

## 1. General

- 1.1 All quotations are made and all orders for goods, products and materials (Goods) are accepted by The Roofing Centre on and subject to the following general terms and conditions and any special terms and conditions which are agreed to by The Roofing Centre in writing. Unless otherwise expressly agreed by The Roofing Centre, previous dealings between The Roofing Centre and any Purchaser or the imposition of additional or alternative terms and conditions by a Purchaser shall not vary or replace these general terms and conditions or be deemed in any circumstances whatsoever to do so.
- 1.2 The Roofing Centre reserves the right to accept or decline, in whole or in part, any order for Goods placed by a Purchaser.
- 1.3 The agreement to supply Goods to the Purchaser starts on the date The Roofing Centre agrees to supply the Goods to the Purchaser. This may not be the date the order is received by The Roofing Centre.
- 1.4 The law applicable to the agreement between The Roofing Centre and the Purchaser is the law of the State or Territory in which The Roofing Centre office which received the Purchaser's order is located. The Roofing Centre and the Purchaser submit to the jurisdiction of the relevant State or Territory courts.

## 2. Price

- 2.1 The Roofing Centre maintains a price list which sets out indicative prices for Goods ordered on or after the date on which The Roofing Centre states the prices shall take effect. The Roofing Centre price list:
  - (a) may be varied by The Roofing Centre from time to time, provided that such variations only apply in respect of Goods ordered after the date of variation; and
  - (b) is subject to any contrary agreement (if any) between The Roofing Centre and the Purchaser regarding price.
- 2.2 Where a Consumer wishes to order Goods, The Roofing Centre will provide a quotation or otherwise notify the Consumer of a single total price, inclusive of GST, applicable to those Goods if the price is capable of being quantified. The Consumer shall be liable to pay The Roofing Centre all amounts on account of GST in the same manner and by the same means as all other charges. The Roofing Centre will issue a tax invoice showing the amount of GST in respect of the supply if requested by the Consumer.
- 2.3 The price of Goods specified by The Roofing Centre in any quotation:
  - (a) takes all precedence over indicative prices of Goods set out in The Roofing Centre's price list;
  - (b) will remain valid for a period of 30 days for an order made by the Purchaser in accordance with the quotation unless otherwise specified; and
  - (c) is subject to any other conditions specified in the quotation.
- 2.4 Unless otherwise provided, prices do not include delivery charges. Delivery charges vary by region, and will be advised to the Purchaser at the time the quotation is made or otherwise prior to the order being confirmed. Any delivery charge will be shown as a separate amount on the invoice if applicable. Long lengths (as defined by Local State Transport Authorities) will be subject to any additional delivery charge.
- 2.5 Unless otherwise requested by the Purchaser in writing, prices quoted provide for The Roofing Centre's standard packing arrangements which are available upon request from your customer service representative.
- 2.6 Where the prices specified for Goods do not include GST or any other tax or government impost, the invoice will show such charges as a separate amount if applicable. The Purchaser shall be liable to The Roofing Centre for all such GST, excise, sales, levies or any other taxes or charges which may be established or levied by any governmental authority (domestic or foreign) upon the Goods or any part of the Goods, or upon the manufacture, use supply or delivery of same.

## 3. Payment

- 3.1 Subject to clause 3.2, payment for Goods purchased from The Roofing Centre must be on a cash basis with placement of order unless otherwise agreed to by The Roofing Centre.

- 3.2 Where the Purchaser has established an approved credit account with The Roofing Centre the Purchaser shall ensure that payment for the Goods is made to The Roofing Centre in accordance with the terms agreed between The Roofing Centre and the Purchaser. All payments are required to be made by the Purchaser at least one hour before the time at which trading banks close for business to enable banking on or before the due date.
- 3.3 The Purchaser will not be entitled to any agreed settlement discount where the Purchaser does not make payment as required by clause 3.2. Where the Purchaser has made a payment by cheque and has been granted a settlement discount and the cheque is subsequently dishonoured, the Purchaser will not be entitled to the settlement discount and shall pay The Roofing Centre the full invoice price for the Goods.
- 3.4 The Roofing Centre reserves the right to charge interest on any amount overdue from the date it became due to the date payment is received at the rate of 1.5% above the prevailing rate charged by Westpac Banking Corporation to prime borrowers on overdraft accounts in excess of \$100,000.

## 4. Default

- 4.1 Where the Purchaser is not a Consumer and is in default in the performance of any of its obligations under these terms and conditions, The Roofing Centre may refuse, without prejudice to any other rights it may have under these terms and conditions or at law, to supply or deliver further Goods to the Purchaser until such time as the Purchaser has remedied that default, and / or may choose to terminate the contract.
- 4.2 If the Purchaser (including a Consumer) commences to be wound up or is placed under official management or into liquidation or has a receiver and/or manager appointed in respect of any of its assets or becomes insolvent, commits any act of bankruptcy or becomes subject to any other analogous event, The Roofing Centre may at its option exercise the following rights in addition to any other rights it may have under these terms and conditions or at law:
  - (a) suspend deliveries of further Goods to the Purchaser whether under this contract or otherwise; or
  - (b) terminate the contract in relation to Goods that have not been delivered.
- 4.3 All reasonable costs relating to any action taken by The Roofing Centre to recover monies due from the Purchaser (including, without limitation, legal or other debt collection costs) will be payable by the Purchaser.
- 4.4 If the Purchaser is a Consumer, and the Consumer is in default in the performance of any of its material obligations under these terms and conditions, The Roofing Centre may refuse to deliver further Goods until such time as the Purchaser has remedied that default and where:
  - (a) the Consumer has not notified The Roofing Centre of any damage, inaccuracies or defects under clause 8 of this Contract; and
  - (b) the Consumer does not remedy that default within 14 days of the Consumer receiving written notification, or such other time as may be agreed by the parties,
 The Roofing Centre may terminate the contract in relation to Goods that have not been delivered.

## 5. Specifications, materials or special orders

- 5.1 All descriptions, specifications, illustrations, drawings, data, dimensions and weights contained in catalogues, price lists / books or other advertising matter of The Roofing Centre or elsewhere are approximations only. They are intended by The Roofing Centre to be a general description for information and identification purposes and do not create a sale by description. The Roofing Centre reserves the right at any time to:
  - (a) produce Goods with such minor modifications from its drawings and specifications as it sees fit in accordance with The Roofing Centre's minor production tolerances and improvements made to Goods from time to time and.

- (b) alter specifications shown in its promotional literature to reflect changes made after the date of such publication.
- 5.2 The Roofing Centre shall not be bound to accept any change in product dimension, materials or finish, a reduction in the quantity ordered or other particulars of an order for Goods after The Roofing Centre has ordered special materials or commenced tooling for manufacture.
- 5.3 In the case of goods or components not of The Roofing Centre's manufacture, The Roofing Centre shall give the Purchaser and use its best endeavours to enforce at the cost of and for the benefit of the Purchaser, such warranties and guarantees as The Roofing Centre has obtained from its suppliers.
- 5.4 Where The Roofing Centre is required to order special material or qualities for which a supplier of The Roofing Centre requests minimum order quantities, the Purchaser may be requested to accept an increase of the minimum quantity required to be ordered by The Roofing Centre to fulfil the order and if so requested the Purchaser shall be obliged to accept and pay for such increase. The price for the additional product shall be determined according to the unit price for the products included in the order.
- 5.5 If The Roofing Centre is required to process the Purchaser's goods or materials then The Roofing Centre does not give any warranty or assurance that materials supplied by the Purchaser are suitable for such processing. The Roofing Centre accepts no responsibility and shall not, in any way be liable to the Purchaser for any damage done or caused to such materials or goods, except if you are a Consumer and such loss or damage arises from the negligence or wilful misconduct of The Roofing Centre or any of its officers, employees or agents.
- 5.6 The Purchaser expressly agrees that if the Goods, which are the subject of an order, are for a particular purpose or are required to possess certain characteristics, the Purchaser will specify that purpose or those characteristics in writing in the order.
- 5.7 If the Purchaser does not specify the particular purpose or the special characteristics in accordance with clause 5.6 and The Roofing Centre does not expressly confirm in writing that the Goods are reasonably fit for the specified purpose or that the Goods possess the specified characteristics, then unless the Purchaser is a Consumer, the Purchaser agrees that it did not rely on the skill or judgment of The Roofing Centre in relation to the suitability of the Goods for a particular purpose or the special characteristics possessed by the Goods.

## 6. Delivery and Risk

- 6.1 Unless otherwise agreed, the delivery of Goods is subject to the standard delivery conditions which are available on request from your customer service representative. The Roofing Centre may vary these standard delivery conditions from time to time, provided that such variations only apply to orders for Goods made after the date of that variation.
- 6.2 Unless otherwise agreed by The Roofing Centre, delivery of Goods shall be affected DAS (Delivery At Site or Store) during The Roofing Centre's standard delivery times as published from time to time (and available on request from your customer service representative) and shall be deemed to occur when the Goods have arrived and are ready for unloading at the nominated site or store (which may be the Purchaser's nominated carrier's depot, provided the Purchaser ensures there is suitable materials handling equipment available at the depot). The Goods are at the Purchaser's risk from the time at which they are delivered to the Purchaser or its nominee.
- 6.3 Where Goods are delivered DAS the following shall apply, unless otherwise agreed:
- the Purchaser shall be responsible for unloading the Goods and shall ensure that the Goods are unloaded without delay on arrival at the nominated site or store.
  - The Roofing Centre reserves the right to charge the Purchaser any costs which it incurs as a result of any delay by the Purchaser in unloading the Goods.
  - Where the Purchaser or his agent is not in attendance at the nominated site or store when the Goods arrive, The Roofing Centre reserves the right to unload the Goods and the Purchaser shall be liable to pay The Roofing Centre for the cost of this

unloading. In the event of the site or store being unattended the delivery docket/manifest signed by the cartage contractor shall be prima facie evidence of due delivery of the Goods. The Roofing Centre shall not be responsible for any Goods which are stolen, pilfered or damaged after being unloaded at an unattended site or store, including to a Consumer if the Consumer and The Roofing Centre had agreed delivery arrangements and the site is subsequently unattended.

- Where unloading of the Goods cannot be effected, the Purchaser shall be liable to pay The Roofing Centre all costs incurred by The Roofing Centre including, if applicable, a return delivery fee at the prevailing freight rates.
- 6.4 Dates and times quoted for delivery are estimates only. Maximum lengths for products vary by State and Territory and delivery of such will be determined by The Roofing Centre on a case by case basis.
- 6.5 The Roofing Centre shall not be obliged to complete any order in one delivery and expressly reserves the right to deliver by instalments. Where The Roofing Centre delivers by instalments each instalment shall be deemed to be sold to the Purchaser under a separate contract. Failure to deliver any one instalment by the time quoted for delivery of that instalment (if any) shall not entitle the Purchaser to repudiate the order.
- 6.6 Goods ordered for collection will be held for a maximum period of 10 working days after the specific collection date. If the Goods are not collected by that time, they may be delivered to (at The Roofing Centre's option) the Purchaser's site or store or to a store selected by The Roofing Centre and all costs incurred by The Roofing Centre in relation to the holding and delivery of the Goods shall be charged to and be paid by the Purchaser.
- 6.7 No defect or claim in respect of Goods delivered shall entitle the Purchaser to reject delivery of other Goods, which are not subject to any defect or claim, delivered as part of the order.
- 6.8 If The Roofing Centre is prevented either directly or indirectly from performing any of its obligations under these terms and conditions, including without limitation, making a delivery of the Goods or any part of the Goods by reason for Force Majeure it shall be entitled, at its option, by notice to the Purchaser, either to:
- extend the time for delivery of the Goods for a reasonable period; or
  - subject to refunding the Purchaser for any payment already made to The Roofing Centre in respect of those particular Goods (if any), to terminate this contract,
- and the Purchase shall not have any claim against The Roofing Centre for damages or any other remedy for breach of contract. "Force Majeure" shall mean an act of God, war, fire, strike, lockout, trade or industrial disputes, government interference, transport delays, accidents, breakdown of plant or machinery, non delivery or shortage of supplies or any other cause beyond The Roofing Centre's control.
- ## 7. Title
- 7.1 The Roofing Centre shall remain the legal and equitable owner of Goods supplied until The Roofing Centre has received in full the purchase price in respect of all Goods supplied by The Roofing Centre and all other moneys owing by the Purchaser to The Roofing Centre. In the case of payment by cheque, payment shall not be deemed to be received by The Roofing Centre until the same has been cleared by the bank on which it is drawn.
- 7.2 Until title to and ownership of the Goods passes to the Purchaser, the Purchaser must hold the Goods for The Roofing Centre as bailee, store the Goods properly and separately from the Purchaser's own goods, retain them in good and merchantable condition and fully insure the Goods against loss or damage, however caused. The Purchaser must not create any encumbrance over the Goods which is inconsistent with The Roofing Centre's title and ownership to the Goods.
- 7.3 If:
- any of the events in clause 4.1, 4.2 or 4.4 occur; or
  - in The Roofing Centre's reasonable opinion the payment of any amount in respect of the Goods supplied by The Roofing Centre is in jeopardy,

then the Purchaser irrevocably authorises a representative of The Roofing Centre to enter upon any site where the Goods are located to take possession of the Goods without any previous notice, and the Purchaser indemnifies The Roofing Centre against any action, claim or demand arising out of any act lawfully done by The Roofing Centre in the exercise of its powers and The Roofing Centre shall be further entitled to resell any Goods which it has so taken into possession. Where The Roofing Centre has taken possession of any Goods in accordance with this clause it shall be released from all its obligations under the contract of sale in respect of the Goods.

- 7.4 Where the Purchaser sells Goods to which it does not have title, the Purchaser shall receive the proceeds of sale of those Goods as trustee for The Roofing Centre and shall keep such proceeds in a separate account.

## 8. Damage, Inaccuracies and Defects

8.1 The Purchaser shall check all Goods received immediately upon unloading and shall notify The Roofing Centre of any inaccuracies or short supply of Goods or any damaged Goods within 7 days of the date of delivery of the Goods. The Roofing Centre will rectify any inaccuracies or short supply or damaged Goods as soon as it is reasonable practicable. The Roofing Centre will not be responsible for any loss or damage whatsoever and howsoever caused arising out of or resulting from such inaccuracies or short supply or damage, except if you are a Consumer and such loss or damage arises from the negligence or wilful misconduct of The Roofing Centre, or any of its officers, employees or agents.

8.2 Any queries regarding items shown on invoices issued by The Roofing Centre shall be lodged by the Purchaser with The Roofing Centre within 30 days of the issue date of the relevant invoice.

8.3 The Purchaser shall promptly notify The Roofing Centre of any alleged defects in the Goods upon becoming aware of the defect and shall provide The Roofing Centre with all relevant details to enable The Roofing Centre to assess the alleged defect.

## 9. Equipment

9.1 All roll toolage, shears, lifting and associated equipment which The Roofing Centre makes or obtains to produce the Goods, shall, unless otherwise expressly agreed by The Roofing Centre, be and remain the property of The Roofing Centre and any payment made with respect to them shall be deemed to be a charge in respect of their use. These and any other special tools, jigs, fixtures and patterns acquired or supplied by The Roofing Centre for the fulfilment of the order are the property of The Roofing Centre and are not to be used without its authority.

## 10. Warranties, Liabilities and Indemnities

10.1 Goods supplied by The Roofing Centre shall be installed in accordance with The Roofing Centre's recommended fixing procedures as published from time to time and available on request from your customer service representative.

10.2 The Roofing Centre acknowledges that certain laws may imply terms, conditions or warranties into contracts for the supply of goods or services that cannot be excluded. For example, for Consumers, goods come with non-excludable conditions under consumer protection legislation that they will be of merchantable quality and reasonably fit for the purpose for which they are supplied, and services come with non-excludable warranties that they will be provided with due care and skill and will be reasonably fit for their purpose. Nothing in these terms and conditions is intended to exclude or restrict the application of such laws.

10.3 Subject to the rights of Consumers set out in clause 10.2:

- (a) The Roofing Centre shall not be responsible for the consequence of any representation made or technical advice given by its employees, agents or sub-contractors in connection with the design, installation and use of the Goods, and the Purchaser agrees that all such advice is accepted by the Purchaser entirely at the Purchaser's risk;
- (b) or as otherwise expressly specified in the terms of any applicable written warranty provided by The Roofing Centre, The Roofing Centre's liability to the Purchaser (whether arising under statute, contract, tort (including negligence), equity or otherwise) for any

defect in the Goods, or the supply of the Goods, is limited, at The Roofing Centre's option to:

- (i). in the case of Goods, the repair of Goods, the replacement of the Goods or paying for the cost of repair or replacement of the Goods, or
  - (ii). in the case of Services, the resupply of services or paying for the cost of resupplying the services;
- (c) and also subject to clause 10.3(b), The Roofing Centre is not liable to the Purchaser or anyone else in connection with the Goods or the supply of the Goods including without limitation for:
- (i). any losses costs, damages, expenses, claims, demands, actions, suits or proceedings (including without limitation for damage to the Goods or injury to any person) arising from:
    - (A) the loading, unloading or delivery of the Goods;
    - (B) a failure to deliver, or delay in delivering, the Goods;
    - (C) a failure to install the Goods in accordance with The Roofing Centre's recommended fixing procedures as published from time to time;
    - (D) the removal of defective Goods or the installation of replacement Goods; or
    - (E) the use of any tool or equipment loaned or hired out by The Roofing Centre;
  - (ii). any direct, indirect or consequential loss or damage, any loss of actual or anticipated savings, opportunity, revenue, profit or goodwill, or other economic loss; and
  - (iii). any claim, action or proceeding by a third party against the Purchaser (or any loss, damages or liability incurred or suffered by the Purchaser as a result of any such claim, action or proceeding); and
- (d) the Purchaser indemnifies The Roofing Centre from and against all losses, damages, costs and expenses suffered or incurred by The Roofing Centre, and all claims, demands, suits, actions or proceedings made or brought against The Roofing Centre, arising out of:
- (i). The Roofing Centre's use of or reliance on any materials, design, drawing or specification provided to The Roofing Centre by the Purchaser (including any allegation or claim that any such use or reliance by The Roofing Centre infringes the intellectual property rights of any person);
  - (ii). any loss or damage caused by or during the processing of materials supplied to The Roofing Centre by the Purchaser; or
  - (iii). any loss or damage caused by any tool or equipment, or the use of any tool or equipment, hired out by The Roofing Centre to the Purchaser,

except if you are a Consumer and such a loss or damage arises from the negligence or wilful misconduct of The Roofing Centre, or any of its officers, employees or agents.

## 11. Miscellaneous

11.1 Non stock items are not returnable by the Purchaser to The Roofing Centre. The Roofing Centre may in its discretion accept the return of stock items and in so doing may charge the Purchaser a restocking charge.

11.2 Nothing in these terms and conditions shall constitute The Roofing Centre as a subcontractor of the Purchaser. The Roofing Centre's obligations are limited to those of a material supplier.

11.3 The Roofing Centre and the Purchaser may conduct business by Electronic Data Interchange (EDI). The Purchaser agrees that if it has EDI capability with The Roofing Centre's EDI is the preferred method of conducting business.

11.4 The Roofing Centre and the Purchaser agree that EDI will be conducted in accordance with the terms of any Electronic Trading Partner Agreement to which they are parties and into which these general terms and conditions of sale are incorporated. In these terms and conditions a Purchaser means a person, being an incorporated or unincorporated business or an individual, who acquires Goods from The Roofing Centre, and includes a Consumer. A Consumer means a person who has acquired Goods from The Roofing Centre for personal, domestic or household use and those Goods are ordinarily acquired for such use.