

**Exitoso & Co Pty Ltd ABN 99 603 869 487 (“Company”)**  
**Terms and Conditions For Sale of Goods and Services**

These Terms & Conditions (“Terms”) apply (unless otherwise previously agreed in writing) to the supply of Goods & or Services by the Company to a Customer from time to time. Any supply of Goods & or Services by the Company to the Customer made after the date of acceptance of these Terms is a supply pursuant to the supply agreement constituted by these Terms. These terms may be varied from time to time without notice.

**1.0 Interpretation**

In these Terms unless the contrary intention appears:

“**Additional Charges**” includes all delivery, handling and storage charges, goods and services tax (GST), stamp duty, interest, legal and other costs of recovery of unpaid money and all other government imposts and all money, other than the Purchase Price, payable by the Customer to Company arising out of the sale of the Goods.

“**Customer**” means the person to or for whom the Goods and or Services are to be supplied by Company.

“**Goods**” means the goods sold to the Customer by Company to Customer.

“**Services**” means the service supplied by Company to Customer to fit, replace, repair or install any hardware to windows & doors or the routine maintenance of hardware affixed to windows or doors.

“**Company**” means Exitoso & Co Pty Ltd, ABN 99 603 869 487 of PO Box 836, Kensington NSW 1465.

“**Purchase Price**” means the GST exclusive list price for the goods or services as charged by Company at the date of delivery or such other price as may be agreed by Company and the Customer prior to delivery of the Goods.

“**Window**” means an opening in the wall of a building, for the admission of air or light, or both, commonly fitted with a frame in which are set movable sashes containing panes of glass.

“**Sash**” means the moveable part of the window that holds the glass and the framework around the glass to keep it in place. Window sashes are fitted into the window frame.

“**Fixed panel**” means the non movable part of the window that holds glass and the framework around the glass to keep in place and admit light.

“**Panel**” means the movable or non-movable individual framed or frameless panes within a door system.

“**Estimate**” means an amount given for the repair or replacement or service of hardware based on the information provided by Customer over the phone or in writing in an electronic format or the visible elements of the hardware without dismantling the sash or panel at the time of an onsite inspection. Additional repairs may be identified after dismantling the sash or panel and these additional repairs are not known until the repair commences.

Customer must pay a 30% deposit for Estimates over \$7,000 dollars and the Company will only schedule repairs after the deposit has been received.

**2.0 Formal Estimates & Quotes**

2.1 Estimates are confidential and are intended for the addressee only. Company prohibits the sharing of Estimates with a 3<sup>rd</sup> party in any format whatsoever including verbally or written format without the prior written consent of Company.

2.2 Estimates carry a 30 day validity period and must be revised and resubmitted after the expiration of the Estimate period. Company may at its sole discretion pass on any price increases incurred by Company as a result of supplier price increases to Customer in revised Estimates.

**2.3 Phone Estimates:**

Company provides phone estimates using the information provided by Customer over the phone and is not liable for incorrect information provided by Customer. Company will to the best of its ability use qualifying information to identify the estimated cost of repair or replacement of hardware including but not limited to:

- 2.3.1 type of window or door,
- 2.3.2 number of windows or doors,
- 2.3.3 number of sashes or panels,
- 2.3.4 direction window or door opens,
- 2.3.5 window fabrication material,
- 2.3.6 age, service history of window or doors
- 2.3.7 symptoms of the fault or issue

**24 Onsite Inspection Estimates**

Company will schedule an onsite inspection at the property at a time convenient to Customer for the purpose of provide an Estimate for repairs or replacement of window or door hardware. Company will to the best of its ability provide an estimate to repair or replace the window or door hardware based on a non-dismantle inspection.

**2.5 Onsite Inspection Quote**

Company will schedule onsite inspection at the property at time convenient to Customer for the purpose of dismantling the window, sashes, panels, doors to determine the actual costs of the repairs based on hardware inspection. Onsite Inspection Quotes are chargeable based on the time and effort required to complete the inspection.

**2.6 Photographic Evidence**

Company may take photos of windows, doors and hardware for the purpose of diagnosing problems and to record accurate details of window and door hardware requirements. Photos may be taken before a job commences and after for the purpose of “before & after” shots. Photos may be used in Company’s website gallery to showcase repairs or hardware.

**3.0 Warranties**

3.1 Hardware or materials not manufactured by Company will be covered by the manufacturer’s warranty (if any).

3.2 Company is not responsible for any damage caused through modification or incorrect fitting or not servicing of Goods.

- 3.3 Company cannot accept responsibility for glass breakage during window / door repairs and maintenance. The condition of the glass is unknown until the glass is removed and is subject to cracking for reasons beyond our control.
- 3.4 Water leaks and cold draughts are the most difficult repairs to diagnose and repair. The age of the window/doors, installation, waterproofing, glazing and rubber seals could all be contributing factors. For these reasons the Company cannot guarantee the remedy of leaks and draughts. We will investigate leak and draught problems, and, to the best of our ability recommend a solution.
- 3.5 Company liability is limited to, to the extent permissible by law and at Company's option;
- 3.5.1 in relation to the Goods:
- i. the replacement of the products or the supply of equivalent products
  - ii. the repair of the products
  - iii. the payment of the cost of replacing the products or of acquiring equivalent products; or
  - iv. The payment of the cost of having the products repaired
- 3.5.2 Where the Goods are services:
- i. the supply of service again; or
  - ii. the payment of the cost of having the services supplied again.
- 3.6 Any claims to be made against Company for workmanship and hardware failures or faults must be lodged with Company in writing within 7 days of the work or hardware failing or becoming faulty and within the 12 month warranty period.
- 3.7 To the extent permitted at law, all other warranties whether implied or otherwise, not set out in these Terms or in any other Company approved documentation are excluded and Company is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate Customer for:
- 3.7.1 any increased costs or expenses;
  - 3.7.2 any loss of profit, revenue, business, contracts or anticipated savings;
  - 3.7.3 any loss or expense resulting from a claim by a third party; or
  - 3.7.4 any special, indirect or consequential loss or damage of any nature whatsoever caused by Company's failure to complete or delay in completing the order to deliver the Goods or Services
- 4.0 **Payment Terms**
- 4.1 The Customer must pay the Invoice and the Additional Charges to Company
- 4.2 If the Customer is in default, Company may at its option withhold further services or cancel a service without prejudice to any of its existing rights.
- 4.3 All payments are to be paid by the Invoice Due Date or where a Payment Term Variation is applicable the agreed payment date of that variation. Payment Term
- Variations may only be varied in writing between parties. Approval of any variation request will be at the sole discretion of Company and approvals may only be provided in writing by Company.
- 4.4 Interest is charged at the rate of 2.5% per month or part of a month from the expiry of that period until the date payment is received by Company
- 4.5 All amounts payable by the Customer under these Terms must be paid without set-off or counter claim of any kind.
- 4.6 The Customer is deemed to be in default immediately upon the happening of any of the following events:
- 4.6.1 if any payment to Company is not made promptly before the due date for payment.
  - 4.6.2 if the Customer ceases to carry on business or stops or suspends payment or states its intention of so doing or is unable to pay its debts as they fall due or if any cheque or bill of exchange drawn by the Customer payable to Company is dishonoured;
- 4.7 Company may at its sole discretion commence debt collection activities after the invoice due date for payment. An administration fee of \$50.00 will be chargeable to Customer at the commencement of debt collection activities and will be added to the outstanding invoice amount. Customer will be liable for all legal and court costs associated with lodging a statement claims by Company to recover unpaid monies.
- 5.0 **Indemnity**
- 5.1 To the full extent permitted by law, Customer will indemnify Company and keep Company indemnified from and against any liability and any loss or damage Company may sustain, as a result of any breach, act or omission, arising directly or indirectly from or in connection with any breach of any of these Terms by Customer or its representatives.
- 6.0 **General**
- 6.1 These Terms are to be construed in accordance with the laws from time to time in the State of New South Wales and the Commonwealth of Australia. The parties submit to the non-exclusive jurisdiction of the Courts of New South Wales, Australia and any courts which may hear appeals from those courts in respect to any proceedings in connection with these Terms.
- 6.2 These Terms contain all of the terms and conditions of the contract between the parties and may only be varied by agreement in writing between the parties.
- 6.3 Any conditions found to be void, unenforceable or illegal may, to that extent be severed from the Agreement.
- 6.4 No waiver of any of these Terms or failure to exercise a right or remedy by Company will be considered to imply or constitute a further waiver by Company of the same or any other term, condition, right or remedy.