



SHEDSPAN STANDARD CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATION

1.1 SHEDSPAN means Auspan Building Systems Pty Ltd aff JK & JR Richardson Family Trust trading as SHEDSPAN ABN 87 601 610 376.

1.2 **"Contract"** means the contract entered into between SHEDSPAN and the Client consisting of SHEDSPAN' quotation, the Client's acceptance of the quotation, whether written or verbal, the diagrams and drawings (if any) provided with the quotations, and these Standard Conditions of Sale ('Conditions'). In the event of any inconsistency between the Client's acceptance and the terms of the Contract, the terms of the Contract shall prevail.

1.3 **"Client"** means the party purchasing or offering to purchase Products from SHEDSPAN pursuant to this Contract (including any successors, nominees and any Insolvency Administrator appointed to take control of the Client's business), and where there is more than one Client, the Client's covenants and obligations are joint & several.

1.4 **"Date of Delivery"** means the date of delivery of the Products as stated in the Contract, and if no date is stated in the Contract, is the date on which the Products are delivered to the premises (or specified delivery point) of the Client.

1.5 **"Products"** means the Products manufactured, imported, supplied and / or delivered by SHEDSPAN to the Client or as the Client may direct pursuant to this Contract.

1.6 **"Invoice"** means the invoice rendered to the Client by SHEDSPAN.

1.7 **"Price"** means the price of the Products and any other fees or charges payable to SHEDSPAN by the Client as stated in the Contract and/or agreed through variation to the Contract.

1.8 **Incorporation:** These Standard Conditions of Sale ('Conditions') apply to and are incorporated in the Contract. In the event of any inconsistency between a term of the Contract and a term of these Standard Conditions of Sale, then the other Contract term shall prevail over these Standard Conditions of Sale.

1.9 **Severance:** Any provision hereof prohibited by or rendered unlawful or unenforceable under any applicable law actually applied by any court of competent jurisdiction shall, to the extent required by such law, be severed from these Conditions rendered ineffective so far as is possible without modifying the remaining provisions of these Conditions.

2. PAYMENT

2.1 Payment of the Price is due at the stages or in the manner specified in the Contract, and if not so specified then on the Date of Delivery of the Products.

2.2 Time shall be of the essence in respect of payment of the Price under the Contract.

2.3 If payment of the Price is not made on the due date then the Client shall pay SHEDSPAN interest and administration charges of **2% above** the overdraft rate charged to SHEDSPAN by its Bankers from time to time on the payment outstanding and the Client shall pay all legal or other costs incurred by SHEDSPAN in attempting to recover the outstanding payment owed by the Client and SHEDSPAN may, without prejudice to any other remedy, suspend supply or delivery of any Products to the Client until such payment is made and SHEDSPAN shall be entitled to increase the Contract price to cover any extra expense incurred as a result of the Client's default.

3. GOODS & SERVICES TAX

3.1 Unless otherwise stated in the Contract, all prices and amounts expressed or described by SHEDSPAN in the Contract, verbally or in writing are GST exclusive prices.

3.2 The price for the supply of the Products and any other things by SHEDSPAN to the Client is increased by the amount of the GST liability that SHEDSPAN incurs in making the supply and that amount is payable at the same time as the consideration that is payable in respect of that supply before that increase.

3.3 SHEDSPAN will provide the Client with a tax invoice at the time the Products are delivered under the Contract, or on request

3.4 Definitions

a. **"GST"** means GST under the GST Act;

b. **"GST Act"** means A New Tax System (Products and Services Tax) Act 1999 (as amended); and

c. **"Supply"** & **"Tax Invoice"** have the meanings specified in the GST Act.

4. SUPPLY AND DELIVERY OF PRODUCTS

4.1 In consideration of the payment of the Price as provided in the Contract, SHEDSPAN shall manufacture and supply the Products to the Client in accordance with the Contract.

4.2 SHEDSPAN shall use its best endeavours to deliver the Products on the date specified in the Contract, but shall not be responsible for any loss or damage including without limitation loss of revenue, profits, goodwill, or opportunities or loss of anticipated savings howsoever arising as a result of any delay or failure to deliver the Products. Where the Contract does not specify a Date of Delivery, SHEDSPAN shall deliver the Products within a reasonable time and shall give the Client reasonable notice of the Date of Delivery. Where delivery is to be made during a certain period, SHEDSPAN may at its option deliver the Products in instalments during that period.

4.3 Where any delay or failure to deliver the Products is due to the Client failing to obtain any necessary approvals, DFES approval, licences, building licences and permits or other prerequisites to delivery or arises as a result of any occurrence reasonably beyond SHEDSPAN's control, SHEDSPAN shall within 30 days of becoming aware of any such occurrence notify the Client in writing of SHEDSPAN's inability to deliver and SHEDSPAN may at its absolute discretion extend the due Date of Delivery until the occurrence ceases or terminate the Contract.

4.4 Unless otherwise agreed, all standards including but not limited to tolerances of dimension, strength and weight, shall be of such standard as SHEDSPAN generally applies to such type of Products.

4.5 Any measures requested by the Client to protect the Products in storage or transit shall be at the Client's expense.

4.6 Unless otherwise specified in the Contract, the place of delivery of the Products is SHEDSPAN's yard at the address specified in the quotation. Where the Contract requires SHEDSPAN to deliver the Products to the Client's site, the Client shall unload the Products and shall be liable for all costs of unloading, as well as any costs to SHEDSPAN caused by any delay in unloading. If the Client fails or refuses to take delivery of the Products on the Date of Delivery then the Client shall pay SHEDSPAN storage costs for the Products at the rate of \$400 per week until the Products are delivered.

5. CANCELLATIONS AND RETURNS

5.1 Any claim by the Client of any defect or shortfall in relation to the Products must be notified in writing to SHEDSPAN within 7 days of Date of Delivery.

5.2 Orders cancelled by the Client will only be accepted with the prior written approval of SHEDSPAN and, if SHEDSPAN does so approve, the Client shall pay for any costs incurred by SHEDSPAN in relation to the order and its cancellation, including the cost of any materials, labour or transport.

6. WARRANTIES AND LIMITATION

6.1 SHEDSPAN warrants that the Products will be free from defects in materials and workmanship for thirty years from the Date of Delivery. This warranty applies to all components of the Products which are manufactured by SHEDSPAN but does not apply to components manufactured by other suppliers (to which that suppliers' warranty applies) nor to cladding, purlins, or doors. If this warranty applies then the Client shall notify SHEDSPAN in writing within three days of the appearance of the defect or failure (otherwise the Client shall not be entitled to make any claim under this Warranty) and SHEDSPAN shall repair or replace the component, at SHEDSPAN's discretion, at no cost to the Client. This warranty does not apply if in SHEDSPAN' opinion there has been any adjustment, taking away, or additions to the structure in whole or in part by any party other than SHEDSPAN or the structure or any of its parts have been used in any way that are contrary to the Products' specified use as detailed on SHEDSPAN's engineered drawings.

This warranty does not apply if in SHEDSPAN's opinion the construction, assembly or installation of the product has not been in accordance with or is contrary to the Product's Installation Manual. SHEDSPAN's liability for breach of this warranty is limited to the repair or replacement of the component as set out herein and SHEDSPAN is not liable for any other loss or damage arising out of or in connection with a breach of this warranty howsoever arising including without limitation loss of revenue, profits, goodwill, property damage, opportunities or loss of anticipated savings

6.2 Except as set out in 7.1 or elsewhere in the Contract, SHEDSPAN does not make any warranties or representations regarding the Products. All warranties, conditions, rights and guarantees implied by any statute or other law are expressly excluded. Where SHEDSPAN' liability cannot be excluded by operation of any statute including the Competition and Consumer Act 1974 (as amended) and the Australian Consumer Law, SHEDSPAN' liability shall be limited to the cost of replacing defective Products, the cost of obtaining equivalent Products, or the cost of repairing the Products, at SHEDSPAN's discretion provided that in all such cases freight costs and costs of dismantling and reassembly shall be borne by the Client.

6.3 SHEDSPAN' liability for any loss or damage arising out of or in connection with the supply, resupply, use or reuse of the Products, howsoever arising and whether for SHEDSPAN', breach of contract, negligence or otherwise, including without limitation loss of revenue, profits, goodwill, property damage, opportunities or loss of anticipated savings or other loss or damage or otherwise is limited to the Price. SHEDSPAN is not liable for any representation, warranty, condition or term whether express or implied or written or verbal unless it is specified in the Contract or the Conditions.

7. ADVICE AND REPRESENTATION

7.1 Any advice, recommendation, representations, information, assistance or service provided by SHEDSPAN in relation to Products supplied or manufactured by it in respect of their use or application is given in good faith and shall be accepted without liability on the part of the Client and SHEDSPAN is not liable for any loss claim damage or expense arising therefrom. It shall be the responsibility of the Client to confirm the accuracy and reliability of the same in light of the use to which the Client makes or intends to make of the Products. The Client acknowledges that for all purposes whatsoever the Client has relied entirely on its own knowledge, skill and judgement in selecting and ordering the Products.

7.2 Shedsplan is not liable for the assembly or installation of the Product. Any advice, suggestion, recommendation or reference provided by SHEDSPAN to the Client to engage any third party Installer in relation to the installation or assembly of the Products is given in good faith and shall be accepted without liability on behalf of SHEDSPAN for any loss, claim, damage or expense arising therefrom. It shall be the responsibility of the Client to ensure that the third party Installer assembles or installs the Products in accordance with any relevant country specific, authority, professional & building standards and the SHEDSPAN Installation Manual (if provided) in that order of precedence. SHEDSPAN does not accept responsibility regarding how an installer interprets the supplied Installation Manual.

8. FORCE MAJEURE

SHEDSPAN is not liable to the Client for default or delay in performing its obligations under the Contract caused by any event which could not be avoided by the taking of reasonable precautions including, without limitation, fire, strike, industrial disturbance, riot, war, act of God and governmental order or regulation (whether known to the party at the time of contract or not), PROVIDED THAT SHEDSPAN gives written notice thereof to the Client within 7 days of SHEDSPAN becoming aware of the commencement of that occurrence. The obligations of SHEDSPAN are suspended for the period that the Force Majeure event prevents the performance of its obligations under the Contract. If the Force Majeure event continues for more than three (3) months then the Contract comes to an end, then unless otherwise agreed prior to the expiry of the three month period, both parties are relieved from further performance and the Client is only obliged to pay for those Products which have been delivered.

9. CONSTRUCTION AND ASSEMBLY

9.1 The Client acknowledges that SHEDSPAN supplies the Products as a structure in kit form in accordance with the Contract.

9.2 The Client acknowledges that SHEDSPAN is not responsible for the assembly or installation of the Product.

10. GENERAL

10.1 The Client warrants that in entering into and performing this Contract it complies with all applicable laws of Australia and without limiting this clause the Client indemnifies SHEDSPAN against all costs claims, expenses or other liability arising out of or in connection with a breach of this clause.

11. COPYRIGHT

SHEDSPAN holds the copyright in all plans, diagrams and drawings relating to the Products and in all other documents provided with the Quotation or under the Contract. Nothing in the Contract operates as an assignment of copyright. Provided that the Client accepts the



Quotation and enters into the Contract with SHEDSPAN, SHEDSPAN grants the Client an exclusive royalty free licence to use the copyright for the purposes only of the Contract and for no other purpose. If the Client breaches this term, the Client shall pay SHEDSPAN an amount of 35% of the Price by way of liquidated damages which the parties acknowledge is a reasonable estimate of SHEDSPAN's loss arising from the breach of this clause.

12. APPLICABLE LAW

This Contract is governed by the law of the State of Western Australia and the Commonwealth of Australia. The parties agree to submit to the exclusive jurisdiction of the courts of Western Australia and the Commonwealth of Australia.

Effective July 2016