

Terms and Conditions of Sale

Contract

Estimate is based on the information supplied and the terms and assumptions contained in these terms and conditions. Variation to pricing may be required. Variations to the works required will adjust the price accordingly.

Siteworks

Site Location

The client is responsible for providing the address, location of the proposed shed and accurately locate property boundaries and setbacks. All of our sheds have been fully engineered to comply with the site location provided.

The site and surrounding area shall be clear, with no obstructions and have unrestricted access.

Site Preparations

To allow machinery and personnel access, the proposed building / shed area is to be flat, level and compacted with gravel, road base or blue metal. The area around the proposed shed is to have a flat, level and compacted clearance of 5m. Unless noted above, all site / pad preparations and levelling are the sole responsibility of the client and to be completed in preparation for Phoenix to commence the works.

Prior to the commencement of the works, the client must ensure that the site is reasonably safe and suitable for Phoenix to conduct the works and provide such evidence as is reasonably requested by Phoenix to confirm the site's safety and suitability in accordance with this clause.

The parties agree that Phoenix shall not be liable for any loss, damage, injury or death to the site or any person arising from, caused by or incidental to the site not being adequately safe and suitable for the works.

If, at any time, Phoenix becomes aware, based on reasonable grounds, that the site is either unsuitable for the works or is not prepared to a standard acceptable to Phoenix, then Phoenix may either terminate this agreement or undertake additional works (in its absolute discretion), at additional rates, to make the site suitable. The client will be liable for all of Phoenix's costs in respect to any additional works required.

If, at any time Phoenix becomes aware, based upon reasonable grounds, that the site may not be suitable for the works, or that the site is not prepared to a standard acceptable to Phoenix, then Phoenix may either:

- a) Undertake such works as Phoenix considers necessary to ensure the site is suitable for the proposed works, and any additional costs shall be borne by the Client; or
- b) If Phoenix determines in its discretion not to carry out the additional works, or where the additional costs to be incurred exceed 5% of the total estimated cost of the works, as outlined in the Quotation Breakdown, Phoenix may terminate this Agreement by notice in writing. The Client will be liable for all costs incurred by Phoenix up to the date of Termination.

If any variation to the work is required as a result of the site not being suitable for the works, and Phoenix elects to undertake the necessary additional works as required, then Phoenix will prepare and give to the Client a variation document setting out the terms of and the cost to be incurred on account of the variation and if the Client does not sign and return the variation document to Phoenix within five (5) business days upon receipt of the variation document, then Phoenix shall be entitled to terminate this Agreement. The Client will be liable for all costs incurred by Phoenix up to the date of Termination.

Site Classifications

The owner of the site warrants that the site will support the proposed shed.

Our design and engineering is based on the foundations being soil classes A and S. Foundations for all other soil classes, including highly reactive clays, have not been allowed for and the client will need to advise Phoenix of the soil class prior to the commencement of the works.

If at any time, Phoenix becomes aware, based on reasonable grounds, that the soil may not support the proposed works, then it may either terminate this agreement or undertake additional works (in its absolute discretion), at additional rates, to make the site suitable. The client will be liable for all of Phoenix's costs in respect to any additional works required.

The Client shall indemnify and hold harmless Phoenix from and against all claims, loss, liability or proceedings that may arise directly or indirectly from the soil not being class A or S.

Earthworks

The site must be flat, level and compacted with clean fill (clean yellow sand if concrete slab being installed) to a maximum tolerance of 50mm. If a concrete slab is being installed by Phoenix, maximum tolerance of 10mm must be achieved and client to provide compaction certificates prior to commencement of works.

Excavation

There is no allowance in the quotation for hard digging or excavation in rock, poor soil conditions, encountering ground water, underground services and or any unforeseen obstacles and obstructions.

Services and Hidden Obstructions

It is the client's responsibility to advise the company of the existence of any such services and hidden obstructions and relocate if necessary. If services and hidden obstructions are damaged, the client will pay the costs associated with the repair and relocation. All new and existing services and associated works have not been allowed in this quotation unless specifically identified.

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Concrete Slab / Walls (If Applicable)

All concrete slabs / walls have been designed to suit Class 10 buildings, soil classes A and S and founding into natural ground. If not, the client must obtain the foundation data before entering into this contract. All compaction certificates to be provided prior to commencement of works.

Unless the client has advised otherwise prior to the commencement of the works, Phoenix is entitled to assume that as at commencement, the site is suitable for the concrete slabs / walls (in particular, it is suitable for Class 10 buildings, contains soil classes A and S and is founded into natural ground). For the avoidance of doubt, Phoenix will not be liable for any deficiency in the works or damage to the site or any person or thing, arising as a result of, caused by or incidental to, the site failing to satisfy the requirements as set out above.

If further soil testing is required, this is the responsibility of the client and any amendments to the slab / wall design as a result of the soil testing have not been included in this quotation.

If at any time, Phoenix becomes aware, based on reasonable grounds, that the site may not support the proposed works, then it may either terminate this agreement or undertake additional works (in its absolute discretion), at additional rates, to make the site suitable.

The Client shall indemnify and hold harmless Phoenix from and against all claims, loss, liability or proceedings that may arise directly or indirectly from the soil not being class A or S.

Final Site Waste Removal

Final site waste removal is the responsibility of the client including removal of packaging, remaining materials and excess spoil / soil associated with the works. Excess concrete, spoil and soil to be located in piles outside Building Area for removal by client.

Delivery

Shortages

In the case of supply only purchases, the client shall inspect the goods delivered and within seven (7) calendar days of delivery give notice in writing to the company of any shortages in relation to the bill of materials. If the client fails to give such notice, then the client shall be deemed to have accepted the goods as being delivered in their entirety and the Agreement is finalised provided all monies under the Agreement have been paid in full.

Insurances

Once the said goods have been delivered to site the owner of the property is then responsible for the security of the said goods and is liable for any loss or damage thereto.

If transport is arranged by the client, such risk to the company shall only extend up to the time of loading of the goods and delivery shall be deemed to be taken thereupon.

If shed is installed, the company will hold limited construction and liability insurance until completion of the works.

Delayed Delivery

The delivery date agreed in the Agreement is subject to change due to the availability of material, labour, industrial disputes, unseasonal weather conditions and unforeseen circumstances.

Phoenix will not be liable for any delays in delivery caused or contributed to by the abovementioned circumstances.

Unless specifically stated in this Quotation, Phoenix's estimated costs do not include the cost of delivering all necessary components and materials required to complete the project.

Site Access

The site shall be accessible by a semi-trailer vehicle, with access to be clear and with no obstructions.

The client must provide, and must ensure that the owner of the property provides, to Phoenix, its contractors, subcontractors and agents, all reasonable access required to the site to carry out the works to completion.

Installation

Downpipes and Gutters

Downpipes are connected to guttering and stop at finished floor level. Connection of downpipes to stormwater drainage or water tanks is the responsibility of the client. All drainage works are excluded from the quotation.

Workmanship

The company will ensure that the works performed comply to industry standards, in accordance with engineering documentation and Australian Standards.

Temporary Fencing

For government contracts temporary fencing shall be provided if required by the relevant government agency.

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General

Extension of Construction Time

If at any time Phoenix anticipates that the progress of work is or may be delayed as a result of any variations to the Agreement or alteration to the works, any industrial action or civil commotion affecting the Agreement, unavailability of material necessary to the execution of the Agreement, any delays brought about in obtaining the relevant authorised approvals exceeding 14 days from the date of this Agreement, any delays brought about by the owner including but not limited to the delay in providing instructions where required, any delays caused by unseasonal weather conditions, unsuitable soil conditions or damage to a concrete slab, if Phoenix becomes aware of additional information not disclosed at the time of entering into this Agreement, any delay in supplies or labour, or any other cause beyond the reasonable control of the company, then the company may, within a reasonable time, claim an extension in the number of calendar days equal to the period of delay.

Phoenix shall not be liable or be deemed to be in breach of this Agreement for any delays or failures to complete the works which result from any of the above circumstances.

Marketing

The client hereby grants the company, and any person authorised by the company, permission to film or photograph the shed, and without restraint, allow its use for any promotional purposes without any recall to the company whether legal or monetary.

At the completion of the project, Phoenix may decide to install discrete and permanent signage to the building at no cost to the client.

Termination

Should the client or the company wish to terminate the Agreement after signing the same, they must give written instructions providing 7 days notice, and they must state the grounds on which termination is sought. It is at the company's sole discretion to accept or reject the termination. Regardless, the client will be obliged to pay all the costs expended to the date on the Agreement plus the profit margin that the company would have made on the Agreement which could exceed the money paid on the Agreement to that date.

Additional Charges

Any amendments or changes to our Quotation Breakdown, Inclusions / Exclusions and Terms and Conditions of Sale from the date of signed Quotation Acceptance, must be made in writing and signed by all parties.

If at any time the costs to Phoenix for supplying and/or installing the works increases due to no fault of its own, Phoenix may amend the Quotation Breakdown, Inclusions / Exclusions and Terms and Conditions of Sale by providing 5 days' written notice to the client. If the client does not dispute the amendment within 5 days of receiving the notice, the client is deemed to have accepted the amended terms as notified by Phoenix.

Concrete Supply (Not Applicable to Projects Where Phoenix Undertaking Concrete Slab / Walls)

Client to provide concrete from an authorised and reputable supplier.

Fuel

Client to provide fuel for machinery and equipment.

Water / Power

Client to provide potable water and power within 25m of proposed building / shed area.

Payments

Late Payment

The company may, if payment is not received within 7 days of invoice date, charge interest at 10% on the overdue amount and unless payment is made in full, the client will be liable for all costs associated with recovery.

Recovery of Debt

The client hereby consents to the company, and to any person authorised by the company, the right to enter upon the client's land to remove the shed should the client not pay the balance of monies due upon completion of the Agreement.

Quotation Period

The Quotation is valid for 14 days from the date the client receives the Quotation ("Acceptance Period"). The client acknowledges and agrees that if Phoenix has not received the signed Quotation Acceptance within the Acceptance Period, or if the client signs the Quotation Acceptance after the Acceptance Period has expired, Phoenix retains the right to amend the Quotation in its absolute discretion.

Price Increase

Phoenix will hold this quotation valid and the price firm for a period of no longer than 14 days from the date of signed Quotation Acceptance unless otherwise agreed in writing. Should any increases in costs be experienced prior to authority approval being obtained the client will pay all increases in costs.

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Non-Payment

If the client does not pay in full for the said goods before delivery or at time of delivery, the delivery shall be deemed to be proforma and conditional only. The client shall then hold the goods so delivered as bailee only and shall, upon request being made by the company, redeliver such goods to the company in the same order and condition in every respect as when delivered, and the company may, at its option, enter any premises whereupon such goods are located and take possession.

Retention of Title

Title to the goods passes to the client upon delivery and payment in full to the company. Notwithstanding prior delivery of the goods, the company retains full title to and property in the goods until the client has paid in full (including the payment of any interest, if applicable).

Part Payment

If the company accepts part payment for the goods prior to delivery, the client agrees to do all things necessary to secure payment in full, including entering into a separate credit agreement, providing security to the company and guaranteeing payment of the full price on terms and conditions acceptable to the company and otherwise in accordance with this Agreement.

Councils and Authorities

Obtaining Final Inspection

If applicable, generally final inspection must be carried out within 12 months from the building approval date. Any costs associated with approvals over those stated in this Agreement are to be paid by the client including any late or re-inspection fees.

Permission to Commence Works

If applicable, the client must not carry out any works pertinent to this Agreement until all approvals have been received from the relevant authorities and any conditions of signed Agreement have been agreed to and met by the client. The company will take no responsibility for any premature action by the client. This is particularly relevant when applying for boundary relaxations and the like.

Authority Application / Approval

Refer to Quotation Breakdown for costs and responsibilities. Any amendments resulting from authority application / approval have not been included in this quotation.

Warranties

Validity

Unless otherwise agreed in writing, the obligations of the company under Structural Warranties and Defects Liability Period are only applicable based on the assumptions contained in these terms and conditions, in particular, Class 10 buildings, soil classes A and S and founding into natural ground. If the site does not comply with any of these assumptions, the parties agree that the company will not be liable under the Structural Warranties and Defects Liability Period clauses below.

Warranties

The company covenants to comply with all laws, relevant building standards, codes and manufacturers warranties affecting the works. The roof shed has not been designed for lifting heavy loads; if any loads are applied by the client causing structural damage, all warranties will become void.

Maintenance

The client must keep all garden beds, soils or acidic material away from metal cladding and components of the shed as corrosion may occur which will reduce the life of the products and void all manufacturer's warranties.

Defects Liability Period

The Company agrees for a period of twelve months from the completion of the project to rectify any faults or damage caused by materials or workmanship in the manufacture of the shed. The company will not be responsible for any faults or damage caused by negligence of the client, his servants, or agents or by the client performing any work or having performed any work on the shed.