

TERMS AND CONDITIONS

BETWEEN:

THE CUSTOMER as set out in the Customer Contact information of the “Application for Trading Account – Agreement”; or the COD Customer requesting products/services (“**The Customer**”); **AND**

COMPLETE LOCK & SECURITY SERVICES PTY LTD ABN 40 008 614 220 of 51 Kembla Street, Fyshwick ACT 2609 (“CLASS Locksmiths”)

1. Application

These terms and conditions apply to all Products required by the Customer during the term.

2. Price

- 2.1 Unless otherwise agreed by CLASS Locksmiths in writing, the Prices charged for the Products will be the prices shown for those Products in store and will be usual retail prices.
- 2.2 The Prices are inclusive of GST on the basis that the GST Rate is 10%. In the event that the GST Rate is increased, the Prices will be increased accordingly.
- 2.3 The Customer must not withhold, make deductions from, or set-off, payment of any money owed to CLASS Locksmiths for any reason.
- 2.4 CLASS Locksmiths will issue an invoice to the Customer at the time of supplying Products to the Customer.

3. Order for Products

- 3.1 The Customer agrees and acknowledges that this Agreement does not guarantee the supply of Products from CLASS Locksmiths to the Customer at any time.
- 3.2 Each supply of Products by CLASS Locksmiths to the Customer will be a separate contract between the parties and is governed by the general Terms and Conditions provided by CLASS Locksmiths to the Customer at the time of or prior to making the supply.
- 3.3 The Customer is required to make all orders in writing.
- 3.4 Where there is any inconsistency between this Agreement, and the general Terms and Conditions, this Agreement will prevail.

4. Delivery of Products

- 4.1 CLASS Locksmiths will not be liable for any delay in the delivery of Products.
- 4.2 CLASS Locksmiths may deliver Products in separate installments.
- 4.3 CLASS Locksmiths may deliver Products to the Delivery Address regardless of whether there is anyone at the Delivery Address at the time of delivery.
- 4.4 The Customer agrees:
 - (a) CLASS Locksmiths may refuse to deliver Products, and return the Products at the Customer’s cost, if CLASS Locksmiths or a member of CLASS Locksmiths Personnel considers it would be unsafe to deliver the Products.

- 5.1 A certificate signed by member of CLASS Locksmiths Personnel in relation to delivery of the Products will be prima facie evidence of delivery.

5. Repayment Terms

The Customer must make full payment for each

supply of Products, and any other amounts payable to CLASS Locksmiths:

- a) Trading Account - within 30 days of the end of the month in which the Products were purchased, following the issue of a tax invoice or statement (or such alternative period agreed by CLASS Locksmiths in writing);
 - b) OR COD – on delivery.
- 5.2 CLASS Locksmiths may request that the Customer pay a deposit prior to supply of the Products and this request is at the sole discretion of CLASS Locksmiths.
 - 5.3 CLASS Locksmiths may charge interest on outstanding balances owing by the Customer to CLASS Locksmiths, at the rate of 12% per annum calculated on a daily basis.
 - 5.4 CLASS Locksmiths may charge the Customer a surcharge for payments made by credit/debit card or PayPal or other electronic means as allowed by law.
 - 5.5 The Customer hereby indemnifies CLASS Locksmiths and must reimburse CLASS Locksmiths for the full amount of any bank or other fees associated with any dishonoured payments or cheques and any legal costs (on a solicitor/party basis), debt recovery or other expenses incurred by CLASS Locksmiths associated with any action by CLASS Locksmiths to recover money from the Customer.
 - 5.6 CLASS Locksmiths may withdraw credit facilities available to the Customer at any time without notice to the Customer.
 - 5.7 The Customer agrees to charge in CLASS Locksmiths’ favour with payment of all monies owing to CLASS Locksmiths by the Customer any of their estate and interest in any land and/or in any other assets whether they are tangible or intangible in which the Customer currently has a legal and/or beneficial interest or in which they acquire such interest later.
 - 5.8 CLASS Locksmiths retains title in all Products until the Customer has made payment in full.
- #### 6. Return of Products
- 6.1 The Customer agrees and acknowledges it is their responsibility to inspect the Products provided upon delivery. CLASS Locksmiths reserves its right to dishonour any claims made after 72 hours from the delivery.
 - 6.2 The Customer is liable for all costs associated with returning the Products to CLASS Locksmiths and all Products must be in original condition and packaging.
 - 6.3 CLASS Locksmiths reserves its right to charge the Customer a 25% handling fee for any Products that are returned by the Customer.
- #### 7. Force Majeure
- CLASS Locksmiths will not be liable to the Customer for any failure to perform, or delay in performing, CLASS Locksmiths’ obligations under these terms and conditions if the failure or delay is due to any cause beyond CLASS Locksmiths’ reasonable control.
- #### 8. Limitation of liability
- 8.1 CLASS Locksmiths excludes all express and implied conditions and warranties in relation to the

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- Products except those conditions and warranties that cannot be excluded by law and CLASS Locksmiths' liability under any such conditions or warranties is limited to, at CLASS Locksmiths' option, arranging to replace or repair the Products or resupplying the Products.
- 8.2 Nothing in these terms and conditions are intended to have the effect of contracting out of any applicable provisions of the Competition and Consumer Act 2010 (Cth) or any Fair Trading Act except to the extent permitted by such Acts.
- 8.3 CLASS Locksmiths' liability for any Liability or Claim in relation to these terms and conditions, and any supply of Products (whether under statute, contract, tort, negligence or otherwise) will be limited to the amount of the Price paid or payable by the Customer to CLASS Locksmiths.
- 8.4 CLASS Locksmiths will not be liable to the Customer for any Liability or Claim of any kind arising directly or indirectly (whether under statute, contract, tort, negligence or otherwise) in relation to any indirect or consequential loss (including but not limited to any loss of actual or anticipated profits, revenue, savings, production, business, opportunity, access to markets, goodwill, reputation, publicity, or use) or any remote, abnormal or unforeseeable loss or any similar loss whether or not in the reasonable contemplation of the parties.
- 9. Release and Indemnity**
The Customer indemnifies CLASS Locksmiths and each member of CLASS Locksmiths Personnel from and against any Liability or Claim arising directly or indirectly in relation to:
- (a) Any damage caused to the Products whilst they are in the possession of the Customer;
 - (b) the Customer or any member of the Customer's Personnel directly or indirectly causing any delay in the supply of any Products; and
 - (c) CLASS Locksmiths having to replace Products or resupply the Products, as a result of the actions or omissions of the Customer or any third party.
- 10. Personal Property Securities Act (2009)**
- 10.1 The Customer consents to CLASS Locksmiths effecting a registration on the PPSA register in any manner that CLASS Locksmiths deems appropriate in relation to any security interest in the Product.
- 10.2 The Customer waives its right to receive notice of a verification statement in relation to any registration by CLASS Locksmiths on the PPSA register and any other notice required under the PPSA.
- 10.3 The Customer agrees to promptly execute any documents, provide all relevant information, fully cooperate with CLASS Locksmiths and do any act or thing that CLASS Locksmiths requires to ensure that any interest created under this Agreement is perfected and remains continuously perfected.
- 10.4 The Customer must not, without the prior consent of CLASS Locksmiths, allow any of the Products to become an accession to, or commingled with, any property that is not subject to a security interest under this Agreement.
- 10.5 The Customer agrees that until all monies owing to CLASS Locksmiths are paid in full, it shall not sell or grant any other security interest in the Products, nor shall it register a financing change statement in respect of the security interest without CLASS Locksmiths' prior consent.
- 10.6 The Customer agrees that CLASS Locksmiths may, at its absolute discretion, apply any amounts received from the Customer towards amounts owing to CLASS Locksmiths in such as order as CLASS Locksmiths may determine.
- 10.7 The Customer agrees to reimburse CLASS Locksmiths upon demand for all costs and expenses incurred or payable by CLASS Locksmiths in relation to registering or maintaining any financing statement, releasing in whole or in part CLASS Locksmiths security interest or any other document in respect of any security interest, and for the enforcement of any rights arising out of CLASS Locksmiths security interest.
- 11. Privacy**
The Customer hereby consents to CLASS Locksmiths (subject to its obligations under the Privacy Act 1988 (Cth)) at any time collecting, using and/or disclosing information about them which:
- (a) Relates to but is not limited to identity, credit history and/or solvency;
 - (a) For the purpose(s) of assessing creditworthiness, risk and/or solvency and/or enforcing any of CLASS Locksmiths rights;
 - (b) By arrangement with any authorised agent(s), credit provider(s) and/or reporting service(s) and the like (including any banker(s), the ASIC, ITSA). CLASS Locksmiths may refuse to grant credit if any information to which it is entitled is not provided and the Customer otherwise agrees to allow CLASS Locksmiths access to such information. This Agreement may be produced as conclusive evidence of the Customer's consent.
- 12. Credit Investigations**
The Customer irrevocably authorises CLASS Locksmiths to make enquiries as they deem necessary to investigate the creditworthiness of the Customer at any time including with bankers of the Customer or credit reporting agency and including personal and consumer credit information. The Customer by this clause authorises any bankers or credit reporting agency to disclose to CLASS Locksmiths all information concerning the Customer which is in their possession. The Customer agrees that the information provided in this Agreement and any relevant trading information, including a breach of clause 5, arising from any dealings between the Customer and CLASS Locksmiths may be disclosed to any interested person including a credit reporting agency.
- 13. Definitions**
In these terms and conditions:
"Claim" means any actual, contingent, present or future claim, demand, action, suit or proceeding for any Liability, restitution, equitable compensation, account, injunctive relief, specific performance or any other remedy of whatever nature and however arising, whether direct or indirect, and whether in contract, tort (including but not limited to negligence) or otherwise;

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“**Delivery Address**” means the address for the delivery of Products as directed by the Customer to CLASS Locksmiths from time to time;

“**GST**” and “**GST Rate**” has the meaning defined in the *A New Tax System (Products and Products Tax) Act 1999*;

“**Liability**” means any loss, liability, cost, payment, damages, debt or expense (including but not limited to reasonable legal fees);

“**Personnel**” means any employee, servant, contractor, subcontractor, agent, partner, director or officer of a party;

“**Products**” means the products purchased by the Customer from CLASS Locksmiths pursuant to this Agreement and the services provided;

“**Term**” has the meaning defined in clause 2.1 of these terms and conditions;

“**Territory**” means the whole of Australia.

14. Miscellaneous

14.1 The parties agree:

- (a) these terms and conditions may only be amended with CLASS Locksmiths’ express written agreement;
- (b) any waiver by CLASS Locksmiths must be express and in writing;
- (c) CLASS Locksmiths’ rights under these terms and conditions do not exclude any other rights of CLASS Locksmiths;
- (d) in the event of any dispute, CLASS Locksmiths’ records will be conclusive evidence;
- (e) the actions of any person claiming to have the Customer’s authority will bind the Customer to the extent permitted by law;
- (f) if any provision of these terms and conditions is unenforceable, the provision will be severed and the remaining provisions will continue to apply;
- (g) CLASS Locksmiths may assign any rights or benefits under these terms and conditions to any third party;
- (h) the Customer may only assign any rights or benefits under these terms and conditions with CLASS Locksmiths’ prior written consent; and
- (i) these term and conditions will be governed by the laws of, and the parties submit to the jurisdiction of the courts of the Australian Capital Territory.

14.2 In these terms and conditions:

- (a) the headings will not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) any other grammatical form of a word or expression defined has a corresponding meaning;
- (d) a reference to a document includes the document as novated, altered, supplemented or replaced;
- (e) a reference to a party includes the party’s executors, administrators, heirs, successors in title, permitted assigns and substitutes;
- (f) a reference to a person includes a natural person, body corporate, partnership, trust, association or any other entity;
- (g) a reference to a statute, ordinance, code or law includes regulations, rules and other instruments under the statute, ordinance, code or law and any consolidations, amendments, re-enactments or replacements;
- (h) the meaning of general words is not limited

by specific examples introduced by “including”, “for example” or similar expressions;

- (i) any agreement, representation, warranty or indemnity by two or more parties binds those parties jointly and severally;
- (j) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of these terms and conditions; and
- (k) if a day on or by which an obligation must be performed or an event must occur is not a business day, the obligation must be performed or the event must occur on or by the next business day.

14.3 CLASS Locksmiths may amend the Agreement from time to time and will advise you in writing at the contact details provided in the Customer Contact Information.