

# Gliderol Garage Doors

## Terms & Conditions of Sale Statement

### 1. Definitions

1.1 "Supplier" means Gliderol International Pty Ltd ACN 007 928 949 and any related bodies corporate as that term is defined in the Corporations Act 2001 (Cth).

1.2 "Applicant" means the entity that has contracted with the Supplier to buy Goods.

1.3 "Equipment" means any display stands or associated equipment loaned by the Supplier to the Applicant to display the Goods.

1.4 "Goods" means any goods supplied by the Supplier to the Applicant (or ordered by the Applicant but not yet supplied) including and in no way limited to, garage doors and accessories.

1.5 "Terms" means these Terms and Conditions of Trade.

### 2. Payment Terms

2.1 The terms of payment are strictly thirty (30) days (or such other period as nominated by the supplier herein) from the end of month of invoice and payment is due and payable on that date. The Supplier and its related bodies corporate (as that term is defined in the Corporations Act 2001) may, at any time, unilaterally vary the Terms in its absolute and unfettered discretion.

2.2 Should the Applicant not pay for the goods or services supplied by the Supplier in accordance with the Terms as provided herein, or as agreed in writing by the Supplier from time to time, the Supplier shall be entitled to charge an administration fee of 10% of the amount of the invoice payable per year, or part thereof, from the date the goods or services were supplied (and not the day when the Supplier's invoice was payable) until payment by the Applicant.

2.3 Accepted Method of Payment. EFT, Cheque and Credit Card. Where a payment is made via Credit Card, the Supplier reserves the right to levy a Credit Card merchant fee (including GST) to cover bank charges

### 3. Jurisdiction

3.1 The Applicant acknowledges and agrees that these Terms shall be governed by the laws of South Australia, and the laws of the Commonwealth of Australia which are in force in South Australia

3.2 The Applicant acknowledges and agrees that any contract for the supply of goods or services between the Supplier and the Applicant is formed at the address of the Supplier.

3.3 The parties to these Terms submit to the non-exclusive jurisdiction of the courts of South Australia and the relevant federal courts and courts competent to hear appeals from those courts.

### 4. Purpose of credit

4.1 The Applicant acknowledges and agrees that the credit to be provided to the Applicant by the Supplier is to be applied wholly or predominantly for commercial purposes.

4.2 The credit facilities provided by the Supplier are not transferable by the Applicant without the prior written consent of the Supplier.

### 5. Formation of contract

5.1 Quotations made by the Supplier shall not be construed as an offer or obligation to supply in accordance with the quotation. The Supplier reserves the right to accept or reject, at its discretion, any offer to purchase received by it. Only written acceptance by the Supplier of the Applicant's offer shall complete a contract.

5.2 Placement of an order, either verbally or in writing, shall imply acceptance of the Supplier's offer and of these Terms and conditions.

### 6. Delivery of Goods

6.1 Delivery of Goods shall be made to the Applicant's address. The Applicant shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery, or delivery of the Goods shall be made to the Applicant at the Supplier's address.

6.2 Delivery of the Goods to a carrier, either named by the Applicant or failing such naming to a carrier at the discretion of the Supplier for the purpose of transmission to the Applicant, is deemed to be a delivery of the Goods to the Applicant.

6.3 Where there is no agreement that the Supplier shall send the Goods to the Applicant, delivery to a carrier at limited carrier's risk at the expense of the Applicant is deemed to be delivery to the Applicant.

6.4 Goods delivered to site shall be at the Applicant's risk and will be deemed to be delivered upon appearing on a delivery schedule.

6.5 The Applicant shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or less than the quantity purchased provided that:

(a) such discrepancy in quantity shall not exceed 5%; and

(b) the Price shall be adjusted pro rate to the discrepancy.

6.6 The failure of the Supplier to deliver shall not entitle either party to treat this contract as repudiated.

6.7 The Supplier shall not be liable for any loss or damage whatever due to failure by the Supplier to deliver the Goods (or any of them) promptly or at all.

### 7. Defect/Returns

7.1 The Applicant shall inspect the Goods on delivery and shall within twenty-four (24) hours of delivery notify the Supplier of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Applicant shall afford the Supplier an opportunity to inspect the Goods within a reasonable time following delivery if the Applicant believes the Goods are defective in any way. If the Applicant shall fail to comply with these provisions, the Goods shall be conclusively presumed to be in accordance with the Terms and conditions and free from any defect or damage.

7.2 For defective Goods, which the Supplier has agreed in writing that the Applicant is entitled to reject, the Supplier's liability is limited to either (at the Supplier's discretion) replacing the Goods or repairing the Goods provided that:

(a) the Applicant has complied with the provisions of clause 8.1;

(b) the Goods are returned at the Applicant's cost within fourteen (14) days of the delivery date;

(c) the Supplier will not be liable for Goods which have not been stored or used in a proper manner;

(d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.

7.3 The Supplier may (in its discretion) accept the Goods for credit but this may incur a handling fee of 10% of the value of the returned Goods plus any freight.

7.4 Goods made to special order, Applicant specification or non-catalogue items are under no circumstances acceptable for credit or return. Cancellation of orders for special or non-catalogue items will definitely not be accepted, once these orders are in production.

## Terms & Conditions of Sale Statement Cont...

### 8. Title and Personal Property Securities Act 2009 (PPSA)

#### Goods

8.1 Whilst risk in the Goods passes on delivery, legal and equitable title in the Goods shall remain with the Supplier until it has received payment in full for all monies owed by the Applicant.

8.2 Until the Supplier has received payment in full for all monies owed by the Applicant, The Supplier reserves the following rights:

- (a) legal and equitable ownership of the Goods;
- (b) the right to enter the Applicant's premises and retake possession of the Goods;
- (c) the right to keep or resell any Goods repossessed under sub-clause 9.2(b); and
- (d) any other rights it may have at law or under the PPSA.

8.3 Where, pursuant to sub-clause 9.2(c):

8.3.1 the Supplier resells the Goods repossessed, it is agreed that the Supplier may credit the Applicant's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs); or

8.3.2 the Supplier retains possession of the repossessed Goods, it is agreed that the Supplier may credit the Applicant's account with the invoice value less such sum as the Supplier reasonably determines on account of wear and tear, depreciation, obsolescence, loss of profit and costs

8.4 The Supplier shall not be liable for any costs, damages, expenses or losses incurred by the Applicant or any third party as a result of any action taken to repossess the Goods.

8.5 If the Goods are mixed (or commingled) with other property so as to be part of or a constituent of any new product, title to these products shall be deemed to be assigned to the Supplier as security for all amounts owing by the Applicant to the Supplier.

8.6 Until the Supplier receives payment for Goods in full, the Applicant acknowledges that the Supplier has a Purchase Money Security Interest (PMSI) which attaches over the Goods and their proceeds and a Security Interest in relation to other amounts owed by the Applicant to the Supplier.

#### General

8.7 Upon assenting to these Terms and Conditions of Trade, the Applicant acknowledges and agrees that these Terms and Conditions of Trade constitute a Security Agreement for the purposes of the PPSA.

8.8 The Applicant undertakes to do anything (such as obtaining consents, producing documents, producing receipts and getting documents completed and signed) which the Supplier asks and considers reasonably necessary for the purposes of:

- 8.8.1 ensuring that a PMSI and/or Security Interest is enforceable, perfected and effective;
- 8.8.2 enabling the Supplier to apply for any registration, or give any notification, in connection with the Security Interest created under these Terms so that the PMSI and/or Security Interest has the priority required by the Supplier.

8.9 To the extent permitted by law, the Applicant irrevocably waives its right to:

- 8.9.1 receive notices or statements under sections 95, 121(4), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA;
- 8.9.2 redeem the Goods under section 142 of the PPSA;
- 8.9.3 reinstate the Agreement under section 143 of the PPSA;
- 8.9.4 receive a Verification Statement.

8.10 Nothing in clause 8 prevents the Supplier from taking collection or legal action against the Applicant to recover any monies owed from time to time.

### 9. Applicant's Disclaimer

9.1 The Applicant hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to them by any servant or agent of the Supplier and the Applicant acknowledges that they buy the goods relying solely upon their own skill and judgment and that the Supplier shall not be bound by nor responsible for any term, condition, representation or warranty other than the warranty given by the manufacturer which warranty shall be personal to the Applicant and shall not be transferable to any subsequent Applicant.

### 10. Display Stands

10.1 Equipment shall at all times remain the property of the Supplier and is returnable on demand by the Supplier. In the event that the Equipment is not returned to the Supplier in the condition in which it was delivered the Supplier retains the right to charge the price of repair or replacement of the Equipment.

10.2 The Applicant acknowledges that the Equipment is to only be utilised for the display of Goods provided by the Supplier or any of the Supplier's associated companies.

10.3 The Applicant shall:

(a) keep the Equipment in their own possession and control and shall not assign the benefit of the Equipment nor be entitled to lien over the Equipment and the Applicant accepts full responsibility for the safekeeping of the Equipment and indemnifies the Supplier for all loss, theft or damage to the Equipment howsoever caused and without limiting the generality of the foregoing whether or not such loss, theft or damage is attributable to any negligence, failure or omission of the Applicant;

(b) not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment;

(c) comply with all occupational health and safety laws relating to the Equipment and its operation.

10.4 The Applicant acknowledges and agrees that it loans the Equipment at its own risk and the Applicant is responsible for theft or damage to the Equipment whilst on loan.

### 11. Indemnity

11.1 The Applicant agrees to indemnify the Supplier and keep the Supplier indemnified against any claim. This indemnity includes any legal fees and expenses the Supplier incurs in order to enforce its rights, on an indemnity basis

### 12. Insolvency

12.1 If the Applicant becomes insolvent, the Applicant remains liable under these Terms for payment of all liabilities incurred hereunder. The Applicant remains liable under these Terms even if the Supplier receives a dividend or payment as a result of the Applicant being insolvent.

### 13. Waiver

13.1 A waiver of any provision or breach of these Terms by the Supplier must be made by an authorised officer of the Supplier in writing. A waiver of any provision or breach of these Terms by the Applicant must be made by the Applicant's authorised officer in writing.

### 14. Costs

14.1 The Applicant must pay for its own legal, accounting and business costs and all costs incurred by the Supplier relating to any default by the Applicant.

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

14.3 The Applicant acknowledges and agrees that payments by the Applicant will be applied by the Supplier as follows.

- (a) Firstly, in payment of any and all collection costs and legal costs in accordance with clause 11;
- (b) Secondly, in payment of any interest incurred in accordance with clause 16;
- (c) Thirdly, any administrative fees or handling fees in accordance with clauses 2.2 and 7.3;
- (d) Fourthly, in payment of the outstanding invoice(s).

### 15. Taxes and duty

15.1 The Applicant must pay GST on any taxable supply made by the Supplier to the Applicant under these Terms. The payment of GST is in addition to any other consideration payable by the Applicant for a taxable supply.

**Terms & Conditions of Sale Statement Cont...****15. Taxes and duty**

15.1 The Applicant must pay GST on any taxable supply made by the Supplier to the Applicant under these Terms. The payment of GST is in addition to any other consideration payable by the Applicant for a taxable supply.

15.2 If as a result of:

- (a) any legislation becoming applicable to the subject matter of these Terms; or
  - (b) any changes in legislation or its interpretation by a court of competent jurisdiction or by any authority charged with its administration;
- the Supplier becomes liable to pay any tax, duty, excise or levy in respect of the amounts received from the Applicant, then the Applicant must pay the Supplier these additional amounts on demand.

**16. Interest rates**

16.1 The interest rate on any outstanding debts is a rate of 2.5% per month.

**17. Set-off**

17.1 All payments required to be made by the Applicant under these Terms will be made free of any set-off, or counterclaim and without deduction or withholding.

17.2 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 Applicant by the Supplier.

**18. Variation**

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

18.2 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.

**19. Privacy Policy and Credit Reporting Policy**

19.1 The Supplier is subject to the Privacy Act (1988), the Australian Privacy Principles and the Credit Reporting Privacy Code ("Code"). The Supplier has a Privacy Policy and a Credit Reporting Policy that may be located at [www.gliderol.com.au](http://www.gliderol.com.au) (or a hard copy of both can be provided free of charge upon request). The policies set out (1) the information about the Applicant that the Supplier collects and holds (2) why the Supplier collects and holds it and for what purposes it is used; (3) how the Applicant may access the personal information and seek any correction of the information; (4) how the Applicant may complain about a failure of the Supplier to comply with the Privacy Act or Code; (5) how the Supplier will deal with the complaint and (6) information about credit reporting, including the credit reporting bodies the Supplier may disclose the Applicant's credit information to. As set out in the Credit Reporting Policy, the Supplier is likely to provide the personal information contained within this credit application to a credit reporting body (Veda Advantage Information Services & Solutions and/or Dun & Bradstreet). The information and matters that are notified to a credit reporting body are information that identifies the Applicant (for example legal name, address, date of birth, driver's license number and contact details), trade reference details and information, any future payment defaults in relation to debts with the Supplier, and serious credit infringements. The policies set out the Applicant's rights to access the information and how to contact the credit reporting bodies to request they not use or disclose the information in certain circumstances.

**20. Liability**

20.1 The Supplier is not liable for any loss caused to the Applicant by reason of strikes, lockouts, fires, riots, war, embargoes, civil commotions, acts of God or any other activity beyond the Supplier's control.

20.2 The Supplier is not liable, whether claims are made or not, for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, loss of a right or any other indirect loss suffered by the Applicant.

20.3 All implied conditions, warranties and undertakings other than the statutory guarantees set out in Schedule 2 of the Competition and Consumer Act 2010 are expressly excluded to the extent permitted by law.

20.4 Where the Goods are of a kind other than goods ordinarily acquired for personal, domestic or household use, then the Supplier's liability is limited, at its option, to anyone or more of the following:

- (a) the replacement or supply of the equivalent of the Goods; or
- (b) the payment of the costs of replacing the Goods or acquiring their equivalent;

20.5 Subject to the Applicant's rights under Schedule 2 of the Competition and Consumer Act 2010 ("CCA"), the Supplier shall not be liable for:

- (a) any loss or damage of any kind whatsoever, arising from the Goods, including consequential loss whether suffered or incurred by the Applicant or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from the Goods; and
- (b) the Applicant shall indemnify the Supplier against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of the Supplier or otherwise, brought by any person in connection with any matter, act, omission, or error by the Supplier, its agents or employees in connection with the Goods.