

Application Date:

Please Select:      Sole Trader:      Partnership:      Private Co. (Pty Ltd):      Public Co. (Ltd):      Trust:

Entity/Registered Name:      ABN:

Business/Trading Name:      ACN:

Trust Name:(If a Trust)      Trustee Name:

Business Address:      Post Code:

Postal Address:      Post Code:

**CUSTOMER PERSONNEL CONTACT DETAILS**

Purchasing Contact:      Telephone (Bus):

Email:      Mobile:

Accounts Pay.Contact:      Telephone (Bus):

Email:      Mobile:

Bank:      Acc No:      BSB:

Type of Business:      Year Bus. Commenced:

List All Builder and Company Licences:

List the Name of any Related or Subsidiary Companies or Partnerships:

Business Premises Owned:      Mortgaged:      Leased:      Would the Client be willing to produce on request copies of their latest balance sheet and profit and loss statement for perusal?      No:      Yes:

List here any of the applicants, directors or proprietors that have previously been declared bankrupt, entered into an insolvency agreement, or been involved in a Company which has been insolvent, liquidated or placed into any form of external administration?

**SUPPLY FOUR TRADE REFERENCES - THE VALUES SHOULD BE EQUAL TO THE MONTHLY CREDIT LIMIT WITH SELECTED.**

Name of Reference:	Contact Name:	Phone No:
1.		
2.		
3.		
4.		

1. **APPLICATION:** Upon SELECTED allowing me/us to trade on credit, I/we agree, declare and acknowledge that SELECTED'S Terms of Sale apply to all my /our dealings with SELECTED and I/we hereby agree to comply with the Terms of Sale. I/We further acknowledge that if I am/we are a corporation, provision of credit pursuant to this application may, at SELECTED'S absolute discretion, be subject to and conditional upon all of my/our directors executing the attached Guarantee and Indemnity.

2. **ESTIMATED MONTHLY PURCHASES:**      e.g. Generally, the credit applied for will be twice the monthly purchases for a 30 day Commercial Account.

3. **PAYMENT TERMS REQUESTED:**      Invoice 21 days (Default)      Invoice 14 days      Invoice 7 days      E.O.M. 30 days



Unless we otherwise agree:

- If the Customer is a sole trader, the Guarantor(s) is/are that sole trader.
- If the Customer is a Company, the Guarantor(s) must be all the Company's director(s).
- If the Customer is a trust, the Guarantor(s) is/are the Customer's trustee, or if the trustee is a company, the director(s) of that trustee company.
- If the Customer is a partnership, the Guarantor(s) must be each of those partners who are natural persons, and/or if any of the partner(s) are companies or trusts, the Guarantor(s) must be the director(s) of such company, the trustee of such trust, or director(s) of the trustee of such trust.
- Each Guarantor must provide a certified copy of an identification document that is satisfactory to us, such as a valid Australian driver's licence or passport, or otherwise allow us to sight and take a copy of the original of such identification document.
- We reserve the right to request that any person be added, removed or substituted as a Guarantor before commencing trade or otherwise extending credit to the Customer.

Guarantor 1:				Mobile:
Residential Address:				I.D. Type:
Date of Birth:	Residence: Own:	Renting:	Mortgage:	I.D. No:
Email Address:				Relationship to Customer:

Guarantor 2:				Mobile:
Residential Address:				I.D. Type:
Date of Birth:	Residence: Own:	Renting:	Mortgage:	I.D. No:
Email Address:				Relationship to Customer:

Guarantor 3:				Mobile:
Residential Address:				I.D. Type:
Date of Birth:	Residence: Own:	Renting:	Mortgage:	I.D. No:
Email Address:				Relationship to Customer:

Guarantor 4:				Mobile:
Residential Address:				I.D. Type:
Date of Birth:	Residence: Own:	Renting:	Mortgage:	I.D. No:
Email Address:				Relationship to Customer:



### Section 3 - Credit Terms and Conditions (Also called T's & C's)

THESE TERMS AND CONDITIONS REPRESENT THE AGREEMENT BETWEEN THE CUSTOMER AND SELECTED BUILDING SERVICES PTY LTD ABN 93 168 103 080.

#### 1. Definitions and Interpretations:

- (a) Commercial Customer means a Customer that is not a Consumer Customer;
- (b) Consumer Customer means a Customer that is purchasing Goods or Services, or hiring Hired Goods from us in a retail or consumer capacity, and not for commercial purposes;
- (c) Customer, you, your, etc, whether capitalised or not, means the Customer listed in the Customer Details Form, or the person or entity requesting Goods and Services from us;
- (d) Deposit means any part of the Price that we require you to pay to us prior to the delivery of the Goods, Hired Goods or Services, as notified in writing (including in any Quote);

- (e) Documents means, collectively, these T&Cs, Guarantee & Indemnity Terms and Privacy Authority collectively;
- (f) Goods means any goods that you request us to supply, or that we supply to you, from time to time, excluding any Hired Goods;
- (g) Guarantee means any guarantee or indemnity granted by the Guarantors in our favour in relation to your obligations under these T&Cs, pursuant to the terms of the Guarantee & Indemnity Terms, or otherwise;
- (h) Guarantee & Indemnity Terms means the terms specified in the document titled "Guarantee & Indemnity" attached to these T&Cs;
- (i) Guarantors means the person or persons specified in your Guarantor Details Form;
- (j) Hired Goods means any goods or items that we hire or lease to you, or that we supply, from time to time, for the purposes of performing the Services, installing the Goods, or otherwise as Ordered or accepted by you, including any Scaffolding;
- (k) Interest Rate means the higher of:
  - (i) 2% per month; or
  - (ii) any other interest rate applicable to any credit facility we have provided you.



## Section 3 - Credit Terms and Conditions (Continued)

- (l) Order means a request for Goods, Hired Goods and/or Services that you make to us, whether in writing, electronically, verbally, or otherwise and Ordered has the corresponding meaning;
- (m) Payment Term means, the Payment Terms that we agree that you will pay us to provide Goods, Hired Goods and/or Services, as notified to you in writing: and
- (i) if you are a Commercial Customer, for the avoidance of doubt, may not be the Payment Terms you have requested in the Client Details Form;
- (ii) if you are a Consumer Customer, unless we otherwise expressly agree in writing, your Payment Term is "Cash on Delivery"; and
- (iii) unless we specifically agree in writing to trading with you on an "Invoice" basis, your Payment Term is "Cash on Delivery".
- (n) Payment Period means, the period between when we issue you an invoice, and when you must pay such invoice, pursuant to the Payment Term (not applicable if Payment Term is "Cash on Delivery"), but if your Payment Term is "Invoice", and we do not expressly specify a Payment Period, the Payment Period is 28 days;
- (o) PMSI means a purchase money security interest pursuant to the PPSA;
- (p) PPSA means the Personal Property Securities Act 2009 (Cth) and PPSR means the register established and maintained in accordance with the PPSA;
- (q) PPSR Security Interest means a Security Interest or other interest that is subject to the PPSA or otherwise may be registered on the PPSR;
- (r) Price of the Goods or Services means the Price(s) that we agree to supply Goods or Services to you, as determined or amended by us from time to time in accordance with these T&Cs;
- (s) Privacy Authority means the terms contained in the document of that title, attached to these T&Cs;
- (t) Quote means any document we give you that specifies a specific Price or estimate of the Price at which we agree to supply specific Goods, Hired Goods or Services to you;
- (u) Scaffold or Scaffolding means any temporary raised or suspended platform or structure (or any component thereof) that we supply to installing any Goods, Hired Goods or things, or otherwise Ordered or agreed to by you;
- (v) Security Interest means any security interest or charge you grant us, or any title or interest we have in the Goods, Hired Goods or your property and assets, to secure any amounts payable by you to us, or otherwise your performance of your obligations in accordance with these T&Cs (whether granted pursuant to these T&Cs or otherwise);
- (w) Selected, us, we, our, etc, whether capitalised or not, means Selected Building Services Pty Ltd ABN 93 168 103 080 and its agents;
- (x) Services means any service you request us to supply or perform, or that we supply or perform for you, from time to time, including any installation or erection of the Goods or Hired Goods;
- (y) Terms & Conditions or T&Cs means these Terms and Conditions, and any annexures, schedules or attachments to it.

### 2. Application of T's&C's For Commercial Customers

- (a) You are applying to open an account with us for the purposes of us agreeing to commence trading with you.
- (b) We may impose any conditions on our approval of your application, including any terms that are not included in the Documents.
- (c) Unless otherwise agreed in writing, the terms of the Documents, and any other terms or conditions that we impose on our approval of your application applies to all Orders you make for Goods and Services, the supply of Goods and Services by us to you, or any extension of credit by us to you.
- (d) Any leaflets, catalogue, price list, other marketing material for Goods and/or Services that we give to you is an invitation to treat, only, and not an offer by us to provide such Goods and/or Services, and any list prices may be amended at our discretion.
- (e) Nothing in these T&Cs, or the Documents, constitutes any representation, warranty or guarantee that we will accept any Order for Goods, Hired Goods and/or Services, and we may accept or reject such Order at our absolute discretion.
- (f) A contract or agreement for the supply of Goods, Hired Goods or Services only arises when you make an Order, and we give you written confirmation that we accept that Order, or you accept a Quote, pursuant to clause 4.
- (g) We may amend these T&Cs at any time at our sole discretion. Any Order you make will be deemed to be your acceptance of these T&Cs, and any amendments thereof, that are current at the time of you making such Order.
- (h) Any recommended resale prices in our price lists or any other document are recommended prices at which we suggest that you sell such Goods to your clients. You not obliged to comply any such recommendations or suggestions.

### For Consumer Customers

- (i) If you are a Consumer Customer, clause 3 does not apply to our supply of Goods, Hired Goods and/or Services to you, but the other terms of these T&Cs apply to any supply of Goods, Hired Goods and/or Services to you.

### 3. Credit – Commercial Customers

Services to you.

- (a) You represent, warrant, acknowledge and agree that any credit we extend to you pursuant to the terms of these T&Cs, or otherwise, is provided to you wholly or predominantly for commercial purposes, only.
- (b) We may, at any time, refuse to extend credit to you, regardless of whether you are in default of the terms of these T&Cs, or any of the Documents.
- (c) For the avoidance of doubt, where we refuse to extend any further credit to you, you must pay for Goods, Hired Goods and/or Services we have supplied to you, in accordance with these T&Cs.
- (d) We may apply any amounts received from you to any money owing by you to us, or to any invoice, as we see fit in our sole and absolute discretion.

### 4. Ordering & Supply of Goods and Services

- (a) Subject to us agreeing to trade with you (if you are a Commercial Customer), you may place an Order for Goods and/or Services from us at any time, by any method that we indicate we accept Orders by, from time to time.
- (b) Subject to clause 4(d), if you place an Order for Goods or Hired Goods, and we accept such Order, or we will, subject to clause 7, deliver the Goods Ordered as soon as possible, to the delivery location nominated in your Order.
- (c) Subject to clause 4(d), if you place an Order for Services, and we accept such Order, we will, subject to clause 7, perform the Services as soon as possible.
- (d) If we accept an Order, or you accept a Quote, which specifies the date or time that Goods or Hired Goods will be delivered or dispatched, or Services will be performed:

- (i) such date or time is an estimate only;

(ii) while we will use our best endeavours to ensure that Goods or Hired Goods are dispatched or delivered, or Services performed, by such date or time, we take no responsibility for Goods not being dispatched or delivered, or Services not being performed (whether in part or in full), by such date or time; and (iii) to the fullest extent permitted by law, you hereby release us from all cost, expense, loss, damage and liability whatsoever (including consequential loss) arising out of our failure to dispatch or deliver Goods, or perform Services, whether or in part or in full, by such date or time.

- (e) We may subcontract the performance of any of our obligations pursuant to these T&Cs.

### 5. Quotes

- (a) A Quote is an offer by us to supply the Goods, Hired and Services at the Price(s) specified in, or calculated in accordance with, the Quote to you.
- (b) If we provide you with a Quote:
- (i) the Quote automatically expires on the date (or after the time) specified in the Quote, or if none is stated, 30 days;
- (ii) at any time before you accept a Quote, we may withdraw the Quote in any manner whatsoever (including any oral or written withdrawal of such Quote);
- (iii) if the specifications of the Goods, Hired Goods or Services requires change, any Quote we provide to you automatically expires; and
- (iv) unless expressly specified, the Price in any Quote is exclusive of any delivery or other out of pocket fees and expenses.
- (c) You may only accept a Quote by written notice to us.
- (d) You acknowledge that in preparing any Quote we give you, we will assume:
- (i) any information you provide us is true and correct in all material respects;
- (ii) that any structure upon which we are to install any Goods or Hired Goods will be complete, and otherwise be suitable or able to bear such Goods or Hired Goods to be installed;
- (iii) that you will provide us with uninterrupted access to the premises at which any Services (including any installation of Goods or Hired Goods) will be undertaken;
- (iv) that you will provide us with sufficient and proper access to deliver the Goods or Hired Goods;
- (v) that you will do, or provide us with, any other thing, at your cost, that is required for us to deliver the Goods or Hired Goods, and perform the Services (including installing or erecting the Goods or Hired Goods), that is not being done or provided by us (e.g. cranes, extra scaffolding, etc, that we are not supplying); and
- (vi) you will otherwise comply with your obligations pursuant to these T&Cs.
- (e) If any of our assumptions at clause 5(d) is incorrect, and our Quote does not (include any provision for any deviation from such assumptions, then:) we may,

(1) at our option (but without the obligation to do so):suspend the provision of the Goods, Hired Goods, or Services, until you have done all things necessary such that our assumptions at clause 5(d) are correct; and/or

(2) do the things that you must do to make our assumptions at clause 5(d) are correct, and charge you (in addition to any Quoted Price) reasonable costs of us doing so; and/or

(ii) charge you (in addition to any Quoted Price) for any loss of time or productivity during any period that we are not able to deliver the Goods or Hired Goods, or perform the Services.

### 6. Specifications

- (a) If you provide the specifications for the Goods, Hired Goods or Services that we are to supply, we are not responsible, and you release and indemnify us for all costs, expenses, and liability whatsoever, arising out of those specifications being incorrect or incomplete in any way whatsoever, including if any drawings, information or descriptions of the relevant site are different from actual conditions or requirements
- (b) If we are to determine the specifications for the Goods, Hired Goods or Services that we are to supply, we are not responsible, we will rely on the information you provide us to make such determination, and you release and indemnify us from all costs, expenses and liability whatsoever arising out of any of the information you provide being incorrect or incomplete in any way whatsoever, including if any drawings, information or descriptions of the relevant site are different from actual conditions or requirements.
- (c) For the avoidance of doubt, any Price in a Quote is based on the quantity, nature and identity of Goods or Hired Goods specified in the Quote. If the actual quantity, nature and identity of Goods or Hired Goods required is different to that specified in the Quote, we will charge you for the actual quantity of Goods or Hired Goods required.
- (d) You represent and warrant that you have all rights to use or give us any designs or drawings that you provide us, and you indemnify and keep us indemnified from all costs, expenses, loss, damage and liability whatsoever arising out of you not having such right or entitlement, and/or if your use or disclosure of such designs or drawings infringe any third party's intellectual property rights.

### 7. Payment

General

- (a) If you place an Order, or accept a Quote, you must pay to us, in accordance with paragraph 7(c):
- (i) the Price for the Goods, Hired Goods or Services;
- (ii) any delivery or packaging fee (unless such delivery or packaging fee is specified as being included in the Price) to deliver the Goods to the relevant location; and/or
- (iii) any other out of pocket expenses that we incur in providing the Goods, Hired Goods or Services to you, as specified in your Order, our Quote, or acceptance thereof.
- (b) You are solely responsible for the payment of any tariff, excise, tax or duty payable in relation to the Goods, Hired Goods or Services whatsoever, including, without limitation, import/export duty, and you irrevocably indemnify and keep us indemnified from all liability we may incur in relation to such tariff, excise, tax or duty. This clause 7(b) does not apply to income tax that we are liable for.
- (c) You must pay us amounts payable pursuant to paragraph 7(a) in the following manner:
- (i) if we require that you pay us a Deposit, you must pay us that Deposit before we supply or deliver the Goods or Services;
- (ii) the balance of the Price, if we agree to trade with you on a "Cash on Delivery" basis:



## Section 3 - Credit Terms and Conditions (Continued)

(1) in relation to Goods - on or before delivery of the relevant Goods or Hired Goods specified in your Order or the Quote; and

(2) in relation to Services - on or before we finish performing the relevant Services or part of the Services (pursuant to the agreed Order or Quote);

(iii) the balance of the Price, if we agree to trade with you on an "Invoice" basis, by cash (or other payment method notified by us to you that we will accept), by the date that is the relevant Payment Period from:

(1) in relation to Goods or Hired Goods, the date that we issue you with a tax invoice for the Goods or Hired Goods; and

(2) in relation to Services, the date that we issue you with a tax invoice for the Services.

### Deposit Specific Terms

(d) Despite anything else in these T&Cs, if we require you to pay a Deposit, unless or until you pay us that Deposit, we will not be required to commence supplying Goods, Hired Goods or Services to you, whatsoever.

(e) Any Deposit paid by you to us immediately becomes our property, we can use such Deposit as we see fit, and such Deposit is non-refundable in any circumstances.

### Cash on Delivery Specific Terms

(f) If your Payment Term is "Cash on Delivery", if you do not pay the Price or any other amount payable by you pursuant to paragraph 7(c)(ii) for the Goods, Hired Goods or Services, we may, at our sole and absolute discretion:

(i) withhold the Goods, or not perform the Services, until such time as you pay the relevant Price; or

(ii) supply the Goods or Services (or part thereof), and invoice you for the relevant Price or any other amounts pursuant to paragraph 7(a); and

(iii) upon us issuing such invoice, we may claim from you, as a debt due and payable, the amount specified in such invoice.

(g) For the avoidance of doubt, if we issue you an invoice pursuant to paragraph 7(f)(ii), the amount you must pay us pursuant to such invoice is due on the day that we issue that invoice, and to the extent you fail to make such payment when due, we may recover from you:

(i) interest calculated in accordance with clause 8; and

(ii) any other amounts we may recover pursuant to these T&Cs.

### Invoice Specific Terms

(h) If we agree to trade with you on an "Invoice" basis, the amounts specified in any invoices are due and payable by you on the date that we issue such invoices.

However, if you pay an invoice in full before the expiry of the relevant Payment Period, we will accept that payment in full satisfaction of your obligations under these T&Cs in relation to that invoice.

(i) If your Payment Term is "Invoice", and you fail to pay any invoice in accordance with sub-paragraph 7(c)(iii) then:

(i) we may recover from you

(1) interest calculated in accordance with clause 8; and

(2) any other amounts we may recover pursuant to these T&Cs;

(ii) we will not accept any future Orders from you, unless we agree otherwise; and

(iii) we may, at our sole discretion, refuse to extend any credit to you, or otherwise change your Payment Term in relation to future dealings, at our sole and absolute discretion.

### 8. Interest

(a) If you fail to pay us any amounts by the date that such payment falls due, we may recover from you interest calculated at the Interest Rate on the outstanding amount, accruing daily on a simple, non-compounding basis.

(b) For the avoidance of doubt, the date that a payment falls due pursuant to an invoice we issue is the date that we issue such invoice. However, if your Payment Term is "Invoice", and you pay any invoice in full before the end of the relevant Payment Period, we will not exercise our right under paragraph 8(a).

### 9. General Indemnity

(a) In addition to anything else in these T&Cs, you indemnify us, and we are entitled to recover from you, all costs, expenses, loss, damage and liability whatsoever (including debt recovery or legal costs on a full indemnity basis) incurred or suffered by us caused by, or arising out of:

(i) you failing to comply with your obligations under these T&Cs; or

(ii) our enforcement of our rights under these T&Cs or any of the Documents, regardless of whether such enforcement action is successful or not.

(b) You release and indemnify us from all costs, expenses, loss, damage, and liability whatsoever, incurred or suffered by you or us, arising out of your use of the Goods, Hired Goods or Services we supply to you.

### 10. Set-Off

(a) You must make all payments required to be made under these T&Cs without any set-off, counterclaim, deduction or withholding for any reason whatsoever.

(b) If we are liable to pay you any amount for any reason, we may, at our discretion, elect to set-off such amounts from amounts that you must pay us.

### 11. Price

(a) If you are in breach or default of these T&Cs, we may, at our discretion, reverse any discount we had applied to the Price of Goods, Hired Goods or Services.

(b) We may, at our discretion, amend the Price for Goods, Hired Goods and/or Services from time to time as we see fit.

(c) We will use all reasonable endeavours to notify you of any changes in the Price for Goods or Hired Goods or Services prior to you making an Order for those Goods or Service.

(d) Unless otherwise expressed, the Price for Goods, Hired Goods and/or Services do not include insurance, packaging, delivery or any taxes applicable to the supply of such Goods and/or Services (for example, GST).

(e) By you continuing to Order Goods, Hired Goods and/or Services from us, you will be taken to have accepted and agreed to any changes to the Price of Goods and Services.

### 12. Variations

(a) After we have accepted an Order, or you have accepted a Quote, we will not be required to accept any variation requested by you in relation to the Goods, Hired Goods, or Services to be supplied, and unless we agree in writing, you will be bound by the terms of the original Order, Quote and acceptance thereof.

(b) We may, at our discretion, impose any conditions we see fit on our acceptance of any variation request.

(c) Without limiting the generality of clause 12(a), any suspension or cancellation of any supply of Goods, Hired Goods or Services requested by you will be a request to vary the Goods, Hired Goods or Services to be supplied. (d) No request for a variation to the supply of Goods, Hired Goods or Services will be valid unless:

(i) it is made in writing to us; and

(ii) it is made before the supply of Goods, Hired Goods or Services that are the subject of any such variation.

(e) If we accept any variation to the original Order, Quote or acceptance thereof, the Price payable for, and the estimated time to supply, the relevant Goods, Hired Goods or Services will be adjusted as agreed between the parties, or otherwise as we determine is reasonable having regard for the nature and scope of such variation.

### 13. Risk of Goods

(a) When you collect, or we deliver Goods or Hired Goods to the relevant location:

(i) to the full extent permitted by law, the Goods or Hired Goods are delivered to you, and/or received by you, free from any defects or damage, and you accept the condition of the Goods or Hired Goods as at the time of delivery; and

(ii) you assume all risks in relation to the Goods, and are responsible for any loss, damage or liability in relation to the Goods or Hired Goods as soon as we cease to have custody and control of the Goods or Hired Goods.

(b) Without limiting the generality of clause 13(a), we cease to have custody and control of the Goods or Hired Goods as soon as the Goods or Hired Goods leave our premises for delivery, and you assume all risks in relation to the delivery of the Goods or Hired Goods.

(c) We are not responsible for insuring the Goods or Hired Goods after we cease to have custody and control of the Goods or Hired Goods (unless otherwise agreed in writing). If you request us to insure the Goods, and we agree to do so, the costs of such insurance will be added to the Price.

(d) You hereby release and indemnify us from all loss, damage and liability (including any consequential loss) caused by, or arising out of, your use of the Goods or Hired Goods.

### 14. Delivery & Schedule

(a) All delivery or service times we give to you are estimates, only.

(b) To the extent permitted by law, you release us from all costs, expenses and liability you incur in relation to any delay in the provision of Goods or Services, including any to which clause 30 apply.

(c) You must not refuse to accept any Goods or Hired Goods as a result of such Goods or Hired Goods being delivered in more than one instalment, or any delay in the delivery of such Goods or Hired Goods, or any instalment thereof.

### 15. Hired Goods

(a) You will be charged for the hiring of Hired Goods (including Scaffolding) based on the period of time that is the greater of:

(i) seven (7) days; or

(ii) the period starting on (and including) the date we deliver such Hired Goods to you, and ending on (and including) the date that the Hired Goods are returned to us, or if we agree, when such Hired Goods are available for us to collect.

(b) The Hired Goods, and any legal right or title to the Hired Goods, at all times remains our property, and no right, title or interest in the Hired Goods passes to you in any way whatsoever, except for the right to use the Hired Goods during the period that we agree.

(c) You:

(i) hold any Hired Goods as bailee or trustee for us, only;

(ii) must clearly identify the Hired Goods as belonging to us;

(iii) must not allow the Hired Goods to become commingled with any other goods or things;

(iv) must not allow the Hired Goods to be attached or become a fixture to any other good, thing or land, whatsoever;

(v) must keep the Hired Goods safe, secure, and not do, or permit to be done, anything that may cause damage to the Hired Goods;

(vi) must only use the Hired Goods for the purpose(s) for which they are supplied, in a responsible and careful manner, and in accordance with any applicable laws, legislation, regulations or reasonable directions from us (including the attachment of any safety warnings or signs);

(vii) must ensure that any persons using the Hired Goods are aware of any safety warnings or instructions given by us;

(viii) must ensure that, at all times, the use of the Hired Goods are consistent with all health and safety legislation, regulations or directions as are applicable from time to time;

(ix) must not sell, part possession with, grant, transfer, encumber or purport to do any of those things in relation to the Hired Goods, or any right or interest therein;

(x) must ensure that only suitably qualified, licensed or registered individuals use (including installing or dismantling) the Hired Goods, as is applicable;

(xi) must take out adequate insurance in relation to the Hired Goods for their full replacement value and in relation to all appropriate risks, or such other value that we reasonably direct, from time to time, including ensuring that our interest in such Hired Goods are noted in any such insurance policy; and

(xii) at all times maintain the Hired Goods in a clean and in the same condition that such Hired Goods were in at the time they were delivered to you.

(d) You indemnify, and keep us indemnified, for any cost, expense, loss (including consequential loss), damage, or liability whatsoever incurred or suffered by us arising out of a breach of your obligations under clause 15(c).

(e) Without limiting the operation of clauses 15(c) or 15(d), you indemnify and keep us indemnified for any cost, expense, loss (including consequential loss), damage or liability whatsoever incurred or suffered by us arising out of any damage or destruction to the Hired Goods while they are in your possession, except to the extent that such damage or destruction is directly caused by any of our acts or omissions.

(f) We may, at any time, inspect the Hired Goods, including accessing any premises where such Hired Goods are located.



(g) For the purposes of these T&Cs, our interests in the Hired Goods are PPSR Security Interests.

### 16. Your General Obligations in relation to Delivery

- (a) If we are to provide Services at, or deliver Goods or Hired Goods your premises or premises nominated by you, you:
- (i) must ensure that we have access to the premises to the full extent necessary to provide the Services or deliver such Goods or Hired Goods at the scheduled time;
  - (ii) must ensure that there is an authorised representative present at such premises to accept delivery of such Goods, Hired Goods, or to assist or supervise
  - (iii) warrant that you are able to provide us with access to the premises as required; and
  - (iv) must ensure that the premises is clean, safe, secure, and free of all hazards or harm, and are otherwise suitable, and ready for the delivery of the Goods or Hired Goods, or the performance of the Services.
- (b) In addition to anything in these T&Cs, you must do or provide all things necessary to allow us, or are necessary for us, to deliver any Goods or Hired Goods, or perform any Services, that we are not doing or providing (e.g. cranes to move or install any Goods). You must do or provide such things at your cost and expense.
- (c) If we reasonably believe that we cannot deliver the Goods or Hired Goods, or perform the Services, at the scheduled time, as a result of you failing to comply with your obligations under these T&Cs, we may at our sole and absolute discretion:

- (i) reschedule the delivery of the Goods or Hired Goods or the performance of the Services;
  - (ii) do the things you are required to do under these T&Cs, and charge you the costs of doing so;
  - (iii) suspend the delivery of the Goods or Hired Goods, or the performance of the Services; and/or
  - (iv) recover from you, and you indemnify and keep us indemnified from, all costs, expenses, loss (including consequential loss), damage and liabilities whatsoever incurred or suffered by us arising out of any such rescheduling, suspension, holding onto the Goods or Hired Goods, doing the things you are required to do, or any other thing or matter whatsoever.
- (d) Unless otherwise expressed or agreed, to the full extent permitted by law, no packaging or delivery costs are refundable by us to you under any circumstances.
- (e) To the extent that we agree that amounts you pay for packaging costs are refundable, you must return such packaging in good condition before you may claim any such refund.

- (f) Unless we otherwise direct, any pallets or stillages that we use to transport or deliver Goods or Hired Goods to you remain our property at all times.
- (g) If clause 16(g) applies, you must return those pallets or stillages to us in good order and condition within 14 days of such delivery, at your own cost and expense, or make such pallets or stillages available for us to collect.
- (h) In addition to anything else in these T&Cs you indemnify and keep us indemnified for the full replacement value of any pallets or stillages if you fail to comply with your obligations under paragraph 16(g).

### 17. Claims and Return Policy

- (a) If we implement a 'claims or return' policy, including one that prescribes the process or time limits for making claims or returning Goods, you must comply with the terms of such policy to be eligible to make such claims.
- (b) We may adopt, terminate or amend any claims or return policy at our sole discretion, and will use all reasonable endeavours to notify you of any such changes.
- (c) You are deemed to consent and agree to any such adoption, termination or amendments to any claims or return policies if you continue to place any Orders with us.
- (d) Subject to any claims or return policy that we implement in accordance with this clause 17, any claims that you may have against us in relation to defective Goods, Hired Goods or Services must be notified in writing to us as soon as you are aware of such defect but, to the extent permitted by law, no later than 12 months after we have supplied such Goods, Hired Goods or Services. You irrevocably waive and release us from any claim you have or may have against us that is not notified in writing to us in accordance with this clause 17(d).

### 18. Warranties and Limitation of Liability

- (a) To the full extent permitted by law, we exclude all representations, warranties or terms (whether express or implied), except those representations, warranties or terms contained in the agreement between you and us, including these T&Cs.
- (b) These T&Cs include, by implication, only those warranties, conditions and terms that:
- (i) law or legislation implies into these T&Cs; and
  - (ii) law or legislation prohibits the parties from modifying, excluding or contracting away.
- (c) To the fullest extent permitted by law, our liability for any breach of any condition or warranty or terms, or the supply of Goods, Hired Goods or Services (including any condition or warranty implied by virtue of paragraph 18(b)), is, at our sole and absolute discretion limited to:
- (i) refunding the Price paid for Goods or Services (excluding any delivery or packaging fee, taxes, excise or duty);
  - (ii) re-supplying the Goods or Services;
  - (iii) repairing the Goods or paying the price of repairing the Goods; or
  - (iv) the payment of the cost of re-supplying the Goods or Services.
- (d) To the fullest extent permitted by law, we are not liable whatsoever, for any consequential or indirect loss you may suffer, including but not limited to loss of:
- (i) profit or earnings;
  - (ii) opportunity or benefit;
  - (iii) any right or interest; or
  - (iv) productivity.

### 19. Retention of Title over Goods

- (a) If we supply Goods to you, then, until you have paid for such Goods in full, we retain all right, title and interest in such Goods (which have not been subsequently sold by you).

(b) Until you have paid for the Goods in full:

- (i) you hold the Goods, and any proceeds, of the Goods, as trustee for our beneficial interest, only;
  - (ii) you must pay to us, immediately on receipt, any proceeds from your sale of the Goods in payment of any amounts you owe to us in respect of the Goods;
  - (iii) you must store any such Goods so that they are safe and secure;
  - (iv) you must keep the Goods and any proceeds thereof in a way so that:
- (1) they are easily identified as our property;
- (2) they do not become mixed or comingled with any of your property or assets; and
  - (3) do not become a fixture to any land or any other property or assets.

(c) You agree that we may:

- (i) without prior notice, access your premises to inspect the condition and storage of the Goods, or to perform any necessary repairs or refurbishments;
  - (ii) enter onto your premises to re-take possession of the Goods if you are in default of your obligations under these T&Cs; and/or
  - (iii) register on the PPSR a PMSI over the Customer with respect to the Goods.
- (d) If we retake possession of the Goods, without limiting anything else in these T&Cs, or by operation of law:
- (i) we may, in our sole discretion, sell or deal with the Goods, including with your trademark or name or any other identifying mark or intellectual property on or in relation to the Goods; and

- (ii) you grant us an irrevocable, perpetual, royalty-free licence to use or any of your trademarks, identifying marks, name or intellectual property whatsoever, to give effect to paragraph 19(d)(i).

(e) We agree that, subject to clause 19(b), you may sell the Goods in the ordinary course of your business. However, you must not:

- (i) use the Goods as security for any loan, indebtedness or credit (except pursuant to the terms of these T&Cs);
- (ii) grant any option to acquire the Goods to any person;
- (iii) part with possession of the Goods except in the course of sale permitted by this clause 18(e); or
- (iv) otherwise deal with the Goods in any other way whatsoever.

(f) For the avoidance of doubt, the fact that you hold the Goods and proceeds thereof as trustee for us does not discharge, in full or in part, your obligations pursuant to these T&Cs. Your obligation to pay us any money will only be discharged upon you paying us such amounts in full.

(g) You agree and acknowledge that our interest in the Goods, pursuant to this clause 19 is a PPSR Security Interest for the purposes of clause 22.

### 20. General Security Interest

- (a) As security for the payment of any amounts payable by you to us, and the performance of your obligations pursuant to these T&Cs, you grant to us a Security Interest over all your present and after acquired personal property (in this clause 20, Collateral).
- (b) The Security Interest granted pursuant to clause 20(a):
- (i) extends to all proceeds of the Collateral; and
  - (ii) to the extent it is necessary to determine the nature of such Security Interest, it is a fixed and floating charge over such Collateral, and any proceeds thereof.
- (c) You must not sell, transfer, encumber, dispose of, grant any rights or interest in or in relation to, or otherwise deal with, any right or interest in any Collateral to which the Security Interest granted pursuant to clause 20(a) applies, except:
- (i) In the ordinary course of your business, to the extent that such Collateral are 'circulating assets' (as that term is defined in the PPSA); or
  - (ii) With our express, prior written consent.
- (d) Without limiting anything else in these T&Cs, you consent to us registering the Security Interest granted pursuant to clause 20(a) on the PPSR.
- (e) You agree and acknowledge that the Security Interest granted pursuant to clause 20(a) is a PPSR Security Interest for the purposes of clause 22.

### 21. Security over Land

- (a) As security for the payment of any amounts payable by you to us, and the performance of your obligations pursuant to these T&Cs, you grant to us a mortgage and/or charge (Charge) over any and all interest or estate you may have in any real property, whether now or in the future (in this clause 21, Collateral).
- (b) You irrevocably consent to us to register a caveat in relation to the Collateral, if we see fit.
- (c) Without limiting our rights and interest at law, you must not, transfer, sell, grant any rights or interests over, or otherwise deal with any of your rights and interest in the Collateral without our express, prior, written consent.
- (d) If we register a caveat over the Collateral, when you pay us all amounts payable to us, and otherwise discharge, in full, your obligations pursuant to these T&Cs, upon request, we will provide you with the relevant documentation to remove or discharge any such caveat or other dealing registered over the title to the Collateral.
- (e) Nothing in this clause 21 obliges us to discharge or remove any interest we register over the title to the Collateral until you have paid all amounts due to us in full, and otherwise complied with all your obligations pursuant to these T&Cs.
- (f) You agree to pay us, on demand and on a full indemnity basis, all our costs, expenses, disbursements, loss, damage and liability whatsoever (including legal and/or enforcement costs) incurred or paid by us in respect of, or in connection with, the registration, discharge or enforcement of the Charge.

### 22. PPSA - Personal Property Securities Act

- (a) This clause 22 applies to any PPSR Security Interests you grant to us, or that we may have, pursuant to the terms of these T&Cs, and apply in addition to any other provisions in these T&Cs.
- (b) You must do all things and sign all documents necessary to:

- (i) obtain any third-party consent to the grant and registration of the PPSR Security Interest;
  - (ii) register (or allow the registration of) and maintain registration of any financing statement on the PPSR in relation to such PPSR Security Interest;
  - (iii) perfect and keep continuously perfected, the Security Interest;
  - (iv) ensure our priority position in relation to the PPSR Security Interest is protected;
- (v) otherwise allow us to enforce such PPSR Security Interest.
- (c) We may register, you consent to us registering, a financing statement on the PPSR in relation to any such PPSR Security Interest.
- (d) To the extent permitted by the PPSA, you waive your right to receive any notice or copy of any document pursuant to the PPSA, including of any verification statement or financing change statement, to reinstate the Security Interest by payment of any amounts owing or by remedy of any default or pursuant to sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 127, 128, 129, 130, 132, 133, 134(2), 135, 136(3), (4) and (5), 137, 142 and 143, unless the notice is required by the PPSA and cannot be excluded.
- (e) We have all powers granted to us by law, including all rights and powers of secured parties at common law and in the PPSA, to enforce our PPSR Security Interest in any way we see fit.
- (f) In addition to any powers pursuant to clause 22(e), we may at our option:
- (i) enter, take possession and assume control of the property subject to the PPSR Security Interest;
  - (ii) receive profits of the property subject to the PPSR Security Interest;
  - (iii) carry on any of your business forming part of, or relating to, the property subject to the PPSR Security Interest;
  - (iv) sell or agree to sell any of the property subject to the PPSR Security Interest (whether or not we have taken possession) on such terms as we see fit;
  - (v) lease or licence the property subject to the PPSR Security Interest, renew, terminate, surrender or accept the surrender of leases or licences, as we see fit;
  - (vi) appoint a receiver and manager on such terms as we see fit; and
  - (vii) make debtors bankrupt, and wind up companies, and otherwise do all things in connection with any bankruptcy or winding up which we think is necessary for the recovery or protection of the property subject to the PPSR Security Interest, or any part thereof.
- (g) You must not sell, dispose of or otherwise deal with property subject to the PPSR Security Interest in any way (including granting any options over such property) without our prior written consent (including any consent given pursuant to these T&Cs).
- (h) If you sell, dispose of, or otherwise deal with the property subject to the PPSR Security Interest in any way, you hold all proceeds from any disposal or dealing with the property subject to the Security Interest on trust for us, and such proceeds are payable by you to us on demand.
- (i) You must pay to us, on demand, all costs, expenses and other amounts incurred or paid by us in respect of, or in connection with, the registration, discharge or enforcement of the PPSR Security Interest.

### 23. Guarantee & Indemnity

- (a) You must ensure that each Guarantor validly executes the Documents, particularly in relation to the Guarantee & Indemnity.
- (b) If the Customer is not a natural person, and/or if the Customer changes its structure (e.g. changing directors, partners, shareholders, etc), we may ask for any additional persons (e.g. directors, partners, shareholders, etc) to execute the Guarantee & Indemnity before we continue to trade with, or extend credit to, the Customer.

### 24. Further Information

- (a) We may, at any time, require you to provide any information for us to assess your credit-worthiness, and you must comply with such request. Without limiting the generality of this clause 24(a), the things that we may request include:
  - (i) if the Customer is a company, a copy of its constitution and/or shareholders' agreement;
  - (ii) if the Customer is a partnership, a copy of its partnership agreement/deed;
  - (iii) if the Customer is a trust, a copy of its trust deed; and
  - (iv) any financial statements, documents or information that we believe, in our absolute discretion, is relevant to the Customer's credit-worthiness.

### 25. Warranties as to Capacity

- (a) You represent, warrant and covenant in our favour that:
  - (i) if the Customer is a company, the persons signing the Documents on behalf of the Customer have all necessary power, authority and consent, and the Company has undertaken all necessary corporate action, to execute the Documents, and give effect to the transactions contemplated therein;
  - (ii) if the Customer is a partnership, the persons signing the Documents on behalf of the Customer have all necessary power, authority and consent, and the partnership has undertaken all necessary action, to execute the Documents, and give effect to the transactions contemplated therein;
  - (iii) if the Customer is acting as trustee of a trust:
    - (1) the persons signing the Documents on behalf of the Customer have all necessary power, authority and consent, and the trust has undertaken all necessary trust action, to execute the Documents, and give effect to the transactions contemplated therein;
    - (2) the trustee is entering into the Documents both in its capacity as trustee of the trust, and in its individual capacity; and
    - (3) the trustee is entitled to be indemnified from the assets of the trust;
  - (iv) the Customer will not undergo a change of control, without our prior written consent (for the purposes of this paragraph, change of control includes adding, removing, or otherwise changing directors, partners, trustees, or otherwise persons who have control of the Customer).
  - (v) the Customer will not undergo a change of control, without our prior written consent (for the purposes of this paragraph, change of control includes adding, removing, or otherwise changing directors, partners, trustees, or otherwise persons who have control of the Customer).

- (b) You agree, acknowledge, represent and warrant that:

- (i) you are not agreeing to these T&Cs, or the Documents, as a result of a statement or conduct not expressly included in these T&Cs or the Documents;
- (ii) you may not request or require us to do anything, including disclosing anything or giving any advice, except as expressly set out in these T&Cs or the Documents;
- (iii) you have read and understand the effect of these T&Cs and the Documents, and do not require us to provide and advice or explanation thereof;
- (iv) you have obtained and relied upon independent legal advice or have had the opportunity to obtain such independent legal advice but have elected not to, in relation to these T&Cs, or the Documents;
- (v) you have not relied upon any advice from us, or our advisors, in relation to these T&Cs or the Documents; and we may rely on this clause 25(b) if you claim that you have entered into these T&Cs and the documents without legal advice, or that you did not understand the nature and effect of these T&Cs and the documents, whatsoever.

### 26. Insolvency of Customer

- (a) To the extent permitted by law, if you become insolvent, you remain liable to pay amounts owing, or otherwise perform your obligations, pursuant to these T&Cs, even if we receive a dividend, distribution or payment as a result of your insolvency.

### 27. GST and Taxes

- (a) All Prices and amounts quoted by us are quoted as exclusive of GST, unless otherwise expressed.
- (b) When we make a taxable supply to you, you must pay to us any GST applicable to such taxable supply, in addition to any other consideration you pay to us, at the time that you pay us for such taxable supply.
- (c) If, as a result of:
  - (i) any legislation becoming applicable to the subject matter of these T&Cs; or
  - (ii) any changes in legislation, subordinate legislation, or their interpretation by a court of competent jurisdiction or by any authority charged with its administration; and we become liable to pay any tax, duty, excise or levy in respect of the amounts received from you, then you must pay us those additional taxes, duties, excise or levies, on demand.

### 28. Assignment

- (a) You may not assign your rights or obligations under these T&Cs except with our express, prior written consent.
- (b) We may assign our rights under these T&Cs at any time on terms that we see fit.

### 29. No Waiver

- (a) A party does not waive its rights under these T&Cs unless it gives written notice that it waives that right (and such waiver is limited to the instance referred to in such notice).
- (b) A right is not impaired or waived by:
  - (i) a failure to exercise that right;
  - (ii) a delay in exercising that right;
  - (iii) a partial exercise of that right;
  - (iv) a previous exercise of that right; or
  - (v) negotiations between the parties.

### 30. Force Majeure

- (a) We are not liable for any loss or damage you may suffer caused by any failure by us to perform our obligations resulting from, or caused by, any fact or circumstance outside of our reasonable control, including, but not limited to:
  - (i) you failing to do something you are required to do under these T&Cs;
  - (ii) lack of materials required to provide the Goods or Services;
  - (iii) Strikes or lockouts;
  - (iv) fires, storms, natural disasters or other acts of God; or
  - (v) riots, war or civil commotions.
- (b) If any event, fact or circumstance occurs, to which clause 30(a) applies, we will use all reasonable endeavours to remove such event, fact or circumstance.
- (c) Clause 30(b) does not, however, require us to settle any litigation, or employment or industrial dispute, whatsoever.
- (d) If any event, fact or circumstance occurs, to which clause 30(a) applies, and, in our reasonable opinion, we are not able to supply the Goods, Hired Goods or Services at all, or within a reasonable time, we may, by written notice, and without liability whatsoever, terminate the agreement between the parties in relation to the supply of such Goods, Hired Goods or Services, and charge you for the Goods, Hired Goods or Services supplied prior to such termination.

### 31. Severability

- (a) These T&Cs must be read so that its provisions are valid and enforceable. If a provision cannot be read, and to the extent that it is invalid or unenforceable, then:
  - (i) that provision is severed from these T&Cs to the extent necessary to remove the invalidity or illegality; and
  - (ii) the remaining provisions of these T&Cs remain valid and enforceable.

### 32. Entire Agreement

- (a) These T&Cs and the Documents constitute the entire agreement between the parties in relation to the subject matter of the Documents, and supersede all previous negotiations, understandings, representations, warranties or agreements in relation to the subject matter of the Documents.

### 33. Variation

- (a) We may vary these T&Cs in accordance with its terms.
- (b) You may request any variation to these T&Cs by writing, however, we may accept or refuse any such requested variation at our sole and absolute discretion, with or without reasons.

### 34. Successors

- (a) The rights and obligations of the parties under these T&Cs continue for the benefit, or to bind, the parties and their successors or legal personal representatives, including, but not limited to, any liquidators, administrators, receivers and managers or trustees in bankruptcy appointed to the parties.

### 35. Jurisdiction

- (a) To the extent permitted by law, these T&Cs are governed by the laws of the Australian Capital Territory (Jurisdiction), or if the law requires that the Jurisdiction must be a State or Territory that is not Australian Capital Territory, that State or Jurisdiction.



### THIS GUARANTEE & INDEMNITY SETS OUT THE TERMS UPON WHICH THE GUARANTORS GUARANTEE THE CUSTOMER'S PERFORMANCE OF ITS OBLIGATIONS IN FAVOUR OF SELECTED BUILDING SERVICES PTY LTD ABN 93 168 103 080

#### 1. Definitions

- (a) Customer means the Customer listed in the Customer Details Form;
- (b) Documents means, collectively, this Guarantee & Indemnity, Privacy Authority and the T&Cs collectively;
- (c) Guarantee & Indemnity means the guarantee and indemnity granted by the Guarantor(s) in our favour pursuant to the terms of this document (and for the avoidance of doubt, refers to both the Guarantor(s) obligations pursuant to this document, and this document itself);
- (d) Guarantor(s) means the person or persons specified in the Guarantor Details Form;
- (e) PPSA means the Personal Property Securities Act 2009 (Cth) and PPSR means the register established and maintained in accordance with the PPSA;
- (f) Privacy Authority means the terms contained in the document of that title, attached to the T&Cs;
- (g) Selected, us, we, our, etc, whether capitalised or not, means Selected Building Services Pty Ltd ABN 93 168 103 080 and its related bodies corporate (as that term is defined in the Corporations Act 2001 (Cth)), agents, employees, contractors, officers, directors and representatives whatsoever;
- (h) Terms & Conditions or T&Cs means the document titled "Terms and Conditions", and any annexures, schedules or attachments to it, including this Guarantee & Indemnity.

#### 2. Guarantee & Indemnity

- (a) Each Guarantor, in consideration of us agreeing to trade with, providing goods or services to, or otherwise extend credit to, the Customer, at the Guarantor(s) request, enter into this Guarantee & Indemnity in our favour.
- (b) The Guarantor(s) irrevocably guarantee, in our favour, the Customer's due and punctual performance of any of its obligations to us (whether now or in the future, whatsoever), including but not limited to, pursuant to the Documents, and the payment of any money or consideration, whatsoever.
- (c) If the Customer fails to perform and observe its obligations to us, the Guarantor(s) agree to perform such obligations on demand and as directed, by us.
- (d) As a separate, primary and severable liability to that of the Customer and the Guarantor(s) pursuant to clauses 2(b) and 2(c), the Guarantor(s) indemnify us and agree to keep us indemnified against any cost, expense, liability, loss or damage suffered or incurred by us (including legal or enforcement costs on a full indemnity basis) arising out of:
  - (i) a failure by the Customer or any of the Guarantor(s) to observe or perform their obligations under any of the Documents, or otherwise owed to us;
  - (ii) any obligation of the Customer or any of the Guarantor(s) under any of the Documents (or other arrangement) being ineffective for any reason whatsoever, including:
    - (1) a legal limitation, disability or incapacity of any of them, or a lack or improper exercise of a power or authority;
    - (2) the Customer, or any of the Guarantor(s) making an arrangement, assignment or composition for the benefit of the creditors;
    - (3) an order made, or resolution effectively passed, for the winding-up or bankruptcy of the Customer or any of the Guarantor(s);
    - (4) the Customer or any of the Guarantor(s) going into liquidation, or a receiver, administrator, provisional liquidator, liquidator, or trustee in bankruptcy being appointed to the Customer or any of the Guarantor(s); or
    - (5) any obligation of the Customer or any of the Guarantor(s) becoming illegal, invalid, void or unenforceable.

#### 3. Continuing Liability

- (a) The Guarantee & Indemnity granted by a Guarantor constitute continuing obligations of that Guarantor and remain in full force and effect until:
  - (i) The Customer's obligations to us have been paid or performed in full (whether by the Customer or one or more of the Guarantor(s)); and
  - (ii) We have, in writing, released that Guarantor from the Guarantee & Indemnity for any future obligations of the Customer.
- (b) Without limiting the generality of clause 3(a), the obligations of a Guarantor pursuant to this Guarantee & Indemnity are not affected, avoided, discharged or released by:
  - (i) any variation in any agreements or arrangements between the Customer and us;
  - (ii) any part payment of any amounts owed by the Customer or the Guarantor(s) to us;
  - (iii) insolvency of any of the Guarantor(s) or the Customer;
  - (iv) any of the Guarantor(s) death or incapacity;
  - (v) us releasing or discharging the Customer or any of the other Guarantor(s) from their obligations;
  - (vi) us granting any time, waiver, covenant not to sue, indulgence or concession to the Customer or any of the other Guarantor(s) whatsoever, whether or not an additional burden is imposed to, or making of, an arrangement, compromise, or composition with a person, or compounding a liability, in any way;
  - (vii) laches, acquiescence, delay, omission, mistake or other act by us or any other person or any of them;
  - (viii) any of the Documents, or this Guarantee and Indemnity being or becoming wholly or partially illegal, invalid, void, voidable, unenforceable or otherwise of limited force or effect;
  - (ix) a variation, renewal, amendment or novation or a dealing with this Guarantee and indemnity, or other document, irrespective of whether or not the effect:
    - (1) is material;
    - (2) imposes an additional liability; or
    - (3) is onerous;
- (c) the Guarantor or any other person;
- (d) an invalidity or irregularity in the execution of this Guarantee & Indemnity by the Guarantor, or a deficiency or irregularity in the powers of the Guarantor to enter into, or observe its obligations under this Guarantee & Indemnity;
- (e) a judgement against the Guarantor or another person; or
- (f) a change in capacity, rights, or obligations of the Guarantor or other person.

#### 4. Multiple Guarantors

- (a) Where there is more than one Guarantor, this Guaranty & Indemnity applies to bind all such Guarantors jointly, and each of them severally.

#### 5. Enforcement of Guarantee

- (a) We may seek or demand payment of all amounts due by the Customer, or the performance of the Customer's obligations, from any one or more of the Guarantor(s) at our sole discretion, regardless of whether or not we have exhausted our remedies, or made any formal claims, or commenced any proceedings, against the Customer or any of the other Guarantor(s) whatsoever.
- (b) We may enforce this Guarantee & Indemnity against any one or more of the Guarantor(s) as a primary liability, and not as a subordinate or secondary liability (whether to that of the Customer, or any other Guarantor(s)).

#### 6. No Marshalling

- (a) We are not required to marshal in any of the Guarantor(s)' favour:
  - (i) any security we may hold with respect to the Customer or otherwise; or
  - (ii) any asset which we hold or are entitled to, with respect to the Customer or otherwise.

#### 7. Security over Land

- (a) As security for the payment of any amounts payable by the Guarantor(s) to us, and the performance of the Guarantor(s) obligations pursuant to this Guarantee & Indemnity, each Guarantor grants to us a mortgage and/or charge (Charge) over any and all interest or estate such Guarantor may have in any real property, whether now or in the future (in this clause 7, Collateral).
- (b) Each Guarantor irrevocably consents to us to register a caveat in relation to the Collateral, if we see fit.
- (c) Without limiting our rights and interest at law, the Guarantor(s) must not, transfer, sell, grant any rights or interests over, or otherwise deal with any of your rights and interest in the Collateral without our express, prior, written consent.
- (d) If we register a caveat over the Collateral, when the Guarantor(s) or the Customer pay us all amounts payable to us, and otherwise discharge, in full, the Customer's and the Guarantor(s)' obligations, upon request, we will provide the relevant Guarantor(s) with the relevant documentation to remove or discharge any such caveat or other dealing registered over the title to the Collateral.
- (e) Nothing in this clause 7 obliges us to discharge or remove any interest we register over the title to the Collateral until we have received all amounts due to us in full, and the Customer and/or Guarantor(s) have otherwise complied with all their obligations that is the subject of this Guarantee & Indemnity.
- (f) Each Guarantor agrees to pay us, on demand and on a full indemnity basis, all our costs, expenses, disbursements, loss, damage and liability whatsoever (including legal and/or enforcement costs) incurred or paid by us in respect of, or in connection with, the registration, discharge or enforcement of the Charge.

#### 8. General Security Interest

- (a) As security for the payment of any amounts payable by the Guarantor(s) to us, and the performance of the Guarantor(s) obligations pursuant to this Guarantee & Indemnity, each Guarantor grants to us a security interest (Security Interest) over all their present and after acquired personal property (in this clause 8, Collateral).
- (b) The Security Interest granted pursuant to clause 8(a):
  - (i) extends to all proceeds of the Collateral; and
  - (ii) to the extent it is necessary to determine the nature of such Security Interest, it is a fixed and floating charge over such Collateral, and any proceeds thereof.
- (c) The Guarantor(s) must not sell, transfer, encumber, dispose of, grant any rights or interest in or in relation to, or otherwise deal with, any right or interest in any Collateral to which the Security Interest granted pursuant to clause 8(a) applies, except:
  - (i) In the ordinary course of the Guarantor(s)' business, to the extent that such Collateral are 'circulating assets' (as that term is defined in the PPSA); or
  - (ii) With our express, prior written consent.
- (d) If a Guarantor sells, disposes of, or otherwise deals with the property subject to the Security Interest in any way, such Guarantor holds all proceeds from any disposal or dealing with the property subject to the Security Interest on trust for us, and such proceeds are payable by that Guarantor to us on demand.
- (e) Without limiting anything else in this Guarantee & Indemnity, each Guarantor consents to us registering the Security Interest granted pursuant to clause 8(a) on the PPSR.
- (f) Each Guarantor must do all things and sign all documents necessary to:
  - (i) obtain any third party consent to the grant and registration of the Security Interest;
  - (ii) register (or allow the registration of) and maintain registration of any financing statement on the PPSR in relation to such Security Interest;
  - (iii) perfect and keep continuously perfected, the Security Interest;
  - (iv) ensure our priority position in relation to the Security Interest is protected;
  - (v) otherwise allow us to enforce such Security Interest.
- (g) To the extent permitted by the PPSA, each Guarantor waives their right to receive any notice or copy of any document pursuant to the PPSA, including any verification statement or financing change statement, to reinstate the Security Interest by payment of any amounts owing or by remedy of any default or pursuant to sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 127, 128, 129, 130, 132, 133, 134(2), 135, 136(3), (4) and (5), 137, 142 and 143, unless the notice is required by the PPSA and cannot be excluded.
- (h) We have all powers granted to us by law, including all rights and powers of secured parties at common law and in the PPSA, to enforce our Security Interest in any way we see fit.
- (i) In addition to any powers pursuant to clause 8(h), we may at our option:
  - (i) enter, take possession and assume control of the property subject to the Security Interest;
  - (ii) receive profits of the property subject to the Security Interest;
  - (iii) carry on any of the Guarantor(s)' business forming part of, or relating to, the property subject to the Security Interest;

## Section 4 - Guarantee and Indemnity (continued)

(iv) sell or agree to sell any of the property subject to the Security Interest (whether or not we have taken possession) on such terms as we see fit;

(v) lease or licence the property subject to the Security Interest, renew, terminate, surrender or accept the surrender of leases or licences, as we see fit;

(vi) appoint a receiver and manager on such terms as we see fit; and

(vii) make debtors bankrupt, and wind up companies, and otherwise do all things in connection with any bankruptcy or winding up which we think is necessary for the recovery or protection of the property subject to the Security Interest, or any part thereof.

(j) Each Guarantor must pay to us, on demand, all costs, expenses and other amounts incurred or paid by us in respect of, or in connection with, the registration, discharge or enforcement of the Security Interest in relation to that Guarantor's property.

### 9. Suspension of Claims

(a) Unless and until the Customer's and Guarantor(s) obligations to us have been performed and discharged in full, each Guarantor irrevocably suspends all rights or claims it may have against the Customer or any other Guarantor whatsoever (including any right of subrogation), and must not make any claim or demand in that regard, except to give effect to clause 9(b).

(b) Unless and until the Customer's and Guarantor(s) obligations to us have been performed and discharged in full, each Guarantor irrevocably appoints us, and each of our directors and secretaries as that Guarantor's attorney for the purposes of making any claim or demand on behalf of that Guarantor against the Customer or another Guarantor, and:

(i) any person so acting may do (or refrain from doing) anything lawfully permitted to be done by an attorney, despite any conflict of interest;

(ii) any person so acting may apply any and all amounts received on behalf of that Guarantor towards the payment of any amounts payable by that Guarantor (and/or the Customer or any other Guarantor) to us pursuant to the terms of this Guarantee & Indemnity, including any costs, expenses or liability incurred by us or such persons in acting as the Guarantor's attorney; and

(iii) that Guarantor irrevocably ratifies all acts of any person so acting pursuant to, and in accordance with, this clause 9(b).

### 10. Warranties

(a) Each Guarantor represents and warrants in our favour that they have all necessary power, consents, authority and capacity to enter into this Guarantee & Indemnity and to perform their obligations under it.

(b) In addition to clause 10(a), each Guarantor agrees, acknowledges, represents and warrants that:

(i) they are not agreeing to this Guarantee & Indemnity, or the Documents, as a result of a statement or conduct not expressly included in this Guarantee & Indemnity, or the Documents;

(ii) they may not request or require us to do anything, including disclosing anything or giving any advice, except as expressly set out in this Guarantee & Indemnity or the Documents;

(iii) they have read and understand the effect of this Guarantee & Indemnity and the Documents, and do not require us to provide any advice or explanation thereof;

(iv) they have obtained and relied upon independent legal advice or have had the opportunity to obtain such independent legal advice but have elected not to, in relation to this Guarantee & Indemnity, or the Documents;

(v) they have not relied upon any advice from us, or our advisors, in relation to this Guarantee & Indemnity or the Documents; and we may rely on this clause 10(b) if a Guarantor claims that they have entered into this Guarantee & Indemnity and the documents without legal advice, or that they did not understand the nature and effect of this Guarantee & Indemnity and the Documents, whatsoever.

### 11. Assignment

(a) We may assign our rights under this Guarantee & Indemnity at any time on terms that we see fit.

### 12. No Waiver

(a) We do not waive our rights under this Guarantee & Indemnity unless we give written notice that we waive that right (and such waiver is limited to the instance referred to in such notice).

(b) A right is not impaired or waived by:

(i) a failure to exercise that right;

(ii) a delay in exercising that right;

(iii) a partial exercise of that right;

(iv) a previous exercise of that right; or

(v) negotiations between the parties.

### 13. Severability

(a) This Guarantee & Indemnity must be read so that its provisions are valid and enforceable. If a provision cannot be read, and to the extent that it is invalid or unenforceable, then:

(i) that provision is severed from this Guarantee & Indemnity to the extent necessary to remove the invalidity or illegality; and

(ii) the remaining provisions of this Guarantee & Indemnity remain valid and enforceable.

### 14. Successors

(a) The rights and obligations of the parties under this Guarantee & Indemnity continue for the benefit, or to bind, the parties and their successors or legal personal representatives.

### 15. Jurisdiction

(a) This Guarantee & Indemnity is governed by the laws of the New South Wales in Australia (Jurisdiction).

(b) The parties irrevocably submit to the jurisdiction and courts of the Jurisdiction.

(c) No party may challenge or otherwise dispute the jurisdiction of the courts of the Jurisdiction to hear any matter in relation to this Guarantee & Indemnity.

## Section 5 - Privacy Authority

### THIS PRIVACY AUTHORITY SETS OUT THE POLICY FOR DEALING WITH THE CUSTOMER'S AND/OR THE GUARANTOR(S) PERSONAL INFORMATION BY SELECTED BUILDING SERVICES PTY LTD ABN 93 168 103 080 FOR THE PURPOSES OF THE PRIVACY ACT 1988 (Cth)

#### 1. Definitions

(a) Customer, you, etc means the Customer listed in the Customer Details Form;

(b) Documents means, collectively, this Privacy Authority, Guarantee & Indemnity and the T&Cs collectively;

(c) Guarantee & Indemnity means the document of that title attached to the T&Cs;

(d) Guarantor(s) means the person or persons specified in the Guarantor Details Form;

(e) Privacy Act means the Privacy Act 1988 (Cth);

(f) Relevant Persons, you, your, etc, whether capitalised or not, means the Customer and each of the Guarantor(s);

(g) Selected, us, we, our, etc, whether capitalised or not, means Selected Building Services Pty Ltd ABN 93 168 103 080 and its related bodies corporate (as that term is defined in the Corporations Act 2001 (Cth)), agents, employees, contractors, officers, directors and representatives whatsoever;

(h) Terms & Conditions or T&Cs means the document titled "Terms and Conditions", and any annexures, schedules or attachments to it, including this Privacy Authority;

(i) Trade Referrals means the Trade Referrals listed in the Customer Details Form.

#### 2. Commencement

(a) This Privacy Authority commences when you execute the Documents, regardless of whether or not any one or more of the other parties have executed the same.

#### 3. Collection of Personal Information

(a) We will collect information about you (from the Customer Details Form, the Guarantor Details Form or otherwise) to process the Customer's application to commence trade, or obtain credit, from us, and to maintain such account.

(b) You and the Guarantors consent to us making such enquiries as we deem in our absolute discretion necessary for the purposes of determining whether or not to approve the Customer, including, but not limited to:

(i) obtaining information about you from the Trade Referrals in relation to your dealings with them, for the purposes of assessing your credit-worthiness;

(ii) obtaining reports from credit providers or credit reporting agencies; in relation to your commercial activities or credit worthiness, including any information as to your credit history, standing, capacity, or any other thing that credit providers or credit reporting agencies, are allowed to give or receive.

#### 4. Use of Personal Information

(a) You irrevocably consent to us using any personal information about you for the purposes of assessing whether or not to commence trading with the Customer, or otherwise extending credit to the Customer.

(b) You irrevocably consent to us disclosing any information about you for the following purposes:

(i) to obtain any further information about you pursuant to clause 2 (including for identification purposes);

(ii) to allow any credit reporting agency to create or maintain a credit information file containing information about you; provided such information so disclosed is limited to:

(iii) particulars as to your identity (e.g. name, address, date of birth, identification document number, etc);

(iv) the Customer's application for credit (i.e. that the Applicant has applied for credit, and the amount);

(v) the fact that we may be providing credit to the Customer;

(vi) any amounts due which are overdue by more than 60 days, and for which debt collection action has started;

(vii) advising that any amounts which have been previously recorded as overdue are no longer overdue;

(viii) information that, in our reasonable opinion, shows that you have committed a serious infringement or dishonest act, with respect to credit (e.g. acting fraudulently, or displaying an intention not to comply with your obligations);

(ix) information as to any dishonoured payments of \$100 or more, which have been dishonoured more than once; and

(x) any information permitted to be disclosed pursuant to the Privacy Act.

#### 5. Storage of Personal Information

(a) We will store your personal information in our secure electronic database and/or in hard copy in locked and secure locations with restricted access.

(b) We will undertake all reasonable precautions to safeguard your personal information from loss, misuse, unauthorised access, modification or disclosure.

#### 6. Request for Access

(a) You may access the personal information we have about you, and seek correction of such information, by contacting us directly.

#### 7. Further Information

(a) You may obtain further information about your rights in relation to personal information via our privacy policy on our website (if any) or the Office of the Australian Information Commissioner, whose website is as follows: [www.oaic.gov.au](http://www.oaic.gov.au).



By signing below, the persons' whose signatures appear below represent, acknowledge, warrant and agree:

- 1) that the information provided in the Customer Details Form and Guarantors Details Form is true and correct in all material respects to the best of their knowledge;
- 2) that they have received a copy of our Terms and Conditions, Privacy Authorisation and Guarantee & Indemnity (collectively, *Documents*) and have read and understood those terms;
- 3) that they have been given the opportunity to obtain independent legal advice as to the legal and practical nature and effect of the Documents, and have either:
  - a) obtained such independent legal advice, and agree to the Documents in reliance on such advice; or
  - b) elected not to obtain such independent legal advice;
- 4) to be bound by the provisions of the Documents, to the extent that the Documents apply to them;
- 5) to the extent that a person is signing on behalf of another person or entity (i.e. not in their personal capacity), such person has all power, consents and authority to execute the Documents on behalf of that other person or entity;
- 6) you should check for yourself whether the Customer/Applicant can pay its debts as and when they fall due and whether it can comply with its obligations under the Terms & Conditions of Sale; and
- 7) I am not purporting to act as a trustee or as agent for any other person.

**NOTE: An immediate family member cannot witness this document.**

**CUSTOMER EXECUTION (I.E. 1 SOLE TRADER OR 2 PARTNERS OR 2 DIRECTORS OR 1 DIRECTOR AND THE COMPANY SECRETARY)**

Signature of Customer 1	Date	Signature of Customer 2	Date
Full Name (please print)	Capacity	Full Name (please print)	Capacity

**GUARANTOR 1 - SIGNED, SEALED AND DELIVERED AS A DEED**

Signature of Guarantor	Signature of Witness
Full Name (please print)	Full Name (please print)
Date	Date

**GUARANTOR 2 - SIGNED, SEALED AND DELIVERED AS A DEED**

Signature of Guarantor	Signature of Witness
Full Name (please print)	Full Name (please print)
Date	Date

**GUARANTOR 3 - SIGNED, SEALED AND DELIVERED AS A DEED**

Signature of Guarantor	Signature of Witness
Full Name (please print)	Full Name (please print)
Date	Date

**GUARANTOR 4 - SIGNED, SEALED AND DELIVERED AS A DEED**

Signature of Guarantor	Signature of Witness
Full Name (please print)	Full Name (please print)
Date	Date

**SELECTED EXECUTION - OFFICE USE ONLY**

Signature	Full Name (please print)	Date	Office Use Only
			Credit Limit
			Credit Term



**Selected Building Services**  
ABN 93 168 103 080  
Ph: 1300 111 727  
creditmanager@selected.net.au