

# Terms and Conditions

Date of last update: 10 July 2023

These are the terms and conditions of Kingdomes Leisure Pty Ltd (ABN 55 644 423 058). These terms apply to the ordering, purchase and delivery of goods via Kingdomes Leisure PTY LTD. By using this website and making a purchase (whether directly through the website or other method), you accept these terms and conditions ("Agreement") and our privacy policy. This Agreement is between you and Kingdomes Leisure Pty Ltd (referred to in this Agreement as "**we**", "**us**" or "**our**"). We may change these terms at any time, and changes will be posted on the website. By continuing to use the website and making a purchase, you agree to be bound by the changes, which will apply immediately from the date of posting. The most recent Terms and Conditions will be attached to your invoice if purchasing through us directly (via email).

## 1. Access and use of website

- 1.1 To register an account or to use the website you must be at least 18 years old.
- 1.2 You must only use the website through the interfaces provided by us and in accordance with these terms and any applicable law.
- 1.3 We do not warrant that the website will be available at all times and without disruption and we provide no warranties in relation to the content of any website linked to or from our website.
- 1.4 You must not (or attempt to):
  - a) interfere (or attempt to interfere) or disrupt (or attempt to disrupt) our website or the servers or networks that host our website;
  - b) use (or attempt to use) data mining, robots, screen scraping or similar data gathering and extraction tools on our website;
  - c) interfere (or attempt to interfere) with security related or other features on our website; or
  - d) use, copy or distribute (or attempt to use, copy or distribute) content without our express permission.

## 2. Registration

- 2.1 You must be a registered member to access some features of this website or our services. When you register, you will provide us with personal information. You must ensure this information is accurate and current.
- 2.2 By using the website, you grant your express consent to us to send you direct marketing communications to the email address you provide, from which you may unsubscribe at any time.
- 2.3 You must not use another member's account without our, and/or the other user's, express permission. If you suspect or become aware of any unauthorised use of your account or that your password is no longer secure, you must notify us immediately and take immediate steps to re-secure your account (including by changing your password).
- 2.4 You are solely responsible for the activity that occurs on your account (including orders placed using your account), and you must keep your account password secure. We are not responsible for any unauthorised activity on your account if you fail to keep your account login information secure.

### **3. Accuracy of product descriptions**

- 3.1 We try to ensure that information provided through this website is accurate and current. However, we cannot guarantee the accuracy, adequacy, completeness of information on this website or that it is up to date. For example:
- a) prices and colours of products may change, and all products are subject to availability;
  - b) variations to products may occur from time to time for various reasons including changes in ranges, product specifications or product customisations;
  - c) while we try to represent products (including colours) accurately, the representation on your screen may be different to the actual product;
  - d) descriptions of products are summaries only. Further information is available on request;
  - e) we may withdraw any product from sale for any reason, however, that product might still appear on our website for a period of time after that withdrawal; and
  - f) due to technical or human error, information may be recorded incorrectly or omitted.
- 3.2 We may provide updates on item availability on the website. We make no representation that a product shown on our website will be available for purchase.

### **4. Placing orders**

- 4.1 You can place an order by making a purchase on our website or by contacting us by telephone or via email.
- 4.2 You are responsible for any discrepancies or errors in your order caused by you.
- 4.3 The promotion of goods or services on the website does not constitute an offer to sell.
- 4.4 Orders placed by you are offers to purchase goods under the terms and conditions set out in this document at the price specified (including delivery and other charges).
- 4.5 An order is only finalised when you have received an order confirmation from us and payment is received in full.
- 4.6 Following confirmation of your order and a minimum of 40% deposit is placed, we will work with you to customise your goods.
- 4.7 Your order may be rejected in circumstances where we believe there may be a credit card or payment related fraud (detected prior to the goods being shipped), or where your order cannot be shipped, or if there has been an error in the price or product description on the website. In these circumstances, the order will be refunded in full.
- 4.8 You must review your order carefully before placing it. Once an order is confirmed, you are unable to cancel.
- 4.9 In the event that we cancel or are unable to fulfil your order, we will provide a full refund of any payment received.
- 4.10 We reserve the right to notify you that goods for which you have placed an order has become unavailable for reasons beyond our control. Your order may be delayed, alternative goods of a similar quality and price may be offered, or you may receive a full refund in the event we cannot fulfil your order.

## **5. Customisation**

- 5.1 The products provided through the website are pre-set options. You may choose to customise your order. If so, following placement of your order, we will work with you to customise your goods.
- 5.2 We allow up to two rounds of amendments to any draft design drawings. If you request further amendments, we reserve the right to charge you for these.
- 5.3 We ask that you promptly review and approve any draft designs drawings provided by us. If you do not respond within 14 days of receipt of the designs, then the design is taken as having been approved by you. We are not responsible for any errors that are part of any designs reviewed and approved by you.
- 5.4 No changes can be made to the draft design drawings after you have approved them.
- 5.5 You acknowledge that our designs are not an assessment of building services, property defects or structural elements.
- 5.6 You acknowledge that our design drawings are conceptual in nature and are intended to set forth design intent only; they are not to be used for architectural or engineering purposes.
- 5.7 We may provide design services. Any issues you may have regarding construction elements must be discussed with a qualified tradesperson.
- 5.8 You are responsible for ensuring that our designs and drawings are compatible with all laws and that any building or construction is undertaken by suitably qualified tradespeople.
- 5.9 You are responsible for seeking any relevant permits or permissions from your council and/or relevant authorities.

## **6. Price and payment**

- 6.1 The prices of goods, delivery and other charges are shown in Australian dollars and are inclusive of GST.
- 6.2 Payment must be made by credit/debit cards, ThryvPay or transferred to a bank account nominated by us. We reserve the right to change our payment methods.
- 6.3 With our prior written agreement, payment may be made by way of four (4) instalments as follows:
  - 6.3.1 Payment 1: 40% deposit paid on the date of your order;
  - 6.3.2 Payment 2: 25% paid two (2) weeks after the date of your order;
  - 6.3.3 Payment 3: 25% paid four (4) weeks after the date of your order; and
  - 6.3.4 Payment 4: 10% paid prior to dispatch of goods.
- 6.4 All payments must be received in full prior to dispatch of goods.
- 6.5 Prices are subject to change without notice. If there is a pricing mistake on our website, we are not obliged to honour such price, and will contact you prior to processing your order.
- 6.6 If any payments are overdue, we reserve the right to charge interest on any outstanding amount. If you do not pay us and we are forced to engage a third party (such as a debt collector or lawyer etc) to recover our fees and charges, you will be required to pay the costs incurred by us for that third party (including legal fees).
- 6.7 If any payments are overdue, and we must store goods until all payments are received in full prior to dispatch of goods, we reserve the right to charge storage costs.

## **7. Shipping and delivery**

- 7.1 Unless otherwise agreed, and subject to receiving payment in full, normal lead times for delivery of the products are up to fourteen (14) weeks from the date of your order.
- 7.2 Orders are dispatched Monday to Friday, unless we tell you otherwise.
- 7.3 We will use reasonable endeavours to meet any stated timeframes for delivery, however, from time to time, particularly during busy periods, shipping service providers may experience delays beyond our control.
- 7.4 Delivery is subject to different fees and charges. All shipping charges will be confirmed and must be paid prior to dispatch of goods.
- 7.5 Quality control checks are done on all goods before they are shipped. Once the goods have left our warehouse for delivery to your shipping address, we take no responsibility for any damage or theft that may occur during transit. Goods are shipped without insurance. However, we encourage you to take out insurance directly with the shipping service providers. You are responsible for all costs associated with this insurance including (but not limited to) any premium and excess.
- 7.6 If you will not be present to accept your delivery or feel that your address is unsafe to have a parcel left unattended, we recommend choosing an address at which someone will be present. Alternatively, we may be able to assist with storage for an additional fee. This service is subject to availability and prior arrangement.
- 7.7 For international customers, please contact before placing an order as this is done on a case-by-case basis.

## **8. Change of mind returns**

- 8.1 We do not allow for change of mind returns.

## **9. Care and maintenance**

- 9.1 You must care for and maintain the structures in accordance with our care instructions, operations, maintenance and cleaning manual which you will receive together with your order ("**Care Instructions**").
- 9.2 The external PVC cover needs to be cleaned every three (3) months as a minimum to ensure maximal life expectancy. Failure to provide adequate cleaning of the external PVC cover may void the warranty.
- 9.3 Fading of colours is normal over time, and certain parts will age with time and use. This may happen due to exposure to the environmental elements, cleaning products used, chemicals and changes in temperature. You acknowledge and agree that we will not be liable for colour changes or fair wear and tear. We recommend that you familiarise yourself with the Care Instructions and follow them.

## **10. Problems with goods**

- 10.1 If you have a problem with your goods, please contact us. We will investigate your issues and advise you whether your product may be returned and, where required, provide you with instructions on how to return your goods.
- 10.2 Once an item is returned, we will either inspect your goods and investigate any claimed defect. Where applicable, we will provide a remedy in relation to your goods.
- 10.3 If we do not believe a remedy is applicable upon inspecting your goods (for example, where we believe the goods have been misused, or there was a failure to use in accordance with any instructions, used in an abnormal way or there has been a failure to take reasonable care), we will reject your claim and return your goods to you. You must cover the cost of

return shipping in order to receive goods we have rejected on inspection, and we will provide you with instructions on how to make this payment.

10.4 Refunds will be issued using the payment method used for the purchase.

## 11. Defective goods

11.1 All goods sold on our website come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement for or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptance quality and the failure does not amount to a major failure.

## 12. Warranty

The Competition and Consumer Act 2010 (Cth) (including the Australian Consumer Law) guarantees certain conditions, warranties and undertakings and gives a consumer (as that is defined in the Australian Consumer Law, hereinafter referred to in this warranty as the "Consumer") other legal rights in relation to the quality and fitness for purpose of goods sold in Australia. Nothing in this warranty purports to modify or exclude the conditions, warranties and undertakings, and other legal rights, under the Competition and Consumer Act 2010 (Cth) and the Australian Consumer Law that cannot be modified or excluded ("**Non-Excludable Statutory Rights**"). The rights given by this warranty are in addition to any Non-Excludable Statutory Rights.

### 12.1 Statutory Notice to Consumers

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods.

### 12.2 Our warranty

We stand behind the quality and durability of our products. As such, in addition to your rights under the Australian Consumer Law, and subject to and in accordance with the terms and conditions listed below, we warrant to repair or replace our products (at our sole discretion) for any defect or fault in our products purchased and installed within Australia, where such defect or fault is caused by our manufacturing process ("**Warranty Product**").

### 12.3 Duration of warranty

Our warranty is split into 2 sections which will be outlined in "12.3.1" (**Structure**) and "12.3.2" (**accessories**).

12.3.1 This warranty applies for the maximum period of 5 years ("**Warranty Period**"). This is in relation to the PVC cover and the structure's frame.

12.3.2 This warranty applies for the maximum period of 2 years ("**Warranty Period**"). This is in relation to all the accessories that come with our structures including (but not limited to) the solar extraction fan, porthole window, curtains and curtain rails, insulation panels and any other accessories we may introduce that is not apart of the cover or frame directly.

12.3.3 Any defect in a Warranty Product must be identified within the Warranty Period for you to be entitled to claim under this warranty. If you need to make a claim under this warranty, you must notify us within 7 days from the fault occurring. If your claim is lodged outside this 7-day period, we reserve the right to reject your claim.

## 12.4 Your remedy under this warranty

12.4.1 If your claim is permitted, your remedy under this warranty is either (at our sole option):

12.4.1.1 The replacement of the defective portion of the Warranty Product with new product of ours that is the same or as similar as possible to the defective product; or

12.4.1.2 The repair of the defective portion of the Warranty Product.

12.4.2 Any replacement of product under this warranty will be as close in colour, design and quality to the original installation as reasonably possible, but we do not guarantee an exact match as colours and designs may change over time.

## 12.5 Who can claim under this warranty?

12.5.1 This warranty is not transferable or assignable except to an immediate successor-in-title of an owner-occupied residential site on which a Warranty Product was installed.

12.5.2 The following people are entitled to claim under this warranty:

12.5.2.1 The original purchaser of the Warranty Product, on provision of proof of purchase in the form of a receipt or purchase order and a copy of the applicable warranty document; and

12.5.2.2 The owner of an owner-occupied residential site on which the Warranty Product was installed, on provision of satisfactory proof of purchase relating to the original purchaser's purchase of the Warranty Product and a copy of the applicable warranty document.

## 12.6 Conditions of warranty

12.6.1 This warranty applies to the structure and cover of the Warranty Product and does not include any third-party parts and accessories. This warranty also does not cover the structure and cover colour, as these may change or fade over time and as a result of exposure, wear and tear.

12.6.2 It is your responsibility to adhere to all relevant care instructions, operations, maintenance and cleaning instructions supplied by us at time of the sale and going forward. Cleaning manuals, tutorials and videos can all be found on our various channels to assist you further.

12.6.3 This warranty will not apply in respect of any damage or defect caused by, arising from or in any way attributable to any one or more of the following:

12.6.3.1 Improper installation of the Warranty Product and/or failure to abide by our written instructions or any applicable laws or building codes;

12.6.3.2 Installation of the Warranty Product upon a base that is not to a suitable standard (referencing any local building codes, standards and regulations);

12.6.3.3 Use of the Warranty Product beyond normal use or in an application not recommended or permitted by our written instructions or applicable laws or building codes;

12.6.3.4 Movement, distortion, collapse or settling of the ground or the supporting structure on which the Warranty Product is installed;

- 12.6.3.5 Defects in or failure arising from decking structure;
  - 12.6.3.6 Any extreme weather event or conditions, including but not limited to heavy rain, flooding, storm, wind, earthquake, lightning or hail;
  - 12.6.3.7 Discolouration, fading, spotting or staining from or caused, in whole or in part, by mould, mildew, other fungal growth, organic materials, metallic oxides or particles (including but not limited to rust or corrosion of any fasteners or components of the Warranty Product's frame), dirt, other atmospheric or environmental pollutants, foreign substances such as grease, oil or chemicals (including but not limited to those found in cleaners);
  - 12.6.3.8 Damage resulting from fire or exposure to heat sources such as cooking devices or reflective surfaces;
  - 12.6.3.9 The application of paints, stains, surface treatments or other chemical substances, including but not limited to cleaners or pesticides;
  - 12.6.3.10 Fading, flaking or other deterioration of any paints, stains or other coatings placed on the Warranty Product;
  - 12.6.3.11 Small bubbles or blemishes on a product surface, or colour, fade or texture variation;
  - 12.6.3.12 Any modifications made to the Warranty Product, whether before or after installation;
  - 12.6.3.13 Improper handling, maintenance, storage, abuse or neglect of the Warranty Product;
  - 12.6.3.14 Misuse or abnormal use of the Warranty Product;
  - 12.6.3.15 Damage to the Warranty Product due to the degradation of any silicone or other sealant products used on the Warranty Product as well as for the sealant product itself.
  - 12.6.3.16 Failure of proper and timely maintenance or repair of the Warranty Product;
  - 12.6.3.17 Ordinary wear and tear or normal weathering; or
  - 12.6.3.18 Impact from objects or damage caused by heavy loads.
- 12.6.4 This warranty also does not apply to the following types of products:
- 12.6.4.1 Products that have a defect where the defect was disclosed to you prior to purchase;
  - 12.6.4.2 Any product where the defect was reasonably identifiable on physical examination of the product and you examined the product prior to purchase;
  - 12.6.4.3 Products that are re-sold by a re-seller that is not authorised by us;  
and
  - 12.6.4.4 Any second-hand purchases of product.
- 12.6.5 You must give us unrestricted access to the site to undertake any repair work. Any repair work carried out by our staff or our sub-contractors must be in a safe area, free from obstructions and at ground level. You will be responsible for any

landscaping, plumbing or electrical works needed to complete the job or remediate the area. You will also be responsible for obtaining any lifting equipment or additional labour needed to repair or replace the structure.

12.6.6 We will not be liable for any damage or loss on the structure once it leaves our premises if collected from our premises by you or any other person you nominate (including any third-party carrier).

12.6.7 This warranty applies to any Warranty Product replaced or repaired in accordance with the provisions of this warranty for the balance of the original Warranty Period or 3 months from date of replacement or completion of repair work, whichever is the longest.

## **12.7 What you must do if you identify a defect**

12.7.1 Once we receive your warranty claim, we may advise you as to temporary measures to take or repairs to make, at your own expense. If we request, you must allow us to enter the site on which the Warranty Product has been installed to inspect the Warranty Product, and to undertake such repairs or take such other actions as we deem necessary or desirable, at our own expense.

12.7.2 Your failure to comply with the requirements in this section may result in us denying your claim or limiting your claim, in our absolute discretion. We will not be liable for any loss, damage or injury caused as a result of your failure to abide by this section.

## **12.8 Claim process**

12.8.1 To make a warranty claim, you must send or deliver the following documents to us by email:

12.8.1.1 A copy of this warranty document;

12.8.1.2 A copy of the original proof of purchase for the Warranty Product; and

12.8.1.3 Photos of the alleged defect in the Warranty Product.

12.8.2 Our email address for all warranty claims is [sales@kingdomes.com.au](mailto:sales@kingdomes.com.au). Once we have been provided with those materials, we will issue you with a claim form. We may request the opportunity to inspect the Warranty Product before any claim is processed and other relevant materials before proceeding with your claim. If we require you to provide such materials to us, you must do so promptly and at your own expense. These requests will be made within 7 working days from notification of the defect.

## **12.9 Costs of warranty claim**

12.9.1 You will be responsible for any costs associated with making a claim under this warranty, unless otherwise agreed in writing between us. You must also bear the cost of any removal or disposal of defective products under this warranty.

## **12.10 Exclusions and limitation of warranty**

12.10.1 We will not be liable for any direct, indirect, incidental, special, consequential, punitive, exemplary, statutory, special or other damages arising from or in connection with a product defect under this warranty, including but not limited to damage to, diminution in value of and/or loss of use or enjoyment of, any property or part thereof, whether based on contract, tort, strict liability, statute, regulation or otherwise, except to the extent that a claim is permitted under the Australian Consumer Law.



### 12.11 Questions or concerns?

12.11.1 If you have any questions or concerns about this warranty or wish to know whether it applies to your product, please contact us using the following contact details:

Email address: sales@Kingdomes.com.au

### 13. Disclaimer and liability

13.1 To the fullest extent possible at law, we exclude all liability to you or anyone else for loss or damage of any kind or nature relating in any way to the website including, but not limited to, loss or damage you might suffer as a result of:

- a) errors, mistakes or inaccuracies on the website;
- b) you acting or not acting on any information contained on or referred to on the website and/or any linked website;
- c) personal injury or property damage of any nature resulting from your access to or use of the website;
- d) any unauthorised access to or use of our secure servers and/or personal information and/or financial information stored on these servers;
- e) any interruption or cessation of transmission to or from our website;
- f) any bugs, viruses, trojan horses or other harmful code or communications which may be transmitted to or through our website by any third party; and/or
- g) the quality of any product or service of any linked sites.

13.2 Where any law (including the Australian Consumer Law) provides a guarantee which may not be lawfully excluded, our liability will be limited to that provided by law.

13.3 Except as required by law, in no event shall we, our affiliates and related entities or our suppliers be liable for any loss or any special, incidental or consequential damages arising out of or in connection with our website or this document (however arising, including negligence).

### 14. Indemnity

14.1 You will at all times indemnify, and keep indemnified, us and our directors, officers, employees and agents from and against any loss (including reasonable legal costs and expenses) or liability incurred or suffered by you or by us arising from any claim, demand, suit, action or proceeding by any person against you or us where such loss or liability arose out of, in connection with or in respect of your conduct or breach of these Terms.

### 15. Privacy policy

15.1 We are committed to protecting your personal information. Please refer to our privacy policy which describes how we collect and manage your personal information. By agreeing to and accepting these terms, you also agree to and accept the terms of our privacy policy.

### 16. Links

16.1 Our website may provide links to other websites. This is done for your convenience only. We take no responsibility for the accuracy or currency of the information on those sites. We do not endorse any information, goods or services referred to within those sites, and our provision of these links should not be taken as an endorsement.

### 17. Intellectual property rights

- 17.1 All content, graphics, user and visual interfaces, photographs, trade marks, logos, sounds, music, artwork and computer code, including but not limited to the design, structure, selection, coordination, expression and arrangement of such material contained on or used in the website is either owned, controlled or licensed to us, or is otherwise subject to the intellectual property rights of third parties and is protected by copyright, patent and trade mark laws and various other intellectual property rights.
- 17.2 You agree that we retain all intellectual property rights in the design drawings. You may reproduce drawings, specifications and other documents in which we have copyright as is reasonably required but not otherwise. You shall have no such rights where any fees and charges due to us have not been paid in accordance with this Agreement.
- 17.3 Nothing in this Agreement gives you a right to use any of our marketing material, business names, trade marks, logos, domain names or other distinctive brand features.
- 17.4 Other trade marks used on the website that belong to third parties are used with permission and remain the intellectual property of those third parties.

## **18. Termination or suspension**

- 18.1 We may at any time and without notice to you:
- a) change the format and content of this website;
  - b) stop providing, suspend or restrict your access to this website if you do not comply with any obligations you have with us (whether under these Terms or otherwise); and
  - c) stop providing or suspend the operation of this website (either in whole or in part).
- 18.2 No such action on our part will affect any of our rights or your responsibilities under these Terms.

## **19. Publicity and marketing**

- 19.1 You agree to allow us to take photographs and videos of the structure(s) on your property. Copyright in these photos and videos vests with the photographer / videographer. We will use the photographs and videos for marketing purposes only. In doing so, we will not disclose your name or address without your prior written consent.
- 19.2 You agree to credit us for the structures in any publicity and marketing materials including on social media.
- 19.3 You agree we can use any reviews / testimonials you submit to us for marketing purposes.
- 19.4 You agree to allow us to use any photos and videos that you post to personal and business social media accounts related to our Warranty Product. Should the Warranty Product be used for commercial purposes, we will endeavour to credit the business, should you wish to.
- 19.5 If the Warranty Product is used for private purposes, we will endeavour to ensure your privacy by not disclosing your exact location or sharing and photos or videos that may disclose the location. This is not limited to the region and/or state.

## **20. Force Majeure**

- 20.1 Either party shall be excused from any delay or failure in performance if caused by reason of any occurrence or contingency beyond its reasonable control including (but not limited to) acts of God, acts of war, fire, insurrection, strikes, lock-outs or other serious labour disputes, riots, earthquakes, floods, explosions or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time

period equal to the period of such excusable interruption. When such events have abated, the parties' respective obligations shall resume. In the event the interruption of the excused party's obligations continues for a period in excess of 60 days, either party shall have the right to terminate the Agreement, without liability, upon 30 days' prior written notice to the other party.

## **21. Assignment**

21.1 You agree and acknowledge that, in the event that we merge, sell or otherwise change control of our company, our business or the website to a third party, we shall be permitted without giving notice or seeking prior consent from you, to disclose the personal information and other data that we have collected from you to the third party. We shall be entitled to assign the benefit of any agreements we have with you to the third party.

## **22. General**

22.1 We will not be liable for any delay in performing any of our obligations under this Agreement if such delay is caused by circumstances beyond our reasonable control.

22.2 This Agreement shall be governed by and interpreted in accordance with the laws of New South Wales, Australia. You irrevocably submit to the exclusive jurisdiction of the courts of the State of New South Wales, Australia.

22.3 If any part of this Agreement is found to be void, unlawful or unenforceable then that part will be deemed to be severable from the balance of this Agreement and the severed part will not affect the validity and enforceability of any remaining provisions.

22.4 If we do not exercise or enforce any right or provision under this Agreement, it will not constitute a waiver of such right or provision. Any waiver of any provision under this Agreement will only be effective if it is in writing and signed by us.

## **23. Feedback**

23.1 We value and welcome your feedback, comments and suggestions. If you have any feedback, comments or suggestions, please contact us.