

General

These terms and conditions ("Terms") govern each quotation, order and agreement ("Agreement") between K.J. Industrial Scaffolding Pty Ltd ABN 56 064 600 746 ("KJ") and the party named in the Agreement as the customer ("Customer") for the hire or supply of equipment ("Equipment") and services ("Services") by KJ. KJ may alter these Terms including rates from time to time by 14 days notice to the Customer.

Quotation

A quote by KJ is not to be construed as an offer to sell and is subject to variation and confirmation at the time of acceptance of the quote. Each quotation: (a) is valid for 30 days; (b) is subject to site inspection and availability of Equipment and Services and unless expressly stated otherwise is given on the basis of erection and dismantling in one continuous operation during normal work hours, once only construction of one level of boards, hop-up, ties, handrail, mid-rail and kickboard and craneage; (c) does not include hoardings, overhead protection, shade cloth or chain wire, transport or any required traffic controllers or barriers; and (d) is based on KJ's current Schedule of Day Labour Rates ("Labour") and a minimum of 4 hours is applicable for Labour and all extra hours performed under a specific site agreement will be invoiced monthly. Any additional work not specified in a quotation will be charged as Labour. Transport charges are based on full loads of material and where included in a quote, allows 45 minutes unloading or loading time at site. Additional time at site beyond the control of KJ will be as Labour. If an engineer's certificate is required, an additional fee is applicable.

Drawings, dimensions, weights, capacities and other specifications ("Information") given or indicated by KJ are approximations only unless expressly agreed in writing. KJ will not be liable for any loss arising from any failure to treat Information as an approximation only.

Hire Period

The Customer should consider the estimated hire duration before placing an order. For 'Hire Only' clients, hire commences from the date of delivery and ceases the day following written notification by the Customer that the scaffolding/materials are dismantled, sorted, cleaned and stacked ready for collection by KJ. For supply, erect and dismantle of Equipment, hire commences on completion of each stage of erection and ceases the day following notification of completion of the respective stage. If KJ is prevented from access to the relevant site for whatever reason, the relevant hire period will continue at the Customer's expense. To avoid any dispute, an off-hire number will be issued by KJ's Administration office at the Customer's request as evidence that the relevant equipment is off-hire. The Customer is encouraged to obtain such off-hire number to avoid continuing hire charges. KJ will not accept backdated off-hire notifications. If Equipment is lost during the hire period, hire charges will continue until the Equipment is returned to KJ or until such time as the Customer notifies that the Equipment is lost. The day of hiring and the day of return will both be charged as whole days.

Orders

The Customer agrees with KJ that each order placed by the Customer will be deemed to include a representation that the Customer is solvent and able to pay its debts as and when they fall due and when placing an order, the Customer undertakes to disclose to KJ any facts which may reasonably affect KJ's decision to accept the Customer's order and/or grant credit to the Customer and the Customer's failure to do so will be deemed to give rise to an inequality of bargaining position, the taking of unfair advantage of KJ and to be unconscionable and misleading and deceptive.

Payment

All payments by the Customer to be by cash, cheque, bank cheque or electronic funds transfer unless otherwise agreed in writing. KJ supplies Equipment and Services on the basis that they are paid for by the Customer. The Customer's obligation to make payment in accordance with these Terms will not be affected by the Customer's arrangements with any other party. If the Customer fails to make payment strictly in accordance with these Terms, all amounts owing by the Customer to KJ on any account will become immediately due and payable. Interest at the rate of 10 per cent per annum will be paid by the Customer on any overdue amount. Any expense incurred by KJ to recover payment from the Customer, including legal and other out of pocket expenses will be to the Customer's account. The grant of any credit facility or nomination of any credit limit is an indication only of KJ's intention at the time. KJ may vary and/or withdraw any credit facility at any time at its discretion and without any liability to the Customer or any other party. The Customer agrees to charge in favour of KJ the Customer's interest in any real property as security for the Customer's obligations to KJ under these Terms and any Agreement.

Delivery, Return and Cancellation

The Customer may provide a representative to check Equipment delivered and the time of delivery against the delivery docket. The delivery docket will be conclusive evidence as to the Equipment delivered if no representative is provided. Delivery and return dockets for Equipment must be checked and signed for at the time of delivery/ collection by the Customer's authorised

representative failing which KJ's records will be conclusive evidence of delivery/collection. The Customer must return all Equipment to KJ at the depot from which it was obtained during normal business. The Customer will be responsible for any cleaning of Equipment which KJ reasonably deems necessary. Equipment accepted for return must be in the same state and condition as when delivered to the Customer. A return must be accompanied by the original KJ invoice as proof of the relevant sale or hire. All equipment not returned to KJ will be charged in accordance with to KJ's current price list. KJ reserves the right to charge for any direct or indirect loss referable to any cancellation or variation required by the Customer.

Title

Despite any credit facility or other time or indulgence to the Customer, in the case of a sale of Equipment, property in such Equipment will not pass to the Customer until payment in full of all monies owed to KJ and KJ reserves the right to take possession of such Equipment as it sees fit at any time until payment in full of all amounts owing to KJ on any account by the Customer; in the case of a hire of Equipment, the Customer must not deal with such Equipment in any manner inconsistent with KJ's ownership. The Customer agrees that a certificate purporting to be signed by an officer of KJ identifying KJ's title to Equipment will be conclusive evidence of KJ's title. Equipment will be deemed to be dealt with by the Customer on a "first in first out" basis at all times. Upon sale or disposition of any Equipment prior to payment of all monies on all accounts owed by the Customer to KJ, the Customer agrees to deposit all proceeds in a separate bank account, not mix such proceeds with any other monies and account to KJ for the same as fiduciary and bailee. Without derogating from KJ's rights as a creditor of the Customer or arising under these Terms, if Equipment is used in any construction, building, fabrication and/or manufacturing process which results in an entitlement of the Customer to receive money from any other person, the Customer agrees to hold such monies received by the Customer and the right to such payment upon trust for KJ until payment in full of all monies owed to KJ. KJ has the right to inspect any Equipment in the Customer's possession or control upon reasonable notice.

Personal Property Securities Act

The Personal Property Securities Act, 2009 ("PPSA") applies to each Agreement.

For the purposes of the PPSA: (a) terminology used in this clause defined in the PPSA has the meaning given in the PPSA unless the context otherwise requires; (b) each Agreement is a Security Agreement and the Customer grants to KJ a Purchase Money Security Interest in all present and after acquired Equipment supplied by KJ to the Customer and the proceeds of the sale of any Equipment; (c) subject to the PPSA, the Security Interest under this Agreement is a continuing interest regardless of whether there is any obligation owing by KJ to the Customer at any time; and (d) the Customer must do whatever is necessary to give a valid Security Interest in respect of the Equipment which is able to be registered by KJ on the Personal Property Securities Register.

Any Security Interest arising under this clause attaches to the Equipment on the earlier of: (a) at the earliest time permissible under the PPSA; (b) as soon as the Customer has rights in the Equipment; and (c) when the Customer has possession of the Equipment.

Where permitted by the PPSA, the Customer waives any rights under, or to receive the notifications, verifications, disclosures or other documentation specified in section 95, Chapter 4 and section 157 of the PPSA.

To the extent permitted by the PPSA, the parties agree that: (a) the provisions of Chapter 4 of the PPSA which are for the benefit of the Customer or which place obligations on KJ will apply only to the extent that they are mandatory or if KJ agrees to their application in writing; and (b) where KJ has rights in addition to those in Chapter 4 of the PPSA, those rights will continue to apply.

The Customer, upon KJ's request, must immediately: (a) do all things and execute all documents necessary to give effect to any Security Interest created under an Agreement; and (b) procure from any person considered by KJ to be relevant to KJ's secured position such agreements, waivers and things contemplated by this clause as required by KJ from time to time.

KJ may allocate amounts received from the Customer in any manner that KJ determines, including in any manner required to preserve any Purchase Money Security Interest KJ has in the Equipment.

KJ and the Customer agree not to disclose information of the kind referred to in section 275(1) of the PPSA and each waives the right to receive anything from the other under section 275 of the PPSA.

Any Security Agreement arising under an Agreement will: (a) survive the expiry or termination of the relevant Agreement; (b) not merge on the completion of any transaction contemplated by the relevant Agreement; and (c) otherwise inure for the benefit of KJ as a secured party.

The Customer agrees to execute such documentation as required by KJ to record and perfect KJ's Security Interest in the Equipment on any public register including the Personal Property Securities Register or otherwise to protect the interests of KJ in the Equipment.

When the Equipment are located in New Zealand, a reference to the PPSA will be construed as the Personal Property Securities Act, 1999 (New Zealand) and the Customer agrees to execute such documentation as required by KJ to record and perfect KJ's Security Interest under that legislation.

Customer Responsibilities

The Customer is responsible for: (a) obtaining and paying all necessary local and statutory authorities' approvals and fees applicable to the supply of Equipment and Services including permission to encroach on adjoining building air space, road closure permits and pedestrian access diversions and KJ has the right to require evidence of such approvals prior to delivery of Equipment or provision of Services; (b) ensuring that the foundations on which Equipment is erected is adequate for the proposed load and otherwise structurally suitable and that false work/formwork does not interfere with the erection of Equipment; (c) ensuring that all Equipment is adequately insured under a Contractors All Risk Insurance Policy which is available for inspection on request by KJ; (d) obtaining appropriate engineering certification for support structures related to Equipment and Services; (e) procuring site amenities as required including the supply of required lighting, adequate electrical supply (Single phase 240volt/15amp per stage), any site fencing required to prevent public access including any chainwire and shadecloth and any other requirement of relevant state or territory law or the relevant Work Cover Authority; (f) ensuring that power lines are isolated prior to the erection and dismantling of Equipment in accordance with AS4576; (g) ensuring the nominated site for the Equipment and Services is cleared, free of rubble, levelled/backfilled and compacted prior to commencement of work by KJ; (h) in respect of permits, ensuring the isolation of power lines and the soundness of foundations; (i) ensuring that the relevant state and territory laws and Work Cover Authority requirements are strictly observed; (j) ensuring operators of the light swinging stage are present and available for induction training on the correct use of the stage upon the completion of the relevant stage which includes the daily completion of log books and ensuring the winch motors and dizzy boxes are covered at all times; and (k) ensuring the Customer's representative is available on site to sign KJ's Day Labour Sheets for completed work, and if not, KJ will be entitled to assume that the Customer has accepted the work as recorded on KJ's Day Labour Sheets.

Modifications

Unless otherwise agreed in writing, only KJ employees will be permitted to modify or remove Equipment erected by KJ. If Equipment (including any scaffold tie or compliance tag) is modified or removed other than in accordance with this clause, KJ will not be liable for any subsequent injury, loss or damage associated with the Equipment. The Customer absolves KJ from any responsibility or liability for the structural integrity of the Equipment or the safety of workers on the Equipment and agrees to indemnify KJ for any loss, damage, claim or expense KJ incurs referable to injury, loss or damage associated with the Equipment. Any request by the Customer for rectification of modified or removed Equipment will be at the Customer's cost.

Inspection

The Customer must have KJ's Occupational Health and Safety officer inspect all Equipment at intervals not exceeding 30 days as per AS4576 section 13.3. This Service will be charged to the Customer as Labour. The Customer expressly acknowledges that KJ takes no responsibility for any Equipment that has not been inspected within the required 30 day inspection period.

Equipment Care

During the hire period the Customer will be responsible for the Equipment and will use it in a skilful and proper manner keeping it in good and substantial repair and condition, reasonable wear and tear excepted. The Customer will not remove, deface or cover up any plates or marks on the Equipment indicating KJ's ownership. During hire, the Customer will be responsible for all theft, loss and damage to the Equipment and the cost of replacement or repair will be charged in accordance with KJ's then current price list. If lost Equipment is subsequently returned to KJ, KJ may credit the Customer for charges made by KJ in respect of the lost Equipment but will be entitled to compensation for lost income equal to the hire charge otherwise applicable.

Disclaimer and Indemnity

KJ will not be liable to the Customer for any cost, expense, loss or damage caused by delay beyond the reasonable control of KJ in delivery or erection of scaffolding. The Customer and KJ expressly agree that KJ will not be liable for any loss or damage (including without limitation, indirect, incidental, special or

consequential or punitive damage and loss of profits) in respect of the provision of Services or the supply of Equipment except as stipulated or implied by law and which cannot be waived by agreement or as set out in these Terms. The only conditions and warranties which are binding on KJ in respect of the state, quality or condition of Services or Equipment are those implied by law which cannot be lawfully modified or excluded and, to the extent permitted by law, all other conditions and warranties whether express or implied are excluded and negated. The Customer must indemnify and keep indemnified KJ against any liability, loss (including loss of profit), damage, disbursement, cost or expense incurred or suffered by KJ directly or indirectly related to any breach of these Terms including KJ entering upon any premises in exercise of its rights, any cancellation, variation or suspension of an order, failure to follow KJ's guidelines in relation to Equipment or Services or comply with relevant laws, regulations and standards applicable to the Equipment or the use of the Equipment and any action, proceeding, claim or demand against KJ by any third party in respect of any loss, injury or damage referable to an Agreement with the Customer.

Unforeseen Events

Any delay or disruption not caused by KJ will be charged by KJ as Labour. If Equipment cannot be installed for reasons beyond KJ's control, the Customer will be charged for the relevant Equipment calculated from the later of delivery of the Equipment and the date installation was scheduled to commence. KJ will not be liable for delays in delivery, erection, relocation, dismantle and collection due to inclement weather. In case of bad weather and high winds etc., scaffold boards may be tied down by KJ at the Customer's request and cost. KJ may cancel or suspend delivery of any ordered Equipment in the event of any delay or inability to perform due directly or indirectly to war, terrorism, strike, lockout, delay or default of a manufacturer or supplier, act of God, or any other cause beyond KJ's reasonable control.

Intellectual Property

Any Information supplied by KJ remains the property of KJ and constitutes confidential information to the extent that it is not in the public domain. The supply of Equipment to the Customer does not constitute a transfer or license of any intellectual property rights in the Equipment to the Customer. KJ does not warrant that its supply or the use by the Customer of the Equipment will not infringe the intellectual property rights of any third party whether such rights take the form of letters patent, registered designs, copyright, trade mark rights, or any other similar right.

Termination

KJ reserves the right to terminate an Agreement at any time by notice to the Customer. Such termination will not affect KJ's right to continue to charge the Customer for Equipment belonging to KJ not returned to KJ by the Customer. Such termination will not prejudice any then accrued right of KJ.

Goods and Services Tax

In these Terms, "GST", "Supply" and "Tax Invoice" have the meaning given to those terms in the A New Tax System (Goods and Services) Tax Act 1999 (Cth). Any amount payable under these Terms is, unless otherwise indicated, exclusive of GST and if there is a taxable supply the Customer must also pay the relevant GST.

Privacy

KJ will collect and deal with the Customer's personal information in accordance with the Privacy Act 1988 (Cth) and KJ may disclose personal information to KJ's related companies and advisors. KJ may use the Customer's personal information for marketing purposes. If the Customer does not consent to the use of their personal information for marketing purposes, the Customer must advise KJ in writing. If the Customer applies to KJ for credit, KJ may give certain information about the Customer, including identity particulars, to a credit reporting agency or credit provider.

Governing Law and Notices

This Agreement is governed by the law of New South Wales and KJ and the Customer submits to the non-exclusive jurisdiction of the courts of that State. Any notice to KJ must be to KJ's Administration Office at 116-118 Wentworth Street, Port Kembla.