**Terms and Conditions of Sale**

**1 Definitions and Interpretation**

**“Customer**” means the purchaser of the Products or Services specified in the Order.

**“Order”** means the order submitted by the Customer for Product or Services with other particulars required by the Seller, including full Product and Services description and details regarding freight and delivery matters, which may incorporate by reference any quotation supplied by the Seller.

**“Product”** means products or goods sold by the Seller to the Customer specified in the Order.

“**Seller**” means Select Haus Pty Ltd ABN 35 664 800 533.

**“Services”** means services provided by the Seller to the Customer specified in the Order.

Words importing any gender include each other gender, the plural includes the singular and vice versa and a reference to a body corporate includes a natural person and vice versa.

All dollar amounts stated in this agreement are in Australian dollars and the symbols “$” and “AUD” have a corresponding meaning, unless the Order expressly provides otherwise.

**2 General**

These Terms and Conditions of Sale set out the terms and conditions relating to the purchase of Products and Services by the Customer from the Seller, and the supply thereof by the Seller. These Terms and Conditions of Sale can only be amended or waived in writing, signed by the Seller.

By the Customer submitting an Order the Customer confirms having the opportunity to read these Terms and Conditions of Sale, and shall be deemed to have read and to have agreed to these Terms and Conditions of Sale.

**3 Seller’s quotation**

Unless previously withdrawn, the Seller’s quotation of the purchase price for the Products and Services and the description of the same is valid until the expiry date stated in the quotation.

The purchase price for the sale of Products and provision of Services will comprise Product price, plus extras (for example roofing or extra flooring or windows) and delivery costs as specified in the quotation.

The Product does not include foundations, site preparation, Council or other approvals, Product assembly or any other materials or work not specified in the Order.

**4 Orders**

To place an Order, the Seller requires the payment by the Customer of 50% of the product price plus any extras or options (not including delivery charges) set by the Seller in the quotation.

The Customer acknowledges that delivery charges for the Product from the place of dispatch by the Seller to the nominated delivery address of the Customer are the responsibility of the Customer. The Seller will supply an amount of delivery charges in the quotation. The delivery charges will be advised and must be paid three business days prior to the scheduled date for delivery.

Orders received quoting an incorrect price or specifications, and where the required payment is not received, will not be processed. The Seller may in its discretion accept any Order received.

Acceptance by the Seller of the Order will be confirmed by the Seller.

Before placing an Order, the Customer should enquire to the relevant local Council or other authority whether approval is required to erect and maintain the Product. It is the sole responsibility of the Customer to ensure all uses are permitted by the relevant local Council or other authority.

The Seller is not, nor shall the Seller ever, be responsible for the assembly or construction of a Product, or the ultimate use thereof. The Product or Services are not, nor to be deemed to be, a building. The Customer bears all responsibility for the assembly or construction of the Product and the ultimate use thereof the particulars of which are not known to the Seller. To the maximum extent permitted by law, the Customer releases the Seller from all liability in this regard.

Although care is taken to maintain current information, it is possible that information on the Seller’s website and in other published material, including product descriptions and pricing, may vary from time to time and not be current at the time the Customer places an Order. All information set out in the Seller’s quotation overrides and prevails over such website or other published material to the extent of any inconsistency. Only Orders that are confirmed by the Seller are valid.

The Customer acknowledges and agrees the Seller may change, discontinue or substitute part or all of the Product with other product of the same or better quality or value.

The payment required from the Customer at the time the Order is placed is a genuine estimate of the costs the Seller will incur to process the Order at that time, and accordingly, to the maximum extent permitted by law, the payment received from the Customer is not refundable.

**5 Payment**

After acceptance by the Seller of the Order the Seller will issue a Tax Invoice and send this to the Customer.

Payment of the balance of the amount specified in the Order is required prior to dispatch of the Product to the Customer’s designated delivery address.

If the Product is available for delivery and the Customer requests the Seller to delay immediate dispatch the Customer must pay the balance of the amount specified in the Order when the Seller notifies the Customer that the Product is available for dispatch.

The balance of the amount specified in the Order plus delivery charges as subsequently advised by the Seller to the Customer must be paid by direct payment or other method permitted by the Seller and be received in cleared funds at least three business days prior to scheduled date for delivery of the Product to the Customer.

The Customer is liable for all expenses (including expenses such as debt collection commission and legal costs on an indemnity basis) reasonably incurred by the Seller to enforce obligations or recover money due by the Customer.

If the Product is available for delivery and the Customer fails to pay the balance of purchase price within 14 days of the scheduled date of delivery the Seller may terminate this agreement whereupon all money paid is forfeited to the Seller on account of the loss, cost and damage the Seller will suffer, incur or sustain, and in addition the Seller may in its discretion commence recovery action for the balance of the amount specified in the Order and for loss or damage occasioned by the breach of this agreement by the Customer.

Despite the preceding paragraph, if the Product is available for delivery and the Customer does not pay the balance of the amount specified in the Order within 14 days of the scheduled date of delivery, the Seller may in its discretion cancel the Order and resell the Product.

The Seller does not provide refunds, unless required by law. In the event of a change in Product model required by the Customer, the Customer may contact the Seller and request credit in lieu of another Product model for the Seller to consider in its discretion.

**6 Delivery**

Delivery charges vary according to the delivery area.

The estimated time for delivery is calculated when the Customer places an order. The Seller cannot guarantee immediate delivery due to shipping, work stoppages and clearance delays. The Seller will endeavour to keep the Customer informed of the estimate delivery schedule.

The Seller shall not be liable for any delays in delivery.

Delivery will be made by a freight company utilising a flatbed hiab crane equipped truck (or similar) for unloading.

Even though all reasonable care should be taken by the delivery operator, any damage to Customers lawns or driveways or other assets or on an adjacent area for the purpose of unloading, is the responsibility of the Customer.

The delivery times advised to the Customer are estimates only, based on information provided by shipping and delivery agents. The Seller is not liable for late delivery or non-delivery. The Customer indemnifies the Seller in respect to any claim made against the Seller by the Customer arising out of loss or damage occasioned by late or non-delivery.

The Customer must ensure someone with authority is present to accept the Product for the Customer at the time of unloading. Any unsuccessful deliveries or delays in unloading due to the Customer not being available at the time of unloading may result in extra charges being payable by the Customer based on the delivery operator’s company policy.

Upon receipt, the Customer shall inspect the Product for any visible damages. The Customer shall in writing inform the Seller if there is any such damage immediately.

**7 Product assembly**

The Product is intended for DIY (Do it Yourself) assembly. This may be carried out by the Customer or by the Customer’s contractor.

The Customer is responsible for any necessary permits, site preparations and foundations as well as Product assembly.

The Seller may, in its discretion, recommend to the Customer or assist the Customer arrange a third-party contractor to assemble the Product for the Customer. Any such recommendation or assistance is strictly on the basis that the Customer has full responsibility for engaging, supervising and paying such third party. Further, although the Seller will use reasonable endeavours to recommend suitable and appropriate third-party contractors, the Seller is not liable or responsible for any act or omission of the said contractor, nor for any loss or damage to the Product or to any other property caused or contributed to by the third party contractor.

The Customer is responsible for complying with any building and safety codes in respect of the Product, including in respect of the assembly and ultimate use thereof.

Full assembly instructions for the Product will be supplied by the Seller, which should be observed by the Customer or their contractor.

For the warranty to be valid, the conditions of the warranty must be adhered to, particularly the requirement to timely treat or paint the timber to ensure complete protection from moisture ingress, UV and other environmental damage and to protect the Product against pests, ant and other infestation.

**8 Guarantee and Warranties**

Except as provided in these conditions and otherwise as permitted by law (including without limitation the *Competition and Consumer Act 2010)*, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the Products for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded. To the extent permitted in the *Competition and Consumer Act 2010*the Seller is not liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, layout, assembly, installation or operation or use of the Products.

The Seller’s liability for a breach of a condition or warranty implied by Part 3-2 Division 1 of the Competition*and Consumer Act 2010* (other than section 69) is limited to any one or more of the following:

1. replacement of the Product or the supply of equivalent the Product,
2. repair of the Product,
3. payment of the costs of replacing the Product or of acquiring equivalent Product.
4. payment of the costs of having the Product replaced.

The Seller ensures a five-year warranty to the original Customer. In the case of any defects in the materials should be notified to the Seller within 28 days of receipt of the Product (or of such date that any defect is first observed) in which regard time is of the essence. Any such claim by the Customer must be made in writing, stating the basis for the claim, including photographs, so that (if responsible) the Seller may determine the best means to rectify, if indeed this is necessary. The Seller shall repair or replace the covered defects, as appropriate.

This warranty is dependent upon the Seller having properly and timely assembled the Product according to any applicable building and safety code, and the Seller’s instructions, that timber treatment instructions have been followed and that there has no misuse, damage, neglect, negligence, improper maintenance, or improper adjustment of the Product have occurred.

All sizes listed in Product specifications can vary slightly due to the natural structure of timber. The natural properties of timber are not defects of the Product and are not grounds for a claim for repairs, replacements or refunds. The timber may expand or shrink slightly depending on the season, particularly if the timber has not been fully treated or painted as per the Seller’s instructions.

The Seller shall not be liable to any person for any loss or damage which may arise from the use of any of the information contained in any of the materials on the website or product specifications.

The Product must be assembled on sound foundations for the given ground conditions. The Seller will not be responsible for any subsidence in the assembled structure due to insufficient foundations.

The Seller shall not be held responsible for any business interruption, or potential loss of profits or any other damages.

9 **Retention of title**

Property of the Product will pass to the Customer only when the Customer has paid to the Seller the full invoiced price for all Product, and not earlier, unless the Seller so determines.

The Product is deemed received by the Customer from the Seller upon delivery of the Product to the Customer’s nominated delivery address.

Once the Product is delivered to the Customer’s nominated delivery address the Customer is responsible for any loss of or damage to the Product that occurs during and after the unloading process.

Except as set out in this agreement, the Customer is not entitled to offer, sell, assign, sub-let, charge, mortgage, pledge or create any form of security interest over, or otherwise deal with, the Product, the Seller or this agreement in any way.

**10 PPSR**

As security for the Customers obligations and liabilities under this agreement, the Customer hereby charges for the due and punctual payment and performance of those obligations and liabilities, all of the Customer’s legal and equitable interest (both present and future) of whatsoever nature held in any and all real or personal property (“Collateral”).

The Seller may register any actual or impending security interest (in any manner the Seller considers appropriate) in relation to any security interest contemplated or constituted by this agreement in the Collateral and the proceeds arising in respect of any dealing in the Collateral.

The Customer undertakes to: (a) do anything that is required by the Seller (i) so that the Seller acquires and maintains one or more perfected security interests under the PPSA in respect of the Collateral and its proceeds, (ii) to register a financing statement or financing change statement, and (iii) to ensure that the Seller’s security position, and rights and obligations, are not adversely affected by the PPSA; (b) not register a financing change statement in respect of a security interest contemplated or constituted by this agreement without the Seller’s prior written consent; and (c) not create or purport to create any security interest in the Product, nor register, or permit to be registered, a financing statement or a financing change statement in relation to the Product in favour of a third party without the Seller’s prior written consent.

The Customer (a) waives the Customer’s right under section 157 of the PPSA to receive a copy of the verification statement relating to a security interest created under the agreement; (b) agrees that to the extent permitted by the PPSA, the following provisions of the PPSA will not apply and are contracted out of: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notices to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143; and (c) agrees that the following provisions of the PPSA will not apply and Customer will have no rights under them: section 127; section 129(2) and (3); section 130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137.

Unless otherwise agreed and to the extent permitted by the PPSA, the Seller and Customer agree not to disclose information of the kind referred to in section 275(1) of the PPS Act to an interested person, or any other person requested by an interested person. The Customer waives any right the Customer may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of the above information. This Agreement is a security agreement for the purposes of the PPSA.

**11 GST**

In this agreement “GST” means any goods and services tax or any tax or imposts of a like or analogous nature that is imposed, assessed or levied in relation to any supply made of goods, services or of any other thing.

If GST is imposed, assessed or levied on any supply made under this agreement (“Taxable Supply”), then (unless the amount payable is already set out as being GST inclusive) the recipient of the Taxable Supply shall pay to the supplier, at the same time as payment is due (and if there is no other payment required, at the time of the supply), in addition to any other payment required by this agreement the GST imposed on the Taxable Supply calculated as such percentage of the GST exclusive value of the supply as is applicable, being the rate of GST imposed, assessed or levied on the Taxable Supply at the date the Taxable Supply is made.

The supplier of that Taxable Supply will deliver to the recipient GST tax invoice(s) for that Taxable Supply in a form that complies with the requirements of A New Tax System (Goods and Services Tax) Act 1999 (as amended).

**12 Return of Products**

The Seller is not under any duty to accept Products returned by the Customer and will do so only do so if approved by the Seller in its discretion in advance, in writing, in each individual case.

If the Seller agrees to accept returned Product from the Customer, the Customer must return the Products to the Seller to an address reasonable nominated by the Seller.

The Seller will not accept returned Products without having first received the Seller’s approval to the return in writing. All returned Products are to be accompanied by written approval to return Products.

Any returned Products must be of merchantable and resaleable quality and not damaged or otherwise defective, and complete in their original packaging.

Any returned Products must be accompanied by the invoice number by which the Products were initially supplied. Agreed returns will be credited at the original purchase price, less any subsequent price adjustment if applicable.

Any Products which are returned to the Seller without the Seller’s prior written approval for return, will be returned to the Customer at the Customer’s costs, or otherwise disposed by the Seller as the Seller determines.

**13 Cancellation of Orders**

No Order or part of an Order may be cancelled except with the Seller’s advance consent in writing and on terms which will indemnify the Seller against any possible losses.

**14 Legal Jurisdiction**

These Terms and Conditions of Sale are governed by the law of New South Wales. The Customer and the Seller hereby agree to submit to the non-exclusive jurisdiction of the Courts of that State.