

## OVERHEAD Garage Door, Inc.

Main Office and Dispatch Center  
34691 N. Wilson Road  
Ingleside, Illinois 60041-9296  
Phone: 847-546-8100 - Fax: 847-201-8316

### Proposal & Contract

**Number:** 11647  
**Date:** Jun 5, 2013  
**Expiration:** Jul 5, 2013

**Attention:** Lisette Ray  
**To:** Dana Point Condo. Assoc.  
Attn: Accounts Payable  
1519 E. Central Road  
Arlington Heights, IL 60005

**Ship To:** Dana Point Condo. Assoc.  
1405 E. Central Road  
Arlington Heights, IL 60005

Customer ID	Purchase Order Number	Payment Terms
847-228-5176		Net 30 Days

Re: Operator Replacement - A-Wing Door

Subsequent to our recent service visit, we propose the following repairs:

Furnish and install: One (1) J5023L4 Commercial-duty jack-shaft-type electric operator; 1/2 hp motor, 230 volt 3-phase, 24 VAC control circuitry, manual disconnect draw-bar arm assembly, auxiliary trolley rail modification, roller chain idler, carriage assembly, NEMA-4 photo-electric reversing kit and three-position wall control station. Reconnect to existing supply and control wiring.

Remove and dispose of existing.

Labor, materials, tax and freight included.

NOTE: This proposal does not include charges for temporary repairs performed on 6/4/13.

Unless specifically listed above, mounting jambs, masonry work, glass and all electrical conduits including wiring, is to be by others.

Past Due Accounts Will Be Charged 1-1/2%, (18% Annually) Per Month On Unpaid Balances.

**Amount Due:**  
**\$ 2,395.00**

Performance will be made by seller in a prompt manner, but cannot be responsible for damage or delay due to Acts of God, accidents, civil disturbances, delays in transportation by common carrier, fires, strikes, war or other causes beyond seller's reasonable control. To accept the above listed Proposal & Contract; please sign and return to the seller's office within 30 days. The terms and conditions printed on the back hereof are hereby expressly made a part of this contract.

### Dana Point Condo. Assoc.

### Sales and Service Representative:

Mike Smerling Jr.  
E-Mail: msmerlingjr@metrodooranddock.com  
Cell: (847) 341-7502

BY: Lisette Ray, AS AGENT  
(TYPE OR PRINT NAME OF BUYER) and SIGN HERE

OWNER, PARTNER OR OFFICER (Or Authorized Person)

DATE: 6/11/13



#### OVERHEAD INC. GENERAL CONDITIONS

1. The buyer(s) agree to pay the total of this contract within 10 days of date of invoice. If payment is not made within said 10 day period, commencing with the 11th day, interest shall be charged on the unpaid balance at the rate of 1-1/2% per month (18% annual rate). The buyer(s) hereby agree that should this contract become the subject of litigation the buyer(s) shall be liable for all expenses of collection, including attorney's fees.
2. Seller shall carry workmen's compensation and public liability insurance to cover the work. Notwithstanding the terms of any contract, memorandum or other writing which buyer shall request seller to sign as a condition of acceptance of seller's proposal, seller shall not be liable to indemnify or to hold harmless or to protect in any way buyer or any other party involved in the work, whether an employee of seller or buyer or any third party, except to the extent of the workmen's compensation and public liability insurance maintained by seller.
3. In the event that the cost of labor, materials or taxes is increased subsequent to the date of the proposal upon which buyer's acceptance is based and/or subsequent to the date of buyer's order, the price shall be increased to the extent thereof.
4. Notwithstanding the terms of any contract, agreement, memorandum or other writing which buyer(s) shall request seller to sign, buyer(s) shall not withhold any part of the contract amount, including any extra work, for which payment is due under terms of this agreement as retention, and the total contract price including the charges for any extras shall be payable to seller within 10 days of seller's invoice as provided herein.
5. Seller shall be allowed uninterrupted and exclusive access to openings during installation of equipment.
6. The price stated on this proposal is for acceptance within 30 days of date thereof and the terms of payment are subject to the approval of continued credit status. The right is reserved to correct quantities of prices on any order or proposal due to typographical errors or if the work cannot be performed by seller using its standard equipment and installation practices.
7. The price quoted for the material included in the work contained in this proposal includes any sales or excise tax levied or charged by any governmental agency.
8. The giving and accepting of drafts, notes or trade acceptances to evidence the payment(s) due shall not constitute or be construed as payment until said drafts, notes or trade acceptances are paid in full in cash. The acceptance by seller of drafts, notes or trade acceptances shall not be deemed to be a waiver of any of its rights to a mechanics lien upon the premises on which the work is performed. Buyer(s) hereby expressly waives any and all rights of homestead exemption against the unpaid claim of seller which buyer(s) may have in the premises on which work is to be performed by seller.
9. In the event the buyer(s) shall terminate the contract prior to completion of the work herein specified, buyer(s) shall pay seller for all labor and material furnished to date of termination, including fabricated material whether delivered or undelivered to site as long as fabrication has been commenced or completed; such payment to be prorated in accordance with the progress of the work at the price herein set forth in addition thereto a sum equal to 25% of the total contract price as liquidated damages and not as a penalty.
10. Buyer(s) shall obtain all necessary permits for the work and shall keep the premises upon which seller's work is to be installed adequately insured in a sum of money to insure the premises against all loss to the seller by reason of damage to its work by vandalism, fire, water, windstorm or any other occurrence during the term of this contract.
11. In performing the terms of this contract the seller acts as principal and is not the agent or representative of any person, firm, corporation or group.
12. By executing and returning this proposal to the seller or returning to seller a substitute proposal, buyer shall be deemed to have assented to the terms and conditions set forth herein, anything to the contrary contained in a substitute proposal of buyer or additions or deletions to this proposal which buyer may make notwithstanding.
13. Installation dates are estimates only and seller cannot guarantee commencement of work or completion thereof on any given date. Completion dates cannot be given until seller has been furnished with complete approved drawings and any additional information it may request. Seller shall not be liable for total or partial failure or delay in performance regardless of cause.
14. In the event seller places this account in the hands of an attorney for collection and a suit to enforce judgment is not commenced, buyer(s) shall pay all attorneys' fees incurred by seller whether or not a law suit for collection is instituted and all other costs of litigation.

#### INSTALLATION CONDITIONS

1. If a door is installed without a finished floor, the seller assumes no responsibility for fitting the door to the floor. Additional fees will be incurred by Buyer (s).
2. Seller assumes no responsibilities for failure of his installation due to structural deficiencies in an existing building.
3. Electrical power and control wiring, including conduits are not included in contract.
4. Buyer(s) shall provide proper electric current (115 volts), required for power tools and lights for the installation.
5. Buyer(s) shall provide adequate headroom, backroom, sideroom and mounting pads in accordance with requirements of seller and manufacturers specifications. Height and width of opening may not vary more than 1/2 inch. Lintels must be flush with jambs. Jambs must be plumb and openings square. All anchor bolts must be flush with inside face of jamb. No masonry may protrude past inside face of jamb.
6. If special and/or additional work is required to meet conditions other than those specifically described in the contract, an additional charge shall be made.

#### GUARANTEES AND WARRANTIES

1. **Service Guarantee:** Equipment operation is guaranteed (with the exception of radio controls) for a period of **90 days** from the date of installation.
2. **Radio Controls:** Electronic controls are guaranteed by the manufacturer and its guarantee supplied with the apparatus shall apply (batteries excluded).
3. **New Installations:** Parts are guaranteed for a period of **one (1) year from date of installation** and will be replaced for a service charge only. Note Par. 8 below.
4. **Service Charges:** A minimum of **two (2) hours** shall be charged, to include travel time to buyer (s) location.
5. **Temporary Repairs:** **NO WARRANTY SHALL BE GIVEN FOR TEMPORARY REPAIRS.**
6. **Replacement Parts:** Parts are guaranteed for a period of **90 days**.
7. **NO WARRANTIES WILL BE HONORED IF THE ACCOUNT HAS NOT BEEN PAID together with applicable service charges.**
8. **NO WARRANTIES ARE MADE OR WILL BE DEEMED TO HAVE BEEN MADE BY EITHER THE SELLER OR MANUFACTURER OF THE DOORS, OPERATORS, PARTS OR ACCESSORIES SOLD TO BUYER UNDER THE TERMS OF THIS CONTRACT EXCEPT THE FOLLOWING LIMITED WARRANTY: CLAIMS FOR APPARENT DEFECTS MUST BE MADE IN WRITING TO SELLER AT ITS PLACE OF BUSINESS INDICATED ON THE CONTRACT WITHIN TEN (10) DAYS AFTER INSTALLATION. NO MATERIALS MAY BE RETURNED WITHOUT PRIOR WRITTEN CONSENT OF THE SELLER. NOTICE OF LATENT DEFECTS MUST BE GIVEN TO SELLER IN WRITING WITHIN TEN (10) DAYS OF THE DISCOVERY THEREOF IN THE SAME MANNER AS PROVIDED HEREIN FOR NOTICE TO SELLER OR APPARENT DEFECTS, WITH RESPECT TO LATENT OR APPARENT DEFECTS. SELLER SHALL AT ITS OPTION REPAIR OR REPLACE ANY MATERIALS WHICH, WHEN INSTALLED, MAY PROVE DEFECTIVE UNDER NORMAL AND PROPER OPERATION AND MAINTENANCE WITHIN THE TIME LIMITS SET FORTH ABOVE TO THE SATISFACTION OF THE SELLER AFTER INSPECTION BY THE SELLER. SELLER SHALL NOT BE LIABLE FOR LOSSES, DAMAGES (CONSEQUENTIAL OR OTHERWISE), DELAYS, LABOR COSTS OR EXPENSES DIRECTLY OR INDIRECTLY ARISING FROM THE USE OF THE MATERIAL. THE SELLER'S LIABILITY BEING EXPRESSLY LIMITED TO THE REPLACEMENT OR REPAIR OF DEFECTIVE GOODS OR AN ALLOWANCE OF CREDIT THEREFORE: THE RESPONSIBILITY OF THE SELLER BEING LIMITED TO THE COST OF THE DEFECTIVE PART ONLY. THIS EXPRESS LIMITED WARRANTY IS IN LIEU OF, AND EXCLUDES ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THIS LIMITED WARRANTY SHALL BE VOID (a) IF BUYER MODIFIES, REPAIRS OR IN ANY WAY ALTERS THE MATERIALS DELIVERED BY SELLER WITHOUT PRIOR WRITTEN CONSENT OF SELLER OR (b) IF NOTICE OF ANY CLAIMS HAS NOT BEEN GIVEN TO SELLER IN WRITING WITHIN TEN (10) DAYS OF DISCOVERY OF THE DEFECT.**
9. If materials furnished by seller are installed by others, seller is not responsible for installation, proper adjustment or operation thereof.
10. Wood sections will be guaranteed only if properly protected from moisture by prime coat and not less than two (2) coatings of exterior grade paint on all edges, ends and sides of sections, applied within ten (10) days of installation. Installed wood products will be installed with factory applied "Shipping grade prime paint only".
11. In the event seller shall not be able to deliver any or all of the material specified herein by reason of the discontinuance of the manufacturer thereof by the supplier named herein, then seller may substitute a product equal to the product specified herein, manufactured by another.

#### PROGRESS PAYMENTS

It is hereby mutually agreed between the parties hereto that seller shall be entitled to progress payments on a monthly basis as the job progresses until such time as a final billing is rendered by the seller. It is further agreed that where a portion of the equipment has been delivered to the job site or stored in a mutually agreed location, a partial billing and payment request will be made at the time for an amount not to exceed seventy-five (75%) percent of the contract price. Progress payments shall be paid under the seller's regular billing terms and non-receipt of progress payments shall be cause for immediate stoppage of work by seller until such time as said payment is received at its office.