

Terms & Conditions of Sale Exact Carpentry. All quotations and contracts are subject to the following conditions:

1. Definitions

1.1 "Seller" means Exact Carpentry, its successors and assigns or any person acting on behalf of and with the authority of Exact Carpentry.

1.2 "Buyer" means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one

Buyer is a reference to each Buyer jointly and severally.

1.3 "Goods" means all Goods or Services supplied by the Seller to the Buyer at the Buyer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).

1.4 "Price" means the Price payable for the Goods as agreed between the Seller and the Buyer in accordance with clause 4 below.

2. Acceptance

2.1 The Buyer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Buyer places an order for or accepts delivery of the Goods.

2.2 These terms and conditions may only be amended with the Seller's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Buyer and the Seller.

2.3 The Buyer accepts that the Seller's Prices provided are all based upon delivery Ex-Sellers warehouse unless otherwise agreed in writing at the time of placing the order.

2.4 The Buyer acknowledges and agrees that the Seller's quotation makes no allowance for building or development applications or permit fees to local Councils and/or relevant approvals for use required for the project. The Buyer is responsible to obtain any such approvals prior to the commencement of the Services in accordance with clause 16.2.

2.5 The Buyer accepts and acknowledges that any request for Goods, the value of which exceeds the Buyer's agreed credit limit, will allow the Seller to refuse or halt the supply of Goods to the Buyer, until such time as the amount in excess of the credit limit has been paid, in accordance with normal trading terms.

2.6 Unless otherwise agreed, the Buyer acknowledges and accepts that the supply of Goods for accepted orders may be subject to availability and if, for any reason, Goods are not or cease to be available, the Seller reserves the right to vary the Price with alternative Goods as per clause 4.2. The Seller shall not be liable to the Buyer for any loss or damage the Buyer suffers due to the Seller exercising its rights under this clause.

3. Change in Control

3.1 The Buyer shall give the Seller not less than fourteen (14) days prior written notice of any proposed change of ownership of the Buyer and/or any other change in the Buyer's details (including but not limited to, changes in the Buyer's name, address, contact phone or fax number/s, or business practice). The Buyer shall be liable for any loss incurred by the Seller as a result of the Buyer's failure to comply with this clause.

4. Price and Payment

4.1 At the Seller's sole discretion the Price shall be either:

(a) as indicated on any invoice provided by the Seller to the Buyer; or
(b) the Price as at the date of delivery of the Goods according to the Seller's current price list; or
(c) the Seller's estimated Price (subject to clause 4.2). The final price can only be ascertained upon completion of the works. Variances in the estimated Price of more than 10% will be subject to Buyer approval before proceeding with the Services.

4.2 The Seller reserves the right to change the Price:

(a) if a variation to the Goods which are to be supplied is requested; or
(b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or
(c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, poor weather conditions, limitations to accessing the site, availability of machinery, safety considerations, prerequisite work by any third party not being completed, change of design, hidden pipes and wiring in walls etc) which are only discovered on commencement of the Services; or
(d) in the event of increases to the Seller in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond the Seller's control.

4.3 At the Seller's sole discretion a non-refundable deposit may be required.

4.4 Time for payment for the Goods being of the essence, the Price will be payable by the Buyer on the date/s determined by the Seller, which may be:

(a) on delivery of the Goods;
(b) payment for approved Buyers shall be made by instalments in accordance with the Seller's payment schedule;
(i) a one-third (33.3%) deposit upon acceptance and placement of official order; and

(ii) a further payment of one-third (33.3%) shall become due and payable upon completion of the Goods; and

(iii) the remaining balance shall be paid when Goods are ready for delivery and/or on advice from the Seller;

(c) thirty (30) days following the end of the month in which a statement is posted, e-mailed or faxed to the Buyer's address or address for notices;

(d) the date specified on any invoice or other form as being the date for payment; or

(e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Buyer by the Seller.

4.5 The Buyer acknowledges and accepts that the Seller's invoices are issued without prejudice and are subject to errors and omissions excepted (E&OE) and may therefore change without notice, where an error or omission is discovered. The Buyer shall not be entitled to treat this contract as repudiated in the event of an E&OE.

4.6 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card-excluding Am-ex and Diners Cards (plus a surcharge of up to two and a half percent (2.5%) of the Price), or by any other method as agreed to between the Buyer and the Seller.

4.7 Unless otherwise stated the Price does not include GST. In addition to the Price the Buyer must pay to the Seller an amount equal to any GST the Seller must pay for any supply by the Seller under this or any other agreement for the sale of the Goods. The Buyer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Buyer pays the Price. In addition the Buyer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

5. Confirmation of Orders

5.1 In the event the Buyer gives information relating to measurements and quantities of Goods required in completing the Services, it is the Buyer's responsibility to verify the accuracy of the measurements and quantities, before the Buyer or the Seller places an order based on these measurements and quantities. In the event that there are changes to be made, the Buyer must provide the Seller with written notice of such changes. The Seller accepts no responsibility for any loss, damages, or costs however resulting from the Buyer's failure to comply with this clause.

5.2 The Buyer acknowledges and accepts that the supply of Goods for accepted orders may be subject to availability and if, for any reason, Goods are not or cease to be available, the Supplier reserves the right to vary the Price with alternative Goods as per clause 4.2.

6. Dimensions, Performance Data and other Descriptive Details

6.1 All literature, samples, specifications, photographs, drawings, weights, dimensions submitted with this quotation is expressly illustrative and is by way of a general description of Goods only in accordance with industry standards. Any descriptions contained in catalogues and other advertising material while being as accurate as possible but may not necessarily be identical with products and Services the Seller is to supply. The Seller will not accept liability to the Buyer for quality of Goods which comply with accepted industry standards.

6.2 Any performance data provided by the Seller or a manufacturer is an estimate only and should be construed accordingly.

7. Delivery of Goods

7.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:

(a) the Buyer or the Buyer's nominated carrier takes possession of the Goods at the Seller's address; or

(b) the Seller (or the Seller's nominated carrier) delivers the Goods to the Buyer's nominated address even if the Buyer is not present at the address.

7.2 At the Seller's sole discretion the cost of delivery is either included in the Price or is in addition to the Price.

7.3 The Buyer must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Buyer is unable to take delivery of the Goods as arranged then the Seller shall be entitled to charge a reasonable fee for re-delivery and/or storage.

7.4 The Seller may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

7.5 Any time or date given by the Seller to the Buyer is an estimate only, the approximate date for delivery of an order will be between one to eight (1-8) weeks from the date of confirmation of the order placed. The Buyer must still accept delivery of the Goods even if late and the Seller will not be liable for any loss or damage incurred by the Buyer as a result of the delivery being late.

8. Risk

8.1 Risk of damage to or loss of the Goods passes to the Buyer on Delivery and the Buyer must insure the Goods on or before Delivery.

8.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Buyer, the Seller is entitled to receive all insurance proceeds payable for the

Goods. The production of these terms and conditions by the Seller is sufficient evidence of the Seller's rights to receive the insurance proceeds without the need for any person dealing with the Seller to make further enquiries.

8.3 If the Buyer requests the Seller to leave Goods outside the Seller's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Buyer's sole risk.

8.4 The Seller will make every effort to match batches of Goods supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur between batches of Goods or sale samples and the final Goods supplied.

9. Access

9.1 The Buyer shall ensure that the Seller has clear and free access to the work site at all times to enable them to deliver the Services and agrees also to provide the Seller at the Buyer's own expense all necessary assistance in the unloading the Goods. The Seller 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 the Seller.

9.2 It is the responsibility of the Buyer to ensure that access is suitable to accept the weight of laden trucks. The Buyer agrees to indemnify the Seller against all costs incurred by the Seller in recovering such vehicles in the event they become bogged or otherwise immovable.

10. Title

10.1 The Seller and the Buyer agree that ownership of the Goods shall not pass until:

(a) the Buyer has paid the Seller all amounts owing to the Seller; and

(b) the Buyer has met all of its other obligations to the Seller.

10.2 Receipt by the Seller 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.

10.3 It is further agreed that:

(a) until ownership of the Goods passes to the Buyer in accordance with clause 10.1 that the Buyer is only a bailee of the Goods and must return the Goods to the Seller on request.

(b) the Buyer holds the benefit of the Buyer's insurance of the Goods on trust for the Seller and must pay to the Seller the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.

(c) the Buyer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Buyer sells, disposes or parts with possession of the Goods then the Buyer must hold the proceeds of any such act on trust for the Seller and must pay or deliver the proceeds to the Seller on demand.

(d) the Buyer should not convert or process the Goods or intermix them with other goods but if the Buyer does so then the Buyer holds the resulting product on trust for the benefit of the Seller and must sell, dispose of or return the resulting product to the Seller as it so directs.

(e) the Buyer irrevocably authorises the Seller to enter any premises where the Seller believes the Goods are kept and recover possession of the Goods.

(f) the Seller may recover possession of any Goods in transit whether or not delivery has occurred.

(g) the Buyer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of the Seller.

(h) the Seller may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Buyer.

11. Personal Property Securities Act 2009 ("PPSA")

11.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

11.2 Upon assenting to these terms and conditions in writing the Buyer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods that have previously been supplied and that will be supplied in the future by the Seller to the Buyer.

11.3 The Buyer undertakes to:

(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Seller may reasonably require to;

(i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;

(ii) register any other document required to be registered by the PPSA; or

(iii) correct a defect in a statement referred to in clause 11.3(a)(i) or 11.3(a)(ii);

(b) indemnify, and upon demand reimburse, the Seller for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;

(c) not register a financing change statement in respect of a security interest without the prior written consent of the Seller;

(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of the Seller; (e) immediately advise the Seller of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.

11.4 The Seller and the Buyer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

11.5 The Buyer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3) (d) and 132(4) of the PPSA.

11.6 The Buyer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

11.7 Unless otherwise agreed to in writing by the Seller, the Buyer waives their right to receive a verification statement in accordance with section 157 of the PPSA.

11.8 The Buyer must unconditionally ratify any actions taken by the Seller under clauses 11.3 to 11.5.

11.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

12. Security and Charge

12.1 In consideration of the Seller agreeing to supply the Goods, the Buyer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Buyer either now or in the future, to secure the performance by the Buyer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

12.2 The Buyer indemnifies the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Seller's rights under this clause.

12.3 The Buyer irrevocably appoints the Seller and each director of the Seller as the Buyer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12 including, but not limited to, signing any document on the Buyer's behalf.

13. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

13.1 The Buyer must inspect the Goods on delivery and must within seven (7) days of delivery notify the Seller in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Buyer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Buyer must allow the Seller to inspect the Goods.

13.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).

13.3 The Seller acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

13.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, the Seller makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. The Seller's liability in respect of these warranties is limited to the fullest extent permitted by law.

13.5 If the Buyer is a consumer within the meaning of the CCA, the Seller's liability is limited to the extent permitted by section 64A of Schedule 2.

13.6 If the Seller is required to replace the Goods under this clause or the CCA, but is unable to do so, the Seller may refund any money the Buyer has paid for the Goods.

13.7 If the Buyer is not a consumer within the meaning of the CCA, the Seller's liability for any defect or damage in the Goods is:

- limited to the value of any express warranty or warranty card provided to the Buyer by the Seller at the Seller's sole discretion;
- limited to any warranty to which the Seller is entitled, if the Seller did not manufacture the Goods;
- otherwise negated absolutely.

13.8 Where the Seller is acting as an agent for a manufacturer or supplier, the Seller shall not be liable for any alteration, repair or variation in the Goods which is carried out by an unauthorised party without the Seller's consent.

13.9 Subject to this clause 13, returns will only be accepted provided that:

- the Buyer has complied with the provisions of clause 13.1; and
- the Seller has agreed that the Goods are defective; and
- the Goods are returned within a reasonable time at the Buyer's cost (if that cost is not significant); and
- the Goods are returned in as close a condition to that in which they were delivered as is possible.

13.10 Notwithstanding clauses 13.1 to 13.8 but subject to the CCA, the Seller shall not be liable for any defect or damage which

may be caused or partly caused by or arise as a result of:

- the Buyer failing to properly maintain or store any Goods;
- the Buyer using the Goods for any purpose other than that for which they were designed;
- the Buyer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
- the Buyer failing to follow any instructions or guidelines provided by the Seller;
- fair wear and tear, any accident, or act of God.

13.11 The Seller may in its absolute discretion accept non-defective Goods for return in which case the Seller may require the Buyer to pay handling fees of up to twenty five percent (25%) of the value of the returned Goods plus any freight costs.

13.12 Notwithstanding anything contained in this clause if the Seller is required by a law to accept a return then the Seller will only accept a return on the conditions imposed by that law.

14. Intellectual Property

14.1 Where the Seller has designed, drawn or developed Goods for the Buyer, then the copyright in any designs and drawings and documents shall remain the property of the Seller.

14.2 The Buyer agrees that the Seller may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which the Seller has created for the Buyer.

15. Default and Consequences of Default

15.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of six and a half percent (6.5%) per calendar month (and at the Seller's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgement.

15.2 If the Buyer owes the Seller any money the Buyer shall indemnify the Seller from and against all costs and disbursements incurred by the Seller in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Seller's Contract default fees, and bank dishonour fees).

15.3 Without prejudice to any other remedies the Seller may have, if at any time the Buyer is in breach of any obligation (including those relating to payment) under these terms and conditions the Seller may suspend or terminate the supply of Goods to the Buyer. The Seller will not be liable to the Buyer for any loss or damage the Buyer suffers because the Seller has exercised its rights under this clause.

15.4 Without prejudice to the Seller's other remedies at law the Seller shall be entitled to cancel all or any part of any order of the Buyer which remains unfulfilled and all amounts owing to the Seller shall, whether or not due for payment, become immediately payable if:

- any money payable to the Seller becomes overdue, or in the Seller's opinion the Buyer will be unable to make a payment when it falls due;
- the Buyer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer.

16. Compliance with Laws

16.1 The Buyer and the Seller shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.

16.2 The Buyer shall obtain (at the expense of the Buyer) all licenses and approvals that may be required for the Services.

17. Cancellation

17.1 The Seller may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Buyer. On giving such notice the Seller shall repay to the Buyer any money paid by the Buyer for the Goods. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.

17.2 In the event that the Buyer cancels delivery of Goods the Buyer shall be liable for any and all loss incurred (whether direct or indirect) by the Seller as a direct result of the cancellation (including, but not limited to, any loss of profits).

17.3 Cancellation of orders for Goods made to the Buyer's specifications, or for non-stock-list items, will definitely not be accepted once production has commenced, or an order has been placed.

18. Privacy Act 1988

18.1 The Buyer agrees for the Seller to obtain from a credit reporting agency a credit report containing personal credit information about the Buyer in relation to credit provided by the Seller.

18.2 The Buyer agrees that the Seller may exchange information about the Buyer with those credit providers either named as trade referees by the Buyer or named in a consumer credit report issued by a credit reporting agency for the following purposes:

- to assess an application by the Buyer; and/or

(b) to notify other credit providers of a default by the Buyer; and/or

(c) to exchange information with other credit providers as to the status of this credit account, where the Buyer is in default with other credit providers; and/or

(d) to assess the creditworthiness of the Buyer.

The Buyer understands that the information exchanged can include anything about the Buyer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.

18.3 The Buyer consents to the Seller being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

18.4 The Buyer agrees that personal credit information provided may be used and retained by the Seller for the following purposes (and for other purposes as shall be agreed between the Buyer and Seller or required by law from time to time):

- the provision of Goods; and/or
- the marketing of Goods by the Seller, its agents or distributors; and/or
- analysing, verifying and/or checking the Buyer's credit, payment and/or status in relation to the provision of Goods; and/or
- enabling the daily operation of Buyer's account and/or the collection of amounts outstanding in the Buyer's account in relation to the Goods.

18.5 The Seller may give information about the Buyer to a credit reporting agency for the following purposes:

- to obtain a consumer credit report about the Buyer;
- to allow the credit reporting agency to create or maintain a credit information file containing information about the Buyer.

18.6 The information given to the credit reporting agency may include:

- personal particulars (the Buyer's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
- details concerning the Buyer's application for credit or commercial credit and the amount requested;
- advice that the Seller is a current credit provider to the Buyer;
- advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
- the Buyer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
- information that, in the opinion of the Seller, the Buyer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Buyer's credit obligations);
- advice that cheques drawn by the Buyer for one hundred dollars (\$100) or more, have been dishonoured more than once;
- that credit provided to the Buyer by the Seller has been paid or otherwise discharged.

19. General

19.1 The failure by the Seller to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Seller's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

19.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the state of Victoria in which the Seller has its principal place of business, and are subject to the jurisdiction of the courts in that state.

19.3 Subject to clause 13 the Seller shall be under no liability whatsoever to the Buyer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Seller of these terms and conditions (alternatively the Seller's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

19.4 The Buyer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Buyer by the Seller nor to withhold payment of any invoice because part of that invoice is in dispute.

19.5 The Seller may license or sub-contract all or any part of its rights and obligations without the Buyer's consent.

19.6 The Buyer agrees that the Seller may amend these terms and conditions at any time. If the Seller makes a change to these terms and conditions, then that change will take effect from the date on which the Seller notifies the Buyer of such change.

The Buyer will be taken to have accepted such changes if the Buyer makes a further request for the Seller to provide Goods to the Buyer.

19.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party. **19.8** The Buyer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations