

Each time you accept a Quotation and place an order for frames and/or trusses from Bunnings, your order is placed on the basis of these terms and conditions (including any attachments), which form a contract between us once Bunnings issues an Order Confirmation. Any terms and conditions you may propose with an order or otherwise will not apply. Our Quotation and acceptance of your order are subject to these terms and conditions.

1 ACCEPTANCE OF ORDER

- 1.1 You acknowledge that the Quotation is an estimate only, which is valid for 60 days and will lapse after that time.
- 1.2 You may accept a Quotation by signing the Quotation and returning it to Bunnings or by issuing a purchase order.
- 1.3 Upon issue of an Order Confirmation, a binding contract exists between you and Bunnings on these Terms (**Contract**).

2 SUPPLY

- 2.1 Bunnings will supply and you will purchase the Goods in accordance with these Terms, the plans/drawings upon which Bunnings has provided a Quotation and accepted an order, the Quotation itself (as adjusted in accordance with these terms) and with any approved final drawings, if applicable.
- 2.2 You agree and acknowledge that:
 - (a) Bunnings relies on third party information and documentation and does not accept liability for error, discrepancy or omission contained in that information or documentation;
 - (b) Bunnings has designed and supplied the Goods in accordance with all applicable Australian Standards, however, you bear all risk of the structural integrity of the building;
 - (c) the roof trusses are only designed to support loads (e.g. heating/cooling units, goods storage, hot water systems, etc.) as specified in the Quotation and Delivery Documents and do not support "Fall Arrest or "Guard Rail" systems;
 - (d) ancillaries such as steel, packing, gable studs, sprockets, plaster noggins, valley boards, fascia, graded battens, cyclone ties, speed brace, joist hangers, nails, truss ties, strip flooring and extra floor trusses around pipes and ducts are not included unless specified as inclusions in the Quotation;
 - (e) the detailing assumes a structural timber fascia or metal fascia with structurally effective brackets;
 - (f) you must ensure that the Goods are installed and braced in accordance with all relevant and applicable building codes, building practices, Australian standards and any guidelines and Delivery Documents provided by Bunnings;
 - (g) Bunnings will not straighten studs for plaster;
 - (h) design assumes external bottom plates must be solid blocked to bearers; and
 - (i) Goods may contain formaldehyde and wax. Where the Goods comprise timber frames and/or trusses, exposure to wood dust or formaldehyde may cause irritation to eyes, respiratory or skin problems or cancer. You must ensure that all safety standards are complied with in relation to wood dust and formaldehyde and that appropriate safety equipment is provided to persons working with the Goods after delivery;
- 2.3 Any delivery date must be agreed in writing upon receipt by Bunnings of final, complete and accurate Information.
- 2.4 Bunnings reserves the right to extend any agreed delivery date by an appropriate period of time if there is:
 - (a) a failure by you to provide final, complete or accurate Information;
 - (b) any change in the Information;
 - (c) any time required to clarify, complete or resolve any ambiguities in the Information;
 - (d) any Force Majeure Event; or
 - (e) inclement weather.
- 2.5 If Bunnings is prevented from or delayed in doing anything required towards supplying you with the Goods by an event which is not within Bunnings' reasonable control (including a Force Majeure Event) then Bunnings may suspend its obligation to supply you for that period of time.
- 2.6 If you cancel or substantially change any part of your requirements for Goods after accepting a Quotation, you must indemnify Bunnings for all liabilities incurred by Bunnings including but not limited to raw material costs and work in progress.

3 ACCESS, DELIVERY & RISK

- 3.1 Bunnings will use its reasonable endeavours to deliver the Goods on the nominated or agreed delivery date provided that it is no sooner than 10 Business Days after you have given Bunnings all final, complete and accurate Information. Bunnings is not required to deliver the Goods earlier and does not guarantee delivery on a particular date. Bunnings will contact you approximately 10 days prior to manufacture of the Goods and will advise you of the expected delivery date. Bunnings will charge the balance of the price, with any applicable adjustments, when it manufactures the Goods.
- 3.2 Bunnings will arrange for delivery of the Goods at its cost to the Delivery Site by its freight subcontractor between the hours of 7.00am – 5.00pm on Business Days. However, any equipment required for unloading (other than the truck's crane) is at your cost.
- 3.3 You must provide to Bunnings, its employees, agents and subcontractors:
 - (a) non-exclusive access during usual business hours to the Delivery Site;
 - (b) clear and safe truck access to the location on the Delivery Site where the Goods are to be unloaded, and a safe environment for unloading (i.e. without power lines within 6 metres or trees within 3 metres of the truck, bog or other matters which may be unsafe); and
 - (c) a safe environment at the Delivery Site which complies with all relevant occupational health and safety requirements.

- 3.4 If truck access for delivery is required over a kerb, channel, footpath or car track, then to the extent permissible at law (including the Australian Consumer Law), Bunnings will not be liable for any damage which may result.
- 3.5 The driver must unload the Goods from the delivery truck onto the ground at the location on the Delivery Site which must be nominated by your representative. Any lifting of roof trusses to top plate is subject to local laws, Bunnings' prior approval and is at your risk. Bunnings will bear no liability for the suitability of the structure to bear the load under these circumstances and relies on your representative's representation that it is suitable if Bunnings is requested to so unload the Goods. You must arrange for a suitably qualified and experienced person to assist the driver in any such lifting.
- 3.6 If Bunnings' driver is unreasonably delayed by your, or any of your contractors, subcontractors, personnel or third party's acts or omissions in unloading of the Goods at the Delivery Site, Bunnings may charge you an additional \$20 per each five minutes of delay. Any redelivery is at your cost.
- 3.7 Bunnings' freight subcontractor may reasonably refuse to unload the Goods where the delivery requirements in these Terms are not met or where the freight subcontractor reasonably believes that it may be unsafe to do so. Redelivery will be at your cost under these circumstances.
- 3.8 Risk in the Goods passes to you upon delivery, which occurs upon unloading the Goods to the ground at the Delivery Site, or upon removal from the truck where Bunnings agrees to unload any roof trusses to the top plate. If Bunnings stores the Goods after the original intended or agreed delivery date, then you bear all risk in the Goods, including but not limited to the effects of weather or damage, during that storage until delivery occurs as well as any storage fees reasonably incurred by Bunnings. Storage is subject to space being available and Bunnings is only able to store Goods for a limited time. If you do not arrange to call up delivery of the Goods within 30 days after the commencement of the storage period, then, subject to all applicable laws, Bunnings shall invoice you any amounts owing for the Goods, treat the Goods as abandoned or uncollected goods and dispose of those Goods. Bunnings will be under no further liability to you in relation to those Goods. Costs to dump unusable Goods following this period at a waste facility will be charged to you, along with any other costs reasonably incurred by Bunnings in connection with the disposal of the Goods.
- 3.9 Bunnings reserves the right to engage an engineer, at your cost, to assess the integrity of the Goods following any period in storage and prior to delivery.

4 DELIVERY DOCUMENTATION

- 4.1 Upon Delivery, Bunnings will give you the following documents (**Delivery Documents**):
 - (a) a producer statement relating to the design criteria with which you must comply;
 - (b) any certification or form that Bunnings is required to provide to you by law; and
 - (c) layouts specific to the Goods supplied.
- 4.2 In addition to the Delivery Documents, you may also request, at your cost, that Bunnings provide you with any relevant letters of certification (which Bunnings is able to procure in accordance with the relevant state law) upon Delivery.
- 4.3 You consent to Bunnings giving a copy of the Delivery Documents to your customer or any subsequent owner of a property on a site to which we have delivered Goods under these terms and conditions where:
 - (a) the customer or subsequent owner is unable to contact you for any reason;
 - (b) you have gone out of business, ceased trading or are insolvent; or
 - (c) Bunnings decides in its sole discretion that it would be reasonable to do so.

5 TITLE

- 5.1 Title in the Goods remains with Bunnings until the later of delivery and when you have paid in full for those Goods (even if the Goods may be located on the Delivery Site or incorporated in works on the Delivery Site). Until title in the Goods passes to you:
 - (a) you hold the proceeds of any sale of the Goods on trust for Bunnings and must pay or deliver those proceeds on demand;
 - (b) you acknowledge and warrant that Bunnings has a security interest (for the purposes of the PPSA) in the Goods until title passes to you in accordance with this clause. You must do anything reasonably required by Bunnings to enable Bunnings to register its security interest, with the priority Bunnings requires and to maintain that registration; and
 - (c) the security interest arising under this clause attaches to the Goods when you obtain possession of the Goods and the parties confirm that they have not agreed that any security interest arising under this clause attaches at any later time.
- 5.2 Bunnings does not need to give you any notice under the PPSA unless the notice is required by the PPSA and that requirements cannot be excluded.
- 5.3 You must reimburse Bunnings for all costs incurred by Bunnings in exercising its rights under this clause 5.

6 SUBCONTRACTING

Bunnings may subcontract any part of the supply of the Goods, including but not limited to, detailing, manufacturing, or delivery services.

7 INSURANCE

- 7.1 Bunnings will have in place a public and product liability insurance policy of \$20m cover, per occurrence for public liability and per occurrence and in the annual aggregate for products liability, and all workers' compensation insurances which are required by law.
- 7.2 You must have in place a public liability insurance policy with not less than \$20m cover provided by a reputable insurer and all workers' compensation insurances which are required by law.
- 7.3 If required by Bunnings, you must provide evidence of the currency of any insurance policies to Bunnings.

8 YOUR INSTRUCTIONS

- 8.1 You must provide to Bunnings all complete, final and correct Information, and must clarify any inconsistencies, errors and omissions in the

Information, as soon as practicable but not less than 10 Business Days before the day on which the Goods are required to be delivered.

- 8.2 In the event of a discrepancy, figured will prevail over scaled dimensions.
- 8.3 If you wish to change your instructions to Bunnings, the Information, or an agreed delivery date (a **Variation**), then the change must be proposed in writing and you must provide Bunnings with any updated or replacement Information. The change is subject to Bunnings' agreement. Bunnings may accept the Variation you request on the condition that the price or the delivery date is varied.
- 8.4 Bunnings will tell you whether it accepts with the Variation within 5 Business Days of receiving your proposal (or in the case of a major Variation, within 15 Business Days) by issuing a Variation Notice in the form set out in the annexure to these terms.
- 8.5 Bunnings will not proceed with a Variation unless the Variation Notice states that the Variation is accepted and the Variation Notice is signed by you within the time frame specified in that notice.

9 PRICE AND PAYMENT

- 9.1 You must pay Bunnings the price set out in the Quotation (as adjusted in accordance with these terms and conditions) for the Goods.
- 9.2 If:
 - (a) final, complete and accurate Information is not provided by you at the time you accept a Quotation; or
 - (b) Bunnings discovers that Information attached to a purchase order received from you differs from the Information relied upon for the purposes of issuing the Quotation; or
 - (c) you make any amendments to the Information after Bunnings issues an Order Confirmation and those amendments require changes to the Goods or scope of work described in the Quotation,Bunnings reserves the right to increase the Price to cover its additional costs.
- 9.3 If delivery of any Goods occurs beyond 30 Business Days after the date Bunnings accepts your order then Bunnings may increase the price of the Goods to cover any increase in the cost of raw materials or labour since the date Bunnings accepted your order. Bunnings will advise you prior to manufacture of any price increase affecting your order under these circumstances and if you do not agree to that price increase, you may cancel your order. You release Bunnings from any liability associated with price increases or the cancellation of orders arising under this clause.
- 9.4 If you have a credit account with Bunnings then Bunnings' standard Terms and Conditions of Credit and the PowerPass Terms and Conditions of Use (as updated from time to time) apply.
- 9.5 If you have a credit account with Bunnings then you must pay for the Goods before the last business day of the month following the month of delivery.
- 9.6 If you do not have a credit account with Bunnings you must pay for the Goods upon receipt of an invoice from Bunnings on the terms set out in that invoice.
- 9.7 Bunnings will provide you with an invoice for payment of a deposit upon execution of the Quotation and/or an invoice for payment of the Price prior to the commencement of manufacturing the Goods.
- 9.8 Where you do not have a credit account with Bunnings, you acknowledge that Bunnings will not begin manufacturing the Goods until payment of the Price has been received in full.
- 9.9 You must pay all GST applicable to any supply by Bunnings to you. Unless otherwise stated prices are GST exclusive.
- 9.10 Unless you have a credit account with Bunnings, you must pay all amounts in cleared funds by direct debit into the account described on Bunnings' invoice or, if no such details are given, by bank cheque.
- 9.11 Without prejudice to any other rights or remedies that Bunnings may have, if you fail to make (whether in full or part) any payment required under these terms and conditions on or before the due date for payment, then:
 - (a) you must pay to Bunnings interest on the unpaid amount as set out in the Terms and Conditions of Credit, otherwise if you do not have a credit account at 2% per annum above the average of the most recent prime rate, indicator rate, or reference rate (however described) for business overdrafts published by the Commonwealth Bank of Australia; and
 - (b) such interest will accrue from the date payment was due to the date payment is made, will be calculated daily and capitalised monthly and must be paid by you on demand.
- 9.12 You may not set off, counterclaim or back charge any amount which you claim or otherwise, against the amounts you owe Bunnings unless Bunnings provides prior written agreement.

10 BUNNINGS' WARRANTIES

- 10.1 Bunnings represents and warrants to you that, at the time of their delivery, the Goods will have been manufactured:
 - (a) in accordance with usual industry standards; and
 - (b) using appropriate materials and workmanship.
- 10.2 Bunnings excludes all other warranties or representations in relation to the Goods except to the extent they are non-excludable by law.
- 10.3 Bunnings makes no warranties and accepts no responsibility whatsoever for or in connection with:
 - (a) the suitability or correctness of the Information provided by you; or
 - (b) the suitability, workability or the functionality of the Goods, including without limitation with respect to compliance with the National Construction Code or any other requirements or standards relating to the use of the Goods or suitability for the purposes of certification, licensing or other approval requirements.
- 10.4 Subject to clause 10.3, Bunnings will design and manufacture the Goods in accordance with:
 - (a) the layout plans prepared by Bunnings on the basis of your Information; and
 - (b) all required building codes, building practices, and Australian Standards.

- 10.5 You must indemnify Bunnings against any claim or liability, including third party claims (including costs and interest) arising out of or in connection with:
- (a) the Goods; and
 - (b) the use of the Information (including work being done to your plans and specification) howsoever arising, including claims or liability concerning an infringement or alleged infringement of any Intellectual Property Right, except to the extent that the claim or liability is caused by Bunnings.
- 10.6 The warranties given by Bunnings above do not apply, and Bunnings is released from all liability, to the extent permissible at law, including the Australian Consumer Law:
- (a) if the Goods are modified without Bunnings' written approval;
 - (b) if the Goods are not installed properly and in accordance with all relevant and applicable Australian Standards and laws, accepted industry standards, and these terms and conditions;
 - (c) if other construction materials used in connection with the installation of the Goods do not comply with usual industry standards;
 - (d) if the Information was incorrect or incomplete; or
 - (e) to the extent that the matter giving rise to a breach of a Warranty was caused by or contributed to by any act, omission, transaction, or arrangement of, or on behalf of you or at the request of or with the consent or acquiescence of you.
- 10.7 The warranties given by Bunnings above are qualified, to the extent permissible at law, including the Australian Consumer Law, by:
- (a) anything disclosed to you or anything in any information relating to the Goods made available by Bunnings to you before delivery of the Goods;
 - (b) anything a person in the position of Bunnings could reasonably expect you to know, having regard to your apparent expertise and experience in the construction industry or in industry generally before delivery of the relevant Goods; and
 - (c) anything you actually knew before delivery of the relevant Goods.
- 10.8 The liability of Bunnings for any claim under or in connection with our supply to you is limited, to the extent permissible at law (including the Australian Consumer Law), at Bunnings' election, to:
- (a) rectifying the breach by making good any defect at Bunnings' cost;
 - (b) re-supplying the Goods; or
 - (c) paying you an amount equal to the price you paid for the defective Goods, which Bunnings will do promptly (having regard to the extent of the rectification required) after receiving a claim.
- 10.9 Without limiting 9.8, to the extent permissible at law (including the Australian Consumer Law), Bunnings' aggregate liability in respect of our supply to you of any Goods is limited to an amount equal to the total price which has been paid by you to Bunnings for those Goods.
- 10.10 You may not make any claim against Bunnings in connection with our supply to you of any Goods for any amount arising from a third party claim against you:
- (a) until and unless you have become finally liable to pay the amount claimed by the third party; or
 - (b) to the extent the claim is for any amount arising from a third party claim against you in relation to which you have admitted liability without the prior written consent of Bunnings.
- 10.11 If you become aware of a third party claim against you which may give rise to a claim by you against Bunnings, you must immediately give Bunnings notice of that third party claim and, at Bunnings' request, give Bunnings control over the defence of the third party claim.
- 10.12 To the extent permissible at law (including the Australian Consumer Law), Bunnings will not be liable for Consequential Loss.
- 10.13 To the extent permissible at law (including the Australian Consumer Law), rectification shall constitute a full release of Bunnings from any liability in relation to the alleged defect.
- 10.14 You represent and warrant to Bunnings that, at all times:
- (a) no Insolvency Event has occurred or is subsisting in relation to you;
 - (b) you are duly authorised to enter the Delivery Site and to grant Bunnings access to the Delivery Site and to engage Bunnings to provide the Goods;
 - (c) you hold all necessary licences and permits to conduct the construction at the Delivery Site;
 - (d) the Information does not infringe the intellectual property rights of any person and the works contemplated by that information will not infringe the intellectual property rights of any person; and
 - (e) the Information is true, complete and accurate in all respects and constitutes all the information required by Bunnings to supply the Goods.

11 PRIVACY

Bunnings collects personal information to allow us to supply you with Goods. We will not use or disclose your personal information for any other purpose. Our Privacy Policy can be found at: www.bunnings.com.au/privacy-policy. By placing an order with us, you consent to us providing your name, contact details and delivery address to third parties (including our suppliers or delivery contractors) for the purpose of fulfilling and delivering your order. You warrant that you have obtained consent for any third party personal information, including that of your clients, that you share with us for the purpose of Bunnings supplying the Goods. If you have any questions, email us at privacy@bunnings.com.au

12 INTELLECTUAL PROPERTY RIGHTS

12.1 You:

- (a) acknowledge and agree that you are the sole owner of or have a licence to use all documents provided to Bunnings in connection with this Contract, and that you grant to Bunnings a limited licence to use such documents for the purpose of discharging the Bunnings' obligations pursuant to this Contract;

12.2 Bunnings:

- (a) acknowledges and agrees that any Intellectual Property Rights in each Delivery Document shall vest solely in you upon creation of the same and you grant to Bunnings a royalty free licence to use, together with the right to sub-licence, all such Delivery Documents whilst undertaking its obligations under this Contract. Such vesting shall not extend to components of the Delivery Documents which have been developed by Bunnings for general use in the Bunnings' work and have not been specially developed for incorporation in the Delivery Documents (**Background IP**); and
- (b) must do everything necessary to perfect such vesting described in clause 12.2(a).

13 GENERAL

13.1 In these terms and conditions:

Australian Consumer Law means the Australian Consumer Law within the meaning of the Competition or Consumer Act 2010 (Cth) or equivalent applicable state legislation.

Bunnings means Bunnings Group Limited ABN 26 008 672 179.

Consequential Loss means any special, exemplary or punitive damages, incidental, indirect or consequential damages, losses or expenses, and any loss of use, revenue, profits, reputation, goodwill, business opportunity or anticipated saving or increased cost of working capital.

Bunnings Frame & Truss Delivery Offer means the document titled Bunnings Frame & Truss Delivery Offer which the Customer acknowledges it has received prior to the date of this Agreement.

Delivery Site means the site address described in the Quotation.

Force Majeure Event means any event outside the reasonable control of Bunnings including (whether similar to any of the following or not): acts of God, forces of nature or climatic conditions, epidemic or pandemic, unavoidable accidents, malicious damage or sabotage, war, revolution, riot, insurrection, terrorism, vandalism, sabotage or any other unlawful act against public order or authority, governmental restraint, an inability to source raw materials in a timely fashion, a computer software or hardware defect, problem or virus that materially interrupts the business of Bunnings, equipment or vehicle breakdown or malfunction, breach by a third party of an obligation to supply services or materials to Bunnings' frame & truss plant or an industrial dispute or disturbance.

Goods means the frames and trusses described in the Quotation attached to these Terms and includes delivery services.

Information means the working documents which include:

- (a) the architectural drawings;
 - (b) the window schedule;
 - (c) the engineering plans; and
 - (d) other another information reasonably required by Bunnings,
- upon which Bunnings has provided a Quotation, as reflected in the Quotation and as amended following provision of final plans and drawings, if applicable.

Intellectual Property Rights means intellectual property rights of every kind, including but not limited to copyright (including future copyright), designs, patents, inventions, trade marks (whether registered or unregistered), know-how, reputation, trade secrets and goodwill;

Variation Notice means a notice issued by Bunnings to the Customer substantially in the form of that attached to Annexure A of these Terms.

Insolvency Event means being in liquidation, provisional liquidation or under administration, having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay its debts when due, taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event.

Intellectual Property Right includes any patent, registered design, trademark or copyright.

Order Confirmation means the document titled 'order confirmation' sent from Bunnings to you confirming your order on these Terms.

PPSA means the Personal Property Securities Act 2009 (Cth).

Quotation means the document titled 'Quotation' attached to these Terms.

You means the Customer shown on the Quotation.

13.2 In the interpretation of these terms and conditions:

- (a) the meaning of general words is not limited by specific examples introduced by the words 'include', 'including', 'for example' or any similar expressions; and
- (b) no rule of construction applies to the disadvantage of a party on the basis that the party forward these terms and conditions or any part of them, or that the party is seeking to rely on this agreement or any part of it.

13.3 The relationship between you and Bunnings is that of principal and independent contractor. Neither party is an employee, agent or partner of the other.

13.4 The Quotation, any credit account (and applicable standard Terms and Conditions of Credit and PowerPass Terms and Conditions of Use) and these terms and conditions together constitute the entire agreement between the parties