

## **GENERAL TERMS AND CONDITIONS OF SALE**

### **1. DEFINITION AND INTERPRETATIONS**

- 1.1 In these General Terms and Conditions and in all documents comprising the contract referred to in point 2. the following expressions shall have the meanings set out hereunder, unless the context clearly requires a different meaning:
- 1.1.1 “The Contract” means these terms and conditions and the Quotation together with such other terms and conditions as may be specifically agreed by the parties, provided that such terms and conditions are reduced to writing and signed by both parties.
- 1.1.2 “The Company” means Kaljon Balustrading & Staircases (Pty) Ltd.
- 1.1.3 “The Customer” means the party contracting to do business with the Company including the party requesting a quotation for materials and/or services from the Company
- 1.1.4 “The Quotation” means a written or oral statement by the Company, setting out the materials to be supplied and/or services to be rendered and all information and data relating thereto, and the price to be paid by the Customer in return for the such materials and/or services.

### **2. THE CONTRACT**

- 2.1 The Contract contains all the express provisions agreed on by the parties with regard to the subject matter of the Contract and the parties waive the right to rely on any alleged express provision not contained in the Contract.
- 2.1.1 No party may rely on any representation, which allegedly induced the party to enter into the Contract, unless the representation is recorded in the Contract.
- 2.1.2 No agreement varying, adding to, deleting from or cancelling the Contract or any part thereof and no waiver of any right under the Contract shall be effective unless reduced to writing and signed by and on behalf of the parties.
- 2.1.3 No relaxation by a party of any of its rights in terms of the Contract at any time shall prejudice or be a waiver of its rights (unless it is a written waiver) and it shall be entitled to exercise its rights thereafter as if such relaxation had not taken place.

#### **Variation Orders**

- 2.2 Should the customer want changes to the original contract after initial deposit is paid (changes in timber choice, finishes, etc), a revised quotation is to be issued, signed by customer and additional deposit to be paid should the value be higher than before. If lower no deposit refund will be given, but rather a lesser payment on completion.
- 2.2.1 Should the customer require additional work, a separate quote will be issued and treated as a completely new job with a deposit required unless agreed upon by Kaljon. This includes the restoration of a complete project prior to site handover.
- 2.2.2 Should deadlines already be in effect of original contract and a variation order placed; the deadline will be shifted to a new agreed upon date.



### 3. APPLICATION

- 3.1 All and any services carried out by the Company are and shall be subject to these standard trading conditions to the exclusion of any other terms and conditions (including without limitation any other general or standard trading terms and conditions of the Customer) unless otherwise specifically agreed in writing.
- 3.2 Every Customer warrants that it has the authority to contract with the Company, either as owner of the Product, or the carrier of the Product in question, or as the authorised agent of the person owning or otherwise interested at any time in any Product that is the subject of the services rendered by the Company.
- 3.3 If the customer is acting on behalf of someone else and/or another company or trust, the company can choose to request payment from both the customer or the entity they represent.
- 3.4 When the customer agrees to the terms and signs the quote (either in writing or orally), a legally binding agreement is formed between them and the company.
- 3.5 Should a client pay a deposit towards a project, all the terms and conditions laid out automatically come into effect.

### 4. PAYMENT AND INTEREST

- 4.1 **A 60 % Deposit is required prior to manufacture, 40% balance to be paid within 7 days of invoice date by the Customer to the Company shall be paid upon installation of the works or as otherwise agreed in writing by a member of the Company, without demand and free of exchange, deduction or set-off.**
- 4.1.1 **Jobs under the value of R5000.00 are to be paid in full.**
- 4.1.2 **All supply only projects are to be paid in full prior to product leaving our factory.**
- 4.1.3 **Any amount not paid after 30 days of invoice shall bear interest, at the rate of Prime + 5%**
- 4.1.4 Default in payment will be handed over to attorneys for debt collection.
- 4.2 If snags are found on a job, a withholding amount of no larger than 10% can be retained by the Customer and released once the snags are completed. With reference to point 6
- 4.3 Should the value of the job have multiple sections to it or exceed one month in installation time, progress payments are to be paid as soon as completed work invoices are given.
- 4.4 Retentions are only available if a JBCC contract has been signed between the Company and the Customer.
- 4.4.1 Retentions do not apply to the deposit amount as the deposit is required to buy materials for the project.
- 4.5 **Customers are responsible for cash deposit fees, wire transfers and other such bank charges.**
- 4.6 Should a pre-planned installation date be pushed out by more than 4 weeks a progress invoice may be issued, at the discretion of the company and payable before month end.
- 4.7 Extra Charges:
- 4.7.1 Should there be no power onsite and Kaljon not notified prior to arrival onsite and a generator is needed to complete the work (With exception to load shedding), A generator can be provided to site at a rate of R1000.00 incl. Vat per Day which will be added to the final invoice
- 4.7.2 Should an installation date be agreed and set, and preinstallation requirements be briefed to customer, and upon that day the installation team does not have the ability to install the product, a charge of R1500 incl. Vat will be given for that day and every day the team arrives onsite and has the inability to work. These include but not limited to: inadequate surface prepping, incomplete tiling, other contractors/scaffolding in the way, lack of electricity onsite.
- 4.8 Ownership in goods sold and delivered to Customer remains with the Company and only passes to Customer when all amounts due by Customer to the Company have been paid, notwithstanding the delivery of the goods to Customer. Risk in and to all goods passes to Customer on final payment.



## 5. **GUARANTEES**

The company takes pride in our craftsmanship and stands behind its products. As such, the company offer the following guarantee:

- 5.1 A 5-year limited structural guarantee for all internal works only. This guarantee covers any defects in the structural integrity of the project, such as joints, connections, and supports, but does not cover defects in the timber itself.
  - 5.1.1 Should any defects covered by this guarantee arise during the specified guarantee period, the company will repair or replace the affected parts of the staircase at no cost to the customer.
- 5.2 No guarantee can be provided for external products due to climate conditions.
  - 5.3.1 The guarantee shall be considered null and void should there be damage from use other than its intended purpose, this includes: excessive weight loading, excessive water exposure, damages to the structure that the product relies upon, acts of god.
  - 5.3.2 The guarantee does not apply to the following: general wear and tear, excessive movement in timber due to poorly controlled or incorrect ambient environment (especially relative humidity, temperature, and direct sunlight), lack of or improper maintenance, intentional damage.
- 5.4 Guarantee only effective once payment in full is received.

## 6. **LIABILITY, DEFECTS AND SNAGS**

- 6.1 Should the materials supplied, or services rendered not be in accordance to the contract the customer will need to contact the company **in writing** detailing the snags, to which the company may either:
  - 6.1.1 Repair or replace the defective portions or components at the discretion of the Company.
- 6.2 Once work is complete and invoice received by client, the client has 5 working days to snag the completed work and a list of snags is to be supplied in writing, detailing each snag, directly to Kaljon.
- 6.3 Snags do not include preventable damage due to unprotected materials during the duration of siteworks, acts of God, accidental damage caused by the Customer or any other third party, the negligent or intentional act of the Customer or any third party or damage arising out of attempted repairs to such Works or any portion or component thereof by the Customer or any third party.

## 7. **DISPUTE RESOLUTIONS**

- 7.1 Should a dispute arise between the Customer and the company with regards to the product, a 3-stage procedure will take place:
  - 7.1.1 As the Company is a full member of the Master Builders Association. The association can mediate the dispute to find an amicable resolution at zero charge to the Customer or the Company
  - 7.1.2 Should this process not be satisfactory an Independent Arbitrator will be appointed to adjudicate the case and issue legally binding course of proceedings for each of the parties involved must adhere to. All costs in the arbitration proceedings will be split between the parties involved.
  - 7.1.3 Failure to comply with arbitration proceedings will result in court action.



## 8. ACCEPTABLE DEFECTS

### 8.1 ACCEPTABLE DEFECT IN TIMBER

Timber is a natural and living product which has many positive physical properties which is why we use it. During the trees life and growth, it encounters many external factors that influence the end result of the timber and beyond the control of the Company. Although great effort is applied in the designing and selecting of timber these acceptable defects include:

#### 8.1.1 *Knots:*

A knot is a natural defect caused by the presence of a branch in the wood. Small knots are acceptable as long as they are sound (not loose) and do not impact the structural integrity of the timber.

#### 8.1.2 *Sapwood:*

Sapwood is the outermost layer of wood in a tree and is often lighter in colour than the rest of the wood.

#### 8.1.3 *Grain irregularities:*

Grain irregularities are natural variations in the wood's grain pattern. They can be caused by growth conditions, knots, or other factors. While they can affect the wood's appearance, they do not impact its structural integrity.

#### 8.1.4 *Cracks and checks:*

Cracks and checks are small splits in the wood caused by the natural drying process. Checks are epoxy filled to ensure they are sound prior to installation. Cracks may only present themselves after installation as the timber settles to its new environment and are acceptable if they do not compromise its structural integrity. As cracks are beyond the control of the company, rectification will be to clients' cost.

#### 8.1.5 *Colour variations:*

Wood can have variations in colour due to differences in growth conditions, sunlight exposure, and other factors. These variations are usually acceptable in woodworking projects and can add character to the finished piece.

#### 8.1.6 *Warp or twist:*

Warp or twist is a deviation from the straight grain of the wood caused by uneven drying or other factors. While it can affect the appearance of the finished piece, small amounts of warp or twist are usually acceptable and do not impact the wood's structural integrity.

### 8.2 ACCEPTABLE FLAWS & TOLERANCES IN GLASS (Extract from AAAMSA SELECTION GUIDELINES 2012 - CHAPTER 10.4.4)

[AAAMSA Selection Guide Chapter 10 Quality Assurance.pdf](#)

#### 8.2.1 *Scratches & Blemishes*

Acceptable glass scratches are under 75mm long in any area. The scratch and blemish inspection should be viewed at a distance of 3 metres under normal lighting conditions. Normal lighting conditions shall mean reasonable lighting conditions under which the product is normally viewed. (No added light from torches etc.). If visible when viewed from a distance of 3 metres under the lighting conditions described, the product/s may be rejected. Scratches should be inspected and signed off the day of installation as Kaljon has no control over any external factors and/or other trades who may scratch the glass.

#### 8.2.2 *Distortion*

Glass will always have a degree of distortion. Toughened glass has more distortion than annealed. Wedged gasket systems tend to create more distortion.

#### 8.2.3 *Colour variation*

Colour which is determined by reflectance and transmission may vary slightly and is considered acceptable.

#### 8.2.4 *Bow*

4, 5 & 6mm glass thickness may bow no more than 1mm over a distance of 200mm. 8mm glass or thicker may bow no more than 1mm over a distance of 300mm



9. **INDEMNITY**

9.1 With acceptance of this agreement the company indemnifies itself should the customer, or any other 3<sup>rd</sup> party injure themselves by using the staircase in incomplete form (i.e., Falling from a height when the staircase structure is installed but balustrades are missing).

9.2 A staircase is deemed complete once the staircase fulfils all regulations laid out with SANS 10400 Building Code.

10. **BREACH**

Either party shall be entitled, without prejudice and in addition to any rights which it may have in terms of the Contract or in law, to cancel the Contract or to uphold the Contract and either event to claim such damages as it may have suffered in the event that the other party in any way breaches any provision of the Contract and fails to remedy such breach within 14 days after the receipt of a notice from the other party calling upon it to remedy the breach.

11. **COSTS**

Any costs, including attorney and own client costs, incurred by the Company arising out the breach by the Customer of any of the provisions of the Contract shall be borne by the Customer.

12. **FUTURE CONTRACTS**

These General Terms and Conditions of Contract shall apply to any future oral or written agreement for the supply of materials and/or services by the Company to the Customer.