

Dowel Consulting Pty Ltd trading as Video Door Phones
STANDARD TERMS AND CONDITIONS

1. General

1.1 In these terms and conditions:

- (a) "Company" means Dowel Consulting Pty Ltd (ABN) 24 552 182 068 and its agents, representatives, assigns and successors;
- (b) "Contract" means these terms and conditions, the Order Form, the Invoice and any other documents annexed to these terms and conditions;
- (c) "Goods" means the products and services provided by the Company;
- (d) "Invoice" means the Company's invoice for Goods;
- (e) "Order Form" means the form to be used to order Goods from the Company;
- (f) "Purchaser" means the person described as such in the Order Form;
- (g) "Purchase Price" means the price of the Goods determined in accordance with clause 8;

1.2 These terms and conditions (except to the extent that they are waived in writing signed by the Company) prevail over all terms and conditions of the Contract to the extent of any inconsistency and to the exclusion of any other terms or conditions.

2. Terms of Sale

2.1 The Goods sold by the Company to the Purchaser are sold on these terms and conditions.

2.2 The Company's failure to insist upon strict performance of any of these terms and conditions shall not be deemed a waiver of these terms and conditions and no express waiver shall be deemed a waiver of any subsequent breach of any term, warranty or condition.

3. Description for Identification only

3.1 Any description of the Goods which appears in the Invoice is given solely for identifying the specific goods or services that are the subject of this Contract and does not render this Contract a sale by description.

3.2 The Purchaser is deemed to have accepted that the Goods correspond with any sample (if applicable),

4. Order, Despatch, Delivery and Inspection of Goods

4.1 The Purchaser must order Goods from the Company using the Order Form, Internet or as otherwise agreed.

The Company may decline any order received from the Purchaser by written notice to the Purchaser within working 3 days of receipt of the order.

4.2 Upon receipt of the order, the Company will provide the Purchaser with 3 working days an estimate of the time of despatch of the goods.

4.3 The Purchaser acknowledges that all despatch and delivery times indicated to it by the Company, whether in this Contract or otherwise, are estimates only. The Company is not liable for any loss, damage or delay suffered by the Purchaser or its customers arising out of late or delayed despatch times or deliveries by a 3rd party.

4.4 Subject to clause 13.2, the Purchaser may inspect the Goods upon delivery and may reject, within 7 days after delivery, any Goods which the Purchaser reasonably believes are not in accordance with the Contract. If the Company accepts the Purchaser's rejection of the Goods, the Company will provide replacement Goods within 7 days of receipt of such items by the Company. Failure to reject Goods within this timeframe constitutes acceptance by the Purchaser. The Purchaser will not be liable to pay for any Goods which are not in accordance with this Contract and which are rejected in accordance with this clause.

5. Loss or Damage in Transit

The Company is not responsible to the Purchaser (or any person claiming through the Purchaser) for any loss or damage to any Goods in transit caused by any event of any kind by any person unless otherwise agreed by the Company.

6. Passing of Property and Risk

6.1 Property and title in Goods supplied under this Contract does not pass to the Purchaser until payment in full by the Purchaser is received by the Company in relation to such Goods and in relation to all other amounts owing to the Company by the Purchaser on any account whatsoever, until which time (subject always to clause 6.2):

- (a) the Purchaser must not deal with any Goods to which the Company retains property and title in accordance with this clause 6.1 ("**Retained Goods**") in any way inconsistently with the rights and interests of the Company as owner thereof; and
- (b) the Purchaser must hold the Retained Goods as fiduciary bailee and agent for the Company, and the Purchaser must store the Retained Goods in such separate place and in such manner such that the Retained Goods are capable of being clearly identified as the property of the Company.

6.2 Upon demand by the Company (which demand may be made at any time upon the Purchaser defaulting in its obligations under clause 9), the Purchaser must deliver all Retained Goods to the Company or as otherwise directed by the Company. The Company may enter upon any premises under the Purchaser's control for the purposes of recovering any Retained Goods the subject of a demand made in accordance with this clause and, in so entering upon such premises, the Company and its authorised representatives will not be trespassers.

6.3 The Purchaser may, in the ordinary course of business, sell Retained Goods on behalf of the Company, in which case the Purchaser must:

- (a) keep separate records of all sales of such Retained Goods; and
- (b) account to the Company for all proceeds of the sale of such Retained Goods; and
- (c) keep a part of such proceeds equal to the total amount outstanding to the Company in relation to all Retained Goods in a separate account on trust for the Company and not mix them with any other moneys (including funds of the Purchaser) other than with other moneys held on trust by the Purchaser for the Company; and
- (d) keep a part of such proceeds equal to the total amount owing to the Company by the Purchaser on any account other than the Retained Goods whatsoever in a separate account on trust for the Company and not mix them with any other moneys (including funds of the Purchaser) other than with other moneys held on trust by the Purchaser for the Company.

All risk in the Goods, unless otherwise agreed in writing by the parties, passes to the Purchaser upon despatch of the Goods by the Company, except where the Goods are despatched by the Company in a vehicle owned by the Company, in which case risk in the Goods passes upon delivery of the Goods to the Purchaser or its agent.

7. Quotes by the Company

7.1 Subject to clause 7.2, all quotations made by the Company are valid for the period specified in the quotation or, if no such period is specified, for a period of thirty (30) days from the date of quotation. Following the expiration of this period, each quotation is subject to written confirmation by the Company.

7.2 All quotations provided by the Company are given subject to these terms and conditions, and to the exclusion of all other terms and conditions. A quotation does not constitute acceptance of an order under clause 4.1.

8. Purchase Price

8.1 Unless otherwise agreed by quotation under clause 7.1, the purchase price for goods shall be the Company's published list price at the date of the Company accepts an order from the Purchaser in accordance with 4.1. The Company's current published price list is issued from time to time including on its website. A current copy of the price list is available upon request.

8.2 The purchaser acknowledges and agrees that, in the event that the published list price or any price quoted by the Company is calculated on the basis of a per unit price or is based on minimum or specific quantities, the Company may amend that price if there is a variation in the total quantity of goods ordered from that upon which the quotation or list price was based.

8.3 The Company shall be entitled to adjust a Purchaser's normal quoted price for goods, with 30 days notice to the purchaser, prior to acceptance of an order, in the event of and to take account of, but not be limited to, any increase in the cost of any of the following items that affect the price of the goods:-

- (a) the cost at which the Company's purchases goods or other inputs to its business;
- (b) freight;
- (c) insurance;
- (d) currency exchange rates;
- (e) quarantine, customs or port charges or duties, charges on the classification or value of goods for customs purposes.

Unless otherwise agreed, all list and quoted prices exclude delivery, which shall be added to the purchase price

Dowel Consulting Pty Ltd trading as Video Door Phones
STANDARD TERMS AND CONDITIONS

- 8.4 All list or quoted prices (unless otherwise expressly indicated) are exclusive of any applicable goods and services tax ("GST") or any other applicable taxes, duties. All such taxes, duties, costs and charges shall be included as an additional item in the invoiced price.
- 9. Payment of Purchase Price**
- 9.1 Subject to clause 4.4, the Purchaser must pay the Company the Purchase Price for any Goods supplied within 14 days after despatch of the Goods unless other terms of payment are expressly stated in the Contract.
- 9.2 The purchaser shall be required to pay to the Company the amount of the price for goods plus GST. The cost of delivery of the Goods is payable by the Purchaser and, to the extent that any payment is required to be made to the Company in respect of such cost, the Purchaser must make such payment together with the Purchase Price in accordance with clause 9.1.
- 10. Non-Payment**
- 10.1 Subject to clause 6.2, if any payment is not received by the Company in accordance with clause 9, then, without prejudice to any other right or remedy, all outstanding money carries interest on daily balances until paid at a rate of interest per annum equal to 2% higher than the penalty interest rate under section 2 of the Penalty Interest Rates Act 1983 (Vic), and the Company may recover the Purchase Price together with all interest forthwith from the Purchaser as a liquidated debt in a court or tribunal of competent jurisdiction irrespective of any claim that the Purchaser may have against the Company for any thing or matter related to the Contract.
- 10.2 Any legal expenses and fees incurred by the Company in the recovery of any monies owing in respect of the Contract shall be paid by the Purchaser.
- 10.3 The Company may, without prejudice to any other right or remedy, suspend all future deliveries of Goods or other products to the Purchaser, whether under the Contract or otherwise, until any amounts outstanding under the Contract are paid in full to the Company.
- 11. Use of Goods**
- 11.1 The purchaser shall not use or recommend the goods for any purpose other than that for which the goods were intended and will use or recommend the goods strictly in accordance with any instructions or supporting documentation supplied with the goods, or on the Company website or as specifically directed by the Company.
- 12. Warranties and Liability**
- 12.1 To the maximum extent permitted by law, all conditions, warranties, representations, liabilities and obligations, whether implied or imposed by statute or otherwise, in respect of the supply of Goods, including any conditions or warranties as to merchantability, fitness for purpose or correspondence with description, are excluded and all liability for loss or damage, whether consequential or otherwise and whether arising from negligence or from any other cause whatsoever, is excluded.
- 12.2 The Company warrants to the purchaser that, under proper use in accordance with clause 11.1 the goods will be free from defects solely due to faulty workmanship and materials during a period of 12 months from date of despatch. This warranty does not cover:
- (a) damage due to normal wear and tear, improper installation, misuse or neglect or where products have been subjected to operating or environmental conditions in excess of normal standards;
 - (b) breakdown or failure of installations where such breakdown or failure is due to overloading or operation of the goods outside the limits of specifications or in an incorrect manner which is outside the control of the Company.
 - (c) the installed performance of the product where pre-existing wiring from an earlier system has been used and where the Company has no control over the condition of the wiring used
 - (d) water ingress;
- or apply where:
- (e) the goods or any part thereof that, without the Company's consent, have been altered, repaired, or subjected to any technical attention by any person other than the Company's authorised representative.
- 12.3 If the Company is found to be in breach of any condition, warranty, representation, liability or obligation not excluded under clause 12.1 or 12.2, the liability of the Company in respect of such breach, subject to clause 12.5, will be limited at the option of the Company to one or more of the following (as applicable):
- (a) the resupply of the relevant Goods; or
 - (b) the repair of the relevant Goods; or
 - (c) the cost of having the relevant Goods repaired; and the cost of having the relevant Goods resupplied (but not installed or re-installed).
- 12.4 Where the Company is not deemed to be the manufacturer, the Company relies on the specifications and warranties supplied by the manufacturer or supplier.
- 12.5 If the Company is held or found to be liable to the Purchaser for any matter relating to or arising in connection with the Contract, whether based on an action or claim in contract, negligence, tort or otherwise, the amount of damages the Purchaser will be entitled to recover from the Company will be limited to the amount actually paid by the Purchaser under clause 9.
- 12.6 The Purchaser indemnifies (on a full indemnity basis) the Company from and against any liability, loss, expense or demand for or arising from any false, misleading, deceptive or mis-descriptive representation or statement made by the Purchaser in respect of the Goods to any person. This indemnity survives termination of the Contract.
- 13. Returned Goods**
- 13.1 Subject to Clauses 4.4 and 12.2, the Company is not under any duty to accept Goods returned by the Purchaser and will do so only on terms to be agreed in writing in each individual case.
- 13.2 If the goods are returned under clause 4.4, they must be received by the Company complete with original packaging and contents.
- 13.3 If the Company first agrees to accept returned Goods from the Purchaser under clause 12.2 the Purchaser must return the Goods to the Company at the Company's premises as otherwise directed by the Company at the Purchaser's expense. If the goods are found by the Company or its agents to be not in breach of any warranty under clause 12, a re-stocking fee, determined by the Company, shall apply to the Purchaser and the Company may, at its discretion refund monies paid under clause 9 or return the goods to the Purchaser at the Purchaser's cost.
- 13.4 Subject to clause 9, all property of the Purchaser returned to the Company's premises for repair under clause 12.3, remains the Purchaser's property. The Company holds such property of the Purchaser as a bailee.
- 14. Term and Termination**
- 14.1 Subject to clauses 12.2, 14.2 and 14.3, the Contract commences on the date the Company accepts a signed Order Form; and expires 7 days after the date on which the last of the Goods are despatched or collected from the Company's premises.
- 14.2 Subject to clause 14, if a party commits a breach of any provision of the Contract, and has not remedied that breach within 14 days of being requested in writing by the other party to do so, then that other party may terminate the Contract immediately by notice in writing to the first party.
- 14.3 To the extent that the context and the law permit, the rights and obligations of the parties under the Contract survive its termination.
- 15. Force Majeure**
- If by any reason of any fact, circumstance, matter or thing beyond the reasonable control of a party, that party is unable to perform in whole or in part any obligation under the Contract, that party is relieved of that obligation under the Contract to the extent and for the period that it is so unable to perform and is not liable to the other party in respect of such inability.
- 16. Governing Law**
- This contract is governed by the laws of Victoria, Australia. The parties unconditionally submit to the jurisdiction of the courts of that State and all courts competent to hear appeals of the decisions of those courts.