

General Terms and Conditions of Supply and Installation

The General Terms and Conditions of Supply and Installation apply in respect of all offers to sell, quotations, purchase orders, contracts and other commercial transactions for the supply of Products, or supply and installation of Products by Build Technologies Pty Ltd, ABN : 68 104 143 795 (“Build Technologies”)

These General Terms and Conditions of Supply and Installation shall be coexistent with and be read in conjunction with any special conditions of Supply and Installation except where the latter specifically vary or override these General Conditions of Supply and Installation or any one of them. Except as otherwise expressly agreed upon in writing between the parties, the terms and conditions contained herein shall apply not withstanding any provisions to the contract which may appear on the other form or any other documentation issued by the Customer/Client.

1. Terms of Payment

Unless any special conditions of Supply and Installation shall specifically provide to the contrary, the following conditions shall apply:

- a) Subject to sub-paragraphs 1(b) and 1(c) the Customer/Client shall pay Build Technologies 50% of the quoted price prior to commencement of production and the balance 50% to be paid immediately upon delivery of the Products or the supply and installation of the Products as the case may be. Where delivery of the Products is affected by way of part deliveries or part installations as the case may be Build Technologies shall be entitled to prorate progress payments in respect thereof.
- b) Notwithstanding sub-paragraphs 1(a), where Build Technologies grants credit to the Customer/Client, the Customer/Client shall pay Build Technologies within 14 days from date of invoice for which the Products or the supply and installation of the Products were purchased/ordered. The granting of credit to the Customer/Client shall be at the absolute discretion of Build Technologies.
- c) When any payment is due upon delivery, installation, commission or test samples, which is delayed by the Customer/Client, then such payment shall be made as though such delivery, installation, commission or test had been completed. Any extra costs thereby incurred by Build Technologies shall be to the Customer/Client’s account.
- d) A failure by the Customer/Client to make payment in accordance to clause 1(b) shall cause interest to run against the Customer/Client at 3% per month till actual settlement.

2. Price

- a) Prices quoted are net.
- b) General
Unless otherwise stated prices quoted are based on the rates of labour, materials, parts, equipment required to be purchased/leased as components, parts, other products, access costs, freight, transportation, insurance premiums, customs duties, and other taxes and statutory charges, shipping expenses, sorting and stacking charges, cartage and rates of exchange etc. current at the date of quotation. Where relevant amounts actually and properly paid by Build Technologies for any of the items differ from the amounts included in the quoted price as a consequence of a variation in any of the foregoing rates occurring from any cause the quoted price will be adjusted and the Customer/Client charged accordingly. Any and every contract is entered into by the Customer/Client subject to such condition. Without limiting the generality of the term “rates of labour” any variation in any status, legislation, regulation, award, or determination by which rates of pay are varied or by which hours of work are reduced for holidays, sick leave, or any benefit or amenity is varied shall be deemed to be a variation in the rate of labour.
- c) The Customer/Client shall make payment of any increase in prices quoted within seven (7) days of a claim in writing for the same.
- d) All quotations are subject to withdrawal or change at any time until the Customer/Client’s order has been received and accepted by Build Technologies.
- e) Unless otherwise stated, all quotations will remain valid for a period of thirty (30) calendar days from the date of the original quotation.

3. Taxes and Duties

Prices quoted by Build Technologies shall include sale tax and GST. The Customer/Client will pay all sale tax and GST, as expressed in the quote.

4. Delivery

- a) Any delivery date(s) and/or time(s) are given in good faith, but Build Technologies will not be subject to nor incur, and the Customer/Client hereby expressly releases Build Technologies from any claim, action or liability (including) direct, indirect, special, general, or consequential loss or damage) arising from or because of any delay in delivery including off loading or misdirection in transit or arising from or because of any short or partial delivery, or non-delivery, or any deficiency in the Products, or the absence of any part or accessory or the Customer/Client’s inability to use the Products on account of any of the foregoing.

- b) Notwithstanding and without in anyway limiting or restricting the foregoing the Customer/Client expressly acknowledges and agrees that the Products may be delivered in one or more instalments.
- c) In the case of Products specifically ordered by the Customer/Client from Build Technologies to the Customer/Client's own specifications ("specially ordered Products"), Build Technologies shall be at liberty to invoice the Customer/Client after the expiration of fourteen (14) days from the date of receipt by Build Technologies' premises of the specifically ordered Products.
- d) Collections of the Products by the Customer/Client from Build Technologies premises shall be deemed as delivered by Build Technologies. Delivery is deemed effected once Products are loaded onto Customer/Client's vehicle.

5. Risks

The responsibility of Build Technologies for all the Products ceases upon delivery or supply and installation of the Product notwithstanding that the property in the Products may not at that time have passed to the Customer/Client, the Products shall from the time of such delivery be at the Customer/Client's risk and all risks of carriage including insurance shall be borne by the Customer/Client.

6. Damage

- a) The Customer/Client will be responsible for immediate examination of the Products upon delivery, or supply and installation. In the event of any of the Products arriving in a damaged condition, including damage incurred in the course of transit, the Customer/Client must report the matter in writing to Build Technologies.
- b) Subject to any rights the Customer/Client may have under the Trade Practices Act 1974 or any other relevant statute Build Technologies shall in no circumstances be liable for, nor will any claim in respect thereof be made or entertained, unless notice of the damage complained of is reported to Build Technologies in writing within 48 hours of delivery. This clause shall be without prejudice to any other clause(s) herein which limit the liability of Build Technologies.

7. Customer/Client's Responsibility

- a) It is the Customer/Client's responsibility to satisfy himself that the Products are of a description, quality and character suitable for the purpose for which they are purchased or any other purpose and subject to any legislation to the contrary Build Technologies shall not be liable in anyway whatsoever for any loss or damage (including direct, indirect, special, general or consequential), howsoever arising from the delivery, or supply and installation or from the failure of the Customer/Client so to satisfy himself. In this regard the

Customer/Client is deemed to have had their Consultant Engineer confirm acceptance of the Products for its purpose (where applicable).

8. Access

It shall be the Customer/Client's responsibility to obtain and provide access, services, facilities, permits, approvals or licenses, as may be necessary or required for Build Technologies to perform its obligations under the Contract.

9. Force Majeure

Build Technologies shall be under no liability whatsoever in connection with or as a result of any loss caused by the failure of Build Technologies to deliver the Products or the Supply and Installation of the Products or otherwise to complete its obligations under the contract by reason of, whether wholly or in part or directly or indirectly, any Act of God, flood, fire, lightning, storm, tempest, rains, enemy, hostilities, seizures, loss at sea, strikes, lockouts, or other industrial disturbances, riots, mechanical breakdown, non-delivery or shortage of materials, inability to obtain equipment or material, laws, rules or regulations, of a governing body or any other reason whatsoever outside the control of Build Technologies.

10. Termination

Build Technologies may at its option terminate the contract by notice to the Customer/Client if the Customer/Client at any time dies, becomes incapacitated or bankrupt, enters into liquidation or a scheme of arrangement or any composition with its creditors, is put under official management, is wound up, otherwise commits any act of bankruptcy, the performance of any obligation under the contract and any such termination shall be without prejudice to the rights of Build Technologies to recover any loss consequent upon any of the events mentioned and Build Technologies expressly reserves such rights.

11. Governing law

The governing law the construction and performance of the contract shall be the law of the Western Australia where the contract is made.

12. Return of Products

- a) Subject to the following sub-paragraph of this clause Build Technologies will not accept the return of Products (unused/uninstalled) unless prior written authorisation has been obtained from Build Technologies.
- b) Return of Products will only be accepted subject to the following conditions:



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- i. if returned in their original packing;
 - ii. if the freight for such return shall have been pre-paid by the Customer/Client;
 - iii. payment of a restocking fee of 20% of the purchase price of the Products returned.
 - iv. inspection upon receipt.
- c) The Customer/Client acknowledges and agrees that Products specially ordered in will not be accepted for return.
- d) If Products which are regular stock lines of Build Technologies are returned within fourteen (14) days from the date of delivery subject to clause 12 (b).

13. Notices

Notice hereunder to the Customer/Client may be sent by ordinary post to the Customer/Client at its address last known to Build Technologies and shall be deemed to have been received by the Customer/Client two (2) working days following the day of posting.

14. Protection of Title

- a) Ownership in the Products shall not pass or be deemed to have passed to the Customer/Client until the Customer/Client has paid therefore and shall have discharged all other indebtedness to Build Technologies. on any other account whatsoever or until such time as the Customer/Client sells the Products to his customer bona fide at market value as the case may be;
- b) Where the Products have been delivered or supplied and installed but Build Technologies has not been paid then until such time payment is received the Customer/Client agrees to keep the Products as a fiduciary for Build Technologies and to store or otherwise hold the Products in a manner that clearly shows ownership of Build Technologies;
- c) The receipt by Build Technologies of any cheque, bill of exchange, or promissory note shall not be deemed to be payment in any respect until the same has been honoured or cleared and until that occurs Build Technologies' rights, powers and remedies against the Customer/Client and/or the Products remain unaffected altogether;
- d) If any of the Products are incorporated in or used as materials or components for other products before payment to Build Technologies the property in the whole of the Products shall remain with Build Technologies until payment is made or the other products have been sold to the Customer/Client's customer bona fide and at market value and all of Build Technologies' rights hereunder in the Products shall extend to those other products.
- e) If payment for any Products is not made with the terms specified in whole or in part then Build Technologies

may (without prejudice to any of its other rights) recover and resell the Products or any part thereof.

- f) The Customer/Client hereby irrevocably grants to Build Technologies, its agents and servants an unrestricted right and license, without notice, to enter premises occupied by the Customer/Client to identify and remove any of the Products property of Build Technologies in terms of this clause as aforesaid without in anyway being liable to the Customer/Client or any person claiming through the Customer/Client. Build Technologies shall have the right to sell or dispose of any of such Products so removed or otherwise in its sole discretion and shall not be responsible for any loss occasioned thereby.
- g) The Customer/Client shall not deal with or dispose of the Products or any components or parts thereof until the ownership in the Product has passed to the Customer/Client.

15. Limitation of Liability

Build Technologies shall not be liable to the Customer/Client or to any other person for any loss or damage arising directly or indirectly in connection to the supply or the supply and installation of the Products pursuant to the contract.

Nothing herein contained shall be read or applied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any Products or the supply and installation of the Products pursuant to the contract of all or any of the provisions of any applicable legislation or any relevant State Act or Territorial Ordinance ("the Acts") which by law cannot be excluded, restricted or modified, provided that to the extent that any of the Acts permits Build Technologies to limit its liability for the breach of any condition or warranty applying under or by virtue of any of the legislations and Acts then Build Technologies' liability for any such breach of any condition or warranty applying under or by virtue of any of the legislation and Acts then Build Technologies' liability for any such breach shall be limited to the extent permitted by such legislation and Acts and subject thereto, to:

- a) In the case of Products or the Supply and installation of Products, such one or more of the following as Build Technologies in its absolute discretion determines;
 - i. the replacement of the Products only or the supply and installation of equivalent Products;
 - ii. the repair of Products only or installation work;
 - iii. the payment of the cost of replacing the Products only or of acquiring equivalent Products;
 - iv. the payment of the cost of having the Products only and installation repaired; or
- b) All other conditions and warranties which might otherwise be implied herein by law and which may be

excluded are hereby expressly excluded in respect of the Products or supply and installation of the Products under

v. Functional difficulties or defects in the Products attributable to improper installation of



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- the contract or any agreement supplemental thereto.
- c) Notwithstanding the generality mentioned here above Build Technologies expressly excludes liability for all ancillary cost associated with the replacement of the Products and the supply and installation of the Products, consequential loss or damage in relation to the supply or the supply and installation of the Products including but not limited to the loss of profit, business, revenue, goodwill or anticipated savings.

16. Warranty

Unless special conditions of the Products or Supply and Installation of the Products shall specifically provide to the contrary the following shall apply:

- a) Subject to the exceptions expressed by Build Technologies, Build Technologies warrants that the Products and all components of the Products are new. The Products shall be free from defects in material and workmanship under conditions of normal use and maintenance. Build Technologies provides the Customer/Client a warranty of twelve (12) months for Product imperfections in installation and workmanship defects.
- b) Provided always that the warranty shall not apply in any of the following circumstances or cases:
- i. Functional difficulties or defects with the Products attributed to the fact that the Customer/Client has made or caused or allowed to be made any change, modification or alteration to the Products or has installed or caused or allowed to be installed any attachment to the Products.
 - ii. Functional difficulties or defects with the Products attributed to operation or maintenance of the Products in disregard of any specifications delivered to the Customer/Client at or about the time of delivery of the Products or any other instructions concerning the Products, which may from time to time be issued by Build Technologies.
 - iii. Functional difficulties or defects with the Products attributable to improper handling or unsatisfactory and/or improper maintenance or repair of the Products or the use of parts not supplied by Build Technologies.
 - iv. Functional difficulties or defects in the Products which are not verified by Build Technologies as being attributable to any defect in materials or workmanship.

the coating system, and coating of the Products has not been applied in accordance with guidelines, instructions, specifications, utilising prescribed methods and equipment for application of the system.

- vi. Functional difficulties or defects in the Products attributable to structural or substrate failures, cracks and or imperfections resulting in damage to the Products, components of the Products, coatings of the Products.
 - vii. Functional difficulties or defects in the Products attributable to up-lifting and/or bonding failure of the coating due to substrate hydrostatic pressure.
- c) Subject to the exception expressed in their General Conditions of Supply and Installation Build Technologies warrants that when it repairs the Product or any component of the Product or the installation of the Product, that Product or any component of that Product shall be free from defects in material and workmanship under conditions of normal use and maintenance within the 12 months warranty period.
- d) Provided that the warranty shall not apply in respect of the following circumstances or cases:
- i. Any accessories or proprietary fittings whatsoever by the Customer/Client; or
 - ii. Any defective component or part or parts of such component which, in the opinion of Build Technologies was damaged by wear and tear, the use of any product, item or chemicals or solutions not approved by Build Technologies the lack of proper maintenance, prolonged or improper storage or any form of improper operation or use of the Product or component of the Product by the Customer/Client, or any alteration whatsoever made to the Product or component of the Product or any part or parts of the Product or component of the Product by the Customer/Client.
- e) Limit of Liability:
- i. It is expressly agreed that Build Technologies shall in no event be liable for any damage whatsoever whether direct, indirect, special, general or consequential and howsoever arising (including damage suffered as a result of the negligence of Build Technologies or its servants or agents) for breach of either Warranty contained in sub-paragraph (a) or (b) of this clause (hereinafter in this clause jointly and severally called 'the Warranty') and that

the sole and exclusive remedy of the Customer/Client for the breach of the Warranty shall be to:

- ii. Require Build Technologies to repair or replace at the absolute discretion of Build Technologies any part or parts of the Products not complying with the Warranty or to pay for the cost of replacing or repairing any part or parts of the Products not complying with the Warranty; or
- iii. In the case of components of the Products to require Build Technologies to repair the component or parts of the components or to pay for the cost of repairing the component or parts of the component of the Products.

g) Conditions of warranty: It is a condition of the Warranty contained in this clause that in respect of any claim under the warranty the Customer/Client shall:

- i. File a warranty claim on the form prescribed from time to time by Build Technologies not later than seven (7) days from the discovery of any defect;
- ii. Give full particulars in the claim of the alleged defect and the reasons for alleging that such defect is due to defective materials or workmanship.



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This limited warranty does not include workmanship performed by any other person or firm installing Build Technologies Products, including but limited to the alteration of the Product/components of the Products/coating, or cover any condition due to algae growth, fading, staining, disfiguration, discoloration of the surface coating, or water penetration caused by any type of building failure, structural defects, movement, poor construction practices, faulty construction materials, abnormal stresses, exposure, expansion joints, areas requiring caulking, fire, any damage to the building during or after construction, water penetration originating from adjacent concrete, any water penetration due to mechanical damage and abuse or wear beyond that envisioned by Build Technologies.

This limited warranty is solely intended to cover the integrity in Build Technologies Products for normal use. It does not include occurrences or events howsoever caused either by the owner or any other third persons, including but not limited to; damage caused by misuse, natural occurrences or acts of god (i.e. earthquake, flood, tornado), vandalism, civil disobedience, or any condition caused by damage to the substrate to which Build Technologies Products has been applied, or by any deliberate act or negligence.

- f) The warranty applies only within Australia and to:
 - i. in the case of Products, only the original Customer/Client to whom the Products was delivered or Supplied and Installed.
 - ii. in the case of components of the Products, only the original Customer/Client to whom the component of the Products was delivered or Supplied and Installed.

17. Suspension of Supply

Payment for any Products sold supplied and installed shall become immediately due upon default by the Customer/Client in payment of any other Products sold supplied and installed by Build Technologies to the Customer/Client and Build Technologies shall be entitled to suspend the supply of further Products to the Customer/Client.

18. Reservations/Confidentiality

The Customer/Client shall not copy, reproduce or have copied any product or part of any drawing specification or other technical data in regard thereto which may be supplied or provided arising out of a quotation or the contract.

Unless otherwise stated all specification, drawings and particulars of weight, dimensions and performance characteristics submitted are approximate only and the descriptions and illustrations contained in catalogues, price lists, and other written material are intended merely to present a general idea of the Products described therein and none of the foregoing shall form part of the contract.

All technical data, drawings, plans designs, systems configurations and systems ("Confidential Information") is the property of Build Technologies. The Customer/Client shall hold the Confidential Information in confidence and shall not disclose the Confidential Information to any third party.

