

TERMS OF SALE

Payment terms

1. Unless otherwise agreed, the terms of payment are C.O.D (i.e all purchases must be paid in full on receipt of invoice). Northwest Shedmasters Pty Ltd (ABN 70 307 337 299) and its related body corporate (as that term is defined in the Corporations Act 2001) whose business names and brands include but are not limited to NWSM, NWSM Building Group, NWSM Garage Doors (Supplier) may, at any time, unilaterally vary the terms of trade by giving notice to the Customer. Notice may be given by email or otherwise in writing or by notice posted on the Supplier's website.

2. Should the Customer not pay for the goods (Goods) or services supplied by the Supplier in accordance with the credit terms as provided in this agreement, or as agreed in writing by the Supplier from time to time, the Supplier may charge the Customer interest on overdue amounts at the Reserve Bank of Australia's large business variable indicator rate (Reserve Bank Rate). The effective Reserve Bank Rate will be changed twice yearly as follows:

- Reserve Bank Rate effective 1 April to 30 September: Reserve Bank Rate published for previous February;
- Reserve Bank Rate effective 1 October to 31 March: Reserve Bank Rate published for previous August.

Where interest is charged, it will be calculated monthly on amounts outstanding from the date on which they were due and payable, until the Supplier receives full payment of the outstanding amounts.

3. Unless the Goods are supplied on credit:

- payment is due in full before delivery
- where there is more than one load of Goods to be delivered to the Customer, full payment must be made prior to the unloading of the first vehicle; and
- payment for service fees must be made at the time they are incurred.

4. Acceptance by the Supplier of any late payment by the Customer or the Customer exceeding the credit limit set by the Supplier shall not amount to a waiver by the Supplier of its right to payment "C.O.D", nor is it an agreement to provide credit other than in accordance with this agreement.

5. The Customer is not entitled to withhold any payment by way of retention unless the terms and conditions of retention are agreed to in writing by the Supplier prior to the supply of the Goods.

Delivery and Service Fees

6. Unless otherwise quotes, all prices are for supply, delivery and/or installation, (Work) undertaken during the Supplier's business hours, Monday to Friday. Any Work undertaken by the Supplier outside these hours may incur a service fee and the Customer will be responsible for payment of this service fee.

7. The Customer should contact the Supplier for details and rates of all service fees.

8. The Customer will be charged for delivery unless the quoted price includes an amount for delivery.

9. The Supplier may:

- charge waiting time or an hourly hire where a delivery vehicle is unable to unload promptly and without delay on arrival at the delivery site; and/or
- charge a minimum load service fee for delivery of loads smaller than the minimum load size for each particular type of Goods.

10. Goods will be delivered to the roadside adjacent to the delivery site unless otherwise agreed in advance between the Supplier and Customer.

11. If, at the Customer's request, the delivery vehicle leaves the road and enters the delivery site to unload, the Customer is responsible for providing suitable and safe access for the Supplier delivery vehicle and the Supplier's agents and contractors. In addition, the Customer indemnifies the Supplier and its agents and contractors for all damage and injury to any person to any public or private property which may result including any costs associated with enabling the delivery vehicle to leave the site, and the cost of any returned product as a result of the Customer failing to provide suitable and safe access to the delivery site.

12. The Customer or an authorised representative of the Customer must be present at the delivery site and must:

- sign the Supplier delivery docket;
- by signing the delivery docket acknowledge that the products and quantities described on the delivery docket have been delivered and comply with the Applicant's order; and
- accept any applicable delivery service fees.

13. The Customer or its authorised representative agrees that where the Customer does not sign or is not available to sign the delivery docket, the signature of the driver on the delivery docket shall be prima facie evidence of:

- delivery of the Goods to the Customer;
- that the Goods described on the delivery docket are the actual Goods delivered;
- that the Customer is responsible for payment of any service fee.

14. If the Goods are delivered on pallets, the pallets remain the property of the Supplier. The Customer may be charged for the use of such pallets but, in that case, the Supplier will give a credit to the Customer when the pallets are returned in good condition.

Jurisdiction

15. The Customer acknowledges and agrees that this agreement will be governed by the laws of the state of Western Australia and the laws of the Commonwealth of Australia which are in force in that state.

16. The parties to this agreement submit to the non-exclusive jurisdiction of the courts of the state of Western Australia and the relevant federal courts and courts competent to hear appeals from those courts.

Formation of contract

17. Placement of an order by the Customer, either verbally or in writing, with the Supplier will constitute acceptance of the Supplier's offer and of these terms and conditions.

18. All quotations provided by the Supplier are open for acceptance by the Customer for 30 days from the date of the quotation.

19. All prices quoted are net of all discounts.

Risk

20. The Customer will become responsible for loss or damage to the Goods, except where the Supplier is at fault, immediately upon delivery of their Goods to the nominated delivery site or the roadside adjacent to the delivery site or to a carrier nominated by the Customer.

Retention of title

21. Title in the Goods does not pass to the Customer until the Customer has made payment in full for the Goods.

22. Until the Applicant has paid for the Goods in full, the Customer agrees that property and title in the Goods will not pass to the Applicant and the Supplier retains title in the Goods not yet sold.

23. Where reasonably practicable, until payment for the Goods has been made in full to the Supplier, the Customer will hold the Goods in such manner that they can be identified as the property of the Supplier, and will not mix the Goods with other similar goods.

24. The Customer will be entitled to sell the Goods in the ordinary course of its business, but until full payment for the Goods has been made to the Supplier, the Customer will sell as agent for the Supplier provided that such sales will not give rise to any obligations on the part of the Supplier.

25. The Customer agrees that whilst property and title in the Goods remains with the Supplier, the Supplier has the right, with or without prior notice to the Customer, to enter upon any premises occupied by the Customer (or any receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy of the Customer) to inspect the Goods and to the extent that is practicable to do so, to repossess the Goods which may be in the Customer's possession, custody or control when payment is overdue.

26. The Customer will be responsible for the Supplier's costs and expenses in exercising its rights under clause 25. Where the Supplier exercises any power to enter the premises, that entry will not give rise to any action of trespass or similar action on the part of the Customer against the Supplier, its employees, servants or agents.

27. The Customer agrees that where the Goods have been retaken into the possession of the Supplier, the Supplier has the right to sell or deal with the Goods.

28. For the avoidance of doubt, the Supplier's interest constitutes a "purchase money security interest" pursuant to the PPSA.

Costs

29. The Customer must pay for its own legal, accounting and business costs and all costs incurred by the Supplier relating to any default by the Applicant. The Applicant must also pay for all stamp duty and other taxes payable on this agreement (if any).

30. The Customer will pay the Supplier's costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against the Customer, including collection costs, debt recovery fees and legal costs on an indemnity basis. Such costs and disbursements will be due and payable by the Customer to the Supplier irrespective of whether pursuit of the recovery action, claim or remedy is successful.

31. The Customer acknowledges and agrees that payments by the Customer will be applied by the Supplier as follows.

- Firstly, in payment of any and all collection costs and legal costs in accordance with clauses 26 and 30.
- Secondly, in payment of any interest incurred in accordance with clause 2.
- Thirdly, in payment of the outstanding invoice(s)

32. In circumstances where the Supplier seeks to enforce a purchase money security interest under the PPSA over collateral or proceeds (these terms being consistent with the terms defined in the PPSA), payments received from the Customer will be allocated in a manner at the Supplier's sole discretion, so as to attribute, to the greatest extent possible, the unpaid balance of the debt to the purchase money obligation in respect of the collateral and/or proceeds over which the Supplier seeks to enforce its purchase money security interest.

33. To the extent that payments have been allocated to invoices by the Supplier in its business records, the Supplier may, at its discretion, allocate and/or retrospectively reallocate payments in any manner whatsoever at any time at the Supplier's absolute discretion at any time, including in a manner inconsistent with clause 30 in this agreement.

34. Payments allocated (and/or reallocated) under clause 30 and/or 31 will be treated as though they were allocated (and/or reallocated) in the manner determined by the Supplier on the date of receipt of payment.

Waiver

35. A waiver of any provision or breach of this agreement by the Supplier must be made by an authorised officer of the Supplier in writing. A waiver of any provision or breach of this agreement by the Customer must be made by the Customer's authorised officer in writing.

36. Until ownership of the Goods passes to the Customer, the Customer waives its rights it would otherwise have under the PPSA:

- under section 95 to receive notice of intention to remove an accession;
- under section 118 to receive notice of intention to remove an accession;
- under section 121(4) to receive a notice of enforcement action against liquid assets;
- under section 129 to receive a notice of disposal of Goods by the Supplier purchasing the Goods;
- under section 130 to receive a notice to dispose of Goods;
- under section 132(2) to receive a statement of account following disposal of Goods;
- under section 132(4) to receive a statement of account if no disposal of Goods for each 6 month period;
- under section 135 to receive notice of any proposal of the Supplier to retain Goods;
- under section 137(2) to object to any proposal of the Supplier to retain or dispose of Goods;
- under section 142 to redeem the Goods;
- under section 143 to reinstate the security agreement; and
- under section 157(1) and 157(3) to receive a notice of any verification statement.

Consent to register

37. The Customer hereby consents to the Supplier recording the details of this Agreement on the Personal Property Securities Register and agrees to do all things necessary and reasonably required by the Supplier to effect such registration.

38. The Applicant waives any right or entitlement to receive notice of the registration of any security interest(s) created by this instrument on the Personal Property Securities Register.

GST

39. The Customer must pay GST on any taxable supply made by the Supplier to the Customer under this agreement. The payment of GST is in addition to any other consideration payable by the Customer for a taxable supply.

Set-off

40. All payments required to be made by the Customer under this agreement will be made free of any set-off, or counterclaim and without deduction or withholding.

41. Any amount due to the Supplier from time to time may be deducted from any monies which may be or may become payable to the Customer by the Supplier.

Installation

42. The Customer agrees to indemnify the Supplier against any liability the Supplier may incur as a result of the failure of the Customer to follow generally accepted good practice, or due to a lack of ability, expertise, or skill with the particular type of Goods when they are being installed.

Dispute

43. If the Customer believes that the Goods and/or services supplied do not conform with the order placed or that the price charged does not conform with the quotation given by the Supplier, the Customer shall notify the Supplier in writing as soon as possible and, in any event, within 7 days, detailing the way in which the Goods or price do not conform.

44. Failure to give such notification within 7 days of the date of supply or date of invoice (as applicable) the Applicant will be deemed to accept the Goods and that they are in accordance with the order and quotation.

45. The Customer shall be deemed to have accepted the Goods as supplied if it fails to keep the Goods in the condition they were in when supplied or declines a reasonable request from the Supplier to inspect the Goods.

Closing of account

46. Credit accounts may be closed without notice if not used for a period of 12 months.

Duty of disclosure

47. The Customer declares that the information given in this application is true and correct. The Applicant is not aware of any information, notice or court proceedings that may lead to bankruptcy, appointment of an administrator or managing controller, receiver manager or liquidator.

48. The Customer has not entered into and does not intend to enter into any scheme of arrangement with any creditors either formally through a court or otherwise.

49. None of the Customer, directors, partners or proprietors has any outstanding liability to the Australian Taxation Office.

50. None of the directors, partners or proprietors has been a director of a company placed into liquidation or has been declared bankrupt or has entered into an agreement under the Bankruptcy Act 1966 (as amended).

51. If the Customer is a company, the company is solvent and able to pay its debts.

Warranties

52. The Supplier warrants that the Goods delivered are those specified in the delivery docket and the Goods delivered are owned by the Supplier, are free from third party claims, undisclosed securities and are of acceptable quality as defined in the Australian Consumer Law.

53. To the maximum extent permitted by law, all terms, conditions or warranties that would have been implied into this agreement or in connection with the supply of any Goods and/or services by the Supplier under law, statute or custom are excluded.

54. Nothing in this agreement shall be read or applied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any goods and/or services pursuant to this agreement of all or any of the provisions the Competition and Consumer Act 2010 or any relevant State or Federal Legislation which by law cannot be excluded, restricted or modified.

Limitation of Liability

55. Pursuant to sections 64A and 276A of the Australian Consumer Law, the following clause applies in respect of any of the Goods and/or services supplied under this agreement which are not of a kind ordinarily acquired for personal, domestic or household use or consumption, provided that this clause will not apply if the Customer establishes that reliance on it would not be fair and reasonable.

56. The Supplier's liability in respect of breaches of expressed or implied terms and conditions, warranties and guarantees (other than the guarantees under section 51 (title), section 52 (undisturbed possession) and section 53 (undisclosed securities) of the Australian Consumer Law) is limited to:

- where the Customer is a consumer (as defined in the Australian Consumer Law - "consumer") and the Supplier has supplied Goods to the Customer, any one of the following as determined by the Supplier:
 - the replacement of the Goods or the supply of equivalent goods; or the repair of the Goods; or the payment of the cost of replacing the Goods or of acquiring equivalent goods; or the payment of the cost of having the Goods repaired; or
- where the Customer has supplied the Goods to a consumer: an amount equal to the lowest of the costs of the actions in paragraph (a); or
- where the Customer is a consumer and the Supplier has supplied services to the Applicant, either of the following as determined by the Supplier, the supply of the services again or the payment of the cost of having the services supplied again; or
- where the Customer is not a consumer and has not supplied the Goods to a consumer, the GST exclusive aggregate price paid by the Customer for the specific Goods and/or services that gave rise to the Customer's claim for breach.

57. The Supplier will not be liable for any damages arising out of or in connection with, special, consequential, direct or indirect loss, damage, cost, expense, harm or injury including loss of revenue, loss of profits, loss of anticipated savings or business, loss of opportunity or loss of reputation suffered or incurred as a result of such breach unless such liability such liability is mandatorily imposed on the Supplier by statute, notably the Australian Consumer Law.

58. In addition to the Australian Consumer Law, the limitations of the Supplier's liability in respect of breaches of express or implied terms or conditions and warranties and guarantees as expressed in the previous clause will be varied to the extent required to limit the Applicant's liability to the extent permitted by relevant state and territory legislation covering sale of goods and consumer protection.

Termination and Suspension

59. If the Supplier is not satisfied as to the Customer's ability to pay for the Goods and/or services, it may suspend or terminate supply and shall not be liable for any claim, damage, loss, expense or cost arising therefrom and all monies then outstanding by the Customer shall immediately become due and payable.

Miscellaneous

60. The Customer agrees to accept service of any document required to be served, including any notice under this agreement or the PPSA or any originating process, by prepaid post at any address nominated in this application or any other address later notified to the Supplier by the Customer or the Customer's authorised representative.

61. The Customer further agrees that where the Supplier has rights in addition to those under part 4 of the PPSA, those rights will continue to apply.

62. The Customer irrevocably grants to the Supplier the right to enter upon the Customer's property or premises, without notice, and without being liable to the Customer or to any third party, if the Supplier has cause to exercise any of their rights under sections 123 and/or 128 of the PPSA, and the Customer shall indemnify the Supplier from any claims made by any third party as a result of such exercise.

63. Unless otherwise stated in the quotation, penalties or charges for time delays by the Supplier will not apply. In the event that there is failure to deliver or any time delay in delivery, commencement of site works or completion of site works due to weather, fire, labour dispute, strike or other cause whatsoever beyond the Supplier's control or due to the inability of the Supplier to obtain raw materials from the source expected by the Supplier:

a) The Supplier will not be liable for any loss or damage sustained by the Applicant or by any other person by reason of any such delay or failure, and

b) The Customer will be entitled to suspend deliveries for such period as it may think fit or terminate the agreement immediately after suspending deliveries and shall not be liable for any loss or damage sustained by the Customer or by any other person by reason of such suspension of termination.

Special Terms applying to the sale and delivery of sheds / buildings

64. Unless otherwise stated, all Quotations exclude shire fees (will be added to final account), concrete slab, plumbing, electrical, insulation, site works, pad preparation, any hard digging (ie. use of jack hammer or rock breaker will be extra charge to the client.)

65. Window frames and sealeck PA Doors supplied in standard 'surfmist' white unless specified otherwise and alternative Colorbond colours are an additional cost.

66. A deposit is required before commencement of order as stated in the Quotation. If supply only, payment must be finalised before material is released. (See Guarantee for details).

Guarantee

67. NWSM guarantees that:

- Goods and services comprised in the Quotation are of merchantable quality and if a purpose is detailed in the quotation are suitable for that purpose;
- workmanship and materials are guaranteed for a period of 12 months subject to the strict adherence of the Customer to the recommended maintenance and installation procedures;
- Should any manufacturer have extended warranty on parts exceeding 12 months, NWSM recognises same and service call and labour charges apply only.

Terms of Payment -

For Contract values up to \$10,000

- Purchase order and 50% deposit on confirmation of Contract
- Balance payable prior to despatch for supply only and supply and delivery only Contracts.
- For Account Holders Only: Balance payable within 30 days of completion of installation for supply and install Contracts.
- For Non-Account Holders: Balance payable 3 days prior to scheduled installation or delivery.
- Progress payments are payable where delayed access to site occurs.

For Contract values \$10,000 - \$50,000

- Purchase order and 50% deposit on confirmation of Contract
- Monthly progress payments payable within 30 days based on costs incurred to date
- Balance payable prior to despatch for supply only Contracts
- Balance payable within 30 days of practical completion for supply and installation Contracts
- Progress payments are payable where delayed access to site occurs.

Site Works

68. Access to the site is the responsibility of the Customer unless expressly noted otherwise.

Electrical Work

69. No electrical work is included in the scope unless specifically noted in the quotation. The Company will not be held responsible for any electrical work that may need to be carried out for the purpose of installation or to provide power to the company to operate any equipment that is the subject of this Contract. Site power is to be provided by client, otherwise a rate of

\$100 per day, for each day worked on site, will be charged to the client.

Plumbing Work

70. Site water and ablutions are to be provided by client unless noted otherwise.

Product/Building

71 a) All products are manufactured to metric sizes. Where Imperial dimensions are shown on the reserve hereof those dimensions are converted to the approximate metric equivalent for the purpose of supply of materials and construction.

b) All materials supplied for products sold will consist of the same quality and quantity of materials as those products displayed at NWSM.

Liability of the Company

72. The Company shall not be liable to the Customer for any loss, damage or expense whatsoever incurred by the Customer if the Company fails to perform its obligations due to an Act of God, war or industrial action or any other circumstance outside the Company's control and; the Customer acknowledges that the maximum liability of the Company to the Customer shall in any event be limited to the value of the goods comprised in the Quotation.

Variations:

73. Variations that shall be requested in writing by the Customer on a date subsequent to the date of the Contract may be charged at the Company's standard price for the relevant goods and services at the date of such request; and All variations to the Contract shall be in writing and deemed to become effective from the date of the Company's written acceptance of any relevant variation request by the Customer.

Cancellations

74. Cancellation of the Contract by the Customer shall be in writing and may be accepted by the Company provided that the Customer pays the Company for goods and services delivered and/or performed up to and including the date of receipt by the Company of written cancellation from the Customer.

Severence

75. If any provision of this agreement is not enforceable in accordance with its terms, other provisions which are self-sustaining are, and continue to be, enforceable in accordance with their terms.

76. If any part of this agreement is invalid or unenforceable, that part is deleted and the remainder of the agreement remains effective.

Variation

77. The Applicant agrees that these terms and conditions may be varied, added to, or amended by an authorised officer of the Supplier at any time by written notice to the Applicant.

78. Any proposed variation to these terms and conditions by the Applicant must be requested in writing. The Supplier may refuse any such request without providing reasons either orally or in writing.

79. Variations requested by the Applicant will only be binding upon the Supplier if they are accepted in writing.

Entire Agreement

80. This agreement constitutes the entire agreement between the parties relating in to its subject matter. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of this agreement are merged in this agreement and are of no further effect. No oral explanation or information provided by a party to another affects the meaning or interpretation of this agreement or constitutes any collateral agreement, warranty or understanding.

81. Notwithstanding the preceding paragraph, in circumstances where there is a pre-existing written credit agreement (Original Agreement) between the Applicant and the Supplier, these terms and this agreement will constitute a variation of the Original Agreement whereby the terms of the Original Agreement are deleted and replaced with the terms in this agreement, unless the terms of the Original Agreement are otherwise expressly or implicitly preserved by the terms in this agreement in which case they will co-exist with the terms herein, and, to the extent of any inconsistency, these terms will prevail.

Privacy Act

82. The Applicant agrees to the terms of the Privacy Statement pursuant to the Privacy Act 1988 (as amended by the Privacy Amendment Enhancing Privacy Protection Act 2012 contained in this document).

83. The Supplier complies with the Australian Privacy Principles in relation to the collection and disclosure of information about individuals. For more information about the way the Supplier manages personal information, please see the Supplier's Privacy Policy which is available on the Supplier's website: www.nwsm.com.au