

## TERM & CONDITIONS OF SALE

### 1. **Definitions**

“Seller” shall mean Auto-Lift Garage Doors Pty. Ltd. and include its employees and agents.

“Buyer” shall mean and include the person, company or other entity named herein as the Applicant and the attached Application for Credit and any servant, agent, partner, contractor or employee of that person or company and the case of two or more person or company and in the case of two or more persons shall refer to each of them jointly and severally.

### 2. **General**

All orders placed by the Buyer will be subject to these Terms and Conditions of Sale unless otherwise expressly agreed to in writing by the Seller.

The Buyer waives any terms and conditions of purchase which are inconsistent with Terms and Conditions of Sale.

The Buyer agrees that all contracts made with the seller shall be deemed to be made in the State of New South Wales and the Buyer agrees to submit to the jurisdiction of the appropriate Court in that State.

Any variation or cancellation of order must be approved in writing by the seller.

### 3. **Pricing**

This price Quotation is made subject to dimensions found on site remaining constant or being changed in accordance with suitability for installation as specifically directed by the seller.

Any variation whatsoever otherwise then started, after submission on this Quotation will not be recognized unless specifically started in writing.

### 4. **Liability**

The seller shall not be liable for any claim, loss or expense whatsoever or however arising which made after the expiration of 30 days from the date of delivery.

The Seller will not be subject to any liability which exceeds the replacement value of the subject goods. The Seller will not be liable for any contingent, consequential or punitive damages arising in any way whatsoever. The Buyer acknowledges this express limitation of liability and agrees to limit any claim accordingly.

The Seller shall not be liable for any claim, loss or expense sustained or incurred by any person arising in any way as a result of the unavailability of goods or any delay in delivery of the goods or any part thereof or any failure to deliver the goods or part thereof.

Any advice, recommendation, information or representation provided by the Seller as to the quality or performance of the goods or their sustainability for a particular purpose or otherwise in relation to the goods is given in good faith but without any liability or responsibility on the part of the Seller. The Buyer acknowledges that it has not relied upon or been induced by any representation by the seller.

All reasonable care will be taken by the Seller during the installation of the goods purchased but no liability shall attach to the Seller for any damage occasioned by any means whatsoever to electrical wiring, plumbing, masonry or rendered surfaces.

It will be the responsibility of the Buyer to advise the Seller of any underground obstructions (including telephone cables, water drainage pipes, gas and electrical pipes, concrete and rock) likely to be encountered in the installation, and whilst all care will be taken the Seller accepts no responsibility for damage occasioned to such underground obstructions. All additional costs incurred by the Seller as a result of such underground obstructions. All additional costs incurred by the seller as a result of such underground obstructions will be to account of the Buyer in addition to the Quotation.

### 5. **Payment**

Unless otherwise agreed in writing, all prices are strictly net and the Buyer shall make payment such that it is received by the Seller within thirty (30) days after delivery.

If payment is not made in accordance with the above terms. The Seller shall be entitled to:

- require the payment of cash upon delivery of any further products
- Charge default interest at the rate of 2.0% per month calculated on a daily basis on any monies due but unpaid. Such interest will be computed from the due date of payment
- charge an administration fee of \$35.00 per month or any part thereof in which monies remain overdue for payment
- cease supply of further products, if payment has not made within 15 days of the due date

AUTO-LIFT GARAGE DOORS PTY LTD

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- recover all damages, expenses and costs of collection, including, but not limited to the payment of a management fee or otherwise for such collection at a rate not exceeding 20% (plus GST) of any monies due but unpaid, in addition to all other remedies the Seller shall have at Law.

These terms and conditions of Sale may be the subject of any variation or alteration or alteration which may be contained in any invoice(s) supplied to the Buyer by the Seller from time to time. Such variation or alteration will apply as and from the date the notice is given or any other date nominated by the Seller whichever should occur later.

## **6. Property and Risk**

Property in the goods will remain with the Seller until the price of those goods has been made in full.

The risk in the goods will transfer to the Buyer upon delivery to the Buyer or his agent or a carrier nominated by the Buyer.

The Buyer may affect sale of the goods or part thereof in the usual course of business upon the following conditions:

- that the Buyer holds all proceeds of sale relating to the Sellers goods on trust for the Seller
- that the Buyer agrees (if required) to assign to the Seller any rights to any outstanding moneys relating to the sale or disposal of the Seller's goods.

If the Seller's written demand for payment is unsatisfied then the Seller will be entitled to forthwith enter any premises owned or occupied by the Buyer and the buyer grants the right of such entry to the Seller to recover any goods which are the property of the Seller and which the Seller reasonably believes to be on such premises and for the Seller to exert such force as is necessary to gain entry to any such premises and the Buyer indemnifies and saves harmless the Seller in relation to any loss or damaged sustained as a result of any such entry.

## **7. Delivery**

The buyer shall provide reasonable and proper access to the site specified for delivery.

Where for any reason the time necessarily spent by the Seller in attempting to or effecting delivery exceeds 30 minutes the Buyer agrees to pay all costs and expenses of the Seller thereby incurred.

The Buyer shall be responsible for any damage whatsoever or however caused in the course of delivery and shall indemnify the Seller in relation to every claim whatsoever which arises in relation there to.

The Buyer authorizes the Seller to subcontract delivery in its absolute discretion.

The Seller may unilaterally delay or suspend any delivery for any period or cancel any agreement for sale without any liability whatsoever.

## **8. Warranty**

The Seller warrants that the goods specified herein installed with the goods are free from fault or failure for a period of 12 calendar months from the date of installation, except when such fault or failure is due to or contributed to by fire, tempest, acts of God or any intentional, reckless or negligent acts or omissions on the part of the Buyer or of any person using or interfering with the said goods or equipment in any manner whatsoever and whether with or without consent of the Buyer.

Pursuant to this warranty the Seller agrees to replace or repair for the said period of 12 calendar months from the date of installation all or any parts of the specified goods or associated equipment which may be found to be defective through fault or failure as defined in the preceding paragraph provided that it shall be at the absolute discretion of the Seller as to whether all or any of the parts should be replaced or whether they should be repaired. Such parts shall be provided free of service charges for period of only 3 calendar months from the date of installation.

No condition or warranty otherwise than expressly stated in these Terms shall be included in the contract between the Seller and the Buyer and any such express condition or warranty shall be void and enforceable in the event.

- The Buyer not making payment in full within the stipulated time as specified in Clause 5
- Any alteration whatsoever to the form, content or appearance of the specified goods installed, otherwise than with the consent of the Seller in writing.