The Consumer Protection Act may apply to a transaction between the Seller and the Buyer where the Buyer is an individual or is a juristic person (like a company, close corporation, Trust or partnership) with either an annual turnover of less than R2 million, at the time of the transaction.

1. Definitions

a) the “Buyer” means the person, firm or company who places an order with the Seller and/or supplies of goods;

b) the “Goods” means the products supplied by the Seller which are the subject of the contract between the Buyer and the Seller;

c) “Special Order Goods” means Goods supplied which are non-standard size, custom made, where size alterations are required or where design alterations have been performed.

2. Contractual Terms

a) These conditions shall apply to all contracts for the sale of goods entered into by the Buyer to the exclusion of the terms and conditions of the Buyer;

b) All drawing, illustrations, performance data and other details in the Seller’s catalogues, sales or promotional literature or elsewhere are included as a guide only and while such details are printed in good faith they shall not bind the Seller. The Seller reserves the right to change specifications without prior notice if it’s absolute discretion;

c) Variations, cancellation or waiver of these conditions shall be of no effect unless made in writing signed by a duly authorized officer of the Seller and the Buyer;

d) Typographical or clerical errors or omissions shall be subject to correction.

e) The Buyer must notify the Seller within seven days of the date of the Seller’s acceptance or acknowledgment of order if such acceptance or acknowledgment is not made within a reasonable time.

f) The “Buyer” means the person, firm or company who places an order with the Seller and/or supplies of goods.

g) The “Goods” means the products supplied by the Seller which are the subject of the contract between the Buyer and the Seller.

h) “Special Order Goods” means Goods supplied which are non-standard size, custom made, where size alterations are required or where design alterations have been performed.

3. Glazing

All Glazing done in accordance with the requirements of the National Building Regulations.

4. Installations

a) Subject to any scope of work to install in pre-formed openings, all other work pertaining to the installation is for the Buyer’s account;

b) A “Call off Fee” will be charged in the case that the openings are not readied to install. The “Installer” will use his discretion to not discontinue the project in case of any problems that occur in the glazing sequence.

c) The Seller shall be entitled to impose a reasonable charge for the cancellation of that order and the Buyer will be obliged to pay this charge, on demand.

5. Creation of Contractual Relations

Unless previously withdrawn the Seller’s quotations and tenders shall remain valid for the period stated therein or if no period is stated for 30 days.

The Seller’s offers, estimates, quotations, tenders and price lists are invitations to treat only. All orders must be accompanied by sufficient information to enable the Seller to proceed without delay with the execution of the order the Buyer requires the Seller’s acceptance in writing in order to create a contract. Any such acceptance shall nevertheless be subject to the buyer’s credit being approved and to the Seller’s acceptance of risk of liability at the instance of the Seller should she subsequently find the Buyer’s credit inadequate.

6. Prices

a) All prices are for collection and include only such goods and accessories as are specified in the quotation and are for the quantities therein expressed. If the Buyer shall request any variation, any extra cost arising from such variation shall be payable by the Buyer.

b) Unless otherwise specified prices quoted do not include Value Added Tax which will be added at the rate prevailing at the appropriate tax point.

c) A delivery charge will be imposed within the Gauteng and surrounding areas. The Seller shall determine the route and method of carriage and any special requirements of the Buyer shall be subject to additional charge.

d) Unless otherwise specified prices quoted include the Seller’s and/or suppliers standard non-refundable packing. It is the Buyer’s responsibility to dispose of all packaging after delivery.

7. Payment

Unless otherwise agreed in writing by the Seller the payment is strictly PAYMENT PRIOR TO DELIVERY OR COLLECTION. Time of payment shall be of the essence of the contract and any late payment will be subject to the due date payment, if the Seller without prejudice to its rights hereunder shall have the right to charge the Buyer interest at the rate of 3% above the prime rate from time to time of such late payment. The Seller shall at its discretion (without prejudice to its right to treat the contract as repudiated and claim damages) effect the cancellation of the Goods or any of them until all monies owing to the Seller have been paid in full.

8. Property and Risk

a) Until payment in full for all the goods sold to the Seller by the Buyer whether ordered or not there are any other contract has been received by the Seller.

b) Ownership of goods shall remain with the Seller;

c) The Buyer reserves the rights to dispose of the Goods and the Seller shall be permitted to enter upon the Buyer’s premises at reasonable times to recover the Goods or treat the contract as repudiated or renter the Seller liable for the damages in any way;

(d) Delivery to the nearest point to site on a road suitable, in opinion of the driver, for the vehicle used, and the Seller reserves the right to make an additional charge for loading or off-loading outside the hours 8:00am to 5:00pm Monday to Friday for waiting in excess of one hour on delivery or in the event of any special arrangement of whatsoever nature being required;

(e) The Seller shall have the right to despatch any portion of the Goods covered by the contract separately and to invoice the Buyer for such portion(s) despatched on the same terms and conditions as are contained herein;

(f) It is the Buyer’s duty to inform the Seller of the detailed delivery requirements in advance, to provide due warning and notice of any changes in such requirements, and to provide the necessary labour and equipment to unload the vehicle without delay.

(g) Delivery of the Goods by the Seller to the Buyer may take place at the Seller’s premises or any other premises agreed by the parties. The Seller will be entitled to deliver any portion of the Goods to the Buyer or to any employee, agent or representative of the Buyer. Delivery in this manner will be treated as delivery by the Seller to the Buyer. Unless agreed by the Seller in writing, any delivery of the Goods to the Buyer outside of the Seller’s premises shall be at the Buyer’s own risk and must not be relied upon by the Buyer.

9. Non-acceptance by Buyer

a) If by reason of unforeseen circumstances the Goods or any of them have not been taken up or delivered by any date specified for such taking or delivery, then:

(i) the Buyer shall nevertheless pay the Seller in accordance with Clause 7 of these conditions as if such taking or delivery had occurred;

(ii) the Seller may treat the storage charge in respect of any of the Goods which have not been taken up or delivered together with the cost of any additional handling and transport incurred. In event such storage by the Seller shall continue for a period exceeding six weeks the Seller may (without prejudice to any other rights which may have accrued) treat the contract as repudiated;

(b) During the period of any storage of the Goods or any of them by the Seller as contemplated by sub-clause 9(a) (ii) above such goods shall be at the risk of the Buyer.

10. Loss or Damage in transit and non-delivery

a) No responsibility will be accepted by the Seller for any shortage or damage occurring in transit or at the place of delivery:

(i) where the Goods are delivered other than by the Seller’s transport the Buyer makes claim in writing providing full particulars to the Secretary of the Seller at the Seller’s registered office within 5 working days of receipt of the Goods;

(ii) where the Goods are delivered by the Seller’s transport details of any shortage and/or damage are endorsed on the delivery note;

b) No responsibility will be accepted by the Seller for non-delivery of the Goods unless the Buyer makes a claim in writing providing full particulars to the Seller at its registered office and (where appropriate) the carrier not more than 21 days from the proposed date of delivery stated in the order acknowledgment.

12. Cancellation and Variation

(a) The Buyer may give written notice to the Seller that he wishes to cancel the contract or part of it, within a period of 3 weeks from date of notice in writing to the Seller of such cancellation or variation, and shall be deemed rescinded. Such cancellations shall take into account expenses incurred and commitments made by the Seller and all other losses due to such cancellation or variation.

(b) If by reason of unforeseen circumstances the Buyer shall be effective in making or taking and written in accepting by an authorised officer of the Seller. The Seller reserves the right to refuse to accept such cancellation or variation, without affecting or impairing its rights to claim for such cancellation or variation or other losses due to such cancellation or variation.

(c) Any cancellation or variation under the Buyer shall be effective only when made in writing and until accepted in writing by an authorised officer of the Seller. The Seller reserves the right to refuse to accept such cancellation or variation, without affecting or impairing its rights to claim for such cancellation or variation or other losses due to such cancellation or variation.

14. Guarantee and limitation of liability

(a) Subject to the provisions in this Clause 14, the Goods are guaranteed for a period of 5 years against faulty materials or workmanship.

This guarantee is subject to the Goods being treated in accordance with the Seller’s recommendations for their storage, handling, installation, treatment, maintenance and use and excludes ironmongery.

(b) The Seller makes no further representation or warranties in relation to the Goods. All other conditions express or implied statutory or otherwise in respect of the Goods or their use and which are of the kind to which the parties have had regard in entering into this agreement are excluded, save to the extent that is permitted by the law the Seller hereby excludes its liability for any other loss or damage arising whether in contract, tort or otherwise whether direct or consequential (other than for death or personal injury resulting from the proven negligence of the Seller) suffered by the Buyer in connection with the use of the Goods.

(c) Prior to placing an order, or after an order has been placed or Goods have been delivered by the Seller, the Buyer may from time to time give the Buyer information, guidance, advice and suggestions relating to the Goods. To the extent allowed by law, the Seller does not warrant, represent or guarantee that the information is accurate or suitable for any particular purpose. The information is to be used by the Buyer at its own risk and must not be relied upon by the Buyer.

(c) Clause 14 contains assumptions of risk and/or liability by the Buyer and limit and/or exclude liabilities, obligations and legal responsibilities which the Buyer agrees to assume and/or relieve the Seller and other persons. These clauses also limit or exclude the Buyer’s rights and remedies against the Seller and place various risk, liabilities, obligations and legal responsibilities on the Buyer.

15. Sub-contracting

The Seller shall be free to employ sub-contractors.

16. Copyright and Confidentiality

The Buyer hereby acknowledges that the copyright in all documents (including drawings) supplied by the Seller to the Buyer shall vest in the Seller. No copyright, drawings or information or any purpose. The information is to be used by the Buyer.

17. Waiver

No waiver by either party in respect of any breach by the other shall operate as a waiver in respect of any subsequent breach.

18. Severability

Any provisions of these conditions which in any way now or subsequently contravene the law shall be deemed severable and shall not affect any other provisions herein.

19. Governing Law

Any contract of these conditions form part shall be governed by the laws of South Africa and shall be subject to the exclusive jurisdiction of the South African Courts.

20. Notices

Any notices required to be served hereunder shall be deemed to be properly served if sent by prepaid registered or recorded delivery post to the last known address of the party to be served and shall be deemed to be duly served the day following the date of posting.

21. Clauses Headings

The clause headings shall not affect the interpretation of these conditions.

The Buyer consents to the Seller verifying the Buyer’s credit worthiness and other details in its sole discretion and furnishing credit references, where requested.

If this agreement and Goods or Services provided under this agreement is regulated by the Consumer Protection Act, it is not intended that any provision of this agreement contravenes any provision of the Consumer Protection Act and therefore all provisions of the Consumer Protection Act must be treated as if they are not inconsistent with the requirement, necessary to ensure the provisions of the Consumer Protection Act are not rendered unenforceable.

Each clause of this agreement is separate and separable from the others.

To the extent that any clause or part of any clause in this agreement is declared by a court of competent jurisdiction to be invalid or unenforceable for any reason, then that clause or part thereof will be severed from this agreement and treated as if it had not been inserted therein, without affecting the validity or enforceability of the remainder of this agreement.

In the event that conditions may be amended or added to by the Seller at any time, in its sole discretion.

The Buyer acknowledges that he has read and understood these terms and accepts them as binding.