

## TERMS & CONDITIONS

**1. Names and Terms:** This is an Agreement made between Harry Bakker Furnishings Pty Ltd (ACN 008 899 189) as trustee for the Bakker Family Trust trading as "Modular Shades and Shutters" of 53 Carrington Street, Nedlands Western Australia. Modular is also referred to as "We". The client named whose details appear in the Order (Client). The Client is also referred to as "You".

The Client agrees with Modular to purchase the products referred to in the Order (**Products**). The Products will be installed in the rooms and windows specified in the Order (**Premises**).

**2. Payment:** The Client shall pay to Modular the price specified in the Order. All Products must be paid for on delivery unless otherwise agreed in writing by Modular. In the event the Products are ready for installation but access to the Premises is delayed by a period greater than 14 days, 75% of the balance will be due for payment at this time.

**3. Passing of Title:** The title of the Products will not pass to the Client until all of the Purchase Price (and GST) has been paid.

**4. Installation Dates:** Any installation date specified by Modular is an approximation. We will not be liable to any party for any failure to meet the estimated date or for any loss, damage or delay occasioned by any party arising from late or non-delivery.

**5. Bookings:** Modular shall be entitled to give three (3) days' notice that it is ready to commence the Installation. The Client must ensure that Modular's employees or contractors are given access to the Premises between 8:00am and 5:00pm in order to complete the Installation.

**6. Installation:** You confirm that You have advised Modular at our initial consultation of any condition in the Premises (structural or otherwise) which might affect the Installation of the Products, or to which particular attention needs to be paid in order to avoid damage. It is important that you fully advise us of conditions, either current or future modifications, at the Premises which might affect Installation of the Products including (without limitation) window sills, flyscreens, electrical and telephone cables, water and gas pipes that may be encountered during the installation.

**7. Installation Preparation:** The Client is responsible for ensuring the Premises has adequate fixing points for proper and secure installation of the Products. The Client will be required to pay costs for any modification to the Premises that is required to ensure proper installation.

**8. Installation Defects:** Modular will not be responsible for any defects in the Installation of the Products or damage to the Premises arising from any condition in or at the Premises which You have not disclosed to us during our consultation or due to modifications to the Premises after our consultation or final site measure.

**9. Square Openings:** The Client shall not be entitled to reject any Product supplied by reason only that the Products are not square within the window or floor because the premises are not flat or by virtue of some condition in the Premises. The Client acknowledges and agrees that it is not generally possible for suppliers to make adjustments in the Products to windows which are not square.

**10. Cancellation:** Once You have entered into this Agreement You will be required to pay the full Purchase Price, subject to the provisions for cancellation specified in these conditions.

**11. Termination:** We have the right to terminate this Agreement if you have not told us of any condition which might reasonably be expected to affect the ability to complete the installation of the Products.

**12. Termination Conditions:** Modular may terminate this Agreement by written notice to the Client in the following circumstances: (a) if the supplier advises Modular that it is not able to complete manufacture and delivery of the Products in time for the estimated Installation Date, or such other date as Modular may have agreed with the manufacturer; or (b) if Modular (at its discretion) determines that the supplier will not complete its obligations to manufacture and deliver the Products by the estimated Installation Date; or (c) the Products are lost or damaged prior to Installation.

**13. Liable for Termination:** Modular shall not be liable to the Client for any loss or damage as a consequence of termination pursuant to this clause. If Modular terminates the Agreement pursuant to this condition 12 it shall refund the Deposit to the Client.

**14. Failure to Pay:** Modular shall be entitled to terminate this Agreement by notice to the Client if the Client fails to pay any money when due under this Agreement. Modular shall be entitled to retain the Deposit and recover from the Client any sum to which Modular is entitled by law.

The Client agrees to pay any legal costs, debt collection fees and dishonoured cheque fees and other expenses incurred by Modular in enforcing payment if the Client fails to make any payment due under this Agreement. If the Client owes any sum to Modular pursuant to this Agreement this shall carry interest at the rate of 8% per annum.

**15. Liability Limitations:** Notwithstanding anything else in this Agreement, Modular shall not be liable for indirect loss, loss of profits or economic loss arising from breach of this Agreement or by reason of any negligence on its part or on the part of its employees or contractors.

**16. Warranty:** Modular warrants that the Products will be free from any defects for a period of 12 months, subject to: (a) them being used in the location at which they were installed; or (b) being used for the purposes for which they are usually intended; and (c) fair wear and tear. Modular is not required to undertake any warranty claim until any amounts owed to it are paid in full.

**17. Product Defects:** If the Client contends that there is any defect in the Product or the Installation of the Product, the Client must give written notice to Modular within seven (7) days of Installation specifying the defect.

Modular's responsibility for a breach of this Agreement or of a breach of a condition or warranty implied by the Trade Practices Act or the Fair Trading Act (WA) is limited to one of the following at Modular's choice: (a) the replacement of the Products or the supply of equivalent goods; or (b) the repair of the Products; or (c) the payment of the cost of replacing the Products or of acquiring equivalent goods; or (d) the payment of the cost of having the Products repaired.

In relation to any services which are to be provided by Modular under this Agreement Modular's liability is limited to one of the following at Modular's choice: (a) supplying the services again; or (b) paying for the cost of having the services provided again.

**18. Remedial Action:** Modular is not required to undertake any remedial action pursuant to this Agreement until any amounts owed to it are paid. If the Products require repair or alterations the Client agrees that they may be required to be removed and sent to the manufacturer.

**19. Subcontracting:** Modular may subcontract the installation services of the Products.

**20. Overview:** This Agreement represents the entire understanding between the Parties and replaces any earlier understanding or agreement. To the extent permitted by law, all warranties by Modular which might otherwise be implied are excluded. Requests for variations to the agreement must be communicated in writing. Modular may accept or decline such requests at its discretion.

**21. Assigning Rights:** The Client cannot assign this Agreement or any rights under this Agreement without the written consent of Modular, which shall be at Modular's discretion.

**22.** This Agreement is governed by the law of Western Australia.