

SELECTED TERMS AND CONDITIONS - Also available online @ <http://www.selected.net.au>

All goods and services are supplied based on Terms and Conditions set out herein. Any addition or variation to these Terms and Conditions are subject to Selected written agreement.

1. PRICE

- 1.1 All prices are exclusive of GST, which shall be paid by the customer at the same time as the price (whether hiring charges or purchase price) for the goods and services.
- 1.2 Selected reserves the right to charge the customer for any additional costs that Selected incurs in complying with any statutory, legal or other regulatory provision, requirement or direction arising after the quote was given or of which Selected was not reasonably aware as applicable at the time the quote was given.
- 1.3 The quoted price for installation of roofing, fascia and gutting products is based on Selected or its contractor being able to use standard scaffold and having uninterrupted access to the roof or other structure upon which the goods are to be installed from the Commencement Date until the work has been completed. Should in Selected's or its contractor's opinion additional scaffold and/or work platform and/or fall protection are required, these are to be supplied by the customer and conform with local government requirements. Any delays due to incomplete roof structure or the work of other trades will incur a charge for lost time in addition to the quoted price. All costs incurred by Selected or its contractors caused by site access difficulties including delay, recovery of bogged vehicles and local council fines for muddy or water laden sites, are to be borne by the customer.
- 1.4 Selected will make every reasonable effort to place Trusses on top of wall frames provided structure is capable of carrying the load and be suitably braced, there is access to enable unobstructed crane set up and manoeuvring; and assistance on site available to help delivery driver or otherwise product will be placed on the ground. Use of mobile crane due to large span trusses outside crane limit is at the customer's expense.
- 1.5 Unless otherwise stated, quotations and charges for the erection and dismantling of Scaffolding will be based on an 'all up all down' basis. The customer will pay hire charges on and from the date of installation or delivery if installation is not to be undertaken by Selected until Scaffolding has been returned to Selected's premises at the rate and in the manner specified in the quotation. All Scaffolding hire rates are inclusive of labour charges and will be based on a minimum 7 days from the date of installation or delivery if installation is not to be undertaken by Selected and a daily rate thereafter, unless otherwise stated. The customer is liable for all hire charges in the event that Scaffolding is unavailable or cannot be used due to delays or non-performance caused by the customer. If prices charged for Scaffolding hire are a special rate determined by reference to a minimum length of hire and if Selected agrees to accept an early return of the Scaffolding, such acceptance will only be on the condition that Selected is entitled to charge and recover from the customer the hire charges applying as at the commencement of the hire for the minimum period.
- 1.6 It is the customer's responsibility to ensure an adequate and clear access for semi-trailers and body trucks for the supply of steel house frames. If Selected is providing labour for installation of steel house frames then customer must supply, arrange and pay for crane hire and scaffold including access ramps, trestles, etc.; lifting of sheet flooring on joists; hoisting of beams and trusses if required; and moving frames closer to work site if there is limited access for delivery vehicles.

2. QUANTITY

Estimated quantities of goods for the job as shown in the quote is calculated based on the assumption of the validity of the information provided being fully accurate and correct in all circumstances. Should there be any discrepancy between this estimation and the actual quantities required, Selected will not be held responsible for such error and the customer shall pay for the actual quantities used. Therefore, it is crucial that customer must provide Selected with all relevant information before job is delayed ready for production. Customer must ensure plans, information, and all relevant details in the construction documents are provided in every detail and accurately. Changes to plans or special instructions or engineering received after quoting will be at extra cost if different from original.

3. INSTALLATION

- 3.1 In the event that Selected is not instructed to install the goods then Selected shall not be liable in respect of any damage occasioned to the goods by reason of the customer, or any other person installing the goods.
- 3.2 Where Selected has been engaged on a contract for an erection of Scaffolding in conjunction with the hire of Scaffolding:
 - (a) The customer must ensure that the site is cleared and ready for installation of the Scaffolding before Selected starts the installation and that the foundations upon which the Scaffolding is to be erected are sufficiently firm and/or otherwise suitable to safely carry the structure and the load to be placed on it without subsidence. The customer will be liable to Selected and its contractors for any loss, costs or damage which they may suffer or incur due to the customer fail to carry out its obligations in this respect including and without limitation, damages, or costs of delay due to the site not being cleared and ready.
 - (b) The customer is responsible for any additional costs involved in deviations between drawings and/or data being supplied and actual onsite requirements for Scaffolding installation and/or any additional costs incurred by Selected or its contractors due to delays caused by denial of access to the site, obstruction by other trades or curtailment of electric power or other matters beyond the reasonable control of Selected and its contractors.

4. HIRE OF SCAFFOLDING

- (a) the minimum period of hire will be seven days from the date of installation, or the date of delivery if installation is not to be undertaken by Selected. All additional hire periods shall be charged at a daily rate and on an ongoing basis while the customer has continuing hire of the Scaffolding;
- (b) the customer must 'off-hire' the Scaffolding when the hire is complete. This will be done by contacting the office of Selected and obtaining an 'off-hire' register number. The customer will be invoiced for the entire period on and from the date of delivery or installation of the Scaffolding up to and including the off-hire date;
- (c) property and title in the Scaffolding shall remain with Selected or its nominated contractor;
- (d) the customer shall keep and maintain the Scaffolding as Bales for and on behalf of Selected and shall ensure that the Scaffolding is clearly identifiable as the property of Selected and the customer shall store the Scaffolding separately so as to be easily and clearly identified as the property of Selected;
- (e) the customer must ensure that the Scaffolding is used at all times in a proper, professional and responsible manner and is maintained in good condition and kept clean. The customer shall be liable for the costs of any cleaning which Selected considers necessary before or after return of the Scaffolding;
- (f) the customer will be responsible for any loss or damage to the Scaffolding however caused, while in the possession or under the control of the customer. Where the Scaffolding is substantially or completely destroyed or is rendered unusable then the customer must pay to Selected or its nominated contractor the current retail price for the Scaffolding. However the customer will not be liable for any loss or damage caused by Selected or its contractors or employees which is caused due to inherent fault in the Scaffolding or due to fair wear and tear;
- (g) the customer shall not sell or otherwise dispose of the Scaffolding or things (including land or structure) to which the Scaffolding has been affixed without first obtaining the written consent of Selected;
- (h) the customer shall take out and maintain adequate insurance of the Scaffolding against all usual risks not being Selected's interest as owner of the Scaffolding. All proceeds from such insurance shall be paid to Selected; and
- (i) Selected or its contractors may inspect the Scaffolding at least once each 30 days or more frequently if required by statute or regulations;

5. ACCEPTANCE

- 5.1 All prices for goods and services will be as set out in the quote issued by Selected for the work and shall remain valid for the period stated in the quote or, if no period is stated in the quote, a period of 60 days from the date of quotation. Prices do not include sales tax or other government imposts. This will be shown as a separate amount on invoice if applicable.
- 5.2 Customer must accept quote in writing complete with sufficient information to enable work to proceed - failing this, work will not proceed.

6. TERMS OF PAYMENT

- 6.1 Where a credit is approved by Selected, payment must be made by Electronic Funds Transfer to Selected's Bank account as detailed in the invoice within 30 days of the end of the calendar month in which the goods are delivered or the services performed; otherwise, payment shall be made prior to goods being delivered and for services being performed.
- 6.2 If the customer fails to pay amounts owing to Selected when they are due then Selected shall have the following rights in addition to any other rights it may have: to charge interest on the amount owing as from the date it becomes due at the rate of 2% per month calculated based on daily balances; to suspend deliveries to the customer of further goods whether under this contract or otherwise until all amounts due including interest payable thereon have been received; and/or to terminate the contract in relation to goods that have not been delivered and the work not yet performed.
- 6.3 The customer shall pay to Selected all costs relating to any legal action taken by Selected to recover moneys due from the customer, shall upon Selected notifying the customer in writing of the amount of those costs.
- 6.4 For non-account customers for steel house frames supply and/or installation:
- 6.5 Frames and trusses - Deposit 10% on order with the balance prior to manufacture.
- 6.6 Installation Labour - Deposit 80% before commencing work on site with the balance due on completion.
- 6.7 In the event that the customer defaults in any payment, commits any act of bankruptcy, becomes insolvent, enters into liquidation, or has a receiver or receiver and manager appointed over all or any of its assets then all moneys owing and outstanding to Selected from any account whatsoever and irrespective of whether the due dates for payment have occurred, shall become immediately due and payable, and Selected may at its absolute discretion, cease further deliveries and/or suspend work and/or terminate the contract without prejudice to its rights under these Terms and Conditions or otherwise at law.

6.8 Selected shall be entitled to recover all sums owing to it in respect of deliveries of goods made and/or work performed prior to the date of any termination or completion of the contract.

7. TITLE

- 7.1 Risk in the goods shall pass to the customer at the time of delivery. The customer shall maintain adequate insurance of the customer's premises including the goods and Selected shall be entitled to recover all sums owing to it in respect of deliveries of goods made and/or work performed prior to the date of any termination of the contract or completion of the contract.
- 7.2 Legal and equitable title of all goods supplied by way of sale from time to time by Selected to the customer will remain with Selected until all debts owing to Selected by the customer on any account whatsoever have been paid in full (whether or not the goods are delivered in instalments, of which some have been paid for by the customer).
- 7.3 Until all moneys owing to Selected are paid by the customer, the customer must keep the goods safe and free from deterioration, destruction, loss or harm and they are clearly identifiable as the property of Selected at all times, by way of separate storage or some other means, and the customer shall keep the goods as Bales for and on behalf of Selected until full payment is received by Selected.
- 7.4 If the customer sells or disposes of the goods, or things (including land or structures) to which the goods have been affixed or become a part, prior to property and title passing to the customer, the customer agrees, notwithstanding any clause to the contrary herein, that it holds the proceeds of the sale or disposal of the goods on trust for and as agent for Selected immediately when these proceeds are receivable or are received and where the goods have been affixed to or become part of the thing sold or disposed of, that it must account to Selected in specie for the proceeds of sale or disposal immediately upon the goods or things being sold and the proceeds being received by the customer.
- 7.5 The customer must not sell or otherwise dispose of any goods supplied by Selected or things (including land or structures) to which such goods have been affixed or become a part except in the ordinary course of the customer's business without first obtaining the written consent of Selected.
- 7.6 The customer must not represent itself to a third party as in any way acting on behalf of Selected and Selected will not be bound by any contracts with third parties in which the customer is the other party.
- 7.7 Records shall be kept by the customer of any goods supplied by Selected and such goods shall be stored separately so as to be identified as the property of Selected.
- 7.8 If the customer does not make a payment in accordance with these Terms and Conditions: the customer commits an act of bankruptcy; a trustee in bankruptcy or receiver and manager is appointed to the customer or the customer's estate; proceedings are commenced for the winding up of the customer; or a liquidator is appointed to the customer, then without prejudice to any other rights of Selected pursuant to these Terms and Conditions or general law, Selected may, without notice to the customer, enter onto the customer's premises within business hours and take possession of the goods supplied by Selected including without limiting the generality of the foregoing, by removing or detaching the goods from any structure on the customer's premises to which they have been affixed and Selected may resell the goods on such terms and conditions as Selected thinks fit and for Selected's exclusive benefit.

The customer agrees that Selected may remove or detach any affixed goods in any manner which Selected considers necessary. The customer shall indemnify Selected against any liability Selected incurs (including without limitation to third parties) in removing or detaching any affixed goods; and is responsible for Selected's costs in removing or detaching any affixed goods which will be a debt due and payable by the customer immediately upon the customer's receipt of a written notice from Selected stating those costs. Selected and the customer agree that the provisions of this clause 7.7 apply notwithstanding any agreement between the parties under which Selected grants the customer credit.

8. DELIVERY AND SCHEDULE

- 8.1 Selected shall not be obliged to complete any order for goods in one delivery. No defect or claim in respect of goods delivered as one part or instalment of an order shall entitle the customer to reject delivery of any other part of the order.
- 8.2 Selected reserves the right to deliver by instalments and each instalment shall be deemed to be sold under a separate contract. Failure to deliver any instalment shall entitle the customer to cease the contract, the customer cannot reject goods due to short or late delivery.
- 8.3 If goods are delivered in multiple deliveries, such deliveries will not relieve the customer from its obligations to accept further deliveries of the balance of the goods.
- 8.4 Deliveries to carriers' depots are subject to availability of suitable materials handling equipment. Goods delivered to and accepted at such depots become the customer's responsibility from the moment of acceptance by the nominated carrier.
- 8.5 Where goods are delivered (whether as part of a total contract for goods and services or a contract for goods only) to a particular site the goods will be entirely at the customer's risk when delivered and in the event of the site being unattended the delivery dockets/ manifest signed by the cartage contractor shall be prima facie evidence of due delivery of the goods.
- 8.6 Any times quoted for delivery or completion of the work are estimates only and Selected shall not be liable for failure to deliver or for delay in delivery of the goods or delay in completion of the work arising from any cause whatsoever beyond Selected's control.

9. VARIATION IN ORDERS

- 9.1 Selected shall not be bound to accept any change in product dimension, goods or finish, a reduction in the quantity ordered or other particulars of an order for goods after Selected has received an order and commenced obtaining supplies. No order or any undelivered part thereof may be cancelled or suspended by the customer, without first obtaining Selected's written consent. In such an event Selected reserves the right to invoice the customer for any work done, material produced, or expenditure commitment under the contract up to the date of cancellation or suspension.
- 9.2 In the event of any variation to the contract or suspension of work caused by or as a consequence of (whether directly or indirectly) the instructions of the customer or lack of instructions, the price shall be adjusted accordingly and any extra expense incurred by Selected shall be added to the contract price. The date of delivery of the goods or completion of the work shall be extended by a reasonable period commensurate with the time required to incorporate the variation or make good the suspension of work. Selected reserves the right to refuse to carry out any variation or extra work if the instruction from the customer is not authorised in writing by an appropriate officer of Selected. Any delay resulting from the customer's failure to issue appropriate variation requests in writing shall extend the delivery date or date of completion of the contract.

10. TIME FOR COMPLETION

Selected will make every reasonable effort to carry out any contract entered into but if Selected, by reason, cause, matter, or thing beyond its control is unable to obtain materials or other resources or is affected directly or indirectly by any circumstances beyond its control such that Selected is unable to deliver the goods, by the date of delivery or complete the work by the completion date, then it shall have the right, without being liable to the customer for, damage, non-completion, non-delivery or for any other loss or damage, which the customer may suffer as a result of such non-performance, and non-delivery, to extend the completion date or the date of delivery of the goods or the completion date for the work to enable the goods ordered to be supplied or the work to be completed or at its complete discretion Selected may terminate the contract and the customer shall have no claim against Selected in that case but Selected shall be entitled to recover all sums owing to it in respect of goods delivered and work performed up to the date of termination. The customer shall not be relieved from any obligation to accept or pay for goods and/or services by reason of any delay in delivery, despatch or completion of the work.

11. CLAIMS

Claim by the customer for faulty workmanship or faulty goods shall be made in writing and notified to Selected immediately the customer becomes aware of such faults. Failure of which such claim shall not be recognised. All claims shall be subject to clause 12 and shall be forwarded to Selected at the address specified on the front of the quotation.

12. OCCUPATIONAL HEALTH AND SAFETY

- 12.1 The Scaffolding shall be used by the customer solely for the purpose for which the Scaffolding is supplied in accordance with any limitations on the use of the Scaffolding arising from any legislation or the requirements of any local regulatory authority.
- 12.2 The customer must ensure that the Scaffolding is erected and dismantled by suitably qualified person. Such persons shall be the holder of any certificate of competence or licence that may be required by any legislation or local regulatory authority for the purpose of the erection or dismantling of the Scaffolding.
- 12.3 Where workplace health and safety or other applicable laws of the jurisdiction in which the work is to be carried out require other or different forms of work platform, scaffolding or fall protection then the customer must comply with all such requirements and provide the Scaffolding and fall protection as its cost.
- 12.4 All related safety information provided by or on behalf of Selected will be disclosed by the customer to all persons responsible for the installation, utilisation or dismantling of the Scaffolding.
- 12.5 The customer shall attach and maintain all safety signs supplied with the Scaffolding in noticeable positions on the Scaffolding or in such positions as are necessary to bring the signs to the attention of any users of the Scaffolding.
- 12.6 The customer shall at all times comply with any relevant legislation concerning occupational health and safety requirements in association with use of the Scaffolding.
- 12.7 The customer shall indemnify Selected and its contractors against all liabilities (including without limitation legal costs) which any of them may incur due to a failure by the customer to comply with its obligations under this clause.

13. THIRD PARTY WARRANTIES

All the goods or components supplied to the customer thereof are not manufactured by Selected. Selected shall give the customer and use its best endeavours to enforce its cost of claim for the benefit of the customer, such warranties and guarantees as Selected has obtained from its supplier in respect of those goods.

14. SELECTED'S LIABILITY

- 14.1 Selected must not be liable for any defects in material and/or workmanship caused by modification of the goods by the customer or any third party without Selected's written approval or caused by the customer subjecting the goods or work to unusual physical stress.
- 14.2 Selected's total liability to the customer in respect of all claims whatsoever arising out of the contract shall in no event exceed the total price payable by the customer to Selected for the goods and work.
- 14.3 Subject to clause 14.5, in no event shall Selected be responsible for any loss of profit, penalties, expenditure, damages or losses (including without limiting the generality of the foregoing any consequential, special, incidental or indirect loss or damages) incurred by the customer caused by any delay in delivery of the goods or completion of the work or arising out of any use of or dealing with the goods whether arising from any defect in the goods, unsuitability for the customer's purpose, or in any other way or caused by any fault or negligence by Selected, its employees, agents or subcontractors in performing the work or the failure or omission on the part of Selected to comply with its obligations under the contract.
- 14.4 Subject to clause 14.5, except as expressly provided to the contrary in these Terms and Conditions all conditions, warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise relating in any way to the goods and/or services supplied under the contract are excluded.
- 14.5 Where any Act of parliament, whether State or Federal, implies in the contract any term condition or warranty and that act avoids or prohibits provisions in the contract excluding or modifying the operation of or exercise of liability under such term, condition or warranty, such term, condition or warranty shall be deemed to be included in the contract. However the liability of Selected for any breach of such term, condition or warranty shall where permitted by law be limited, at the option of Selected, to any one or more of the following:
 - (a) the breach related to goods:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of such goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired; and
 - (b) if the breach related to services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

14.6 Selected warrants subject to the conditions set out in this clause that if during the period of 24 months from the date of original installation of goods is completed there appears any defect in the work carried out in affixing the goods to the designated structure then Selected shall, without cost to the customer at the customer's option either repair or redo properly such faulty work within a reasonable time of being notified in writing by the customer of such defect PROVIDED THAT this warranty is given upon and subject to the following conditions:

- (a) this warranty is not binding upon Selected unless the customer has paid in full all invoices issued by Selected for the goods and services;
- (b) this warranty does not apply to Scaffolding;
- (c) this warranty does not apply to any defects or faults in the goods;
- (d) this warranty shall not apply where the defect complained of is not directly attributable to any fault or defect in the performance of the work of affixing the goods to a structure and in particular but without limiting the generality of the foregoing the warranty does not apply to defects or faults caused by defects or faults in the goods themselves; defects in the structure to which the goods are affixed or unusual or unreasonable treatment of the installed goods by the customer or any third party;
- (e) Selected shall be responsible for all reasonable expenses incurred by the customer in making a claim under this warranty where a claim is discovered to be justified;
- (f) Selected shall not be liable under the warranty for any consequential, indirect or special loss or damage arising out of any defects or faults in the services. In no circumstances shall Selected be required to expend in discharging its obligations under this warranty more than the sum charged by it to the customer to effect the original installation of the goods;
- (g) the customer's claim under this warranty must be notified to Selected in accordance with clause 11;
- (h) the benefits conferred by this warranty on the customer are in addition to all other rights and remedies to which the customer is or may be entitled in law in respect of the services to which it relates including all rights and remedies under the Trade Practices Act 1974 and similar State and Territory laws. This warranty does not exclude or modify any right or remedy to which the customer is or may be entitled at law including under the Trade Practices Act and similar State or Territory consumer protection laws and to the extent of any inconsistency between such rights and remedies and the terms of this warranty, this warranty shall be read subject thereto.

14.7 Selected shall be under no liability to the customer for any loss or damage to property or for the death of any person caused by an act or omission (including negligent acts or omissions) of Selected or any of Selected's employees, contractors or agents. All such liability, whether in tort or contract, is expressly excluded.

14.8 The customer shall indemnify Selected, its employees, agents or contractors against any claims made against Selected by any third party in respect of any such loss, damage, death or injury is referred to in clause 14.7 except to the extent the liability arises out of an act or omission of Selected's employees, contractors or agents.

15. MISCELLANEOUS

- 15.1 Non-stock items (that is, goods not normally stocked by the Selected for supply to customers) are not returnable by the customer to the Selected.
- 15.2 Any terms and conditions of the customer are of no effect except to the extent agreed to in writing between the customer and Selected as a variation of these Terms and Conditions.
- 15.3 The customer acknowledges and agrees that it must not enter into and has not entered into any agreement with a third party which would prevent the customer from complying with these Terms and Conditions.
- 15.4 The customer shall indemnify Selected against all losses and expenses which Selected may suffer or incur due to the failure of the customer to fully observe its obligations under these Terms and Conditions.
- 15.5 The customer warrants and acknowledges that it has not relied on any representations made by Selected, its employees and/or agents which have not been stated expressly in this contract or upon any descriptions or illustrations or specifications contained in any document including any catalogue or publicity material produced by Selected.
- 15.6 The customer acknowledges and agrees that the Selected is not responsible or liable in any way (including under the law of negligence, trespass or contract) for the consequence of any technical advice given by its employees in connection with the design, installation and use of the goods sold hereunder.
- 15.7 The customer accepts full responsibility and liability for any design and installation and use of goods including in respect of the design, for the infringement of any patent, registered design or other similar matters and indemnifies Selected in respect of any cost, loss, damage, or liability (including consequential loss, loss of profits or pecuniary or special damages) incurred by Selected resulting from any claim caused by or in connection with any design or the installation of use of goods. Where Selected as part of the work is to prepare the design, Selected will use its reasonable endeavours to avoid the infringement by the design of any patent, registered design or other similar matters. All specified weights, measurements, capacities and other particulars of goods offered are stated in good faith, but inaccuracies shall not void any contract or be made the basis of any claim against Selected.
- 15.8 Selected may subcontract the performance of the whole or part of the services it is to provide under the contract.
- 15.9 The customer gives consent to and authorisation for Selected from time to time to collect financial information about the customer for the purpose of any credit application the customer may make and give further consent to Selected for providing any such information to any credit reporting agency and its members for use for credit reference purposes.
- 15.10 The customer acknowledges that the goods are required for the purpose of re-supply or for the purpose of using them up or transforming them, in trade or commerce, in the course of a process of production or manufacture or repairing or treating other goods or fixtures on land.
- 15.11 Selected may affix to any Scaffolding supplied by this advertising or other notices, signs and materials as may determine and the customer shall not attempt to remove, interfere, obscure or damage such signs and materials without the prior approval of the Selected. Under no circumstances shall the customer place marking or advertising material on the Scaffolding without Selected's prior written consent.
- 15.12 Wall frames and/or trusses which are supplied have not been designed to accommodate any gwall or fall arrest barrier systems being fixed to those products.
- 15.13 As security for payment of all monies payable by the customer to Selected, the customer hereby charges with the due payment of those monies all of the customer's interest from time to time in real property that the customer owns either beneficially and/or as trustee of any trust both current and later acquired and the customer consents to Selected lodging a caveat or caveats over those properties.
- 15.14 Proceedings for breach of payment terms may be instituted, heard and determined by a court of competent jurisdiction in Sydney in the State of New South Wales.
- 15.15 For the purpose of these Terms and Conditions:
 - (a) Selected means the company giving the quote whose name and address appear on the quotation;
 - (b) the customer means the person ordering, buying or hiring the goods or services;
 - (c) any description of the goods in Selected's quote or elsewhere shall be by way of identification only and the use of such description shall not create a sale by description. Selected reserves the right at any time to alter the material specifications shown in its promotional literature to reflect changes made after the date of publication
 - (d) reference to goods includes Scaffolding; and
 - (e) Scaffolding means any scaffolding, walk platforms, railings and associated goods and equipment which the customer requests Selected to provide either on hire or by purchase;