

## **SOUTHERN SHUTTER SERVICES PTY LTD (ABN 90 147 890 855)**

### **TERMS OF TRADE**

#### **1. Interpretation**

(a) In these terms:

“Acceptance” means the provision of the signature on the Quotation by the Customer in the space provided for such signature.

“Contractor” means Southern Shutter Services Pty. Ltd. (ABN 90 147 890 855).

“Customer” means the person (natural or corporate) referred to in the Quotation.

“Goods and Components” means the goods and components manufactured and/or supplied in carrying out the Services.

“Parties” means the Contractor and the Customer.

“Price” means the price referred to in the Quotation.

“Quotation” means the quotation provided to the Customer which refers to these terms appearing on the Contractors’ website.

“Services” means the supply of the Goods and Components and the provision of labour necessary to install the Goods and Components and carry out the repair, restoration and reinstatement necessary to effect the repairs and other tasks described under the heading ‘Description’ in the Quotation.

(b) Nothing in these terms shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the *Competition and Consumer Act 2010*) and which by law cannot be excluded, restricted or modified.

#### **2. General**

These terms (which shall only be waived in writing signed by the Contractor) shall prevail over any conditions set out in the Customer’s order or other documentation.

### **3. Agreement**

- (a) The Contractor agrees to carry out the Services in consideration of the Customer paying the Price.
- (b) A contract will come into force between the Parties for the provision of the Services for the Price and incorporating these terms at the time of Acceptance. Thereafter the Contractor will forthwith commence to perform the Services without any further direction by the Customer. The contract may not be terminated save by further agreement in writing signed by the Parties.
- (c) The person providing the Acceptance warrants and represents that he/she is the Customer or is authorised to sign the Quotation on behalf of the Customer.

### **4. Terms of Payment**

- (a) The terms of payment are set out in the Quotation. These terms may be either:
  - (i) net 30 days from the provision of a tax invoice;
  - (ii) cash on delivery and provision of a tax invoice; or
  - (iii) full price up front.
- (b) In the event that the terms of payment are expressed to be full price up front the Customer will pay the Price to the Contractor before it commences to perform the Services. Thereafter, the Contractor must hold the monies pending completion of the Services, subject to paragraphs (c) and (d) below.
- (c) The Contractor may use the monies provided by the Customer pursuant to the full price up front terms of payment to pay for the Goods and Components (or any part thereof) upon provision of a relevant tax invoice to the Customer setting out the price of the Goods and Components (or any part thereof).
- (d) Save for the payments referred to in paragraph (c) the Contractor shall not be permitted to appropriate the Price from monies provided by the Customer pursuant to the full price up front terms of payment until the Services are performed and a tax invoice is rendered.

### **5. Warranties**

- (a) The Goods and Components shall be fit for the purpose for which they are installed, and be of merchantable quality.
- (b) For the avoidance of doubt, the warranties set out in paragraph (a) are not breached in the event that colour matches or other compatibility of a cosmetic nature cannot be achieved between the Goods and Components and the Customers existing plant and equipment upon which the repairs the subject of the Services are being performed and into which the Goods and Components are being incorporated.
- (c) The Services will be carried out in a competent and proper workmanlike manner.

## **6. Retention of Title**

- (a) The Goods and Components remain the property of the Contractor and title in the Goods and Components does not pass to the Customer until the Price is paid in full notwithstanding that the Goods and Components may have been incorporated into the Customer's existing plant and equipment.
- (b) The Contractor reserves the right to enter the Customer's premises without liability for trespass or any resulting damage and retake possession of the Goods and Components until the Price is paid in full.

## **7. Time**

Any time made known to the Customer by the Contractor by which the Services are to be provided (whether upon the face of the Quotation or otherwise) is an estimate only and the Contractor is not liable to the Customer for any loss or damage occasioned by the provision of the Services beyond the estimated time.

## **8. Limitation of Liability**

The Contractor's liability for a breach of a condition or warranty implied by Pt.3-2, Div 1 of the *Australian Consumer Law* is limited to:

- (a) in the case of the Goods and Components, any one or more of the following:
  - (i) the replacement of the Goods and Components or the supply of equivalent Goods and Components;
  - (ii) the repair of the Goods and Components;
  - (iii) the payment of the cost of replacing the Goods and Components or of acquiring equivalent Goods and Components;
  - (iv) the payment of the cost of having the Goods and Components repaired; or
- (b) in the case of the Services:
  - (i) the supplying of the Services again; or
  - (ii) the payment of the cost of having the Services supplied again.