

ACROW FORMWORK & SCAFFOLDING PTY LTD – TERMS OF SALE

- 1 **General** These Terms of Sale constitute the entire agreement between Acrow Formwork & Scaffolding Pty Ltd ("AFS") and Buyer concerning the supply of the goods and services ("Goods") by AFS to Buyer, and shall prevail over all conditions appearing on any document of Buyer.
- 2 **Quotations** A quotation given by AFS shall not constitute an obligation to sell and no contractual relationship shall arise until Buyer's order has been accepted in writing by AFS.
- 3 **Price** Unless advised otherwise in writing by AFS, Buyer shall in addition to prices quoted or charged, be responsible for all applicable taxes and statutory charges including but not limited to GST.
- 4 **Terms Invoices** shall be paid within 30 days from the date of the invoice to Buyer. Equipment requiring special design and manufacture shall be paid for on the following basis: 10% on acceptance of order, 20% on completion of drawings, 60% on completion of manufacture, 10% thirty days after delivery.
- 5 **Suspension** AFS may suspend performance in the event that any part of Buyer's account is overdue and may at its discretion charge interest at the then Westpac Prime Bank Overdraft Rate on so much of the monies due but unpaid. AFS shall be entitled to pro rata progress charges for part deliveries.
- 6 **Delivery and Risk** Signed delivery dockets will be conclusive proof of delivery of the Goods in good condition. Risk in the Goods shall pass to Buyer on delivery.
- 7 **Title** Title in the Goods (sale) shall not pass to Buyer until the full price has been paid to AFS. If prior to transfer of title, Buyer sells the Goods or uses the Goods in some process, then Buyer will hold the proceeds of such sale or process in trust for AFS.
- 8 **Default** If Buyer breaches these terms of sale, fails to make payments to AFS when due, goes into insolvency or bankruptcy or enters into a deed of arrangement or composition with its creditors, AFS may without prejudice to its other rights, retake possession of the Goods from Buyer's site and/or suspend further deliveries.
- 9 **Returns** AFS will accept return of Goods within 14 days of delivery, subject to payment of a service charge or restocking fee by AFS and provided the Goods are in the condition as delivered to Buyer. No return of specially designed or manufactured goods will be accepted.
- 10 **Brochures** Illustrations of the Goods in AFS's brochures and catalogues are not to be taken as exact representations of the Goods.
- 11 **Cancelled or Varied Orders** AFS reserves the right to charge for the cost of materials used or purchased and the cost of labour incurred and all other costs associated with any order cancelled or altered by Buyer.
- 12 **Licences and Approvals** Buyer shall be responsible for obtaining all licences, consents, permits and approvals in connection with the use of the Goods.
- 13 **Limited Warranty** AFS warrants that the Goods will be free from defects and of merchantable quality. All other warranties, expressed or implied, are hereby excluded.
- 14 **Limitation of Liability** Notwithstanding anything else contained in these Terms of Sale, AFS shall under no circumstances be liable to Buyer in connection with the Goods for any loss of use, loss of profit or consequential loss, whether arising in negligence or otherwise. To the extent permitted by law, AFS's liability to Buyer is limited to the repair or replacement of the Goods.
- 15 **Delays** AFS shall not be liable to Buyer for any costs, losses or damages caused by any delays in delivery, which are beyond the reasonable control of AFS."
- 16 **GST** If AFS has any liability to pay the Goods and Services Tax ("GST") on any goods or services supplied to Buyer, Buyer shall pay to AFS the amount of such GST or any other duty or statutory charge in connection with the sale of the equipment at the same time as payment is made for those goods or services.

ACROW FORMWORK & SCAFFOLDING PTY LTD – TERMS OF HIRE

- 1 **General** These Terms of Hire constitute the entire agreement between Acrow Formwork & Scaffolding Pty Ltd ("AFS") and Hirer concerning the hire of formwork and scaffolding equipment ("Equipment") and the supply of services by AFS to the Hirer, and shall prevail over all conditions appearing on any document of Hirer.
- 2 **Quotations** A quotation given by AFS shall not constitute an obligation to hire and no contractual relationship shall arise until Hirer's" order has been accepted in writing by AFS.
- 3 **Price** Unless advised otherwise in writing by AFS, all prices quoted by AFS are exclusive of GST. In addition to prices quoted or charged, by AFS, Hirer shall be responsible for all applicable taxes and statutory charges.
- 4 **Invoicing** All invoices shall be paid strictly within 30 days from the date of the invoice.
- 5 **Delivery** A representative may be appointed by Hirer for the sole purpose of checking the quantity of material delivered and the time of delivery. If no representative is provided, Hirer agrees AFS shall be able to affect delivery and/or pick up of Equipment at its absolute discretion without the necessity for a representative of Hirer to be present. Conclusive proof of receipt of the quantity, date and description of Equipment delivered, and delivery of the Equipment in good condition will be evidenced by the delivery docket.
- 6 **Risk** Risk in the Equipment shall pass to Hirer at the time Hirer takes delivery of the Equipment.
- 7 **Authority** A signature of any officer, employee or agent of Hirer may be taken by AFS and shall be sufficient evidence to AFS of the authority to sign on behalf of Hirer.
- 8 **Return of Equipment by Hirer** Unless AFS agrees otherwise in writing, Hirer shall be responsible for the return of the Equipment to AFS.
At the same time as returning the Equipment, Hirer may provide a representative to check the quantity and description of Equipment and time of return is as stated on the return docket. If no representative of Hirer is provided, the return docket shall be conclusive evidence as to the quantity, description, date, condition, state of repair, and time of return.
In all cases of returns whether by Hirer or AFS, the Equipment should be stacked, cleaned and sorted in the same manner as received when delivered. Any restacking and sorting will be at the cost of Hirer.
Hirer agrees that it will return all Equipment hired by it without any chemical, concrete, paint and hazardous or dangerous substances affecting the Equipment. No damaged Equipment will be accepted by AFS, and AFS retains the discretion to continue to charge hire costs until the Equipment is returned in a clean and safe condition.
- 9 **Loss and Damage** Hirer shall be responsible for all theft, loss and damage to the Equipment, and the cost of replacement or repair will be charged to Hirer at AFS's latest current list price.
- 10 **Use on Site** Hirer may use the Equipment only on the site specified in Hirer's Order and may not transfer the Equipment to any other site without AFS's written approval. Hirer shall not erect any of the Equipment in such a manner as to make it a fixture to land.

- 11 **Site Preparation** If AFS is to be responsible for erection of the Equipment, Hirer shall ensure that the site is cleared and ready for erection of the Equipment and that the foundations, footings or the structure upon which the Equipment is erected/connected must have adequate bearing and strength capacity to withstand and support all forces imposed on them from the Equipment.
- 12 **Hire Period** Hire of the Equipment shall commence from the day Hirer takes delivery of Equipment until the day of return of the Equipment, with both of these days charged as whole days. No allowance on hire will be made for holiday periods, weekends, inclement weather, industrial action, transport delays or Government interference.
A minimum of four (4) weeks hire applies.
- 13 **Hirer's Obligations** The Hirer shall:
- prior to use of the Equipment, satisfy itself as to its condition and suitability for the purpose required;
 - use the Equipment in a skilful, proper and safe manner and only for the purpose and within the capacity for which it was designed and in accordance with the relevant Australian Standards;
 - ensure the Equipment is erected and dismantled by competently trained or certified persons as per Australian Standards in a manner that is specified by AFS in its General Assembly Recommendations;
 - maintain and check the Equipment regularly to confirm it is in good condition, fair wear and tear excepted;
 - indemnify AFS against all claims and liabilities arising out of the use or servicing of the Equipment;
 - not sell, mortgage, sub-hire, pledge, lease or otherwise deal with any of the Equipment unless the owner's written consent is obtained;
 - not alter the Equipment from the state in which it was hired; and
 - ensure that all safety and operating instructions relating to the Equipment are observed;
 - ensure that hazard identification, risk assessment and risk control measures are carried out on site for the installation of Equipment and that all users are trained in the safe use of the Equipment.
- 14 The Hirer will pay to AFS on or before the due date as charged for such hiring amounts to be calculated as follows:
- In the case of material and labour supplied on a unit-hire basis – in accordance with the Schedules of rates from time to time published by AFS.
 - In the case of material and labour supplied under lump sum and quoted rate arrangements in accordance with AFS's quotation.
Provided that any such rates or quotation may be varied without notice to reflect increases in labour or material which occur during the hire.
- 15 This Agreement may be terminated by either party giving one (1) month notice in writing to the other. If on termination any equipment remains in the possession of the Hirer the hire charge shall continue until such equipment has been returned or until the Hirer has been otherwise determined.
- 16 **Transport** Unless AFS agrees otherwise in writing, Hirer is responsible for the cost of delivery and pick-up of goods to and from the AFS premises and where deemed necessary by AFS, Hirer shall provide loading and unloading Equipment at its own cost. It is the responsibility of the Hirer to correctly stack and load truck in accordance to the limitations of the truck.
The loading and unloading of Equipment collected by AFS is the responsibility of Hirer.
Transport charges as specified are for loading or unloading at designated site during AFS's normal business hours. Waiting time and delivery outside AFS's normal business hours will incur additional charges.
- Where Hirer has requested delivery and adequate access is not provided such that delivery cannot be performed, Hirer will be liable for all transport charges and/or waiting time.
- 17 **Collection by AFS** Where AFS has agreed in writing to collect the Equipment, a request to AFS to collect the Equipment must be received by AFS at least two days before collection shall be required. AFS will record evidence of the request for pick-up up on an ADVICE TO PICK UP docket. Hirer must request an identifying pick-up advice number to evidence its request. Delays during pick-up or restacking for transport are to the Hirer's account.
- 18 **No Removal of Markings** Hirer shall not remove, deface or cover up any plates or marks on the Equipment indicating its ownership.
- 19 **Right of Inspection** AFS shall at all times have the right to inspect any of the Equipment. The Hirer shall indemnify AFS for any damages arising out of AFS's entry of the site to inspect the Equipment.
- 20 **Licences and Approvals** Hirer shall be responsible for obtaining all licences, consents, permits and approvals in connection with the use of the Equipment.
- 21 **Default** AFS reserves its rights to terminate this agreement at any time without notice to Hirer, if Hirer breaches these Terms of Hire, fails to make payments to AFS when due, goes into insolvency or bankruptcy or enters into a deed of agreement or composition with its creditors. AFS may without prejudice to its other rights, retake possession of the Equipment from Hirer's premises and/or suspend further deliveries.
Upon termination, AFS may continue to charge hire at the current rate until the Equipment is returned to AFS's branch and/or charge Hirer for repair of damages or cleaning of the Equipment that may be required. The loading of Equipment collected by AFS is the responsibility of Hirer. The cost of repossession and transport of the Equipment shall be borne by Hirer. The cost of dismantling and stacking erected Equipment, or stacking dismantled Equipment by AFS will be to the Hirer's account."
Hirer will provide all necessary permission for AFS to enter the site to repossess the Equipment and indemnify AFS for any damages arising out of AFS's entry of the site to remove the Equipment.
AFS's repossession of the Equipment shall not affect the right of AFS to recover outstanding payments under the contract and AFS reserves its right to pursue any addition remedies available to it.
- 22 **Brochures** Illustrations of the Equipment in AFS's brochures and catalogues are not to be taken as exact representations of the Equipment.
- 23 **Cancelled or Varied Orders** AFS reserves the right to charge for the cost of Equipment used or purchased and the cost of labour and transport incurred for any order cancelled or altered by Hirer.
- 24 **Limited Warranty** AFS warrants that the Equipment will be of merchantable quality and free from defects. All other warranties, expressed or implied, are hereby excluded.
- 25 **Limitation of Liability** Notwithstanding anything else contained in these Terms of Hire. AFS shall under no circumstances be liable to Hirer in connection with the supply of the Equipment and Services for any loss of use, loss of profit or consequential loss, whether arising in negligence or otherwise. To the extent permitted by law, AFS's liability to Hirer is limited to the resupply of the Equipment or Services.
- 26 **Delays** AFS shall not be liable to Hirer for any costs, losses or damages caused by any delays in delivery or erection, which are beyond the reasonable control of AFS.
- 27 **GST** Hirer shall pay to AFS the amount of GST at the same time as payment is made for goods or services including any other applicable taxes and statutory charges.