranty section) posted on the Supplier's website (hardcopies are available on request). If there are any inconsistencies between the two documents then the terms and conditions contained in this document shall prevail.	(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of the Supplier;	17.1 The Supplier may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice the Supplier shall repay to the Customer any money paid by the Customer for the Goods. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation.
3. Change in Control	(e) immediately advise the Supplier of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.	17.2 In the event that the Customer cancels delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by the Supplier as a direct result of the cancellation (including, but not limited to, any loss of profits).
3.1 The Customer shall give the Supplier not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number(s), or business practice). The Customer shall be liable for any loss incurred by the Supplier as a result of the Customer's failure to comply with this clause.	11.4 The Supplier and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.	17.3 Cancellation of orders for Goods made to the Customer's specifications, or for non-stockist items, shall definitely not be accepted once production has commenced, or an order has been placed.
4. Price and Payment	11.5 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.	18. Privacy Act 1988
4.1 At the Supplier's sole discretion the Price shall be either:	11.6 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(c) and 132(4) of the PPSA.	18.1 The Customer agrees for the Supplier to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by the Supplier.
(a) as indicated on any invoice provided by the Supplier to the Customer; or	11.7 Unless otherwise agreed to in writing by the Supplier, the Customer waives their right to receive a verification statement in accordance with section 137 of the PPSA.	18.2 The Customer agrees that the Supplier may exchange information about the Customer with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency for the following purposes:
(b) the Price as at the date of delivery of the Goods according to the Supplier's current price list; or	11.8 The Customer must unconditionally ratify any actions taken by the Supplier under clauses 11.3 to 11.5.	(a) to assess an application by the Customer and/or
(c) the Supplier's quoted price (subject to clause 4.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.	11.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.	(b) to notify other credit providers of a default by the Customer; and/or
4.2 The Supplier reserves the right to change the Price in the event of a variation to the Supplier's quotation. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation in the quantity of additional works required due to hidden or unidentified difficulties or as a result of increases to the Supplier in the cost of materials and labour) will be charged for on the basis of the Supplier's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.	12. Security and Charge	(c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
4.3 At the Supplier's sole discretion a non-refundable deposit in connection with the quotation may be required. The deposit shall be held in trust for the Supplier.	12.1 In consideration of the Supplier agreeing to supply the Goods, the Customer charges all of its rights, title and interest in and to, and its liability in respect of, all 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).	(d) to obtain a consumer credit report about the Customer.
4.4 Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by the Supplier, which may be:	12.2 The Customer indemnifies the Supplier from and against all the Supplier's costs and disbursements including the costs on a solicitor and own client basis incurred in exercising the Supplier's rights under this clause.	(e) to allow a consumer credit report about the Customer;
(a) on delivery of the Goods;	12.3 The Customer irrevocably appoints the Supplier and each director of the Supplier as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12, but not limited to, signing any document on the Customer's behalf.	(f) to obtain a credit reporting agency to create or maintain a credit information file containing information about the Customer.
(b) before delivery of the Goods;	13. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)	(g) to allow a consumer credit report about the Customer;
(c) the date specified on any invoice or other form as being the date for payment; or	13.1 The Customer must inspect the Goods on delivery and must within seven (7) days of delivery notify the Supplier in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer shall return the Goods to the Supplier.	(h) to obtain a credit reporting agency to create or maintain a credit information file containing information about the Customer.
(d) for certain approved Customers only, the date which is thirty (30) days following the date of any invoice given to the Customer by the Supplier.	13.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).	(i) to obtain a credit reporting agency to create or maintain a credit information file containing information about the Customer.
4.5 No allowance has been made in the Price for the deduction of retentions. In the event that retentions are made, the Supplier reserves the right to treat retentions as placing the Customer's account into default.	13.3 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, the Supplier makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. The Supplier's liability in respect of these warranties is limited to the fullest extent permitted by law.	(j) to allow a consumer credit report about the Customer;
4.6 Payment may be made by cash, cheque, bank cheque, electronic/online banking, credit card (plus a surcharge of up to two percent (2%) of the Price (for VISA or MasterCard) or two and one half percent (2.5%) (for AMEX)), or by any other method as agreed to between the Customer and the Supplier.	13.4 If the Customer is a consumer within the meaning of the CCA, the Supplier's liability is limited to the extent permitted by section 64A of Schedule 2.	(k) to allow a consumer credit report about the Customer;
4.7 Unless otherwise stated (or where it does not exceed GST). In addition to the Price the Customer must pay to the Supplier an amount equal to any GST the Supplier must pay for any supply by the Supplier under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays for the Goods. In addition the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.	13.5 If the Supplier is required to replace the Goods under this clause or the CCA, but is unable to do so, the Supplier may refund any money the Customer has paid for the Goods.	(l) to allow a consumer credit report about the Customer;
5. Delivery of Goods	13.6 Subject to the CCA in respect of any expressed warranties and guarantees, the Supplier's liability for any defect or damage in the Goods is:	(m) to allow a consumer credit report about the Customer;
5.1 Delivery ("Delivery") of the Goods is taken to occur at the time that the Supplier (or the Supplier's nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address.	(a) limited to the value of any express warranty as specified in the "Warranty against Customer's" documentation provided to the Customer by the Supplier, at the Supplier's sole discretion which may be:	(n) to allow a consumer credit report about the Customer;
5.2 At the Supplier's sole discretion the cost of delivery is either included in the Price or is in addition to the Price.	(i) an expressed warranty that will cease in respect of the Goods supplied from the date of installation in accordance with clause 5 of the Supplier's Terms and Conditions of Trade subject to:	(o) to allow a consumer credit report about the Customer;
5.3 The Customer must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Goods as arranged then the Supplier shall be entitled to charge a reasonable fee for redelivery and/or storage.	(a) one (1) year on trellis door products	(p) to allow a consumer credit report about the Customer;
5.4 The Supplier may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.	(b) one (1) year on motors and on roll formed aluminium slat on Window Shutters/Roller Shutters;	(q) to allow a consumer credit report about the Customer;
5.5 Any time and date given by the Supplier to the Customer is an estimate only. The Customer must accept delivery of the Goods even if late. The Customer will be liable for any loss or damage incurred by the Customer as a result of the delivery being late.	(ii) notwithstanding clause 13.7(a)(i), these timeframes excludes models S01 and S04 (which are subject to a twelve (12) month period), and S04-1, which is subject to a preventative maintenance contract.	(r) to allow a consumer credit report about the Customer;
6. Risk	(iii) for all other matters any warranty provided will cease after one (1) year in respect of the Goods supplied and one (1) year in respect of the installation of the Goods.	(s) to allow a consumer credit report about the Customer;
6.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.	(iv) any defect repair will be limited to supply only of the replacement or repaired faulty components or materials;	(t) to allow a consumer credit report about the Customer;
6.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Supplier is entitled to receive an advance proceeds payable for the Goods. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any person dealing with the Supplier to make further enquiries.	(v) in respect of all claims the Supplier shall not be liable to compensate the Customer for any delay in either replacing or remedying the workmanship or in properly assessing with the Customer's claim.	(u) to allow a consumer credit report about the Customer;
6.3 If the Customer requests the Supplier to leave Goods outside the Supplier's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer's sole risk.	(b) limited to any warranty to which the Supplier is entitled, if the Supplier did not manufacture the Goods;	(v) to allow a consumer credit report about the Customer;
6.4 The Supplier provides a range of standard colours which have been brought to the Customer's attention. If the Customer orders a non-standard colour, the Supplier requires the Customer to furnish the Supplier with the correct colour reference. The Supplier undertakes to take all possible measures to match, as best as possible, the Customer's choice of colour; however, the Supplier makes no guarantee regarding the matching of colours or quality of the surface finish.	(c) no time will a warranty be transferable. Any warranty offered is made only to the original Customer who must produce the original sales invoice at the point of submitting a warranty claim.	(w) to allow a consumer credit report about the Customer;
6.5 The Customer accepts that the Goods to be installed:	(c) otherwise negated absolutely.	(x) to allow a consumer credit report about the Customer;
(a) are for purely protective purposes and are designed to be deterrents only; and	13.8 At no time will a warranty be transferable. Any warranty offered is made only to the original Customer who must produce the original sales invoice at the point of submitting a warranty claim.	(y) to allow a consumer credit report about the Customer;
(b) do not guarantee the site will be free from malicious damage or losses caused by attack, break and/or enter.	13.9 Subject to this clause 13, returns will only be accepted provided that:	(z) to allow a consumer credit report about the Customer;
6.6 The Supplier is not an insurer of the premises and it is advisable for the Customer to effect and maintain all normal and prudent insurance policies in respect of all usual risks including fire, burglary, theft and consequential loss or damage.	(a) the Customer has complied with the provisions of clause 13.1; and	(aa) to allow a consumer credit report about the Customer;
6.7 The Customer acknowledges and agrees that whilst the Supplier shall take all reasonable care during the performance of the Services, the Customer agrees that the Supplier shall not be held liable for any loss, damages, or costs howsoever resulting from drilling or fixing the Goods into any masonry, ordered or incurred during the installation process. Due to the nature of the surfaces, cracking or collapsing may occur.	(b) the Supplier has agreed that the Goods are defective; and	(ab) to allow a consumer credit report about the Customer;
7. Access	(c) the Goods are returned in a state of repair to the Supplier; and	(ac) to allow a consumer credit report about the Customer;
7.1 The Customer shall ensure that the Supplier has clear and free access to the work site at all times to enable them to undertake the works. The Supplier shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of the Supplier.	(d) the Goods are returned in as close a condition to that in which they were delivered as is possible.	(ad) to allow a consumer credit report about the Customer;
8. Underground Locations	13.10 Notwithstanding clauses 13.1 to 13.8 but subject to the CCA, the Supplier shall not be liable for any indirect or consequential loss or damage caused or partly caused by or arise as a result of:	(ae) to allow a consumer credit report about the Customer;
8.1 Prior to the Supplier commencing any work the Customer must advise the Supplier of the precise location of all underground services on the site as clearly as the same. The underground mains & services the Customer must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil, sewer mains, and any other services that may be on site.	(a) the Customer failing to properly maintain or store any Goods;	(af) to allow a consumer credit report about the Customer;
8.2 Whilst the Supplier takes all reasonable care to avoid damage to any underground services the Customer agrees to indemnify the Supplier in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 8.1.	(b) the Customer using the Goods for any purpose other than that for which they were designed;	(ag) to allow a consumer credit report about the Customer;
9. Customer's Disclaimer	(c) the Customer continuing the use of any Goods after any defect became apparent or should have been detected by the Customer;	(ah) to allow a consumer credit report about the Customer;
9.1 The Customer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or claim restitution arising out of any inadvertent misrepresentation made to the Supplier by the Customer and the Customer acknowledges that the Goods are bought relying solely upon the Customer's skill and judgment.	(d) the Customer failing to follow any instructions or guidelines provided by the Supplier for the Goods and which is also covered under the Product Maintenance section via the Supplier's website;	(ai) to allow a consumer credit report about the Customer;
10. Title	(e) installation, repair or alteration with the Supplier's authorisation;	(aj) to allow a consumer credit report about the Customer;
10.1 The Supplier and the Customer agree that ownership of the Goods shall not pass until:	(f) some key systems are restrictive. The Customer acknowledges that the Supplier must be consulted prior to consulting independent locksmiths.	(ak) to allow a consumer credit report about the Customer;
(a) the Customer has paid the Supplier all amounts owing to the Supplier; and	(g) fair wear and tear, any accident, or act of God, such as destruction by the elements;	(al) to allow a consumer credit report about the Customer;
(b) the Customer has met all of its other obligations to the Supplier.	13.11 The Customer acknowledges and accepts that all warranty claims will be dealt with by the Supplier during the normal hours, Monday-Friday. In the event that the Supplier is required to provide the Services urgently, that may require the Supplier's staff to work outside normal business hours (including but not limited to working after hours, weekends and/or Public holidays) then the Supplier reserves the right to charge the Customer additional labour costs (penalty rates will apply), unless otherwise agreed between the Supplier and the Customer.	(am) to allow a consumer credit report about the Customer;
10.2 Receipt by the Supplier of any form of payment other than cash shall not be deemed to be payment until that term of payment has been honoured, cleared or recognised.	13.12 The Supplier may in its absolute discretion accept non-defective Goods for return in which case the Supplier may require the Customer to pay handling fees of up to ten percent (10%) of the value of the returned goods plus any freight costs.	(an) to allow a consumer credit report about the Customer;
10.3 The Supplier further agreed that:	13.13 Notwithstanding clause 13.1 to 13.8 but subject to the CCA, the Supplier is required by a law to accept a return then the Supplier will only accept a return on the conditions imposed by that law.	(ao) to allow a consumer credit report about the Customer;
(a) until ownership of the Goods passes to the Customer in accordance with clause 10.1 that the Customer is only a bailee of the Goods and must return the Goods to the Supplier on request.	14. Intellectual Property	(ap) to allow a consumer credit report about the Customer;
(b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for the Supplier and must pay to the Supplier the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.	14.1 Where the Supplier has designed, drawn or developed Goods for the Customer, then the copyright in any designs and drawings and documents shall remain the property of the Supplier.	(aq) to allow a consumer credit report about the Customer;
(c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for the Supplier and must pay or deliver the proceeds to the Supplier on demand.	14.2 The Customer warrants that all designs, specifications or instructions given to the Supplier will not cause the Supplier to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify the Supplier against any action taken by a third party against the Supplier in respect of any such infringement.	(ar) to allow a consumer credit report about the Customer;
(d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of the Supplier and must sell, dispose of or return the resulting product to the Supplier as it so directs.	14.3 The Customer agrees that the Supplier may (at no cost) use for the purposes of marketing or other business purposes any documents, designs, drawings or Goods which the Supplier has created for the Customer.	(as) to allow a consumer credit report about the Customer;
(e) the Customer irrevocably authorises the Supplier to enter any premises where the Supplier believes the Goods are kept and recover possession of the Goods.	15. Default and Consequences of Default	(at) to allow a consumer credit report about the Customer;
	15.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due until the date of payment at a rate of two and a half percent (2.5%) per calendar month (and at the Supplier's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.	(au) to allow a consumer credit report about the Customer;
	15.2 If the Customer owes the Supplier any money the Customer shall indemnify the Supplier from and against any loss or damage incurred by the Supplier in recovering the debt (including but not limited to internal administration fees, bank charges on a solicitor and own client basis, the Supplier's collection agency costs, and legal costs/own fees).	(av) to allow a consumer credit report about the Customer;
	15.3 Without prejudice to any other remedies the Supplier may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and	(aw) to allow a consumer credit report about the Customer;