

**ACCESS WINDOW & DOOR DESIGN CENTRE***(The "Corporation")*

Please read the Terms of Use carefully before using [www.accesswd.ca](http://www.accesswd.ca). The terms contained herein (as amended from time to time) govern the use of [www.accesswd.ca](http://www.accesswd.ca) and all services provided thereby. By using [www.accesswd.ca](http://www.accesswd.ca), you hereby acknowledge that you are and agree to be bound by this Terms of Use Agreement, and such use shall have the same force and effect as if the User had signed a written agreement containing said terms.

**WHEREAS:**

- A. ACCESS WINDOW AND DOOR DESIGN CENTRE LTD. is a corporation duly incorporated and in good standing under the Laws of the Province of Manitoba, Canada;
  - B. ACCESS WINDOW AND DOOR DESIGN CENTRE LTD. operates, and offers the sale of goods and services through the web portal [accesswd.ca](http://accesswd.ca);
  - C. The User (as herein defined) wishes to use the web portal [www.accesswd.ca](http://www.accesswd.ca);
- NOW THEREFORE**, in exchange for the right to use the Portal, the User hereby agrees to be bound as follows:

**1.0 DEFINITIONS**

- 1.1. "Agreement" means this Terms of Use Agreement, as amended from time to time.
- 1.2. "Corporation" means ACCESS WINDOW AND DOOR DESIGN CENTRE LTD.;
- 1.3. "Parties" means the Corporation and the User, collectively; and "Party" means any one of them;
- 1.4. "Person" means any individual, corporation, partnership, trustee or trust, unincorporated association, or other legal entity, and pronouns have a similarly extended meaning;
- 1.5. "Site" means the web portal [www.accesswd.ca](http://www.accesswd.ca) and all content contained thereon.
- 1.6. "Site Services" means goods and services provided by the Corporation to the User through the Portal.
- 1.7. "Third Party" means any Person who is not a Party.
- 1.8. "User" means any individual, corporation, partnership, trustee or trust, unincorporated association, or other legal entity using the Site.

**2. LICENCE**

- 2.1 Subject to the Agreement and to the compliance of the User herewith, the Corporation hereby grants the User a non-exclusive, non-transferable, revocable, limited right to access the Site for personal, non-commercial use only (other than to purchase Site Services) (the "License"). Except as otherwise provided herein or with the expressed, written consent of the Corporation, the User may not copy, reproduce, modify, create derivative works from, publicly display or perform, publish, republish, transfer, sell, download (other than page caching on your web browser), store, transmit, distribute, or exploit this Site, any materials downloadable therefrom, or any related software, without the express prior written consent of the Corporation. Any other use of the Site is strictly prohibited.
- 2.2 The User shall limit the use of the Site granted by the License to such approved and shall not, under any circumstances:
- 2.2.1 Use the Site in any manner that could disable, overburden, damage, or impair the Site or interfere with any other party's use of the Site or otherwise use any device, software, or routine that interferes with the proper operation of the Site;
- 2.2.2 Use any robot, spider, or other automatic device, process, or means to access the Site or to obtain information regarding the Corporation, other users, or any other information whatsoever from the Site (including, without limitation, any information residing on any server or database connected to the Site);
- 2.2.3 Use any manual process to monitor or copy the Site or any part thereof for any purpose whatsoever without the express written consent of the Corporation;
- 2.2.4 Allow any Third Party to use the User's username and/or password to access the Site and/or purchase any Site Services;
- 2.2.5 Introduce any viruses, Trojan horses, malware, adware, ransomware, monitoring software, worms, code, or other material which is malicious or technologically harmful to the Site, the hardware hosting the Site, any user of the Site, or any Third Party;
- 2.2.6 Attempt to gain unauthorized access to, interfere with, hack into, attack, decrypt, damage, or disrupt any parts of the Site, the server on which the Site is stored, or any server, computer, or database connected to the Site;
- 2.2.7 Attempt to decompile, reverse engineer, or disassemble any software or other products or processes accessible through the Site;
- 2.2.8 Link to the Site from any other outside website without the express, written consent of the Corporation;
- 2.2.9 Make use of any of the Site in any way that would violate any law, including, without limitation, copyright law, in the Province of Manitoba or in the jurisdiction in which the User is located at the time of such use.
- 2.3 The Corporation may amend or terminate the License, or any portion thereof, at any time in its sole discretion. If such termination is as a result of violation of any of the terms hereof, the Corporation shall have such further remedies as contained herein or permitted by law.

**3. REPRESENTATIONS AND WARRANTIES OF THE USER**

- 3.1 The User represents and warrants:
- 3.1.1 That the User is over the age of eighteen (18) and has full power and authority to enter into the Agreement with the Corporation and fully intends to be bound the terms hereof;
- 3.1.2 That all information provided by the User, including, without limitation, any payment and shipping information and any further information provided in order to register on the Site is complete and accurate to the best of the User's knowledge, and the User undertakes to update or amend such incomplete or inaccurate information forthwith of learning of such incompleteness or inaccuracy.

**4.0 INTELLECTUAL PROPERTY AND TRADEMARK**

- 4.1 The Site and all of the content now or hereafter included thereon, including, without limitation, all photographs, images, designs, text, articles, publications, catalogs, digital downloads, product information, software, code, technology, data, video, audio, graphics, logos, icons, slogans, trade names, product/service names, trademarks, service marks, domain names, and the "look and feel", design, selection, and arrangement of the Site as a collective work and/or compilation (collectively the "Content") are protected by Canadian and international laws regarding copyrights, trademarks, trade dress, unfair competition and other intellectual property or proprietary rights and are owned or licensed, as the case may be, by the Corporation, except to the extent otherwise expressly indicated or attributed in the Content. The User must abide by all copyright notices, trademark notices, attribution information, or restrictions contained in any Content accessed through the Site. No right relating to any intellectual property of the Corporation or any Third Party is transferred to the User or any Third Party as a result of such party's to or use of this Site. In addition to the foregoing, the trademarks, logos, and service marks of the Corporation shall not be used in connection with any product or service that is not expressly authorized in writing by the Corporation or in any manner that is likely to cause consumer confusion in any way disparages or discredits the Corporation.

**5. LIMITATION OF LIABILITY**

- 5.1 The Corporation makes no representations or warranties, whether written, oral, statutory, express, or implied, concerning the Site, including but not limited to any warranty regarding and the information, content, or Site Services, or that the Site will be secure, accurate, reliable, error-free, uninterrupted, or free of viruses or other harmful components, any actions or inactions of any Third Party (including damages incurred by the User or any Third Party as a result of navigation to websites run by a Third Party from links on the Site), or damages resulting from causes beyond the immediate and direct control of the Corporation. Further, the Corporation makes no representations or warranties regarding the accuracy of information contained on the Site including, without limitation, information relating to colours, product descriptions, pricing, and availability, or of the display of the colours, textures, and characteristics of any of the products on the Site. In no event shall the Corporation be liable for any special, indirect, incidental, consequential, punitive, or other similar damages (including loss of income), whether for breach of any warranty, for breach or repudiation of the Agreement, or for liability arising from the use of the Site on the basis of negligence, strict liability, or otherwise, even if the Corporation shall have been advised in advance of the likelihood thereof. In all situations and circumstances (including, without limitation, if for any reason the exclusion of damages in this provision is not enforceable or void), the Corporation's liability to the User or others shall not in any event exceed the amount actually paid by the User to and received by the Corporation.
- 5.2 The Corporation reserves the right to correct any errors, inaccuracies, or omissions and to change or update information on the Site at any time without notice. Further, the Corporation reserves the right to refuse or cancel any orders containing any error, inaccuracy, or omission, whether or not the order has been submitted, confirmed, and/or the User has been charged for such purchase. If the User has been charged for the purchase and the order is canceled, the Corporation shall promptly issue a refund to the User.
- 5.3 The Site may link to internet websites and resources (the "Outside Sites") operated by Third Parties. The inclusion of any links to Outside Sites is for convenience only and does not imply the endorsement, affiliation, or recommendation by the Corporation of any Third Parties or the Outside Sites, and the Corporation makes no representations or warranties regarding the security, validity, or safety in viewing, downloading content, purchasing goods or services, or in any other way using the Outside Sites. By using such links, the User is accessing the Outside Sites at their own risk and subject to the terms and conditions of use and privacy policies thereof. The user is instructed to carefully review any such terms, conditions, and policies before engaging in any transactions or providing any information on the Outside Sites.

## **6. INDEMNITY**

6.1 The User shall and does hereby indemnify, defend, and hold harmless the Corporation, its affiliates, and their respective owners, shareholders, directors, officers, employees, agents, representatives, and assigns, from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs, and expenses, (including, without limitation, attorney's fees and expenses) caused by, attributable to, resulting from, or arising out of the use of the Site, any content generated by the User, or the breach by the User of any of the representations, warranties, or obligations contained herein.

## **7. ADDITIONAL POLICIES**

7.1 All personal information obtained by the Corporation shall be subject to the Privacy Policy of the Corporation (as amended from time to time) which can be found on the Site, and the terms and conditions contained therein are incorporated by reference to this Agreement.

7.2 The terms of any sale made through the Site shall be governed by the Terms of Sale, Limited Warranty, Shipping and Handling, and such further policies of the Corporation (each as amended from time to time) which can be found on the Site, and the terms and conditions contained therein are incorporated by reference to this Agreement.

7.3 The Agreement and/or the use of the Site by the User may be subject to such other rules, regulations, or policies as the Corporation may publish from time to time. By continuing to use the Site after the publishing of such rules, regulations, or policies and any modifications or amendments thereto, the User agrees to be bound by such rules, regulations, or policies. If such rules, regulations, and/or policies should conflict with the Agreement, the Agreement shall prevail.

## **8. GENERAL**

8.1 The Corporation reserves the right to modify or amend the Agreement at any time, effective upon publishing an updated version of the Agreement on the Site. The User hereby acknowledges and agrees that, by using the Site, the User is bound by such future modifications and/or amendments.

8.2 Any failure by the Corporation to enforce, at any time or for any period of time, any of the provisions hereunder shall not be construed as a waiver by the Corporation of the right of the Corporation to enforce such provisions.

8.3 The Agreement and the User's rights and obligations hereunder may not be assigned or transferred without the consent of the Corporation, expressed in writing.

8.4 The obligations of the User herein shall survive the termination of the Agreement and the User shall be bound by such obligations after termination hereof.

8.5 The Agreement shall be read with all changes of gender or number required by the context.

8.6 Headings are inserted for convenience of reference only and shall not be used in the interpretation of the Agreement.

8.7 Time shall be of the essence of the Agreement.

8.8 The Agreement and such additional rules, regulations, and/or policies implemented by the Corporation pursuant to the above contains the complete agreement between the Corporation and the User and supersedes any prior agreement whether written or oral.

8.9 The Agreement shall be governed and construed according to the Laws of the Province of Manitoba. The jurisdiction for any adjudication related to the Agreement shall be the Court of Queen's Bench in the Province of Manitoba.

8.10 The invalidity of any provision of the Agreement or any covenant herein contained shall not impair the validity of any other provision herein set out.

**If you have any questions about the Terms of Use Agreement or want to request permission to reproduce Content from the Site, please contact us in one of the following ways:**

**E-mail us at: [info@accesswd.ca](mailto:info@accesswd.ca) or call us at: Tollfree: +1 (800) 249-1216**