

TERMS AND CONDITIONS OF SALE

• DEFINITIONS

1. Terms used herein are defined as follows:
2. "PMB" means the seller.
3. "PMB Premises" means the place of business of PMB from which the goods are dispatched to the customer.
4. "the Customer" means any person or body of persons, firm, company, or other entity buying goods or services from PMB and their executors administrators or successors.
5. "goods" means any product, equipment, part or item whether complete or incomplete or service which PMB is in the business of supplying.
6. "price" means the price for the goods excluding carriage, packing, insurance and Goods and Services Tax.
7. "order" means an oral or written request for goods to PMB from the Customer or any agent, officer, servant or employee of the Customer.

• GENERAL

1. This agreement shall be governed and construed in accordance with the domestic law of New Zealand.
2. Headings are inserted for convenience and shall not affect the construction of this agreement.
3. The singular includes the plural and vice versa.
4. If at any time any provision of this agreement is or becomes illegal, invalid or unenforceable in any respect under the law of New Zealand, neither the legal validity nor enforceability of the remaining provisions hereof shall in any way be affected or impaired thereby to the intent that this agreement should be construed as if the provision or part thereof in question had been deleted.
5. These conditions of sale extinguish the terms of all prior agreements, understandings, representations, or warranties previously given in respect of goods or services supplied by the PMB or any agent of PMB.
6. Orders are accepted solely in accordance with these terms unless otherwise expressly stated in writing by the PMB.

• ACCEPTANCE

1. An order is accepted when communicated to the Customer, either verbally or in writing. If acceptance has not been communicated to the Customer, acceptance shall be deemed to have been made upon PMB dispatching the goods, or upon PMB notifying the Customer that the goods are available for collection.
2. Acceptance of delivery of any goods will be deemed to be acceptance by the Customer of these terms and conditions notwithstanding anything that may be stated to the contrary in the Customers inquiries or on the Customers orders.

• VARIATION

1. Once an order has been accepted, no cancellation, addition, reduction, amendment or variation of any kind may be made without the consent of PMB.

• QUOTATIONS

1. Quotations shall apply for a period of 30 days unless otherwise stated. They are based on current material and procurement costs and variations to these costs shall be to the Customers account. Upon acceptance of PMB's quotation these terms and conditions shall be deemed to be absolutely accepted notwithstanding anything contained in the Customers order. PMB's quotation shall be deemed to interpret correctly the Customers specifications and variations in costs, duties or subsequent alterations to these specifications shall be to the Customers account. Goods and Services Tax ("GST") or tax of a similar nature, if any will be an extra charge.

• PRICES

1. Unless otherwise expressly stated the price to be paid for the goods supplied is the price current at the date of delivery, notwithstanding any price stated on the order.
2. Prices unless otherwise stated do not include taxes, GST, import duties or other levies or tariffs, freight or insurance charges which if applicable will be an extra charge. Any increase in taxes, tariffs, duties, freight or insurance charges after the quotation shall be to the Customers account.
3. PMB reserves the right to amend any price at any time without prior notice.

• DELIVERY

1. The date of delivery shall be the date upon which the goods are available for dispatch or collection from PMB premises.
2. Unless otherwise agreed to in writing the point of delivery will be the Customers premises.
3. In the event that PMB is requested to arrange delivery to other than the Customers premises, PMB will do so on behalf of the Customer and shall not be liable in any way to the Customer in respect of such delivery.
4. The Customer shall be solely responsible for all costs and charges of storage, detection and similar contingencies which may arise out of delays caused by the non-availability of transport services.
5. At the option of PMB goods may be delivered in installments and each delivery so made shall be due for payment on PMB's usual terms. Delivery of an order by installments shall in each case be an approved variation of the contract and shall not give the Customer any right to cancel the balance of the order.
6. If goods ordered are ready for delivery or collection and the Customer does not take delivery within 7 days of being requested to do so by PMB, PMB at its option may cancel the contract or may invoice the good whereupon the Customer shall be liable to pay for the goods.
7. Goods stored by PMB for more than 7 days after notification to the Customer of availability for collection will be subject to a storage charge at a rate decided by PMB.

• RISK

1. Goods shall be at the Customer's risk in all respects as from and including the date of delivery or collection.

• TITLE

1. The goods shall remain the sole and absolute property of PMB pending cleared payment of all moneys owing by the Customer to PMB.
2. The Customer shall hold the goods of PMB as its trustee or agent (but without holding itself out as such)
3. Pending payment in full the Customer agrees to store the goods in such a manner that the goods are easily identifiable as the property of PMB.
4. PMB shall have the right to retake possession of and resell the goods and for such purpose is authorised by the Customer to enter into any premises where the goods are situated or thought to be situated and the Customer shall indemnify PMB in respect of any claim, action, damage or cost incurred or threatened as a result of PMB exercising the powers of this clause or otherwise acting to recover any moneys payable or good supplied pursuant to any contract between the Customer and PMB.
5. Should the goods become part of or be converted into other products while title remains with PMB the ownership of the incorporated goods shall remain with PMB as if they were solely and simply the goods.
6. When the Customer pays money to PMB without reference to specific invoices or goods, PMB shall have the right to allocate moneys received to invoices or goods at PMB's discretion.

• PAYMENT

1. Payment of all moneys will be made to PMB by the 20th day of the month following the month of the date of the invoice. If payment is not received by the due date, PMB reserves the right to charge interest on any outstanding amount at 5% above PMB's commercial overdraft rate, calculated daily.

• CANCELLATION

1. In the event of the Customer breaching the terms of sale or if any event or happening occurs which PMB may reasonably believe to affect the ability of the Customer to comply with such terms including the payment of all moneys owing by the Customer to PMB, then upon notice from PMB all moneys become

immediately due and payable. PMB shall have the right to cancel the contract or any part thereof so far as it remains unperformed without prejudice to its rights against the Customer for any damages or consequential loss.

- **WARRANTY**

1. The Customer acknowledges that supply under this contract is a supply for business purposes in terms of sections 2 and 43 of the Consumer Guarantees Act 1993 ("Act") and accordingly, subject to clause 16 the provisions of the Act do not apply to any supply made pursuant to this contract. The Customer agrees and acknowledges that in no event will PMB be liable for any property damage, personal injury, direct or consequential loss or damage incurred by the Customer or a third party whether due to defective goods and/or as a result of negligence or otherwise by PMB or its servants or agents and in any event the liability of PMB will not exceed the purchase price paid by the Customer for the goods.
2. When the Customer on-sells the goods to customers who purchase the same for business purposes the Customer shall contract out of the Act in same manner as per clause 12.1 above. Should the Customer fail to do this the Customer will indemnify PMB against any claim expense or loss suffered by the Seller as a direct or indirect consequence of such failure.
3. Claims in respect of defective goods must be notified within 10 days of receipt of goods and be returned within 30 days following delivery. The Customer shall have no claim with regard to goods that have already been processed, altered or in any way utilised by the Customer. No claim shall entitle the Customer to withhold payment of any sum due to PMB under this or any other contract nor shall a claim give any right to set off any payment due to the Customer by PMB.

- **RETURNED GOODS**

1. Returned goods will not be accepted without the prior written approval of PMB and must be received freight prepaid by PMB within 30 days of the date of delivery.

- **CLAIMS**

1. Advice by the Customer that it has been invoiced for goods not received must be given within 14 days from the date of invoice.
2. All claims of any nature must be accompanied by particulars of the claim and by invoice and delivery details.
3. In no circumstances whatsoever (including the negligence of PMB) shall PMB be liable for consequential losses (including loss of profits) howsoever arising whether suffered by the Customer and/or any third party.

- **PROPRIETARY RIGHTS**

1. Ownership of and copyright in all design details, specifications, software, technical handbooks, drawings and other material ("data") prepared or supplied by PMB to the Customer will at all times remain vested in PMB and the Customer will not permit any such data nor any modified version to be disclosed to nor by any third party.

- **CONSUMER GUARANTEES ACT – IMPORTANT NOTICE**

1. These terms and conditions contemplate supply to:
 - A person other than a consumer in terms of the Consumer Guarantees Act 1993 ("Act"); or
 - A person for business purposes (and in which case clause 12 hereof applies);
2. Accordingly where the above does not apply then the terms and conditions herein which reduce, limit or are contrary to the guarantees and remedies contained in the Act shall be deemed to be deleted and omitted from this contract for the purposes of the Act, and in such situations the warranties and guarantees contained herein are additional to the rights and remedies of such a buyer as are contained in the Act.