

## **TERMS AND CONDITIONS.**

Commencing 26/3/2018.

These terms and conditions represent the agreement between Advanced Home Systems Pty Ltd trading as Gate-A-Mation, their servants, assignees, related companies, suppliers, agents or subcontractors ("the Company") and the person or legal entity to whom this quotation is addressed ("the Purchaser"), herein referred to as "the Quotation".

### **Quotations**

1. The Quotation shall remain current for a period of 60 days, or as otherwise stated, from the date specified on the Quotation and are provided on the basis of E & OE. The Quotation is an "invitation to treat" only and does not represent a legal binding agreement between the Company and the Purchaser. The Company warrants that all proposed works (herein referred to as "the works") will be undertaken according to generally accepted industry standards unless specifically stated or requested by the Purchaser and agreed to by the Company.
2. Upon acceptance of the Quotation, a deposit may be required.
3. At its discretion, the Company may elect to proceed with a quotation which is accepted after a period of 60 days. In such cases, the Company reserves the right to apply any price increases to the original quotation, where applicable.

### **Jurisdiction**

4. The Purchaser acknowledges and agrees that this agreement shall be governed by the laws of South Australia, and the laws of the Commonwealth of Australia that are applicable to South Australia.
5. The parties to this agreement submit to the non-exclusive jurisdiction of the Courts of South Australia and the relevant Federal Courts and Courts competent to hear appeals from those Courts.

### **Credit Applications**

6. The Company may require the Purchaser to complete an Application for Credit Form where the works are to be completed on account.
7. The Purchaser acknowledges and agrees that any credit to be provided to the Purchaser by the Company is to be applied wholly for commercial purposes.

### **Undertaking works**

8. The Purchaser, or their designate, is responsible for the supervision of the works and shall, where erection or installation is involved, advise the erector/ installer of the location of all electrical cables, gas or water pipes, sewage, telephone lines and/or other service facility which is or may be affected by the proposed works.
9. The Company shall not be liable for the incorrect location of the works or for any damage whatsoever to any services described above.
10. The Purchaser agrees to fully indemnify the Company at all times against any claims or demands made by any person or authority in respect of such incorrect location or resultant damage.
11. Where the Company assumes responsibility for services location, liability is strictly limited to the extent whereby services are reasonably detectable by a specialist services detection contractor. In respect of undetectable services (for example, PVC piping) the Client must provide exact locations if the Company is expected to assume responsibility.
12. No responsibility will be accepted by the Company in the event that exact location is not provided by the Purchaser or their designate/s.
13. The Company accepts no responsibility for damage to finished surfaces (including paving, concrete and bitumen) unless specifically nominated as a result of undertaking the works. Any trees, shrubs and landscaping in the vicinity of the works are the unconditional responsibility of the Purchaser and may be removed by the Company if required.

### **Cabling and conduit works**

14. If the Purchaser engages a third party to provide any cabling or conduit work, especially prior to concrete works and/or paving, the Company is to verify the correct cabling and/or conduit requirements prior to installation. Our standard callout charges may apply as an additional cost to the Quotation.
15. Any rectification works undertaken by the Company for incorrectly located or configured cabling will incur additional charges.

### **Free access**

16. The Quotation is provided on the basis of free access by the Company to the jobsite during normal working hours and also access to undertake the works continuously without breaking the Company's work schedule for the job, unless by prior agreement. Variations to this will incur additional charges.

17. Detention time will be charged at our standard ruling rates in the event delays occur on the jobsite as a result of the Purchaser limiting access.

#### **Variations**

18. Any variation, alteration or modification of the work or materials must be in writing and signed by the Purchaser or their authorized representative and the Company reserves the right to vary the quoted price for any variations as necessary.

#### **Responsibility for payment**

19. Upon acceptance of the Quotation, payment will be the responsibility of the person or legal entity to whom the Quotation is directed. Such acceptance will be taken as an authority to proceed with all work including, if applicable, demolition of existing fences and/or structures. The legal entity to whom the Quotation is addressed is assumed to have obtained the agreement of all relevant property owners, occupants and authorities from whom approval is required, where applicable.

20. Any delays incurred as a result of failure to obtain such approval where required may be an additional cost to the Purchaser.

21. If the purchaser is a company the person executing the quotation warrants that he/she has authority to execute the document on behalf of the company and further personally guarantees payment for work completed by Gate-A-Mation in the event of non-payment by the purchaser.

#### **Progress claims**

22. The Company, at its discretion, shall be entitled to render to the Purchaser progress claims based on a pro-rata value of work completed. Such claims are to be paid by the Purchaser upon submission of the Company's invoice, within seven (7) days.

#### **Payment on completion**

23. Pursuant to any credit agreement between the Company and the Purchaser, the Company's payment terms apply upon completion of the works. Any dispute or concern regarding the works are to be delivered to the Company in writing, no later than SEVEN (7) days following completion of the works, prior to any further action being undertaken.

24. Should the Company incur legal and/or other expenses including any reasonable internal costs as well as any payments to an Agency licensed under the Commercial & Private Agents Act 1986 (SA) (as amended) or a legal practitioner in obtaining or attempting to obtain payment of all or part of any amount(s) due, the Purchaser is liable for the payment of those expenses on a Solicitor-Client basis. These are due and payable immediately when advised to the Purchaser.

25. An overdue charge, being any charge due and payable for more than fourteen (14) days, calculated on a daily basis at the current National Australia Bank published overdraft rate plus 2%, may be charged on any overdue amount on the account and further in consideration of any grant of credit, the Purchaser expressly undertakes to pay all such overdue charges.

26. The Purchaser agrees to pay the Company's costs and expenses incurred in pursuing any recovery action, render the claim or remedy, against the Purchaser, including any debt recovery fees and legal costs on a full solicitor and own client indemnity basis. Such costs and expense will be due and payable by the Purchaser to the Company irrespective whether any new recovery action, claim or remedy is successful.

27. The Purchaser acknowledges and agrees that payments by the Purchaser will be applied by the Company as follows:

- Firstly, in payment of any and all collection costs and legal costs, where applicable.
- Secondly, in payment of any overdue charges incurred in accordance with clause 29.
- Thirdly, in payment of the outstanding invoice(s).

#### **Ownership of goods**

28. Property in the goods supplied shall remain vested in the Company and shall not pass to the Purchaser until all monies owing by the Purchaser to the Company, together with all collection and repossession and legal costs incurred, have been paid in full, plus any Government charges or taxes where applicable.

29. Notwithstanding the above, the goods are at the entire risk of the Purchaser from the time of delivery. In the event the Purchaser defaults in the payment of any monies owing hereunder, the Company and its employees or agents reserve the right to enter, without notice, upon the premises occupied by the Purchaser (or any Receiver, Receiver and Manager, Administrator, Liquidator or Trustee in Bankruptcy of the Purchaser) or any other premises where the goods are known to be located to repossess the goods and for this purpose the Purchaser shall grant all reasonable access rights and the Company and its employees or agents shall be entitled to do all things required to protect its position. This includes any installed materials and any visual evidence of the installed item(s) having been installed will not be rectified after removal. In addition to the company's rights to recover any equipment herewith the company shall be entitled to disable operation of the equipment to such time that all monies owing to the company have been paid.

30. The Purchaser will be responsible for the Company's costs and expenses incurred in exercising its rights under clause 29. Where the Company exercises any power to enter the premises, that entry will not give rise to any action of trespass or similar action on the part of the Purchaser against the Company, its employees, servants, or agents.

31. For the avoidance of doubt, the Company's interest constitutes a "purchase money security interest" pursuant to the Personal Properties Securities Act 2009 (SA).

32. Without limiting any other clause in these terms and conditions, the Purchaser, as security for the performance of its obligations to the company charges in favour of the company all and any real and personal property owned by the purchaser at any time and wherever situated for an amount equal to the full amount owing to the company under these terms and conditions. The purchaser consents to the company lodging a caveat over any interest in land owned by the purchaser in relation to the charge granted by the purchaser pursuant to this clause.

#### **Continuing trade**

33. If the Purchaser trades with the Company on an ongoing basis then these terms and conditions, together with any variations thereto, will apply. Applicable Law is that of the state of South Australia.

#### **Variation of terms and conditions**

34. These Terms and Conditions may only be varied if approved in writing by a Director of the Company, or their authorized representative.

35. If the Company enters into a contract with the Purchaser, then any clauses contained in these terms and conditions which are not overridden specifically by any of the Purchaser's conditions shall remain operative.

36. If any provision or part of this contract is void or unenforceable for any reason, then that provision or part will be severed from this contract and the rest of this contract will be read as far as possible as if the severed part or provision had never existed.

#### **Warranty**

37. All terms and conditions relating to warranties are subject to the Company's warranty policy, which may be subject to change without notice.

38. The Company will not be required to undertake any works according to warranty where invoices relating to the works subject to warranty remain unpaid.

#### **Considerations specific to electrical and/or cabling works**

39. According to Australian law, underground 240V and 415V power cabling must be in a separate conduit and be buried a minimum of 600mm below ground level. The Company will under NO circumstances undertake work that, in the Company's opinion, is or results in an unsafe or potentially unsafe environment. A Certificate of (Electrical) Compliance (COC) from an earlier installer's works may be requested by the Company before any electrical works are undertaken.

40. Where the Purchaser, or their designate, supplies low voltage cabling for intercom or automated systems, the following compliance requirements must apply:

a. Extra Low voltage intercom or automation cabling cannot be placed in the same conduit as 240V cabling. The depth of placement is not critical.

b. The cabling must be in separate conduit with a minimum of 300mm separation from 240V (or higher voltage, if applicable) conduit if parallel and which are in the same trench to minimize audio and/or visual interference.

c. In instances where non-compliance with the above is observed, and where remedial cabling should be required to rectify, the Company reserves the right to charge the Purchaser for the remedial cabling. The Company will not be responsible for any costs or defects in performance in the event the above requirements are not satisfied.

41. Where conduit only has been installed by the Purchaser or a third party, the Purchaser must ensure that adequate draw wires have also been provided prior to the Company's arrival on site.

**RCD Safety Switch**

42. According to Australian law, it may be mandatory to have a RCD Safety Switch fitted to electrical circuits. If such an RCD is a legal requirement and is not fitted, the Company will not be required to undertake any works pursuant to the Quotation until an RCD is installed.

43. Where an RCD Safety Switch is required to be installed by the Company, additional charges will apply unless specifically included in the Quotation.