

TERMS AND CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1 "Supplier" means Metro Property Services, a division of Metropolitan Property Servicing, its successors and assignees or any person acting on behalf of and with the authority of Metro Property Services Limited.
- 1.2 "Client" means the person/s or company ordering the Works as specified in any invoice, document or order, if there is more than one Client is a reference to each Client jointly and severally.
- 1.3 "Price" means the Price payable for the Works as agreed between the Supplier and the Client in accordance with clause 4 below.
- 1.4 "Works" means all Works or Materials supplied by the Supplier to the Client at the Client's request from time to time (where the context so permits the terms 'Works' and 'Materials' shall be interchangeable for the other).
- 1.5 "Labour Charge" means time associated with completing Works including travel time to the work site and time involved with collecting materials.
- 1.6 "Vehicle Charge" means all costs related to the use of a motor vehicle.

2. TERMS

- 2.1 By accepting a quote issued by the Supplier, the Client hereby accepts these Standard Terms and Conditions.
- 2.2 These terms and conditions may only be amended with the Supplier's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and Supplier.

3. ACCEPTANCE

- 3.1 All quotes for Works under this Agreement are to be accepted by the Client in writing before any Works are to be undertaken or Materials ordered.
- 3.2 Subject to clause 2.2, no modifications or amendments may be made to scope of Works detailed in any quote after it is accepted under this Agreement.
- 3.3 The Supplier has the right to agree to modifications or amendments to scope of Works in a quote on the basis that reasonable additional charges are to be paid by the Client and adjustments are made to lead times for Works to be completed.

4. CLIENT OBLIGATIONS

- 4.1 The Client must inform the Supplier immediately if any details recorded on invoices issued under this Agreement are incorrect.

5. TITLE

- 4.1 The title in goods and materials under this Agreement does not transfer to the Client until payment is received by the Supplier in full in accordance with clause 6.

6. PAYMENT

- 6.1 A minimum charge of two hours Labour applies to all invoices rendered under this Agreement. At the Supplier's absolute discretion, a reasonable Vehicle Charge will also apply to invoices rendered under this Agreement.
- 6.2 At the Supplier's sole discretion the Price shall be either:
- (a) as indicated on invoices provided by the Supplier to the Client in respect of Works performed or Materials supplied; or
 - (b) the Supplier's quoted Price (subject to clause (b)) which shall be binding upon the Supplier provided that the Client shall accept the Supplier's quotation in writing within thirty (30) days.
- 6.3 The Supplier reserves the right to change the Price:

- (a) if a variation to the Materials which are to be supplied is requested; or
 - (b) if a variation to the Works originally scheduled (including any applicable plans or specifications) is requested; or
 - (c) where additional Works are required due to the discovery of hidden or unidentifiable difficulties which are only discovered on commencement of the Works; or
 - (d) in the event of increases to the Supplier in the cost of labour or materials which are beyond the Supplier's control.
- 6.4 At the Supplier's sole discretion a non-refundable deposit may be required.
- 6.5 Time for payment for the Works being of the essence, the Price will be payable by the Client on the date/s determined by the Supplier, which may be:
- (a) on the 20th of the month after the invoice is issued;
 - (b) by way of progress payments in accordance with the Supplier's specified progress payment schedule;
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) in the case of a non-account holder with the Supplier, the date which is 14 days following the date of any invoice given to the Client by the Supplier.
- 6.6 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, or by any other method as agreed to between the Client and the Supplier.
- 6.7 The Client is required use the invoice number supplied by the Supplier and the billing name as reference for payment.
- 6.8 Payments made by direct credit are to be deposited in Metro Property Services bank account:
- Bank Account Number: 12-3191-0051751-00
- Account Name: PROCTOR MG
- 6.9 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to the Supplier an amount equal to any GST the Supplier must pay for any supply by the Supplier under this or any other agreement for the sale of the Materials. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 7. DEFAULT**
- 7.1 In the event that an invoice is outstanding and is not paid within the specified timeframe in accordance with clause 6.5, a penalty interest rate of 18% p.a. to be calculated daily will apply to that invoice from the due date for payment until the date of payment. This is in addition to Metro Property Services recovering any costs associated with debt recovery.
- 8. PERSONAL PROPERTY SECURITIES ACT ("PPSA")**
- 8.1 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:
- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) a security interest is taken in all Materials previously supplied by the Supplier to the Client (if any) and all Materials that will be supplied in the future by the Supplier to the Client.
- 8.2 The Client undertakes to:
- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Supplier may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, the Supplier for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Materials charged thereby;
 - (c) not register a financing change statement or a change demand without the prior written consent of the Supplier; and

- (d) immediately advise the Supplier of any material change in its business practices of selling Materials which would result in a change in the nature of proceeds derived from such sales.
- 8.3 The Supplier and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 8.4 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.
- 8.5 Unless otherwise agreed to in writing by the Supplier, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 9. PRIVACY ACT 1993**
- 9.1 The Client authorises the Supplier or the Supplier's agent to:
- (a) access, collect, retain and use any information about the Client;
 - (b) (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or
 - (c) for the purpose of marketing products and services to the Client.
 - (d) disclose information about the Client, whether collected by the Supplier from the Client directly or obtained by the Supplier from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.
- 9.2 The Client shall have the right to request the Supplier for a copy of the information about the Client retained by the Supplier and the right to request the Supplier to correct any incorrect information about the Client held by the Supplier.
- 10. GENERAL**
- 10.1 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Christchurch.
- 10.2 The Supplier shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Supplier of these terms and conditions (alternatively the Supplier's liability shall be limited to damages which under no circumstances shall exceed the Price of the Works).
- 10.3 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by the Supplier nor to withhold payment of any invoice because part of that invoice is in dispute.
- 10.4 The Supplier may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 10.5 The Client agrees that the Supplier may amend these terms and conditions at any time. If the Supplier makes a change to these terms and conditions, then that change will take effect from the date on which the Supplier notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for the Supplier to provide any Works to the Client.
- 10.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 10.7 The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.

On Agreeing to the Terms and Conditions of Trade, please sign the signature block (over page).

11. SIGNATURE OF AGREEMENT

Signature of the Client or person acting on behalf of Client:

Signature:

Print Full Name:

Position in Company:

Date:

Signed in the presence of:

Witness signature:

Print Full Name:

Occupation:

Date: