



**Suncoast Windows**

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# STANDARD TERMS AND CONDITIONS OF SALE

ABN 72 993 020 632

## 1. General

- (a) Suncoast Windows offers to supply goods and/or services to you only on the following terms.
- (b) Please note that no Suncoast Windows employee has any authority to accept any terms you may suggest that are different from the following terms.
- (c) If you accept a Suncoast Windows quotation to supply goods and/or services both Suncoast Windows and you are bound by this contract. You acknowledge that you rely on these terms only (and your non-excludable statutory rights) and that you have not relied on any representations made to you prior to or at the time of entering this contract.
- (d) Signing of Suncoast Windows quotation shall mean you have checked all details of the products and/or services to be provided and take all responsibility for doing so. That you have asked any questions in relation to items you may need clarification on and that you also agree to these Terms and Conditions.
- (e) If you are buying goods on credit then both Suncoast Windows and you are also bound by the credit facilities contract that Suncoast Windows and you have agreed.

## 2. Your Rights.

- (a) Suncoast Windows agrees to supply the goods and/or specified by you.
- (b) Suncoast Windows agrees to use it's best endeavours to supply the goods and/or services within the time specified by you but Suncoast Windows will not be liable in any way if the goods and/or services are not supplied within that time.

- (c) Suncoast Windows agrees that any goods delivered become your property when you have paid for them in full in cleared funds.
- (d) Suncoast Windows promises that the goods and/or services are fit for the purpose that the goods and/or services are generally used for and any other special purpose you have specified in writing to Suncoast Windows.
- (e) Suncoast Windows promises that the goods and/or services are of merchantable quality.
- (f) You may ask Suncoast Windows to cancel this contract at any time in writing. Suncoast Windows will consider your request when you agree to pay for all work done by Suncoast Windows under the contract on a quantum merit basis.

## 3. Suncoast Windows Rights.

- (a) You agree to pay for the goods and/or services immediately or as otherwise specified by Suncoast Windows, whether or not the goods and/or services have been supplied within the time specified by you. At no time shall Suncoast Windows allow funds to be withheld for any reason unless Suncoast Windows has agreed for you to do so in writing.
- (b) You agree that Suncoast Windows retain title to any goods until you have paid Suncoast Windows in full with cleared funds.
- (c) Notwithstanding that title may not have passed, risk in the goods passes immediately upon delivery to you.
- (d) You agree that you will be entitled to sell the goods in the ordinary course of your business, but until full payment for the goods has been made to Suncoast Windows, you will sell as agent and bailee for Suncoast Windows. The Proceeds of

- sale of the goods will be held by you on trust for Suncoast Windows absolutely.
- (e) In the circumstances of reselling the goods, you will be responsible for paying Suncoast Windows in full at the time of receiving the goods. This is regardless of whether or not you have received monies from a third party for these goods.
- (f) You agree that your indebtedness to Suncoast Windows, whether in full or in part, will not be discharged by the operation of clauses above unless and until the funds held in trust are remitted to Suncoast Windows.
- (g) Suncoast Windows will be entitled to charge an administration fee of:
- a) 10 percent of the amount of the invoice payable; and b) a further 10 percent per annum payable per year, or part thereof, until payment is completed in full.
- (h) You agree to accept the goods and/or services supplied, whether or not the goods and/or services have been supplied within the time specified by you.
- (i) If you are not bound by the credit facility contract (which contains retention of title clauses) then clause (e) will apply.
- (j) You agree that if you have not paid for the goods in cleared funds at the time you agree to do so then in addition to all other rights Suncoast Windows has against you, you authorise Suncoast Windows through its agents to enter the premises (occupied by you, a receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy) where the goods are stored and take possession of them. You agree to hold Suncoast Windows harmless against any legal liability to any person arising from it exercising its right to take possession of the unpaid goods.
- (k) The action taken in the above clause will also mean that you agree not to take any action of trespass or similar action against Suncoast Windows, its employees, servants or agents.
- (l) Should repossession take place, then Suncoast Windows has the absolute right to sell or deal with the goods in any manner they wish.
- (m) For the avoidance of doubt, Suncoast Windows interest is pursuant to the Personal Property Securities Act 2009(PPSA).
- (n) You agree and are responsible for the immediate examination of any goods supplied to you by Suncoast Windows. You agree that the goods and/or services supplied to you are of merchantable quality and fit for their purpose if you do not complain to Suncoast Windows by notice in writing within seven (7) days of receiving the goods or services. Unless you have specified otherwise at the date of this contract you agree that your use of the goods and/or services commences from when Suncoast Windows supplies them to you or, where the goods and/or services are supplied on credit, within fourteen (7) days of being invoiced.
- (o) If you have breached this contract then you agree to pay all legal costs on an indemnity basis and all other costs and expenses incurred by Suncoast Windows in respect of the contract.

#### 4. Claims

- (a) If you want to make any claim for damages for any breach of contract you must:
- (i) Make the claim in writing and notify Suncoast Windows within seven (7) days of the date of supply of the goods and/or services; and
- (ii) Make the claim before you have incorporated goods delivered into any other goods or products.
- You agree that if you do not make the claim for damages as above then Suncoast Windows liability will be limited to exchanging any goods delivered or re-providing the services for payment to Suncoast Windows at cost price. Suncoast Windows require the return of the original product/s supplied before commencing any re-provision.

- (b) Suncoast Windows need not accept the return of goods or give credit where the goods are made to your specification.
- (c) Suncoast Windows liability for damages for any breach of contract or damage howsoever arising (including without limitation, negligence) is limited to the price of the goods and/or services that you agree to pay under this contract.
- (d) Suncoast Windows will not be liable for the costs or damages incurred as a result of the removal of the goods after installation, water damage to floor coverings and walls, or theft where you have installed the goods and failed to notify Suncoast Windows of faults in materials and failed to give Suncoast Windows seven (7) days' written notice of required work for rectification of such faults.
- (e) Except as provided above, Suncoast Windows will not be liable (including but not limited to liability in negligence) to any person for any loss or damage consequential or otherwise howsoever suffered or incurred by any such person in relation to the goods and/or services and without limiting the generality thereof in particular any loss or damage consequential or otherwise howsoever suffered or incurred by any such person caused by or resulting directly or indirectly from any failure, breakdown, defect or deficiency of whatsoever nature kind of or in the goods and/or services.
- (f) Nothing herein affects any statutory rights that you have that cannot be excluded and, if there is an inconsistency between the above terms and your non-excludable statutory rights then those rights will prevail to the extent of the inconsistency. If any clause of this contract is void or otherwise invalid then that clause shall be severed from the contract without effect to the remaining clauses of the contract.