

## Terms and Conditions of Sale (14 DAY ACCOUNT)

### 1. Definitions

“Seller” and “Supplier” means Fortress Fencing Systems except where the context requires otherwise. “Customer” means the Customer whose order for the purchase of goods is accepted by the Seller. “Customer” includes a buyer that has not dealt with the Supplier previously.

### 2. Conditions

These Terms and Conditions shall apply to every sale contract and sale of goods between Seller and Customer. Any terms and conditions of the Customer's order or any statement by Customer deviating from or inconsistent with these terms and conditions are expressly rejected by the Seller. Acceptance of order may be made and communicated by Seller in writing or by overt act of acceptance. No agent or distributor of the Seller has authority to add to, vary or contradict these terms and conditions.

### 3. Prices and Goods and Services Tax (GST)

All prices are subject to change without notice. As a wholesale company prices shall be shown excluding GST and the current percentage GST shall be added.

### 4. Delivery

The Seller reserves the right to apply a freight charge where, in the Seller's option, the cost of delivery is not covered by the current price structure. The Seller also reserves the right to apply fuel levy.

### 5. Passing of Risk

The risk in the goods sold shall pass to the Customer at the point of delivery which shall be the Supplier's warehouse unless otherwise agreed. Where the goods are transported by the Supplier to the Customer's premises, delivery shall be deemed to take place at the moment that the goods pass over the side of the vehicle in which they were transported to the Customer's premises. The Customer shall provide or cause to be provided full and clear access for delivery and will at its own expense provide all necessary assistance in unloading the goods at the nominated place of delivery. Where the Customer has requested special delivery arrangements (i.e. other than Seller delivering to the premises of Customer) risk in respect of goods shall pass to the Customer upon the goods leaving the premises of the Seller. The Seller will not in any circumstances accept liability for damage, shortage or loss during transit.

### 6. Title of Goods

Goods remain the property of the Seller until payment is made in full. Where payment is tendered by cheque, payment shall not be deemed to have been received until such cheque is honoured upon presentation at the drawer's Bank. If the cheque is dishonoured the Seller reserves the right to charge

the Customer for accounting and bank charges and other fees incurred by it in respect of such dishonour. If the Customer defaults in payment for goods the Seller retains the right to retrieve the goods and resell them. For this purpose the Seller, its servants or agents may enter upon the buyer's other premises in which the goods are situated.

### 7. Part Delivery and Failure to Deliver

The Seller may make part deliveries of any order unless agreed to the contrary in writing. Each part delivery shall constitute a separate contract for the sale of goods upon the conditions herein contained. Every endeavour will be made by the Seller to complete delivery within the period stated, if any, but no liability can be accepted by Seller for delay in delivery or non delivery. All items backordered are firm and shall not be cancelled unless agreed by the Seller.

### 8. Shortages

All items listed on the Seller's invoice will be deemed to have been received in good order and condition, without shortage, unless the Seller is notified in writing to the contrary within seven (7) days of the delivery date.

### 9. Returns

Returns must be first authorised by the Seller and a Goods Return Authority (GRA) No. obtained. Returns for credit can only be made within seven (7) days of purchase. To obtain a Goods Returned No. the date of purchase and the original Invoice No. must be quoted. Goods are to be returned freight prepaid and are to include the Goods Returned No. and a copy of the original invoice. Returns are subject to a 20% restocking fee and will only be accepted if the goods and packaging are received in an unused and original condition. Return of incorrectly supplied goods at the Seller's expense will be by the carrier of the Seller's choice. The Seller will not accept freight charges for goods returned by other means. Products specially purchased, manufactured, machined or cut to size to the Customer's specifications are not returnable.

### 10. Insurance

It is the Customer's responsibility to effect whatever insurance cover he requires at his own expense.

### 11. Terms of Payment

Cash/EFT/Credit Card prior to the goods leaving the Seller's warehouse unless the Customer shall have made some other arrangement with the Supplier. If the Supplier shall have granted to the Customer credit facilities payment for all the goods sold will be within fourteen (14) days from which each delivery was invoiced. Interest shall be payable by the Customer on all amounts overdue to the Seller at the rate of two (2) per centum per month. The Customer shall be liable for collection and legal charges incurred by the Seller pursuing outstanding amounts.

## 12. Outstanding Interference

The Supplier shall not be liable to the Customer for any defect, loss, damage or delay whatsoever caused by strikes, lockouts, damage to or breakdowns of plant, Government interference, earthquake, civil commotion, Force Majeure or any cause beyond the control of the Supplier.

## 13. Warranty

Goods sold shall have only the benefit of any warranty given by the manufacturer. All conditions and warranties implied by law are hereby expressly negative insofar as they lawfully can be. Goods are not guaranteed by the Supplier in any way unless guaranteed expressly in writing. Goods which are the subject of a warranty claim are to be returned to the Seller, freight prepaid, with a copy of the original sales invoice sales invoice and brief written details of the fault. Before any warranty claim can be considered documentary evidence of the date of sale of the date of sale of the goods must be received by the Seller. Any warranty given does not cover wear and tear, abuse or misuse.

## 14. Liability of Seller

Except as otherwise provided in these conditions the Seller shall not be under any liability in respect to defects in goods delivered or for any injury, damage or loss resulting from such defects or from any work done in connection therewith except to the extent that any statute applicable to these conditions prevents the exclusion, restriction or modification of such conditions or warranties. Notwithstanding any other provisions of the contracts the Seller shall not be liable to the Customer for any loss of profit howsoever arising, nor shall the Seller be under any liability whether in contract, tort or otherwise nor for any injury, damage or loss whether consequential or otherwise save as is expressly provided in these conditions. The Seller shall not be responsible for damage or fault in performance arising out of incorrect or inappropriate operation of the product by the Customer. The Customer acknowledges that the Seller gives no warranty as to fitness of the product for the intended application of the Customer and that the Customer has relied entirely upon its own evaluation thereof. The Customer is responsible to ensure that any product is suitable for the purpose they intend using it for.

## 15. Variation by Customer

Should there be any variation in details, sizes and quantity, delivery instruction or any other item or matter on which the quotation or invoice is based, Seller reserves the right to revise and amend the contract price accordingly.

## 16. Clerical Errors

Clerical errors in computation, typing or otherwise of price list, catalogue, quotation, acceptance, offer, invoice, delivery docket, credit note or specification of Seller shall be subject to correction.

## 17. Modifications

All modifications and amendments to these Terms and Conditions shall be in writing and if otherwise shall not be binding upon the Seller. If any of the provisions of the Contract are unlawful or invalid by reason of any applicable statute or rule of Law, then such provision shall be severed from the rest of this Contract which shall remain valid and binding on the parties.

## 18. Government Laws

The Law governing these Terms and Conditions shall be the Law of New South Wales.

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