

1. Interpretation.

In these terms:

“**Company**” means ASSA ABLOY DOOR GROUP AUSTRALIA PTY LTD (ACN 004 519 331).

“**Customer**” means the person or entity to which the Company agrees to supply good or services.

“**Event of Default**” means any of the following events:

- (a) the Customer is in breach of these terms and fails to remedy the breach within 7 days of being notified in writing by the Company;
- (b) the Customer fails to pay any monies owing under these terms by the date that those monies are due and payable; or
- (c) the Customer enter into liquidation or administration, or has a receiver, liquidator, administrator or other like person appointed over all or any part of its assets (or is subject to a petition or application for any of the foregoing to occur) or is unable to pay its debts as they fall due, or the Company, acting reasonably and on the basis of evidence, considers that any such event is likely to occur imminently.

“**Ex Works**” has the meaning given to that term by the International Chamber of Commerce *Incoterms 2010* for the interpretation of trade terms, with the place of delivery being the Company’s premises in the State where the goods are made available by the Company for Customer collection.

“**Other Goods**” has the meaning ascribed to that term in Clause 2.3 of Schedule 1 of the PPSR.

“**Other Property**” means all present and after-acquired property (such terms having the meaning ascribed to that term in Regulation 1.6 of the PPSR), except Other Goods supplied by Company to the Customer, of Customer whether acquired alone or jointly as a tenant in common or as a joint tenant.

“**PPSA**” means the Personal Property Securities Act 2009 (Cth).

“**PPSR**” means the Personal Property Securities Regulations 2009 (Cth).

“**Specifications**” has the following meaning:

- (a) subject to paragraph (b):
 - (i) where the Company has provided a quote in relation to supply of the goods, which the customer has ordered against, any specifications, terms, project notes, exclusions, disclaimers or similar included in the quote and referable to the subject of the order; and
 - (ii) where the Company has not provided a quote in relation to supply of the goods, any of the Company’s standard specifications in relation to the goods.
- (b) where the Customer includes specifications for goods in its order, and those specifications conflict with (a)(i) or (a)(ii) above (as applicable), the specifications in the Customer’s order only take effect if and to the extent the Company has, subsequent to receipt of that order, agreed in writing to supply the goods in conformity to those Customer specifications.

2. Orders

- 2.1 An order by the Customer (whether in the form of a Purchase Order or any other communication) is accepted when an authorised representative of the Company confirms acceptance in writing to the Customer, or the Company commences supply against the order. At that time, an agreement will be formed between the Company and the Customer on these terms. The Company is not obliged to accept any order, even if it is made by reference to, and within the specified timeframe of validity of, a Company quote. When the Company accepts an order, it is agreeing to supply the goods the subject of the order in the quantities specified therein, on these terms. No other component of the order documentation (including any pricing recorded in it, if different to the pricing determined in accordance with clause 5, and any delivery date, if different to the delivery date determined in accordance with clause 8) will form part of the be binding unless the Company specifically agrees to that component in writing when accepting the order.
- 2.2 No order accepted by the Company may be cancelled, deferred or varied by the Customer without the Company’s prior written consent.
- 2.3 Any conditions of purchase offered by the Customer, including any terms in a purchase order or similar, are of no effect unless agreed to by the Company in writing (in which case they apply in addition to these terms and prevail to the extent of any conflict with these terms).

3. Shop drawings

After an order is accepted by the Company, the Company may produce shop drawings reflecting its understanding of the goods the subject of the order and the Specifications relating to those goods, and supply those to the Customer. Where this occurs, the Company is only obliged to supply the goods if the Customer confirms the shop drawings in writing to the Company within the period specified by the Company for such confirmation (or if no such period is specified, within a reasonable period having regard to the contracted delivery date). If the Customer does not confirm the shop drawings, the Company may:

- (a) terminate the order and these terms in accordance with clause 25.1(c), or;
- (b) agree adjustments to the order and Specifications (and corresponding pricing adjustments) in writing with the Customer, which form a new order for the purposes of these terms.

4. Specifications

- 4.1 The Company will make best efforts to ensure that goods it supplies under these terms conform to the Specifications.
- 4.2 If goods do not conform to the Specifications but the Company has not breached the obligation in clause 4.1, the Company will liaise in good faith with the Customer to seek to resolve any issues arising with the Customer relating to the non-conformity.

5. Pricing

- 5.1 Subject to the following provisions of this clause 5, the price the Customer agrees to pay for goods or services the subject of an accepted order will be as specified in the Company’s most recent quote relating to the order’s subject (or, the order is replacing a prior order in accordance with clause 3(b), the pricing agreed between the parties in writing via that process). Where no such quote or ‘replacement’ order pricing exists, the price shall be determined by the Company acting reasonably and notified to the Customer within a reasonable time of entry into these terms.
- 5.2 Unless expressly stated in the relevant quote or notification to be otherwise, prices for goods and services are exclusive of any applicable goods and services tax, and in the case of goods, for supply Ex Works the Company’s premises.
- 5.3 In the event that the ‘Price Review Mechanism’ is triggered under clause 8.4 and:
 - (a) the cost to the Company of supplying relevant goods or services the subject of these terms; or
 - (b) the scope, nature or extent of the work required to be undertaken by the Company to supply those goods or services,
 has materially increased from when the parties entered into these terms, the Customer agrees that on written request by the Company, it will enter into good faith negotiations to increase the pricing. While the Customer is not obliged to agree increased pricing with the Company in such negotiations, it agrees that if no such increase is agreed then there is a ‘Price Negotiation Failure’ for the purposes of clause 25.

6. Payment

- 6.1 Where credit facilities have been approved by the Company, payment for goods and services shall be due and payable by the Customer by the 30th day of the month following the month in which the invoice for the relevant goods or services is issued by the Company.
- 6.2 However, if an Event of Default occurs all actual and contingent amounts owing to the Company, whether or not then due for payment, shall be due and payable by the Customer upon demand by the Company. In those circumstances, the Company shall have the right, without prejudice to other remedies, to enter any premises where the goods may be to repossess any of the relevant goods.

- 6.3 The Company reserves the right to terminate all or part of the Customer's credit facility at any time in its absolute discretion and to require full or part payment with order or prior to delivery.
- 6.4 The Company may charge interest on any overdue payments at the rate 2.5% above the penalty interest rate for the time being fixed under section 2 of the *Penalty Interest Rates Act 1983* (Vic) for the length of any such delay in payment. Without limiting any of the Company's other rights, the Company reserves the right to withhold further deliveries or services until all the Customer's arrears are paid.
- 6.5 Any expenses, disbursements, and legal costs incurred by the Company in the enforcement of any of the Company's rights under these terms shall be recoverable by the Company from the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- 6.6 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until the instrument is paid in full.
- 6.7 The Customer is not entitled to set off any amounts due from the Company to the Customer under or in connection with these terms against any amounts due from the Customer to the Company under these terms or otherwise.
- 6.8 The Company is entitled to set off any amounts due from the Customer to the Company under or in connection with these terms against any amounts due from the Company to the Customer under these terms or otherwise.

7. Solvency

- 7.1 Unless other terms warrants that, at the time of entry into these terms, it is not insolvent and knows of no circumstance (such as a subsisting Event of Default) which would entitle a creditor to appoint a receiver, petition for winding up, or exercise any other right over or against its assets;
- 7.2 The Customer agrees to immediately inform the Company if it becomes aware of any circumstances that mean, or could mean, that the state of affairs referenced above in this clause no longer applies.

8. Delivery of goods

- 8.1 Unless other terms have been agreed and accepted by the Company in writing on an order by order basis, the delivery of goods to the Customer shall be deemed to take place upon the Company making the goods available for collection by the Customer Ex Works the Company's premises. All risk of loss, damage or deterioration in relation to the goods transfer to the Customer at that time.
- 8.2 Signature of any delivery note by any agent, employee or representative of the Customer (or where delivery is to the Customer's carrier, by such carrier or its agent) shall be conclusive proof of delivery.
- 8.3 Where, at the time of entering into these terms, the Company and the Customer have agreed a delivery date for goods to be supplied, they also agree under these terms that delivery by the Company prior to that date will be taken to satisfy that delivery date obligation.
- 8.4 Where, at the time of entering into these terms, the Company and the Customer have not agreed a specific delivery date for any goods, they agree that in respect of those goods:
 - (a) the obligation on the Company is to use reasonable efforts to make delivery within a reasonable time, with regard to any timeframes for delivery that are referenced on any written quote that the Customer's order (as accepted by the Company) relates to; and
 - (b) if the Customer seeks for the Company to deliver any of the goods at one or more dates to be nominated by the Customer after entering into these terms, and the Company agrees in writing to that approach, then if any such nominated date is more than 6 months after the date of entry into these terms, the 'Price Review Mechanism' is triggered for the purposes of clause 5.
- 8.5 The failure of the Company to deliver shall not by itself entitle either party to treat this contract as repudiated.

9. Care of supplied goods

The Customer acknowledges that goods supplied by the Company need to be the subject of appropriate care and handling to remain fit for the purpose for which they are ordinarily supplied, and agrees it is wholly responsible for ensuring such care and handling occurs from the time of delivery, and that any failure to do so may invalidate any Company warranty relating to such goods. Appropriate care and handling procedures include those set out in or linked from the Company quote the order relates to. This clause is to be read conjunction with and subject to the terms in clause 10.

10. Defects

- 10.1 The Customer agrees to inspect goods within 24 hours of delivery, and to notify the Company in writing as soon as possible (and no later than 5 Business Days after delivery) of any identified defect or shortage in relation to the goods. Upon such notification the Customer must allow the Company to inspect the goods to assess the claimed issue.
- 10.2 If the Customer fails to inspect goods or notify the Company of shortages or defects (where such defects would be reasonably identifiable from a thorough inspection of the relevant goods) in accordance with this clause, then subject to the terms in the remainder of this clause any right to make a claim in relation to such issues shall to the maximum extent permitted by law be deemed to be waived by the Customer.
- 10.3 Warranties provided by the Company in relation to goods are specified on the Company's website (or, where different warranties are referenced in a Company quote the order relates to, there), and apply subject to the specific terms (including care instructions provided for the goods) of the warranties as at the time of supply, and are personal to the Customer and not transferable to any subsequent party.
- 10.4 Any express warranty provided regarding goods being 'fit for purpose' or similar shall be read as a warranty that the goods are fit for the purposes for which such goods are ordinarily supplied by the Company, not with regard to any different intended use by the Customer.
- 10.5 If the Customer is a consumer for the purposes of the Australian Consumer Law, then:
 - (a) those warranties are in addition to other rights and remedies the Customer may have under a law in relation to the goods to which the warranty relates; and
 - (b) the Company's goods come with guarantees that cannot be excluded under the Australian Consumer Law. The Customer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. The Customer is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

11. Title

- 11.1 Title to and property in goods supplied by the Company to the Customer shall not pass to the Customer until the Company has received payment in full of the price of such goods, and the Customer has discharged all existing indebtedness to the Company.
- 11.2 During any period in which the Customer does not hold title to and property in goods supplied by the Company to the Customer, the Customer must ensure the goods:
 - (a) are handled and protected in accordance with the instructions referenced in clause 9;
 - (b) are appropriately insured, and able to be identified as the property of the Company;
 - (c) are not on-sold without the written consent of the Company (and any such consent provided is deemed to be conditional on the Customer agreeing that any proceeds of on-sale are received and held by the Customer as trustee of the Company unless and until the Company has received all required payments in connection with the goods).

12. Installation

Installation and fitting of goods by the Company is not included unless otherwise specifically agreed by the Company in writing.

13. Intellectual property

13.1 The Customer acknowledges and agrees that all intellectual property rights in goods and services supplied by the Company (and, where the Company has designed or drawn goods to be supplied to the Customer, intellectual property in those designs and drawings) are owned by the Company and that the Customer acquires no intellectual property rights in those items unless a separate deed of assignment is executed by the Company as a deed in relation to the relevant intellectual property rights.

13.2 Where any designs or specifications have been supplied by the Customer for manufacture by or to the order of the Company then the Customer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Customer shall not infringe the rights of any third party.

13.3 The Customer warrants that all designs or instructions to the Company will not cause the Company to infringe any patent, registered design or trademark in the execution of the Customer's order.

14. Force majeure

14.1 The Company will not be responsible for any delay or failure to deliver where a significant cause of that delay or failure was an act of God, epidemic, pandemic (including the Covid-19 pandemic), riot, war, civil commotion, labour dispute, drought, power restriction, terrorist act, or any change in law or regulations or any other cause outside the Company's control.

14.2 However, if any such cause delays delivery by a period of more than fourteen days from the agreed delivery time the Customer may cancel their order in respect only of deliveries which have not been made. Such cancellation shall be made by notice in writing and to be valid shall be given within seven days after the expiration of the said period of fourteen days.

15. Variations

15.1 These terms, and any Specifications, can only be varied by written agreement between the Company and the Customer.

16. Trusts/companies

16.1 If the Customer is a trustee of a trust, the Customer agrees that these terms apply to, and all orders for goods and services placed by the Customer with the Company are placed by, the Customer in its personal capacity and as trustee of the trust.

16.2 If the Customer is a company or trustee of a trust it shall inform the Company of any changes to the ownership of the company or of the trust and also of any changes to the ownership of the business conducted by the Customer by forwarding a notice in writing of any such changes to the Company immediately upon becoming aware of same. Until such notice is received by the Company, the Customer shall indemnify and keep the Company fully indemnified from and against any and all suits, actions, claims, demands, losses, liabilities, damages, costs and expenses which may be made or brought against or suffered or incurred by the Company arising out of or in connection in any way with the Company accepting orders from any person or entity which may have acquired all or any part of the Customer or its business and uses the Customer's credit facility approved by the Company in placing orders with the Company.

17. GST

17.1 If prices published by the Company or otherwise applied under these terms are not expressly indicated to include GST, then the Customer will be required to pay the Company the amount of the price for the goods and services plus GST and the following provisions of this clause shall apply.

17.2 The consideration payable by the Customer for goods and services represents the value of any taxable supply for which payment is to be made. If a taxable supply is made to the Customer, then the Customer must also pay at the same time and in the same manner as the value is otherwise payable the amount of any GST payable in respect of the taxable supply.

17.3 Expressions used in this clause that are not defined elsewhere in these terms have the same meaning as those expressions in the A New Tax System (Goods and Service Tax) Act 1999 (Cth).

18. Privacy

18.1 The Company may obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by the Company.

18.2 The Customer agrees that if the Customer makes personal information available to the Company (such as the names and contact details of Customer personnel) this Privacy Policy applies in relation to that information: <https://www.assaabloy.com/au/en/legal/privacy-policy>

19. Indemnity

The Customer agrees to pay all costs incurred by the Company for the collection of any monies owing by the Customer to the Company which are not paid when due (including, without limitation, commission charges by collection agencies and legal costs and disbursements (on an own solicitor/client indemnity basis), including (without limitation) instructing the Company's lawyers to provide advice in relation to, and/or to commence, the collection of monies owing by the Customer to the Company) upon demand by the Company

20. Jurisdiction and applicable law

The parties agree that the law applicable to this contract and their other business relations shall be that of the State of Victoria and submit to the jurisdiction of the courts of that state.

21. Limitation of liability

21.1 To the maximum extent permitted by law, and subject to the following provisions of this clause, the Company shall not have any liability, whether in contract, tort or otherwise, for any injury, damage or loss sustained by the Customer or the Customer's employees or contractors arising in any way in connection with the use by the Customer or third parties of goods supplied by the Company in circumstances where the Company has not acted negligently in and the goods substantially meet the Specifications applicable to those goods, including (without limitation) direct, indirect, special or consequential loss or damage of any kind arising from claims by the Customer, third parties or otherwise.

21.2 If rights are conferred upon the Customer or obligations are imposed upon the Company by the Australian Consumer Law or other law which cannot be excluded, this clause shall be read subject to those rights or obligations, and to the maximum extent permitted by such legislation the Company hereby expressly limits its liability under any such legislation to the maximum extent permitted by law.

21.3 Subject to the preceding paragraph of this clause, the Customer agrees that any liability of the Company which cannot be limited beyond the following provisions is limited to:

- (a) in the case of the supply of goods, any one or more of the following (at the Company's option): (i) the replacement of the goods or the supply of equivalent goods; (ii) the repair of the goods; (iii) the payment of the costs of replacing the goods or of acquiring equivalent goods; or (iv) the payment of the costs of having the goods repaired; or
 - (b) in the case of the supply of services, any one or more of the following (at the Company's option): (i) the supply of the services again; or (ii) the payment of the costs of having the services supplied again.
- 21.4 Without reducing the effect of, and subject always to, the preceding provisions of this clause, each party's total aggregate liability (if any) to the other under these terms will not, in any event, exceed the total amount payable by the Customer to the Company under these terms.

22. Security interest

22.1 The Customer:

- (a) agrees that these terms constitute a security agreement;
- (b) agrees that all goods supplied by the Company to the Customer are Other Goods;
- (c) agrees that these terms create a security interest in the Other Goods in favour of the Company to secure the purchase price of the Other Goods supplied by the Company to the Customer; and
- (d) further, and separately from the preceding provisions of this clause:
 - i. agrees that these terms also create a security interest in all of the Customer's Other Property, although such security interest is not intended to prevent the Customer from transferring such Other Property in the ordinary course of the Customer's business; and
 - ii. separately charges all land owned now and in the future by the Customer whether owned alone or jointly as a tenant in common or as a joint tenant,in favour of the Company to secure payment and performance of all the Customer's obligations under these terms.
- (e) The Customer further authorises, and agrees to do and sign all such things as may be necessary for, the Company to register a financing statement with respect to the security interest:
 - i. in the Other Goods; and also
 - ii. in the Other Property.
- (f) If Chapter 4 of the PPSA would otherwise apply to the enforcement of a security interest in the Other Goods and/or the Other Property, the parties agree that each of the provisions of the PPSA which Section 115 of the PPSA permits parties to contract out of, other than Sections 117, 118, 123, 126, 128, 129 and 134 (1) of the PPSA, are contracted out of.
- (g) The Customer waives its right to receive any notices required to be given by the Company to the Customer under the PPSA, except to the extent the requirement to give notices cannot be waived or excluded under the PPSA.
- (h) The Customer agrees that all payments made by the Customer to the Company may be applied by the Company to obligations owing by the Customer to the Company in any manner as the Company sees fit.
- (i) The Customer and the Company agree that the individual prices at, and the other terms on, which Other Goods or services are supplied by the Company to the Customer are confidential and that except as required by the PPSA neither the Company nor the Customer will disclose those individual prices or other terms.
- (j) Unless the context otherwise requires, expressions used in this clause have the same meaning as those expressions in the PPSA.

23. Code of conduct & Export controls

23.1 The customer represents, warrants and undertakes that:

- (a) the Customer and its affiliates and agents shall comply with the Company's Code of Conduct (available at www.assaabloy.com) and all applicable laws and regulations, including anti-bribery laws, competition laws, sanctions and export control laws;
- (b) none of the Customer, its affiliates or any of its officers or directors, is or is owned or controlled by any person targeted under the sanctions or export controls of the UN, US, EU, Australia or any other relevant government;
- (c) the Customer will not engage in any business involving any such listed person; and
- (d) the Customer will immediately inform the Company of any breach of the foregoing.

23.2 Following any breach, the Company may refuse further performance, or terminate these terms and the Company's relationship with the Customer, without liability to the Customer. The Customer shall indemnify the Company in the event of any violations thereof.

24. Required notices

The Customer agrees to immediately notify the Company if circumstances arise that, had those circumstances existed at the time the parties were proposing to enter into these terms, would preclude the customer from providing the warranties referenced in clause 23, or if the Customer becomes aware of any event which constitutes a breach of these terms by the Customer.

24. Termination

24.1 The Company reserves its right to terminate any Customer order in whole or part if:

- (a) acting reasonably, the Company considers an Event of Default has occurred in relation to the Customer;
- (b) there is a Price Negotiation Failure in the context of clause 5; or
- (c) the Customer fails to confirm the shop drawings in accordance with clause 3.

24.2 If agreed by the Company (in its sole discretion), the Customer may cancel an order subject to these terms 'for convenience'. In the event such cancellation is agreed, the Customer shall be liable for any costs incurred by the Company in respect of that order up to the time of cancellation. The Customer may also terminate these terms if the Company commits a material breach of these terms and fails to remedy such breach within a reasonable time of notification by the Customer.

25. Assignment and subcontracting

25.1 These terms and the Customer's rights and obligations under them may not be assigned by the Customer without the prior written consent of the Company, and any purported assignment without such consent shall be void. The Company will not unreasonably withhold such consent.

25.2 The Company may assign its rights and obligations under these terms, acting reasonably.

26. Other

26.1 References to any document or law in these terms are references to that document as varied, amended, novated or replaced from time to time.

26.2 A failure of the Company to enforce or exercise at any time or for any period of time any term of any contract incorporating these terms shall not constitute or be construed as a waiver of such term and shall in no way affect the Company's right thereafter to enforce or exercise same.

26.3 A provision of these terms which becomes prohibited or unenforceable shall be severed to the extent thereof without invalidating other provisions.

26.4 These terms and any order for goods and services from the Customer which may be accepted by the Company shall be governed by and construed in accordance with the laws of the State of Victoria, Australia and the Customer hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of that location and of any Courts which may hear appeals therefrom; provided however that these terms and any such order may be enforced by the Company against the Customer in any other jurisdiction.