



## General Terms and Conditions

Dated the 01/01/2017

### GENERAL CONDITIONS

#### 1. Force Majeure

- 1.1 If a party is unable to perform any of its obligations under this contract due to circumstances beyond its reasonable control, that party is excused from performing those obligations while those circumstances continue.
- 1.2 If those circumstances continue for an unreasonable period of time or if the delay in the party's performance of its obligations has a material adverse effect on either party, either party may terminate this contract upon giving written notice to the other party.

#### 2. Termination

If the Client fails to comply with or is unable to perform any provision of this contract and fails to remedy the breach within seven days of service of a notice from ACA Rigging & Crane Hire (Vic) Pty Ltd (now known as ACA) to do so, ACA may immediately, by notice to the Client, terminate this contract without prejudice to any other rights it may have against the Client arising out of the breach.

#### 3. Assignment

No party may assign or attempt to assign any right or obligation under this contract without the prior written consent of the other party.

#### 4. Waiver

The failure of ACA to enforce any of the provisions of this contract shall not constitute a waiver of the same or affect the right of ACA to enforce the same.

#### 5. Notices

Notices under this contract must be in writing and may be served by facsimile, prepaid post or handed to the relevant party at its address as set out in the contract or as otherwise notified in writing. A notice shall be deemed to have been served on the party to whom it was sent:

- (a) in the case of prepaid post, two business days after the date of dispatch, to the registered office of the business; and
- (b) in the case of facsimile transmission by 4.00pm on a normal business day, at the time of dispatch provided that following transmission, the sender received a transmission confirmation report.
- (c) In the case of e-mail, sent by 4.00pm on a normal business day, at the time of dispatch provided that following transmission, the sender obtains a transmission confirmation report.

#### 6. Site Dimensions

We have not allowed for the taking off any "on site" dimensions, and will rely completely on the information provided directly to us by the Client. No responsibility will be accepted for any discrepancy between this information and any on site requirements. We have assumed that the Client or for the Client to arrange with others, correctly set grid reference points and steel base levels.

#### 7. Design Engineer

We have made no allowances for any design, computations, submission of Form 13 & 14, or additional materials to provide for the handling, propping or erection of the clients product and we have assumed that the Design Engineer or client has made or will make all such provisions if required.

8. Certification.

Where site welding has been performed by ACA Rigging, we have not allowed for any certification or welding inspections to be performed.

9. Permits

We have not allowed for any covering, shutting down or re-routing of overhead power lines if required to enable the erection of the client's product, nor for obtaining any permits to allow access to site or adjoining sites, if required. Nor have we allowed for traffic control.

10. Work Hours

We have quoted for our work to proceed during normal working hours only (Monday to Friday 7.00am to 3.30pm excluding R.D.O's & Public Holidays) and for our work to be continuous from our commencement on site. Otherwise a re-establishment fee may apply.

We have not allowed for any restrictions to perform the work for the entire normal eight hour working day. Any delays or restrictions in being able to utilize the full day will incur a delay or extra cost to the contract.

#### VALIDITY OF OFFER

1. This offer is firm for a period of 14 days from the date of this offer for acceptance as a fixed price for the duration of the project.
2. It is a condition of this offer that it be included and accepted in full, with any changes as agreed between the parties, in any contract that is finally negotiated between yourselves and ourselves.
3. Our offer is subject to prior commitments at the time of any subsequent negotiations.
4. We require a written work order received from the client before ACA will commence to program this project into ACA construction program.

#### VARIATIONS

1. Any variation made on site or received from the client's office transmitted as per paragraph 6a, 6b, & 6c shall form part of the contract. And any associated costs will be additional to the contract value, and shall be due to be paid with the next progress payment.
2. Any extra costs incurred by ACA for each project where ACA has not been provided in advance of the extra works a variation order, in where ACA is required to perform extra works at short notice or in the interest of the project to maintain continuous work on site. ACA will provide a submission during or at the end of the project outlining the reasons for extra cost and an itemized account of those extra costs, the client will accept the variation as being true and correct for payment off. If this variation condition is unacceptable the client must notify ACA in writing before work commences on site and ACA will require the client to perform all variation works.

#### CONDITIONS OF SALE

1. While our insurance covers our product and public liability in a Broadform policy, we are relying on the Client to ensure the builder holds a normal Contractors All Risk insurance policy specifically for the project, under which we must be an insured sub-contractor.

## TERMS OF PAYMENT

1. Subject to suitable credit arrangements, the following terms of payment are offered. All prices quoted and variations are exclusive of GST unless otherwise stated.
2. Progress claims will be submitted at stages or at the end of the calendar month for work performed, and will represent 100 percent of the value of work completed or monies expended in connection with this project to the end of each stage or to the end of each month.
3. Payment in full is required within 21 days from date of invoice unless other arrangements have been made and agreed by both parties.
4. The client will process all payments to ACA via Electronic Funds Transfer to ACA account. Details of the account B.S.B and account number will be on the invoice at the end of the month for the works completed.
5. In addition to payment of any costs, which the client is liable to pay to ACA under this contract, the client must pay at the same time the amount of any GST payable.
6. Any amount due to us by you, not paid within the agreed time, will attract an interest rate as set by the Supreme Court plus 2%, calculated daily by the outstanding amount. Plus any legal cost incurred by ACA in recovery of any outstanding money and/or any additional costs associated with cancellation of ACA's subcontractors works. In addition, we will:
  - i) Suspend all works for the contract until such time when all outstanding moneys are paid and/or request that you issue and we receive prior to resuming the works of the Contract, an unconditional Bank Guarantee to our favour for the remaining value of the contract including retention monies.
7. To the extent permitted by law, ACA's liability is limited only to the work performed and any warranties which may be lawfully excluded are, to the maximum extent possible, so excluded.

To the extent permitted by law, ACA accepts no liability for any consequential loss or damage or loss of profits. Consequently, no retentions or liquidated damages are offered in this quotation.

## TERMS OF QUOTATION

The quotation is subject to revision following our receipt of any revised documents.

This Quotation from ACA is subject to the Terms and Conditions of the Building and Construction Industry Security of Payment Act 2002.

In accepting this ACA quotation, the notes from the tender, general conditions, validity of offer, variations, conditions of sale, terms of payment and terms of quotation therein will be the contract between ACA and the client. For any inquiries regarding this quotation please contact myself.

Yours faithfully,  
ACA Rigging & Crane Hire (Vic) Pty Ltd



**Neville Bernaldo**  
Director