

## **Terms and Conditions of Sale**

Standard Terms and Conditions of Sale for Fire Systems Engineering Pty Ltd (ABN 12 096 898 181) trading as FSE – Special Purpose Doors (the “Company”).

### **General**

- 1) If any part of these Terms is found to be invalid or of no force or effect it shall be construed as though such part had not been inserted and the remainder shall retain their full force and effect.
- 2) This Agreement shall be governed by and construed in accordance with the laws of New South Wales and the Company and the Customer agree to submit solely to the jurisdiction of the Courts of that State.
- 3) Any failure, delay, relaxation or indulgence on the part of the Company in exercising any power or right conferred upon the Company by these Terms does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude and any other or further exercise of it or the exercise of any other power or right under these Terms of Sale & Terms and Conditions of Account.
- 4) The Company reserves the right to amend these Terms from time to time to be effective immediately and without notice.

### **Credit Accounts**

- 1) The purchaser acknowledges that by ordering products from the Company they are aware of, and have read and understood these terms and conditions of sale.
- 2) Should there be any variation to any of the information supplied by the Customer in this Application or in the structure or management of the Customer or in the nature of its business including (but not limited to) change in directors or senior management or change in partnership or conversion to or from a company or to or from a trust, then the Customer shall notify the Directors of the Company in writing within 7 days of the date of any such change. Unless notice of such variation or change is given to and acknowledged by the Directors of the Company in writing, the original Customer and Guarantors on this Application shall remain liable to the Company as though any goods or services supplied by the Company were supplied to the original Customer.
- 3) The Customer agrees not to change their name or undertake any changes to any documents that are registered, required to be registered or capable of being registered without the Company's prior written consent.
- 4) The Company provides credit for commercial purposes only and Payment in Full is due on the last Government Gazetted working day of the month from the end of the month of invoicing. Interest may be charged on any account exceeding these terms at the rate determined by the Company. Minor defects in the goods shall not entitle the Customer to withhold payment of the account and the Customer agrees not to withhold payment in the event of any dispute. If there is a breach of any of these Terms of Sale & Terms and Conditions of Account all monies payable by the Customer to the Company shall at the Company's discretion become immediately due and payable notwithstanding that the abovementioned due date has not been reached.
- 5) The Company will render to the Customer a statement of account at monthly intervals. If the Customer disputes any item appearing on a Statement in part or in whole, it must advise the Company either immediately on receipt of the Statement or within the timeframes specified herein, whichever is the sooner. In such case, the Customer agrees to pay for all other charges appearing on the Statement within the trading terms as set out herein. The Customer will not have or claim to have any right to set off or deduct any amounts that it believes are due to it or may become due to it by the Company and the Company will settle all such amounts and/or accounts separately.
- 6) The Company may charge a fee for copy invoices or for copy delivery dockets where requested after 30 days from the statement date.
- 7) The Company may suspend the supply of further goods or services to the Customer if the account is not paid on time, for such period as the company sees fit. The Company may, at any time, suspend the supply of further goods or services to the Customer without having to give reasons. The Company will not accept or incur any liability for costs, charges or damages incurred by the Customer as a result of suspending supply and the Customer indemnifies the Company from any such claims.
- 8) To secure payment of all monies which may become payable by the Customer to the Company the Customer hereby charges with the due payment of those monies all of the Customer's interest in real property both present and future and the Customer consents to the Company lodging a caveat or caveats noting its interests thereunder. Any applicable Stamp Duties, fees and/or charges incurred by the Company in doing so will be charged to the Customer's account.
- 9) All costs incurred in registering, pursuing, securing and collection of any outstanding monies on the Customer's account including (but not limited to) administration charges, mercantile agent's fees, solicitor's fees and charges, legal fees, Court costs or duties will be charged to the Customer and added to the Customer's account. Fees for dishonoured cheques will also be added to the Customer's account.
- 10) Customer's Purchase Order Numbers are only considered by the Company to be an aid to the Customer's account keeping practices. The Company does not accept that they are, or their lack of, is a means to prevent unauthorised purchases and the Customer acknowledges this. If the Customer requests the Company to make

reference on any invoices to the Customer's Purchase Order Number(s) then the Company will make every endeavour to so assist the Customer however failure to obtain or make reference to a Customer's Purchase Order Number(s) will not entitle the Customer to withhold payment.

- 11) When the Customer has authorised one or more people to make purchases on the Customer's account that authorisation shall be a continuing authorisation until such time as the Customer provides written notice to a Director of the Company withdrawing the authorisation of the named person(s). Payment of an invoice will be deemed as evidence of authorisation for the purchaser to make the purchase(s) shown on the invoice. The Customer accepts and acknowledges that the Company cannot be held responsible for claims that purchases were unauthorised when the Customer does not notify it that a person(s) who was authorised is no longer authorised to buy on the account.

#### **Collection of Overdue Accounts**

- 1) The Company extends credit on a strict thirty (30) day basis, after approval of a completed credit application. This is defined as payment due 30 days after the end of the month in which the delivery was made.
- 2) The Customer agrees that ownership of the goods does not transfer to them until all outstanding amounts are paid in full.
- 3) To ensure efficient collection of due and payable accounts, the following collection procedures will be diligently followed by the Company:
  - a) The customer is called after the 30 day period and a request for payment is made. The Company may, from time to time, contact customers before the due date for payment to enquire and secure a payment date.
  - b) When the customer commits to a payment date, that date will be recorded and a follow up call made on the day prior to ensure payment is made as promised. If payment is delayed the customer will be notified of the breach of these conditions in writing.
  - c) If after 45 days after the end of the month in which the delivery was made the customer has still failed to pay the overdue account, the customer will be placed on "Stop Credit".
  - d) If after 60 days after the end of the month in which the delivery was made the customer has still failed to pay the overdue account, the Company will escalate the matter to an external collection agency for recovery and legal action as required to recover the debt.

#### **Default and Non-Payment**

- 1) The Customer's right to possession of goods still owned by the Company under these Terms of Sale shall cease if being:
  - a) an individual, he commits an available act of bankruptcy, or,
  - b) being a Company, a Receiver, Manager, administrator or controller becomes entitled to take possession of any assets of the Customer, any proceedings are Instituted for the winding up of the Customer, or, the Customer enters into a Deed of Company Arrangement, or
  - c) the Customer's cheque is dishonoured for payment, or
  - d) the Customer fails to comply with any demand for payment issued by the Company, or
  - e) the Customer breaches any of the Terms and Conditions of the Credit Account and/or is in default of any of the said Terms and Conditions.
- 2) Upon any such event occurring the Company may repossess the goods and for this purpose the Customer grants the Company a license and permission to enter upon any premises where we reasonably believe the goods might be located in order to take possession of the goods.
- 3) The Customer agrees that the Company is entitled to enter any premises where the goods supplied by it and unpaid for are located, repossess and sell such goods. The Customer will indemnify and keep indemnified the Company in respect of any claims, actions and costs that may arise against the Company in relation to the removal, repossession and sale of the goods pursuant to the terms and conditions including any claims brought by third parties.

#### **Quotes and Orders**

- 1) If the Company prepares a materials list or order etc. from specifications or information provided by the buyer, the Company is not responsible for its accuracy or completeness and responsibility shall rest with the buyer.
- 2) Any quotation made by the Company shall not be construed as an offer or obligation to sell and accordingly the Company reserves the right to accept or reject or modify or amend at its discretion any orders which it may receive.
- 3) All goods ordered by the Customer will be invoiced and charged to the Customer's account upon completion and will be paid for under the normal terms of the account irrespective of whether the Customer has taken delivery of the goods or not.
- 4) The Customer assumes responsibility for checking the goods delivered against the goods ordered and for the suitability or fitness of the goods purchased. The Company assumes no obligation or liability for the use or installation of goods that may subsequently prove to be faulty or be incorrectly delivered or for any advice given. If the goods have been installed or used, then that shall be deemed evidence that the customer has inspected and

accepted the goods before they were installed or used and the customer will not be entitled to make any claim that incorrect goods were supplied or delivered.

#### **Deliveries**

- 1) Where the Company provides a delivery service the Customer is responsible for ensuring the delivery site is safe and normally accessible.
- 2) Deliveries will only be made to the ground floor or street level and only during normal weekday working hours. Drop offs are confined to a five metre radius of our delivery vehicle.
- 3) It is the customer's responsibility to provide all labour, craning and hoisting as necessary to unload the delivery vehicle.
- 4) The Company may charge an additional amount for deliveries outside these terms or where specific vehicles (other than the regular vehicle) are required to enable delivery to difficult sites or for demurrage where our delivery vehicle encounters undue delay on delivery.
- 5) The Customer agrees not to make any claim against the Company for any damage loss or liability suffered by the Customer arising out of or in any way connected with the delivery of goods to the Customer or at the Customer's direction. The Customer agrees to indemnify and keep indemnified the Company from any liability or loss suffered by the Customer or the Company or any other person or party arising out of or in any way connected with the delivery of goods to the Customer or at the Customer's direction.
- 6) The delivery times made known to the Customer are estimates only and the Company accepts no responsibility for costs charges or other consequences arising from failure to deliver at any specified time and under no circumstances shall the Company be liable for any loss, damage or delay occasioned to the Customer arising from late or non-delivery of the goods. Customers may always elect to collect goods themselves or arrange for the goods to be picked up themselves if delivery times are critical or of the essence.
- 7) The Customer acknowledges and agrees that goods left at unattended sites shall be the Customer's sole responsibility once they are delivered and that if the Customer is not represented on site when the delivery is made then the delivery driver's signature on the transport documents shall be deemed to be conclusive proof of delivery and that the goods were delivered in good order and condition.
- 8) In the event that the Customer is unable or unwilling to accept delivery of the goods then the Customer shall be liable for any and all additional delivery charges, storage costs, charges and expenses.
- 9) Notwithstanding any other clause, the Customer shall bear all risk of loss or damage to the goods upon and from delivery to the Customer or delivery at the Customer's direction. The Customer shall effect all necessary policies of insurance as it may deem appropriate to insure against any risk of loss or damage.
- 10) All goods sold shall remain the sole and absolute property of the Company as legal and equitable owner until the Customer has paid all monies owing by the Customer to the Company in full (and any cheques have cleared), but such goods shall be at the risk of the Customer as soon as delivered to, or to the order of, the Customer. The said goods shall be held by the Customer so as to indicate that they are the property of the Company until the Customer has paid all monies owing by the Customer to the Company in full (and any cheques have cleared).
- 11) No claims for shortages will be recognised after 2 days from the date of delivery and the Customer acknowledges that 2 days is sufficient and reasonable time for the Customer to inspect the goods and notify the Company of any discrepancies.

#### **Returns and Credits**

- 1) If goods are returned and the reason for the return is no fault of the Company, the Company may charge the Customer a handling fee of not less than 50% of the invoiced price of these goods, plus, where we are required to collect the goods, an additional fee to cover transport costs. Any further fees for returns or cancellation of orders will be passed on and charged to the Customer.
- 2) Returns and/or Exchanges of goods will not be recognised unless the Invoice Number or Delivery Docket Number is quoted at the time of return.
- 3) Goods returned are to be in original condition and be fit for resale otherwise no credit or exchange will be considered.
- 4) The Company reserves the right not to exchange or accept as returns any orders.
- 5) The Customer acknowledges and accepts that the Company does not accept back-charges or any other form or reimbursement claims from the Customer for late delivery, missing, faulty or damaged goods and the Company accepts no responsibility for any costs charges or other consequences arising from late, missing, faulty or damaged goods.
- 6) The Company's only obligation is to replace the goods or arrange for the goods to be repaired or to refund the purchase price of the faulty goods, whichever is appropriate in the Company's opinion. The Customer accepts and agrees that the Company's maximum liability for any product it has sold shall not exceed the purchase price of the faulty product(s) sold.

**END**