

Terms and Conditions
Shadewell Australia Pty Ltd ACN 635 233 037

Shadewell Australia Pty Ltd trading as Shadewell Awnings & Blinds ("the Company", "us", "we", "our",) provides the Goods and Services on the following Terms.

1. Definitions

In these Terms unless the context requires otherwise:

Contract means a contract between the Customer and the Company for the provision of Goods and Services.

Goods and Services means the goods and services purchased by the Customer in a purchase Order or quote.

Price means the price payable in respect of the Goods and Services, as advertised on the Website and/or specified in the Order Acceptance and any subsequent invoice.

Order means any registration form, order or other documentation submitted to the Company requesting the provision of services.

Order Acceptance means a confirmation of acceptance of an order provided by the Company to the Customer.

Services means the delivery and installation services provided by the Company as detailed in the Quote or Order.

Terms means these terms and conditions of sale.

2. Contract

2.1 No quotation given by the Company to the Customer shall constitute an offer or invitation to sell.

2.2 The Customer may order Goods and Services from the Company by submitting an Order to the Company.

2.3 Following receipt of an Order from the Customer and the Company confirming an Order Acceptance to the Customer, a Contract arises between the Company and the Customer for the supply of the Goods and/or Services at the Price, subject to these Terms.

2.4 The Company reserves the right to reject an Order. A full refund will be provided in the event of such rejection.

2.5 An Order from the Customer to the Company for the supply of Goods and Services shall not be binding upon the Company until accepted by the Company.

3. Price

3.1 The Price for the Goods and/or Services is as confirmed in the Order Acceptance.

3.2 The Price is inclusive of all labour and materials as at the date of the Quote and will be valid for a period of 30 days from the date of the Quote. Should the time taken to supply the Goods and Services be delayed due to the Customer, the Price may be increased by the increased cost of such Goods and Services.

3.3 Unless otherwise stated, the Price includes charges only up to the Company's premises. Any charges thereafter for example delivery must be paid by the Customer.

3.4 The Company may adjust the Price for variations in cost which may arise from delays in supply or installation of the Goods and Services as a result of instructions or lack thereof from the Customer, the Customer's failure to fulfil their obligations under any contract, any action or inaction by the Customer or other circumstances beyond the Company's control, or variations in the cost of the Goods to the Company.

3.5 The Customer may not set off against the Price any amounts due from the Company, without the express written consent from the Company.

4. Payment

4.1 A deposit as set out in the Quote is payable for the Goods and Services and must be paid by the Customer as stated in the Quote.

4.2 Without limiting the Company's rights at Law and in equity, if the Customer defaults for more than fourteen (14) days in payment of the Price, penalty interest will be payable on such outstanding amount at the rate set by the *Penalty Interest rate Act 1983* together with all incidental costs associated with the recovery of same.

5. Delivery of Services

5.1 Lead times for supply of Goods and Services and/or Completion are for reference only and are subject to change.

5.2 The Customer must advise the Company of a nominated delivery point. Any costs incurred by the Company due to any failure by the Customer to accept the Goods at the time of delivery must be reimbursed by the Customer to the Company.

5.3 The Company is not liable for any claims for non-fulfilment or late delivery of Goods and Services or for any loss or damage (including consequential loss or damage) suffered by the Customer arising from delay in delivery or failure to deliver due to circumstances beyond the Company's reasonable control. The Customer is not entitled to terminate the Contract if a reasonable delay occurs unless expressly agreed in writing by the Company.

5.4 The Customer must provide suitable access to the site and proper foundations and walls to enable proper assembly of Goods. The Customer (at its own cost) is responsible for obtaining any necessary permits or consents for installation of the Goods.

5.5 Where Goods are sold for delivery and installation, Completion occurs when the Goods are assembled in position. Where Goods are sold for delivery at a named destination, Completion occurs when the Goods reach that destination. Where Goods are sold ex-works, Completion occurs when the Goods are handed over by the Company to a carrier or when the Company makes the Goods available for collection.

5.6 If for any reason beyond the control of the Company, including strike, trade dispute, fire, flood, accident, tempest, death, war declared or undeclared, blockade, governmental or quasi-governmental restraint or lockdown, pandemic, unavailability of Goods or Services, loss or destruction of Goods, delays in transport or an act of God, the Contract cannot be filled at the time required by the Customer or at all, the Company is not required to supply the Goods and Services to the extent and for the period that it is so unable to supply the Goods and Services, and the Company is not liable to the Customer in respect of any inability on its part to perform its obligations.

5.7 It is the Customer's responsibility to provide a safe site with unimpeded access to perform the Goods and Services.

6. Retention of Title

6.1 Whilst the risk in the Goods passes on Completion, legal and equitable title in the Goods remains with the Company until payment in full is paid.

6.2 If payment for the Goods is not made by the Customer by the due date specified to the Customer by the Company, the Company is hereby authorised to enter upon the Customer's premises at any time and do all things necessary to recover the Goods. The Customer will be liable for all costs associated with the exercise by the Company of its rights under this clause, which shall be repayable on demand.

6.3 If the Company notifies the Customer that the Goods are ready for delivery and the Customer requests the Company to hold the Goods on its behalf, the Goods will be held by the Company at the Customer's risk, and the Company shall be entitled to charge storage fees in respect of the Goods so stored.

7. Variations

7.1 If the Customer varies the nature, scope, quantity or Price of the Goods and Services this direction must be given to the Company in writing and agreed by the parties.

7.2 The Company may change these Terms at any time if it has given to the Customer at least 30 days' notice in writing of the proposed change.

8. Exclusion of Warranties

8.1 This clause only applies if the Australian Consumer Law (ACL) does not apply to the Contract, for example if the Price is higher than \$40,000.00. Nothing in these Terms has the effect of excluding or limiting any consumer guarantees given under the ACL.

8.2 Subject to clause 8.1, except as provided in these Terms, any warranty and to the extent permitted by law, and except where conditions and warranties as to the supply of Goods and Services are implied by any statute or rule of law, all implied conditions, guarantees and warranties are expressly excluded.

8.3 Immediate reporting of any claims is a condition of the warranty and the Customer must notify the Company within seven (7) days of the initial appearance of any defects by writing to the Company. The Company will then arrange for the warranty claim to be assessed. If the Company accepts a warranty claim, then the defects covered by the warranty will be repaired or replaced.

8.4 Incidental costs of a warranty claim including but not limited to the cost of any scaffolding and/or any equipment which may be necessary to complete the rectification works are not covered by clause 8.3 and the Customer hereby indemnifies the Company for those costs.

9. Liability and Indemnity

9.1 The Customer accepts all risk involved in the use and/or possession of the Goods and Services.

9.2 The Company accepts no responsibility and the Customer and the Customer hereby indemnifies the Company and holds it forever harmless from and against any claim, liability, loss, cost, expense or demand for, arising out of or in connection with the Customer's negligence or from a breach or non-performance by the Customer of these Terms, as a consequence of any claim against the Company, arising directly or indirectly as a result of the Customer's negligence or in connection with a breach or non-performance of any of the Customer's obligations under these Terms.

9.3 This clause 10 only applies if and to the extent that the Australian Consumer Law and the Company's professional regulatory scheme does not apply to the Contract. Clause 9.1 describes Contracts to which the ACL does not apply. Nothing in these Terms is intended to have the effect of limiting the Company's liability under the ACL.

9.4 The Company accepts no responsibility and is not liable for any direct or indirect, special or consequential loss or damage or injury to any person, corporation or other entity in connection with a Contract or the Goods and Services, howsoever caused.

9.5 The Company accepts no responsibility and is not liable for any loss incurred in connection with the implementation of any Goods and Services by the Customer.

10. Insurance

10.1 The Customer and the Company undertake that they each have the necessary insurances to fulfil their respective obligations.

11. Severability

11.1 If any of these Terms are invalid or unenforceable in any jurisdiction, such Term must be read down, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability.

12. Waiver

12.1 The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.

13. Termination

13.1 Subject to clause 13.2 either party may terminate the Contract by giving the other party notice in writing of such termination.

13.2 In the event that the Customer terminates the Contract in accordance with clause 13.1 the Customer must pay to the Company the Price plus any additional costs without prejudice to its other rights at law.

14. Jurisdiction

14.1 The parties submit to the jurisdiction of the Courts and Tribunals of Victoria.

15. Entire Agreement

15.1 These Terms are to be read with the Quote, Order Acceptance and Invoices and together constitute the entire agreement between the parties. In the event of a conflict between these Terms and the Order Acceptance, these Terms prevail.

16. Notices

16.1 Any notices are to be addressed to the registered office of each party or such other address as notified by the parties in writing.