

# FORCE Precast Australia Pty Ltd Terms of Trade

The following are Terms of Trade for FORCE Precast Australia Pty Ltd (hereafter called Force). This document serves to govern the relationship between Force and its Customers.

Please take the time to review this document. If you use Force services and products you acknowledge and agree that you accept to abide by and be bound by the Terms of Trade.

Force may from time to time amend the following Terms of Trade without notice.

An Agreement shall be considered to be entered in to upon verbal and/or written confirmation, called a purchase order, received by Force from the Customer on an official Customer letterhead.

Words herein used in the singular shall include the plural and vice versa, male terms shall include female and if a company is the party referred to the personal pronouns 'him' or 'his' shall be read as 'it' or 'its'.

**This Agreement** is made between the person or persons, company or companies (hereafter called 'the customer') & FORCE Precast Australia Pty Ltd (hereafter called Force) whereas the Customer wish to engage the services of Force for the purpose of works specified in the purchase order received by Force.

## 1.0 Definitions

'Customer' means any person or persons, company or companies that has elected to use the services and/or products provided by Force.

'Business' means the location or locations at which the Customer carries on business or businesses.

'Site' means the location or locations that the customer requires Force to carry out the works for which they have been engaged to perform as specified in purchase order.

'Administration Fee' means the fee payable by the Customer as described in clause 6.6.

'Administration Charge' means the charge imposed upon the Customer 14 days after Force payment terms on invoices have been breached as specified in clause 6.4.

'Day Sheet' means the document provided to the customer acknowledging works performed and materials used during the course of fulfilling the works on site.

## 2.0 Appointment

The Customer hereby appoints Force and Force hereby accepts the appointment to perform the services detailed in this Agreement as from the date specified in the purchase order.

## 3.0 Relationship

Nothing contained in this agreement shall be construed as implying that the relationship between the Customer and Force is that of partners, joint ventures, principal and agent, or employer and employee. The Customer and Force acknowledge and confirm their relationship as being that of independent contractors.

## 4.0 Obligations of Force

4.1 Force shall –

- (a) Will provide all current compliance documents, including superannuation, redundancy, long service leave, public liability insurance, work cover insurance, to the Customer upon request
- (b) Supply to the Customer a monthly site report detailing –
  - Works completed on site
  - Labour & consumables used on site

4.2 Force hereby indemnifies and shall keep indemnified the Customer and its contractors against any loss, damage, costs, charges or expenses whatsoever incurred by or in connection with any breach or default by Force of any of the Covenants or Provisions in this agreement to be performed or observed by Force

4.3 Where Force provides a written quotation for works, the quotation shall be valid for a period no longer than 28 days from the written date at which point a new quotation will be supplied upon request.

4.4 Force shall provide at its own expense all labour, materials and tools excluding plant, and anything else necessary for the proper carrying out and completion of the scheduled works except in so far as any alternative agreement expressly states.

4.5 Any materials used by Force in connection with the works to be performed shall be suitable and proper materials.

4.6 Where a written variation is requested by the Customer and accepted by Force a written amendment will be supplied by Force to the Customer for the requested variation.

4.7 Force will make every effort to ensure a Day Sheet is signed by an authorised representative of the Customer and the Customer acknowledges that this may not always be possible

- (a) The Customer acknowledges that if a Day Sheet isn't signed by an authorised representative of the Customer, a signature by Force management will be issued and considered acceptable by the Customer.

## 5.0 Obligations of the Customer

5.1 The Customer declares that they carry the necessary qualifications to professionally perform the work in which they engage.

5.2 The Customer declares that they are capable of paying all invoices in full within the payment terms provided by Force.

5.3 The Customer acknowledges that Force can change its pricing schedule with a minimum of 14 days notice in writing to the Customer

5.4 The Customer shall obtain and pay for all permits, fees, licenses, royalties and other expenses as are required for the execution of the scheduled works.

5.5 If any work to be performed by Force would or may be affected by defective or unsuitable work done or materials supplied by the Customer or by any other person, firm or corporation Force shall notify the Customer of the nature of such defect or unsuitability and Force shall comply with the direction of the Customer as to whether or not Force is to proceed with the work. Should Force fail to notify the Customer of any defect or unsuitability as aforesaid the commencement of work or part thereof will not be considered as evidence that Force has accepted the previous work as satisfactory and may require extra payment or recompense by the Customer for any loss, damage, or expense suffered or incurred by Force in making good any defects in work carried out by Force over other work and in such other work.

- 5.6 The Customer will not accept responsibility nor make payment for any work executed or materials delivered as a result of instruction from any person or organisation whatsoever other than from the Customer or authorised representative.
- 5.7 The Customer acknowledges that any variations in the scheduled works must be of a written nature and agreed upon by both parties.
- 5.8 The Customer acknowledges that any engagement of Force in a Day Labour capacity will be liable for a minimum charge of 4 (four) hours per worker with billing increasing by 1 (one) hour increments thereafter.
- 5.9 The Customer agrees that all day labour works outside of metropolitan area of Melbourne will be liable for a minimum charge of 8 (eight) hours per worker together with a one hour charge per way of travel per worker.

## **6.0 Payment**

- 6.1 Force payment terms on all invoices, unless otherwise specified, are strictly 30 days from the date of the invoice.
- 6.2 Payments of any contract works shall be paid monthly by the Customer in the form of periodic payments as specified by the amounts invoiced by Force and are governed by clause 6.1.
- 6.3 Force will give the Customer a 14 period of grace after the 30 day payment terms are passed before Force will impose a 2% Administration Charge per month or part thereof on the outstanding net invoice amount.
- 6.4 If and when the Customer becomes greater than 30 days in arrears of any invoice payment, services to the Customer will cease until such time that the invoice amount is received in full.
  - (a) The Customer will have 7 days to make full payment of the outstanding amount.
  - (b) Should the Customer fail to make payment in full as per 6.5(a), Force will engage the services of a professional collection agency to recover the outstanding amount. Any and all costs associated with the collection of outstanding monies will be atop the invoiced amount and payable by the defaulting Customer.
- 6.5 The Customer shall pay to Force an Administration Fee of \$150 for any payment returned, dishonoured, or otherwise not received by Force in addition to incurred bank fees and charges.
- 6.6 Force will accept payment of invoices via the following methods:
  - (a) Cheque
  - (b) Cash
  - (c) Electronic Transfer to our nominated bank account
- 6.7 Force will not consider any account to be paid until cleared funds have been received into our nominated bank account.

## **7.0 General**

- 7.1 No amendment, modification, termination or waiver of any provisions of this Agreement nor consent to any departure therefore shall in any event be effective unless same shall be in writing and signed by the duly authorised representative of each party hereto.
- 7.2 Any notice to be give under this Agreement may be given by facsimile, prepaid letter or email to either party at its business address stated herein for the time being or to such other address as may be notified from time to time to the other party in writing by giving 14 days notice in writing to the other.
- 7.3 The Customer does hereby covenant and promise to Force that if the business is at any time sold then the Customer will as vendor under any contract of sale include in the provision for such contract of sale: "The purchaser hereby covenants and agrees to duly perform all obligations which are incumbent upon the vendor pursuant to the terms of any agreement entered into between the Customer and Force".
- 7.4 The Customer does hereby covenant and promise to Force that if the business is at anytime voluntarily or otherwise put into liquidation or receivership the Customer will include Force as an official creditor to the Customer's business and notify Force of impending action against the Customer prior to commencement of any action being taken.
- 7.5 Where an Agreement has been entered into by both parties, it is understood that both parties, aside from the covenants and provision already outlined in these Terms of Trade, shall conduct their business with each other in a manner conducive to a courteous and respectful manner.
  - (a) Both parties will be honest, truthful and upfront with each other at all times whilst promoting complete transparency and cooperation if and when issues may arise.
- 7.6 FORCE Precast Australia Pty Ltd nominated bank details are as follows:
  - Please contact office for banking details.
- 7.7 Cheques and other correspondence can be addressed to:  
FORCE Precast Australia Pty Ltd  
PO BOX 6404  
Point Cook, VIC. 3030