



Trading terms and conditions

1. DEFINITIONS

- 1.1 Sinai Asset Services Pty Ltd will hereinafter be referred to as S.A.S
- 1.2 "Client" shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by S.A.S to the Client.
- 1.3 "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Goods" shall mean Goods supplied by S.A.S to the Client (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation, work authorisation or any other forms as provided by S.A.S to the Client.
- 1.5 "Services" shall mean all Services supplied by S.A.S to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 1.6 "Price" shall mean the Price payable for the Goods and services as agreed between S.A.S and the Client.

2. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")

2.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

3. ACCEPTANCE

- 3.1 Any instructions received by S.A.S from the Client for the supply of Goods and/or the Client's acceptance of Goods supplied by S.A.S shall constitute acceptance of the terms and conditions contained herein.
- 3.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.
- 3.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of S.A.S.
- 3.4 The Client shall give S.A.S no less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by S.A.S as a result of the Client's failure to comply with this clause.
- 3.5 Goods are supplied by S.A.S only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.
- 3.6 The Client accepts and acknowledges that S.A.S reserves the right to appoint at S.A.S discretion a project manager or managers to oversee the Services up to and including completion, the Client accepts that this party may be subject to change without notice, during the course of the contract.

4. PRICE AND PAYMENT

- 4.1 At S.A.S sole discretion the Price shall be either:
- (a) As indicated on invoices provided by S.A.S to the Client in respect of Goods supplied; or
 - (b) S.A.S' current price at the date of delivery of the Goods according to S.A.S' current Price list; or
 - (c) S.A.S' quoted Price (subject to clause 4.2) which shall be binding upon S.A.S provided that the Client shall accept S.A.S' quotation in writing within thirty (30) days.
- 4.2 S.A.S reserves the right to change the Price in the event of a variation to S.A.S' quotation. Any variation from the plan of scheduled works or specifications (including, but not limited to, any variation as a result of increases to S.A.S in the cost of materials and labour) S.A.S reserves the right to halt all Services until such time as S.A.S and the Client agreed to changes to the plans and/or specifications as outlined in the quotation to incorporate such variances. The variances once approved shall be detailed in writing and charged for on the basis of S.A.S quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 4.3 At S.A.S sole discretion a deposit may be required.
- 4.4 At S.A.S sole discretion:
- (a) Payment for approved Clients shall be made by instalments in accordance with S.A.S' payment schedule; or
 - (b) Payment for approved Clients shall be due seven (7) days following the date of the invoice.
- 4.5 S.A.S may submit a detailed payment claim at intervals not less than one month for work performed up to the end of each month. The value of work so performed shall include the reasonable value of authorised variations and the value of materials delivered to the site but not yet installed.
- 4.6 Time for payment for the Goods shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of the invoice.
- The Goods or repairing the Goods except where the Client has acquired Goods as a consumer within the meaning of the Trade Practices Act 1974 (Cwlth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the purchase price of the Goods, or repair of the Goods, or replacement of the Goods.
- 4.7 Payment will be made by cash, or by cheque, or by bank cheque or by direct credit, or by any other method as agreed to between the Client and S.A.S.
- 4.8 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.
- 4.9 Any amount overdue for payments will (at S.A.S' discretion) bear interest of 5% per month from the date it becomes overdue until paid in full.

5. DELIVERY OF GOODS

- 5.1 At S.A.S' sole discretion delivery of the Goods shall take place when the Client takes possession of the Goods at the Client's nominated address (in the event that the Goods are delivered by S.A.S or S.A.S' nominated carrier).
- 5.2 The Client shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods as arranged then S.A.S shall be entitled to charge a reasonable fee for redelivery.
- 5.3 Delivery of the Goods to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 5.4 The failure of S.A.S to deliver shall not entitle either party to treat this contract as repudiated.
- 5.5 S.A.S shall not be liable for any loss or damage whatsoever due to failure by S.A.S to deliver the Goods (or any of them) promptly or at all, where due to circumstances beyond the control of S.A.S.
- 5.6 The Services commencement date will be put back and/or the building period extended by whatever time is reasonable in the event that S.A.S claims an extension of time by giving the Client written notice, (such written notice to include the reasons and requested length of the extension) where completion is delayed by an event beyond S.A.S' control, including but not limited to, delays caused or requested by the Client, Building Management and/or other third party, inclement weather or conditions resulting from inclement weather, variations, industrial disputes,



unavailability of materials, or any delays caused by the failure to obtain the necessary approvals as per clause 19.2, or suspension of Services by S.A.S under clause 6.1

5.7 Unless the Client notifies S.A.S in writing within ten (10) business days of the date of S.A.S' notice that the Client objects to the delay, the contract shall be extended by the time requested by S.A.S. The Client shall then accept and indemnify S.A.S against any such costs associated with the said delay. Variances as per clause 5.7 shall be detailed separately to comply with clause 4.2 .

5.8 The Services shall be deemed to be practically completed when the Services carried out under this contract have been completed in accordance with the plans and specifications set out in this contract, and all statutory requirements have been met. S.A.S shall advise the date of practical completion to the Client in writing.

5.9 S.A.S shall not be liable for any costs incurred by the Client due to any unforeseen delays in completing the Services.

6. S.A.S' RIGHT TO SUSPEND SERVICES

6.1 Without prejudice to any other remedies S.A.S may have, if at any time the Client is in breach of any obligation (including those relating to payment) S.A.S may suspend or terminate the supply of Services to the Client.

6.2 If S.A.S exercises the above right to suspend the Services, it will not be in breach of contract, and will not be liable for any loss or damage whatsoever suffered, or alleged to be suffered, by the Client or by any person claiming through the Client, and will be entitled to an extension of time to complete the contract; and shall keep its rights under the contract including the right to terminate the contract; and may at any time lift the suspension, even if the amount has not been paid.

7. PRACTICAL COMPLETION

7.1 Practical completion shall be the date which shall be the date of issue of the Occupation Certificate or the occupation of the premises by the Client whichever shall first occur.

7.2 The Client may with written consent of S.A.S take possession of the premises in which the Services are being carried out prior to the date of practical completion provided, however, in this event the Client shall not obstruct or prevent S.A.S from proceeding with the Services to practical completion.

8. RISK

8.1 If S.A.S retains ownership of the Goods nonetheless, all risk for the Goods passes to the Client on delivery.

8.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, S.A.S is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by S.A.S is sufficient evidence of S.A.S' rights to receive the insurance proceeds without the need for any person dealing with S.A.S to make further enquiries.

8.3 Where the Client is to supply S.A.S with any design and specifications (including, but not limited to drawings) the Client shall be responsible for providing accurate data. S.A.S shall not be liable whatsoever for any errors in the Goods that are caused by incorrect or inaccurate data being supplied by the Client.

9. ACCESS

9.1 The Client shall ensure that S.A.S has clear and free access to the work site at all times to enable them to undertake the works. S.A.S shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of S.A.S.

10. UNDERGROUND LOCATIONS

10.1 Prior to S.A.S commencing any work the Client must advise S.A.S of the precise location of all underground and concealed services on the site and clearly mark the same. The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site.

10.2 Whilst S.A.S will take all care to avoid damage to any underground and concealed services and concealed the Client agrees to indemnify S.A.S in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 10.1.

11. OTHER TRADESMAN

11.1 All quotations for Services in respect of other tradesmen will be treated strictly between the tradesmen and the Client. The Client agrees to indemnify S.A.S from any damage caused by any other tradesmen during and after the completion of the Services.

12. INSURANCE

12.1 S.A.S shall have public liability insurance of at least \$20m. It is the Clients responsibility to ensure that they are similarly insured.

13. TITLE

13.1 S.A.S and the Client agree that ownership of the Goods shall not pass until:

(a) The Client has paid S.A.S all amounts owing for the particular Goods; and

(b) The Client has met all other obligations due by the Client to S.A.S in respect of all contracts between S.A.S and the Client.

13.2 Receipt by S.A.S of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then S.A.S ownership or rights in respect of the Goods shall continue.

13.3 It is further agreed that:

(a) Where practicable the Goods shall be kept separate and identifiable until S.A.S shall have received payment and all other obligations of the Client are met; and

(b) Until such time as ownership of the Goods shall pass from S.A.S to the Client S.A.S may give notice in writing to the Client to return the Goods or any of them to S.A.S. Upon such notice the rights of the Client to obtain ownership or any other interest in the Goods shall cease; and

(c) S.A.S shall have the right of stopping the Goods in transit whether or not delivery has been made; and

(d) if the Client fails to return the Goods to S.A.S then S.A.S or S.A.S' agent may enter upon and into land and premises owned, occupied or used by the Client, or any premises as the invitee of the Client, where the Goods are situated and take possession of the Goods; and

(e) the Client is only a bailee of the Goods and until such time as S.A.S has received payment in full for the Goods then the Client shall hold any proceeds from the sale or disposal of the Goods, up to and including the amount the Client owes to S.A.S for the Goods, on trust for S.A.S; and

(f) The Client shall not deal with the money of S.A.S in any way which may be adverse to S.A.S; and

(g) The Client shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of S.A.S; and



- (h) S.A.S can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Client; and
- (i) Until such time that ownership in the Goods passes to the Client, if the Goods are converted into other products, the parties agree that S.A.S will be the owner of the end products.

14. DEFECTS

14.1 The Client shall inspect the Goods on delivery and shall within ten (10) days of delivery (time being of the essence) notify S.A.S in writing of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford S.A.S an opportunity to inspect the Goods within a reasonable time following delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which S.A.S has agreed in writing that the Client is entitled to reject, S.A.S' liability is limited to either (at S.A.S' discretion) replacing the Goods or repairing the Goods except where the Client has acquired Goods as a consumer within the meaning of the Trade Practices Act 1974 (Cwlth) or the Fair Trading Acts of the relevant state or territories of Australia, and is therefore also entitled to, at the consumer's discretion either a refund of the purchase price of the Goods, or repair of the Goods, or replacement of the Goods.

14.2 Goods will not be accepted for return other than in accordance with 14.1 above.

14.3 A comprehensive defects list shall be produced by S.A.S and shall be forwarded to the Client or the Client's agent either prior to practical completion of the works on site or prior to occupation of the premises by the Client. S.A.S accepts that the Client's has the right to review and comment on the defects list within ten (10) business days from the time of issue, otherwise it shall be deemed that both parties mutually agreed upon the defects list. The Client agrees to S.A.S' right to have access to the premises to rectify the noted defects. S.A.S shall notify the Client upon completion of the defects rectification. In the event of further concerns raised by the Client for any un-rectified items, it shall be the Client's responsibility to advise S.A.S within five business days or otherwise release the final payment.

15. WARRANTY

15.1 Subject to the conditions of warranty set out in clause 15.2 S.A.S warrants that if any defect in any workmanship of S.A.S becomes apparent and is reported to S.A.S within twelve (12) months of the date of completion and issue of the occupancy certificate (time being of the essence) then S.A.S will either (at S.A.S sole discretion) replace or remedy the workmanship.

15.2 The conditions applicable to the warranty given by clause 15.1 are:

(a) The warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:

- (i) Failure on the part of the Client to properly maintain any Goods; or
- (ii) Failure on the part of the Client to follow any instructions or guidelines provided by S.A.S; or
- (iii) Any use of any Goods otherwise than for any application specified on a quote or order form; or
- (iv) The continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
- (v) Fair wear and tear, any accident or act of God.

(b) The warranty shall cease and S.A.S shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without S.A.S' consent.

(c) In respect of all claims S.A.S shall not be liable to compensate the Client for any delay in either replacing or remedying the workmanship or in properly assessing the Client's claim.

15.3 For Goods not manufactured by S.A.S, the warranty shall be the current warranty provided by the manufacturer of the Goods. S.A.S shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

16. INTERLECTUAL PROPERTY

16.1 Where S.A.S has designed, drawn or written Goods for the Client, then the copyright in those designs and drawings and documents shall remain vested in S.A.S, and shall only be used by the Client at S.A.S discretion.

16.2 The Client warrants that all designs or instructions to S.A.S will not cause S.A.S to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify S.A.S against any action taken by a third party against S.A.S in respect of any such infringement.

16.3 The Client hereby authorises S.A.S to utilise images of the Goods designed or drawn by S.A.S in advertising, marketing, or competition material by S.A.S

17. RECOVERY

Should it become necessary for the Company to institute legal action for recovery of any amounts due to it by the Customer, then the Customer specifically acknowledges and agrees that it shall be liable to the Company for all legal costs incurred by the Company on a solicitor and own client scale.

17. IMAGES

Images used in this proposal /quote are for general reference only.

18. CONCRETE

S.A.S takes no responsibility for the cracking of typical 100mm 25-32mpa concrete with f 62 mesh used for residential driveways.

All concrete is installed with sand or brick fine base and cuts i.e.: control joints are installed to reduce unsightly cracking.

S.A.S will not be held responsible if cracks appear outside of the control joints.

All required expansion joints are installed as per Australian Standard.