

**1. Definitions**

- (a) **Agreement** means any agreement between the parties that arises in relation to these terms and conditions or the Quotation.
- (b) **Client** shall mean the persons described in the Quotation.
- (c) **Deposit** means a non-refundable deposit of 50% of the Quotation.
- (d) **Galos** means Beyond Abundance Pty Ltd (ACN 642 076 855) as trustee for Galant Family Trust trading as Galos Garage Doors or any person acting on behalf of and with the authority of Galos.
- (e) **GST** has the meaning given to this term by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time.
- (f) **Materials** means all goods which form part of the Works.
- (g) **PPSA** means the Personal Property Securities Act 2009 (Cth), as amended from time to time.
- (h) **PPSR** means the Personal Property Securities Register established and maintained under the PPSA.
- (i) **Price** shall mean the price payable for the Works as noted on the Quotation.
- (j) **Quotation** means the Quotation provided by Galos to the Client which incorporates these terms and conditions.
- (k) **Site** means the location at which the Works are undertaken.
- (l) **Works** means the installation of the Materials by Galos.

**2. Interpretation**

In this document, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa; and
- (b) if anything is to be or may be done on a day that is not a business day, then it must be done on the next business day.

**3. Acceptance**

Galos will provide a Quotation which shall remain open for acceptance by the Client for 14 days of the date of the Quotation unless withdrawn by Galos prior to such date. The Agreement is deemed accepted when the Deposit has been paid in clear funds.

**4. Duties of Galos**

Galos must carry out the Works in accordance with good trade practice, in a competent manner and these terms and conditions and use all reasonable efforts to complete the Works.

**5. Duties of the Client**

The Client shall ensure that Galos is given clear, continuous and unimpeded access to the Site for the duration of the Works.

**6. Price and Payment**

- 6.1 The Price must be paid on or before the date of completion of the Works and shall be made by cash or EFT to Galos' bank account or by any other method as agreed to between the Client and Galos. Payment is deemed to be received when funds are cleared and shall be deemed acceptance of the Works and Materials notwithstanding any defects period.
- 6.2 GST and other taxes, duties and charges that may be applicable shall be added to the Price except when they are expressly included in the Price.

**7. Delay**

Galos shall not be liable for any delay or failure

to perform its obligations under the Agreement including where such failure or delay results directly or indirectly from any cause, matter or thing beyond the reasonable control of Galos.

**8. Risk and Ownership**

Galos and the Client agree that:

- (a) title in the Materials remain with Galos until Galos has received payment in full of the Price;
- (b) the Client is a bailee of the Works and Materials until such time as title in them passes to the Client and that such bailment continues until the Price has been paid in full.

**9. Defects**

- 9.1 The Client shall notify Galos of any defect in the Works within 3 months of the date of installation. If the Client fails to give notice within the 3 months, the Works shall be presumed to be free from any defect.
- 9.2 Galos shall, within a reasonable period, remedy any defect in the Works.
- 9.3 In the case of defective Works, Galos' liability is limited to rectification of the Works.
- 9.4 Where any Materials are subject to a manufacturer's warranty, the Client will make any defect claim against the manufacturer direct.

**10. Default & Termination**

- 10.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of 1.5% compounded monthly.
- 10.2 If the Client is in default, then the Client shall indemnify Galos from and against all costs and disbursements incurred by the Galos in pursuing the debt including legal costs and Galos collection agency costs.

**11. Right of Entry and Resale**

- 11.1 Despite anything to the contrary contained in these terms and conditions or any other rights which Galos may have, where the Client breaches the Agreement, then Galos may take possession of and retain, resell or otherwise dispose of the Materials or any mass or whole, of which they form part of.
- 11.2 The Client shall indemnify Galos from and against all Galos' costs and disbursements including legal costs on a solicitor and own client basis.

**12. Security and Charge**

- 12.1 The Client agrees to charge their interest in the land to Galos to secure all amounts payable under these terms and conditions. The Client acknowledges and agrees that Galos shall be entitled to lodge a caveat, at the Client's cost.
- 12.2 In addition to clause 11.1, the Client grant to Galos a security interest in all Materials for the purpose of securing the Client's payments to Galos pursuant to the Agreement. The Client undertakes to do anything that is required by Galos for the purposes of perfecting and maintaining the Galos' perfected security interests on the PPSR.

**13. Limitation of Liability and Indemnity**

- 13.1 Galos takes no responsibility for any damage or repair work required following removal of existing doors and is not responsible for any cracking of driveways, brickwork or cement rendering or damage to the surrounding fixtures.
- 13.2 The Client continually indemnifies Galos against any claim or proceeding that is made, threatened, or commenced, and against any liability, damages or expenses (including legal

costs on a full indemnity basis) Galos incurs or suffers, as a direct or indirect result of a breach of this agreement.

**14. Client's Waiver**

- 14.1 The Client warrants that it has not relied on any representation made by Galos in any form or upon any descriptions, illustrations or specifications or any other documentation provided by Galos.
- 14.2 The Client acknowledges and agrees that, to the extent Galos has made any representation, the Client has been provided with an opportunity to independently verify the accuracy of that representation.
- 14.3 The Client waives any right to rescind, terminate or cancel this agreement with Galos or to sue for damages or to claim restitution arising out of any misrepresentation made to the Client by Galos and the Client acknowledges that it is relying on its own skill and judgment when ordering the Works.

**15. Dispute Resolution**

- 15.1 If any dispute arises out of or in connection with these terms and conditions or the interpretation of its provisions, a party cannot commence any court proceedings relating to a dispute unless this clause has first been complied with.
- 15.2 A party claiming that a dispute has arisen under or in relation to the Agreement must give notice in writing to the other party specifying the nature of the dispute.
- 15.3 On receipt of that notice by the other party, all of the parties must use all reasonable efforts to expeditiously resolve the dispute.
- 15.4 If the parties have not resolved the dispute within 14 days of receipt of the notice referred to in clause 15.2, or further period as is agreed in writing by them, the dispute must go to arbitration in accordance with the Commercial Arbitration Act 2012 and clauses 15.5 and 15.6.
- 15.5 The arbitrator appointed to resolve the dispute shall be:
  - (a) either as agreed in writing by the Parties; or
  - (b) failing agreement within 7 days of a request by any Party to do so, then as appointed by the President for the time being of the Law Society of Western Australia, or his nominee.
- 15.6 The costs of the arbitrator shall be borne equally by the parties to the Dispute.

**16. General**

- 16.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 16.2 These terms and conditions and the Agreement shall be governed by the laws of Western Australia.
- 16.3 Galos reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change shall take effect from the date on which Galos notifies the Client of such change.
- 16.4 The failure by Galos to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision.