

**TIME SAVER SERVICES (ABN 38 645 785 634)**

**STANDARD TERMS AND CONDITIONS OF QUOTATION AND TENDER FOR RENOVATION AND MAKEOVER SERVICES CONTRACT (Residential Quotation and Tender Terms and Conditions).**



The following standard terms and conditions will regulate the relationship between TIME SAVER SERVICES (THE PROVIDER) and the CUSTOMER/CLIENT in respect of all work effected in terms of this agreement.

**Heads of Agreement:**

By instructing **Time Saver Services** you, the customer/client, accept that you have read and understood the following Terms and Conditions and consent to be bound by their content.

These conditions may be altered by addition, retraction or amendment of clauses by Time Saver Services without notification.

Please read carefully.

1. Time Saver Services takes no responsibility for unmentioned or unforeseen faults or maintenance not quoted that may exist or any change in condition.
2. Works are limited to those detailed as per our quotation. Any associated works not detailed in the quotation will be charged accordingly.
3. Any quotation issued does not allow for consequences caused by hidden or unseen events arising from normal renovation and makeover procedures. Hidden or unseen events are defined as those that are not visible or accessible to, or not made aware of at the time of inspection or quotation.
4. Although every reasonable effort will be taken to prevent accidents and damage, Time Saver Services will not be held liable for any damage to, or repairs required when drilling, screwing or nailing into walls, floors, ceilings or any other part of the client's property. It is possible when drilling, screwing or nailing into walls, floors, ceilings or any other part of the client's property to accidentally damage hidden electrical wiring, plumbing or other objects or services. We will not be held liable for any damage of this nature incurred on the client's property. We will not be held liable for any costs incurred by the clients to rectify damage caused by Time Saver Services. Please do not proceed with our services if you do not agree to these conditions.
5. Payment of invoices required within 5 **working days**
6. All supplies and materials utilised for any of our services remain the property of Time Saver Services until payment in full is received.

## 1. DEFINITIONS

- 1.1 TIME SAVER SERVICES - an independent company, contracted by the CUSTOMER to affect the work in terms of this agreement. TIME SAVER SERVICES may also be referred to as "the Provider".
- 1.2 CUSTOMER/CLIENT - Shall mean the owner, or occupier of the property at which the work is to be performed (who has requested and obtained the owner's consent to the works), alternatively the owner's agent who warrants that he is duly authorized to bind the owner in this agreement.
- 1.3 PROPERTY - Shall mean the CUSTOMER'S property at which the work is to be effected and shall be deemed to be at the address reflected in the quotation, unless the contrary is stated.
- 1.4 WORK - Shall mean all work to be effected in terms of this agreement by TIME SAVER SERVICES at the property as specified in the quotation, it being understood that no additional work shall be deemed to form part of this agreement unless it is specifically recorded in an addendum hereto.
- 1.5 CONTRACT PRICE - Shall be the amount payable in terms of this agreement as specified in the quotation in respect of the work to be effected at the property as quoted for in the signed quotation.
- 1.6 DRAWINGS - Shall mean architectural drawings prepared in respect of the work, if the work requires such drawings, which shall be supplied by the CUSTOMER unless TIME SAVER SERVICES is specifically instructed to have the drawings prepared by an architect, at such additional fees as may be agreed upon.
- 1.7 PRACTICAL COMPLETION - Shall mean the date on which the work has been completed and handed over to the CUSTOMER together with TIME SAVER SERVICES'S final invoice in respect of the work so completed.
- 1.8 MATERIALS - Shall mean any and all materials, appliances and apparatuses to be installed, or used in the execution of the work.
- 1.9 EQUIPMENT - Shall mean such tools and machinery as may be necessary to execute the work.
- 1.10 In this agreement:
- "**Cost Price**" means the cost to the Provider, (and where stated inclusive of GST).
- "**Invoice**" means the invoice issued to the Customer at the completion of the Provider's work.
- "**Landowner**" is the owner of the Service Address which has benefited by the goods and services provided by the Provider.
- "**Outstanding balance**" means the amount outstanding of an invoice from time to time, including any capitalised interest added to the original balance.
- "**Outstanding Invoice**" is an Invoice which has not be paid in full within 7 days of issue or the payment of which has been dishonoured or reversed and not remedied within 7 days of the dishonour or reverse.
- "**Price Guide**" means the guide for pricing of hourly rates, mark-ups and other charges, listed on the Provider's commercial website or distributed from time to time by email, or upon request.
- "**Provider**" is Time Saver Services.

**“Recovery Costs”** includes the costs to the Provider of recovering payment or goods from the Customer or Landowner for goods or services provided under this agreement or at the request of the Customer or Landowner including: -

- (a) all legal, accounting, auctioneer, and licensed recovery agent costs; and
- (b) all costs that would ordinarily be payable by the Customer if engaging the Provider to provide goods or services for it as work for it as reflected in this agreement and the Price Guide.

**“Service Address”** is the land on which goods and services are provided or to be provided by the Provider

1.11 Reference to:

- (a) the singular includes the plural and the plural includes the singular;
  - (b) one gender includes each other gender;
  - (c) a person includes a body corporate and vice versa; and
  - (d) a party includes the party’s executors, administrators, successors and permitted assigns.
- (2) If a party:
- (a) consists of more than one person, this contract binds them jointly and each of them individually;
  - (b) acts as trustee, that party is bound both personally and in its capacity as a trustee.
- (3) Headings are for convenience only and do not form part of this contract or affect its interpretation.
- (4) Where a promisor under this agreement consists of more than one person, the promisor’s promises to the other party in this agreement are made by each of those persons both jointly and severally.

## **2. AGREEMENT**

2.1 The CUSTOMER agrees that:

- (a) this Agreement represents the entire Agreement between the CUSTOMER and TIME SAVER SERVICES and that any alterations or additions to this Agreement may not be effected unless agreed to by both parties, reduced to writing and signed by the CUSTOMER and TIME SAVER SERVICES;
- (b) this Agreement will govern all future contractual relationships between the parties, notwithstanding receipt or acknowledgement of the CUSTOMER’S own order form or conditions;
- (c) this Agreement is applicable to all existing debts between the parties;
- (d) this Agreement is final and binding and is not subject to any suspensive or resolute conditions;
- (e) and conflicting terms, conditions or agreements without prejudice to any securities or guarantees held by TIME SAVER SERVICES and;
- (f) this Agreement applies to all employees and Sub-Contractors of TIME SAVER SERVICES.

2.2 Notwithstanding the provisions of clause 2.1 above, all orders or contracts of sale, or agreed variations thereto, whether oral or in writing, shall be binding and subject to this agreement and may not be cancelled by the CUSTOMER.

2.3 The invalidity of any part of the Agreement shall not affect the validity of any other part.

### **3. APPOINTMENT**

3.1 The CUSTOMER appoints TIME SAVER SERVICES to affect the work at the property and agrees that the terms and conditions as set out herein shall be the Agreement between the parties in respect of the work to be effected.

### **4. QUOTATION**

4.1 All quotations will remain valid for a period of thirty (30) days from the date of the quotation, or until the date of issues of any new price list or supplier increases, whichever occurs first, or unless specified in writing by TIME SAVER SERVICES.

4.2 Delivery and performance times quoted are estimates and are not binding on TIME SAVER SERVICES.

4.3 All quotations are subject to the availability of input goods or services and subject to correction of good faith errors by TIME SAVER SERVICES, and the prices quoted are subject to any increase in the cost price, including currency fluctuations, to TIME SAVER SERVICES before acceptance of the order.

4.4 In the event of the CUSTOMER disputing the amount of the cost increase in clause 4.3 above, the said amount may be certified by an independent auditor and such certificate shall be final and binding on the CUSTOMER.

4.5 All variations to the original quotation accepted by the CUSTOMER must be verified with the official TIME SAVER SERVICES's representative and only on receipt in writing from TIME SAVER SERVICES's will this be accepted as legal and binding.

### **5. PROVISION OF MATERIALS AND EQUIPMENT**

5.1 Unless the contrary is specified in the quotation, TIME SAVER SERVICES shall provide all materials and equipment necessary for the proper execution of the work. All materials shall be of the kind and quality as described in the quotation, alternatively in terms of the architect's specifications, if applicable, and TIME SAVER SERVICES shall upon the request of the CUSTOMER furnish him with vouchers to prove that the materials are of such standard.

5.2 TIME SAVER SERVICES reserve the right, at its sole discretion, to provide alternative products at the prevailing prices to those ordered by the CUSTOMER, should those products have been superseded, replaced or otherwise become unavailable.

5.3 Products are sold as seen with no warranty against latent defects. All guarantees, including common law guarantees, are hereby specifically excluded.

5.4 If the CUSTOMER supplies any materials, or equipment, and or, accessories to be utilized in the work, TIME SAVER SERVICES shall not be responsible for any defects thereto, nor the quality thereof, it being agreed that TIME SAVER SERVICES shall accept such materials, and accessories, in the condition in which it is delivered to be utilized in the execution of the work. Extra costs incurred through the use of defective materials or equipment supplied shall be for the CUSTOMER'S account.

5.5 All fixed and unfixed materials purchased by TIME SAVER SERVICES shall be deemed to be under the control of TIME SAVER SERVICES and subject to his lien for payment of any amounts which may become owing in terms of the Agreement. It is recorded that any materials which have been purchased by TIME SAVER SERVICES and affixed to the property shall remain the property of TIME SAVER SERVICES until payment in full has been effected by the CUSTOMER. Once payment in

terms of the agreement has been effected in full, all materials which have been fixed to the property shall become the sole and exclusive property of the CUSTOMER and all unfixed materials shall be removed from the property, the unfixed materials being deemed to be property of TIME SAVER SERVICES.

5.6 During the execution of the work, the CUSTOMER shall take reasonable steps to protect all material on his property from the risk of loss, theft or damage thereto, in TIME SAVER SERVICES'S absence. In the event of loss, or theft the CUSTOMER agrees to replace such material, at his expense. TIME SAVER SERVICES shall, during his presence on the property, be responsible for all materials on the property and shall exercise the same caution to protect the CUSTOMER'S interests in the material from the risk of loss, theft or damage.

5.7 It is recorded that the CUSTOMER shall not be entitled to insist on detailed costings in respect of all materials, it being recorded that the work is performed in terms of a fixed cost, as specified in the quotation, and that the costs of the materials have been factored into such price irrespective of the costs thereof to TIME SAVER SERVICES.

## **6. LAWS, BYLAWS AND REGULATIONS**

6.1 TIME SAVER SERVICES shall comply with any law, regulations and bylaws of any local authority and/or any public service company, or authority relating to the work, as may be applicable and required, provided that if any fees are payable to any statutory body, or similar entity, the costs thereof shall be for the CUSTOMER'S account, it being recorded that the contract price stipulated in the quotation is exclusive of any additional fees, charges, or taxes that may be payable pursuant to this particular clause.

6.2 There shall be no obligation upon TIME SAVER SERVICES to ensure that the work as directed by the CUSTOMER and/or the architect do not encroach on building regulations, or building lines, the CUSTOMER, or his agent, being solely responsible to ensure compliance in this regard.

## **7. EXECUTION OF WORK IN ACCORDANCE WITH AGREEMENT AND DRAWINGS**

7.1 TIME SAVER SERVICES shall not make any variation to the drawings, if applicable, and shall affect the work strictly in accordance with the drawings, alternatively the specifications of the work as recorded in the quotation. Any deviation from the drawings, or specifications in the quotation shall only be affected if it is properly recorded and signed by TIME SAVER SERVICES and the CUSTOMER, or his architect if applicable, and without such written variation in respect of the work, TIME SAVER SERVICES shall not be obliged to give effect to any additional requirements, or instructions from the CUSTOMER.

7.2 If the CUSTOMER requires any additional work, variations, or alterations from the work as specified in the quotation, he shall advise TIME SAVER SERVICES thereof and TIME SAVER SERVICES shall, within Forty-Eight (48) hours, inform the CUSTOMER of the cost and time implications occasioned by such a variation. If the CUSTOMER accepts the additional costs and time implications, a written acknowledgement specifying the additional costs and time required for purposes of completion of the work, shall be prepared by TIME SAVER SERVICES and presented to the CUSTOMER for his authorisation. On an acceptance signature, email or text by the CUSTOMER (not verbal) TIME SAVER SERVICES shall immediately proceed to give effect to the CUSTOMER'S instructions, as varied by the written acknowledgement.

## **8. ACCESS TO THE WORK SITE**

8.1 The CUSTOMER shall afford TIME SAVER SERVICES access to the property to perform the work in accordance with TIME SAVER SERVICES'S obligations. In this regard, it is specifically agreed and recorded that TIME SAVER SERVICES shall have access to the property from 08H00 to 17H00 from Mondays to Fridays and from 09H00 to 14H00 on Saturdays to perform the work and the CUSTOMER shall make available, at his cost, the necessary water, sanitary facilities and electricity required by TIME SAVER SERVICES to give effect to its obligations in terms of this agreement.

8.2 TIME SAVER SERVICES shall further, at the same times specified above, have access to any part of the work already completed and handed over to the CUSTOMER for occupation as a right of passage through such occupied parts for purposes of reaching the work site on the property.

## **9. PRACTICAL COMPLETION**

9.1 On the date of practical completion, TIME SAVER SERVICES shall hand the work on the property over to the CUSTOMER and render a final invoice in respect of the contract price. The CUSTOMER shall be obliged to accept the work and the final invoice, subject to the CUSTOMER'S rights to insist on the repair of any defects that may manifest itself as set out in this agreement.

## **10. TIME TO COMPLETE WORK**

10.1 TIME SAVER SERVICES shall commence the execution of the work on a date mutually suitable to the parties, and if such date is specified in the quotation, then on such date as specified.

10.2 The work shall be completed within a reasonable period from the date of commencement; it being recorded that the CUSTOMER shall have no right in respect of any penalties if the work is not completed within a specified period of time.

## **11. EXCLUSION/LIMITATION OF LIABILITY**

Time Saver Services, its staff and subcontractors shall not under any circumstances be liable for any damages of any kind arising out of, in connection with or relating to the services or works offered, being completed or completed at the customers premises, including without limitation any liability: -

- as a seller or reseller of any products or services,
- for any defective products,
- for any incorrect or inaccurate information,
- for statements or conduct of any third party on the customers premises,
- or for any other matter relating to the customers premises.

This is a comprehensive limitation of liability that applies to all damages of any kind, including without limitation any direct, indirect, special, incidental or consequential damages (including without limitation damages for loss of business, loss of profits, loss of good will, loss of use, loss of data, cost of procuring substitute goods, services or information, litigation or the like), whether based on breach of contract, breach of warranty, tort (including without limitation negligence), product liability or otherwise, even if the customer advises of the possibility of such damages. Notwithstanding the foregoing, the sole and entire maximum liability of Time Saver Services, its staff and subcontractors for any reason, and the customers sole and exclusive remedy for any cause or claim whatsoever, shall be limited to the amount paid by you for any product or service purchased by you from Time Saver Services, its staff and subcontractors.

## **12. INDEMNITY**

You agree to indemnify, defend and hold harmless Time Saver Services, its staff and subcontractors against all claims, demands, causes of action, losses, expenses, damages and costs, including without limitation any reasonable solicitor's fees, resulting or arising from or relating to any services or works conducted by Time Saver Services, its staff and subcontractors.

### **13. DELAY IN COMPLETION OF WORK**

13.1 If the work is delayed by an act of God, vis major, exceptionally inclement weather, or any other cause beyond the reasonable control of TIME SAVER SERVICES, TIME SAVER SERVICES shall be entitled to an extension for the completion of the work, notwithstanding that the time of completion may have been specified as being of the essence, it being agreed that the time for performance will be extended for such a period as the work may have been interrupted for one of the reasons set out in this clause.

### **14. SUSPENSION OF WORK**

TIME SAVER SERVICES shall be entitled to suspend performance of the work in terms of this agreement in the event of:

14.1 A breach by the CUSTOMER to include, but not be limited to:

14.1.1 Non-payment of any interim invoice, or amounts on the date on which it may be owing in terms of this agreement.

14.1.2 The failure by the CUSTOMER to supply any material in terms of its obligations that may be reasonably required for the performance of the work by TIME SAVER SERVICES.

14.1.3 The CUSTOMER not granting TIME SAVER SERVICES access to the work, or any part thereof.

14.1.4 The CUSTOMER not making available any electricity, or water which may be required for purposes of the execution of the work.

14.1.5 The CUSTOMER not making available any drawings by an architect, or not arranging for the appointment of an engineer, where required, for the performance of the work.

14.1.6 Where the CUSTOMER fails to remedy its obligations to enable TIME SAVER SERVICES to proceed with the work.

14.2 In the event of TIME SAVER SERVICES having to suspend performance of the work in terms of this agreement TIME SAVER SERVICES shall be entitled to immediately: -

14.2.1 Cancel this agreement and retain all amounts paid.

14.2.2 Insist on payment of the balance of the contract price as stipulated on the face hereof.

14.2.3 Remove all unfixed materials from the premises without any compensation to the CUSTOMER.

14.2.4 Remove any machinery and equipment from the premises.

14.2.5 Exercise his lien in respect of payment for all amounts that may be due and owing in terms of the agreement.

### **15. PAYMENT**

15.1 The CUSTOMER shall pay to TIME SAVER SERVICES the amount as stipulated in the quotation together with all additional costs in respect of additional work, or additional services rendered pursuant to the execution of the work on the dates specified for payment.

15.1.1 By accepting TIME SAVER SERVICES quotation the CUSTOMER accepts TIME SAVER SERVICES Terms and Conditions.

15.1.2 TIME SAVER SERVICES shall not be bound to the CUSTOMER's payment terms, unless otherwise agreed by TIME SAVER SERVICES and the CUSTOMER in a dated written and signed document format.

15.2 The risk of payment by cheque through the post or by electronic funds transfer rests with the CUSTOMER.

15.3 The CUSTOMER shall under no circumstances be entitled to withhold payment, for any reason whatsoever. Withholding of payment shall be deemed to be a material breach of the agreement which would entitle TIME SAVER SERVICES the remedies set out in clause 14.2 above.

15.4 The CUSTOMER is not entitled to set off any amounts due to TIME SAVER SERVICES by the CUSTOMER against its indebtedness to TIME SAVER SERVICES.

15.5 TIME SAVER SERVICES shall be entitled to invoice each delivery or performance separately when executed.

15.6 The CUSTOMER shall pay to TIME SAVER SERVICES the full amount as stipulated in the invoice within a maximum period of five (5) days on receipt of invoice.

15.6.1 The CUSTOMER will be charged a 10% interest on outstanding amounts not paid within seven (7) days of date of invoice every seven (7) days or part thereof.

15.6.2 The CUSTOMER must notify TIME SAVER SERVICES within a maximum period of five (5) days of date of invoice with a written letter by the CUSTOMER explaining payment delay reasons with a written arrangement agreement supplied to the CUSTOMER in terms of TIME SAVER SERVICES acceptance of new payment date arrangement.

15.7 The CUSTOMER agrees that if an account is not settled in full (a) against order; or (b) within the period agreed in clause 15.6 above, TIME SAVER SERVICES is entitled to (i) forward a letter of demand using a third party demanding full and final payment.

15.8 In the event of default, all payments shall firstly be appropriated towards interest and costs and thereafter in respect of the capital amount payable in terms of this agreement.

15.9 The CUSTOMER shall be liable to TIME SAVER SERVICES for all legal expenses incurred by TIME SAVER SERVICES on the attorney-and-own client scale in the event of (a) any default by the CUSTOMER or (b) any litigation in regard to the breach, validity or enforceability of this agreement. The CUSTOMER be liable for all tracing, collection or valuation fees incurred as well as for any costs including stamp duties, for any form of security that TIME SAVER SERVICES may demand.

15.10 Only payments made into the bank account on the invoice / quotation documents, as per the details reflected on the original quote submitted from TIME SAVER SERVICES'S office via e-mail or fax will be recognized and accepted as formal payment. Only electronic fund transfer payments, cleared bank cheques, cash or deposits will be accepted.

## **16. GUARANTEES AND WARRANTIES**

16.1 TIME SAVER SERVICES shall complete the work to the reasonable satisfaction of the CUSTOMER according to acceptable standards of workmanship. All work shall be guaranteed against latent defects as a result of defective workmanship for a period of three (3) months from date of practical completion. Superficial cracks that may appear as a result of materials drying shall not be regarded as defects. Any claims in respect of defective materials shall be directed by the CUSTOMER to the supplier and TIME SAVER SERVICES shall assist in lodging the claim without assuming any liability.



## 17. CLAIMS

17.1 Any defects to the work shall be communicated to TIME SAVER SERVICES within seven (7) days from the date of practical completion. TIME SAVER SERVICES shall be afforded an opportunity to within fourteen (14) days from receipt of such claim inspect the defects and/or workmanship which does not meet with the CUSTOMER'S approval and;

17.1.1 If TIME SAVER SERVICES is of the view that the work is of acceptable standard, it shall notify the CUSTOMER, in writing, of its findings as well as the reasons therefore.

17.1.1.1 If the CUSTOMER does not accept TIME SAVER SERVICES'S findings, he shall be entitled, within a period of fourteen (14) days from the date of notification by TIME SAVER SERVICES, to refer the matter to arbitration to resolve the complaint. TIME SAVER SERVICES may in its own discretion be entitled appoint an architect of no less than ten (10) years' experience in the Building and Construction Industry as an arbitrator. All costs in this instance will be for the CUSTOMER'S account.

17.1.1.2 If the matter is referred to arbitration, the arbitrator shall be requested to complete his findings within a period of thirty (30) days and his finding shall be final and binding upon both parties.

17.1.2 If TIME SAVER SERVICES is of the view that the work is of unacceptable standard then any defects in the workmanship, TIME SAVER SERVICES supplied materials, or damage to the work, or the premises which is as a result of defective material supplied by TIME SAVER SERVICES, or inadequate workmanship shall be repaired by TIME SAVER SERVICES, within a period of fourteen (14) days, to the reasonable satisfaction of the CUSTOMER, at TIME SAVER SERVICES'S expense.

17.2 If the CUSTOMER does not notify TIME SAVER SERVICES within seven (7) days of any defect in the workmanship and material, it shall be deemed to have been completed to the reasonable satisfaction of the CUSTOMER and the CUSTOMER shall have no further right of recourse against TIME SAVER SERVICES in respect of any repairs, or defects.

17.3 If the CUSTOMER has a claim as a result of latent defects, he will address such a claim to TIME SAVER SERVICES, in writing, within the warranty period of three (3) months, setting out in detail the nature and extent of the latent defects.

## 18. TIME SAVER SERVICES'S SUB-CONTRACTOR USE

18.1 TIME SAVER SERVICES shall be entitled to employ the services of any Sub-Contractor provided that the amounts payable to the Sub-Contractor are paid by TIME SAVER SERVICES and that the Sub-Contractor performs his mandate in terms of the same or similar conditions to that contained herein.

## 19. GENERAL

19.1 The agreement shall be governed in all respects by the Laws of Commonwealth of Australia.

19.2 The terms and conditions contained herein, read with the nature and extent of the work and the costs reflected in the quotation, shall constitute the entire agreement and shall not be varied unless same is reduced to writing, duly signed by, or on behalf of TIME SAVER SERVICES and the CUSTOMER.

.....  
**In Addition, . . .**

**IN ADDITION; Time Saver Services' specify the following Terms and Conditions for handyman-small renovation type services (where the terms "handyman" and "small renovation" are inter-changeable):**

1. By engaging the Provider, the Customer ALSO agrees that they are bound by the following terms and conditions.

**What is being provided**

2. The Provider will provide to the Customer the general services of a handyman, as agreed between the Customer and the Provider.

3. The Provider will also provide to the Customer, goods, being items, materials and consumables ordinarily provided by a handyman.

**Obligations**

4. The parties must act with good faith towards each other in the performance of this agreement.

5. The Customer must:

(a) unless otherwise agreed with by the Provider, be on site at the scheduled time of commencement of a work by the Provider;

(b) provide clear instructions on the goods and services required;

(c) upon completion of the work by the Provider, pay the Invoice issued by the Provider without delay;

(d) allow the Provider to complete the work between 7am and 5pm Monday to Friday (unless otherwise agreed with the Provider);

(e) identify to the Provider any known hazardous substances (including but not limited to, asbestos materials or lead paint) near the area of work;

(f) allow free and clear access to the area of work without obstructions or delay; and

(g) allow the Provider to work safely.

6. The Provider must:

(a) when providing quotations, provide quotations that are reasonable having regard to details provided by the Customer, the likely costs of the items, materials and consumables to be used, and the likely time required to complete the work;

(b) when providing services, complete the work in a professional and workmanlike manner.

**Who the services and goods are being provided to or for**

7. The Provider is providing the goods and services to the Customer and to any Landowner.

8. The Customer warrants that they are the Landowner or that they are authorised fully to engage the Provider on the Landowner's behalf and that the promises made by the Customer under this agreement are also agreed to by the Landowner.

9. The Customer warrants that goods and services provided at the request of the Customer or for the benefit of the Landowner are a benefit to the Customer.

10. The Customer agrees to pay the Provider for all services and goods provided by the Provider which are either at the request of the Customer or for the benefit of the Landowner.

11. Goods and services provided at the request of the Customer include those unlisted things incidental to but necessary for the provision of the goods and services specifically requested by the Customer.

12. Nothing in this agreement is to be taken to:

(a) limit the rights of the Provider to claim damages from the Landowner for unjust enrichment;

(b) require the Provider to seek payment from any person before, or other than, the Customer; or

(c) entitle the Customer to withhold payment from the Provider pending any receipt by the Customer of funds from the Landowner.

13. If any person pays the Provider and that payment fails or is reversed for any reason, the Customer agrees that the Provider may treat the payment as never having been made to it.

#### **Quotations**

14. Prior to providing goods and services to the Customer, the Provider may provide a quotation to the Customer for the goods and services.

15. A quotation is only an estimate and does not include:

(a) unforeseen goods and services or expenses reasonably not anticipated as being required by the Provider at the time of providing the quotation;

(b) additional, or different, goods and services requested by the Customer after the quotation is provided.

16. Where a quotation includes goods to be purchased by the Provider or expenses that will be paid by the Provider, that portion of the quotation is subject to the actual costs incurred.

17. The Customer acknowledges that the quotation is not a fixed quotation and that the Invoice amount may differ from the quotation provided.

18. The Provider will, if the final goods and services provided are only those quoted and differ in cost from the quotation by more than 10% on the Invoice (being more than 10% over the quoted total in the quotation) explain the difference to the Customer if requested to do so by the Customer.

19. Where a Customer requests an amended quotation after the Provider has attended the Service Address, the Provider may invoice the Customer a quotation fee as set out in the Price Guide.

### **Costs Incurred by Provider**

20. Goods purchased and expenses paid by the Provider in providing the goods and services to the Customer will be charged to the Customer at Cost Price plus 10%.

### **Returns of Materials**

21. Excess materials not deemed useable by the Provider become the Customer's property upon full payment of the Invoice to the Provider.

### **Property in Goods**

22. All property in goods (including final products constructed or installed or affixed to the land by the Provider and all materials and consumables provided by the Provider) remains with the Provider until payment in full is received from the Customer for all goods and services (including excess materials) provided by the Provider.

23. By this agreement the Provider is authorised to:

(a) enter upon the Service Address to provide the goods and services; and

(b) re-enter the Service Address and remove any goods (including final products constructed or installed or affixed to the land by the Provider and all materials and consumables provided by the Provider) when there is an Outstanding Invoice.

24. The removal of any goods by the Provider in accordance with clause 23 does not affect the Provider's right to seek payment for the provision of goods and services to the Customer.

25. The Customer fully indemnifies the Provider for all cost, expenses and damages that the Provider may incur in acting in accordance with clause 25.

### **Warranties and Suitability of Purchased Goods**

26. The Provider is not responsible for any term, condition, representation or warranty relating to goods, materials or consumables manufactured by others and purchased by the Provider or the Customer.

27. The benefit of a manufacturer's warranties for goods, materials or consumables purchased by the Provider are transferred to the Customer upon payment of the Invoice for those goods, materials or consumables.

28. To the extent permitted by statute, the Provider makes no recommendations and excludes any express or implied warranties as to the quality or suitability of goods, materials or consumables:

(a) incorporated in any goods manufactured by the Provider; or

(b) used for any services provided by the Provider.

## **Warranties and Suitability of Constructed Goods**

29. For goods constructed by the Provider, the Provider warrants for a period of 3 months after completion by the Provider that the goods will remain free from defect of workmanship if used appropriately.

30. Unless specified by the Provider in writing, no warranties are provided as to the suitability of any goods constructed by the Provider for any particular use.

31. The warranty provided by the Provider in clause 29 above does not apply where a defect in constructed goods:

(a) relates to a matter other than workmanship;

(b) is caused by an unknown defect in the materials or consumables used in the construction of the goods.

## **No warranties as to advice**

32. The Customer acknowledges that the Provider is not in the business of providing advice as to the suitability of goods or services and that any advice or suggestions given by the Provider are an expression of opinion only, and if adopted by the Customer are adopted at the Customer's own risk.

## **Materials & Risk**

33. The Customer acknowledges that materials (including but not limited to paint, timber, tiles & concrete) supplied may exhibit variations in shade tone, colour, texture, surface and finish, and may fade or change colour, over time or from batch to batch.

34. Minimal variations in batches of product supplied by the Provider are to be accepted by the Customer.

35. The Provider is not responsible for damage caused to any goods (including manufactured goods) or any structures or improvements on the Service Address caused by movement of ground soil, or natural bending, twisting, rusting, cracking, rotting, water damage, scratching, moving, or loosening of any of the goods the Provider installs, repairs, constructs, adjusts, or assembles.

36. Tiles and pavers are not guaranteed against crazing, cracking, chipping or scratching.

37. Unless included in the quote or Invoice, the Provider is not responsible for the removal of rubbish from or clean-up of the Service Address.

## **Correction or Alteration**

38. If the Customer is reasonably of the opinion that good or services provided are not in accordance with those agreed to be provided by the Provider, the Customer must within 7 days of the Invoice date notify the Provider in writing of any defects or errors identified by the Customer and of which the Customer requires rectification.

39. The Provider must consider any requests for rectification provided by the Customer and:

(a) if not in agreement with the requests, explain to the Customer the reasons for disagreement;

(b) if in agreement with the requests, attend to any rectification work required.

40. 7 days after the Invoice date, the Customer is deemed to be satisfied with the goods or services provided.

41. Nothing in clauses 38 to 40 is to be taken to exclude the Customer's rights under statute or under clause 29 above.

42. Unless required urgently due to safety concerns, the Provider will undertake any rectification work as it is available to do so, and not in priority to other work.

### **Bookings**

43. Where a request is made for goods or services to be provided on a day other than the day of the request, a cancellation charge of 25% of the issued quote or \$150 (whichever is the higher) may be applied and invoiced to the Customer if the Customer cancels the booking less than 24 hours before commencement.

44. The Customer acknowledges that the cancellation fee of 25% of the issued quote or \$150 represents liquidated damages for the Provider's loss of opportunity.

45. Where purchases of goods have been made by the Provider in reliance of a request for goods and services before the cancellation of the booking by the Customer, the Customer must as requested by the Provider pay for the goods purchased and take receipt of them.

46. Where a booking is cancelled by the Provider:

(a) the Provider must refund all costs paid by the Customer prior to the cancellation;

(b) the Provider must, if provided an invoice by the Customer for \$20, pay that sum to the Customer as liquidated damages for all losses caused by the cancellation;

(c) no further liability is to be attached to the Provider as a result of the cancellation.

### **Rescheduled Bookings**

47. The Customer may with the Provider's agreement, reschedule a booking one time by giving more than 24 hours' notice to the Provider.

48. The Provider may with the Customer's agreement, reschedule a booking two times by giving more than 24 hours' notice to the Customer.

### **Invoices**

48. Unless stated to be inclusive of GST, any amounts on an invoice will be exclusive of GST and to which GST must be added at the time of payment.

49. Invoices provided to the Customer must be:

(a) dated;

- (b) contain a reasonable description of the work done and the materials provided;
- (c) provide a reasonable breakdown of the various components of work and material that comprise the total owing on the invoice;
- (d) left with the Customer, or at the Service Address, or posted or sent electronically to the Customer.

### **Methods of Payment**

50. Methods of payment specified by the Provider are subject to change from time to time.

51. The failure or reversal of a payment:

- (a) does not limit the Provider's rights to recover the Invoice total in any way;
- (b) accrues an administrative charge for the time spent by the Provider in dealing with the failure or reversal, as set out BY THE Provider.

52. Where a method of payment or a dishonour or reversal causes the Provider to incur a charge, the Customer must reimburse the Provider that charge.

### **Default**

53. Upon an Invoice becoming an Outstanding Invoice, the remedies set out in clauses 54 to 57 will apply:

- (a) the Provider is able to exercise some, all of or none of the remedies as it sees fit;
- (b) the application or non-application of one remedy is without prejudice to and will not affect the application of a different remedy;
- (c) Recovery Costs incurred by the Provider in exercising any of the remedies are to be paid on a full indemnity (100%) basis.

54. Interest will accrue on the total outstanding as follows:

- (a) at the rate of 10% p.a. on the outstanding balance commencing from the day the Invoice becomes an Outstanding Invoice;
- (b) thereafter capitalising each month, and being added to and forming part of the outstanding balance upon capitalisation;
- (c) accruing until the full amount of the outstanding balance and accrued uncapitalised interest is received by the Provider.

55. The Provider may re-enter the Service Address and remove any goods (including final products constructed or installed or affixed to the land by the Provider and all materials and consumables provided by the Provider) and:

- (a) sell the goods or use the goods in a way that best recovers value for the Provider;
- (b) credit the proceeds of the sale or use to the total of the accrued interest and outstanding balance (in that order).

56. The Provider may commence proceedings in a Court or Tribunal of competent jurisdiction, seeking either payment of the outstanding balance, uncapitalised interest and Recovery Costs and or return of goods provided.

57. The Provider may report the Customer's default to a credit reporting agency.

58. The Provider is granted a right of subrogation to any rights the Customer may have to seek payment from the Landowner for monies relating to the Invoice.

59. The above rights are in addition to any rights the Provider may have as a creditor.

### **Continuation of Rights**

60. The rights of the parties at the date of termination of this agreement continue despite its termination including full rights of enforcement.

61. The rights under this agreement of a party who obtains judgment against another party continue and do not merge with that judgment.

62. Should any term(s) or condition(s) in any way be contradictory to any other term(s) or condition(s) in these Terms and Conditions; then the term(s) and condition(s) that favour(s) Time Saver Services will be agreed to by the Client or Customer and enforceable by Time Saver Services.

6.3 Should any term(s) or condition(s) in any way be contradictory to any other term(s) or condition(s) in these Terms and Conditions; then the term(s) and condition(s) that favour(s) TIME SAVER SERVICES will be agreed to by the Client or Customer and enforceable by Time Saver Services.

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