



Terms Of Trade.

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Terms of Trade

All engagements are subject to these Terms of Trade and a Credit Application, along with any individual terms as amended under "Individual Terms". In the event of an inconsistency between these Terms of Trade, and any Individual Term, the Individual Term shall prevail. These standard Terms of Trade are superseded by any signed Master Service Agreement or Alternative Terms of Trade signed by Aotea and the Customer.

Definitions

"Aotea" means Aotea Security (NZ) Limited

"Credit Application" means an Aotea Credit Application form.

"Customer" means you the Customer, whether a Credit Application Form has been completed and submitted or not.

"Customer Credit Account" means the Customer Credit facility extended to the Customer by Aotea on the terms of these Terms and Conditions, and those contained in the Customer's Credit Application.

"Goods" means, and without limitation includes, any appliance, product, equipment, machinery, caballing or any other product supplied by Aotea to the Customer.

"Guarantor" means a Guarantor listed in the Credit Application.

"Services" means any Service provided by Aotea Security (NZ) Limited (Aotea) in connection with, at the request of or in relation to the supply of any Goods, including without limitation quoting for any proposed work, and any costs incurred by Aotea in the enforcement of recovery or recovery of any Goods and/or outstanding monies.

1 Ownership

- 1.1 Ownership and title to all Goods remains with Aotea and does not pass to the Customer until all associated invoices issued to the Customer and recorded against the Customer Credit Account are paid in full.

2 Prices

- 2.1 All Goods and Services will be charged at rates applicable at the date of billing.
- 2.2 Unless otherwise stated all prices are exclusive of GST and other taxes which must be paid by the Customer.

- 2.3** Aotea may require a deposit be paid at the time the Customer places an order (“Deposit”) and;
- (a) a Customer order may not be completed until such time as the Deposit is received by Aotea for that order;
 - (b) in the event the Customer Credit Account is in arrears at the time of the order and a Deposit is received, Aotea may at Aotea’s sole discretion apply the Deposit as required to the Customer Credit Account to clear any arrears; and
 - (c) the Customer may be required to make a further Deposit payment to Aotea to ensure the Customer Credit Account is not in arrears and a sufficient Deposit has been paid.
- 2.4** The Customer must pay freight costs and insurance charges and for time spent by Aotea in travel to and from the job, as well as time spent in the acquisition of materials required.

3 Payment

- 3.1** Aotea will invoice the Customer for all sales and Services (“Invoice”).
- 3.2** As set out by Aotea in their written quotation/contract, payment terms may be 7 days, 10 days, 20 days or on the 20th of the following month, as stipulated on their invoice.
- 3.3** If payment is not made by the Customer on the due date, Aotea may suspend or terminate supply.
- 3.4** Payment of all amounts is to be made in full without any set-off, reduction or counterclaim.
- 3.5** In accepting any payments from customers, Aotea will not be bound by any conditions or qualifications or other terms which the Customer may have attached to those payments.

4 Delivery and Risk

- 4.1** Any quotations of delivery times agreed by Aotea are estimates and not commitments and no delay in delivery will entitle the Customer to refuse to accept delivery or cancel its order or otherwise entitle the Customer to any Damages whatsoever. Time for delivery is not of the essence.
- 4.2** Risk (including, without limitation, insurance responsibility) of any loss, damage or deterioration of or to the goods shall pass to the Customer upon the delivery of goods to the Customer.

4.3 Claims made for damage in respect of defective goods or goods lost or damaged in transit must be made against Aotea in the following manner:

(a) Prior to accepting the goods and acknowledging delivery the Customer must ensure that the complete consignment as per the delivery note has been received;

1. In the case of damage, the delivery note must be endorsed by the Customer setting out in full the reasons for non-acceptance of the goods; and
2. In any case where the defect or damage is not reasonably able to be ascertained upon delivery, the Customer must notify Aotea within 7 days of delivery of the full particulars of the defect and the Customer must make the goods available for inspection by Aotea.

4.4 To the maximum extent permitted by law, any liability of Aotea for any defective goods or damaged goods shall, at Aotea's election, be limited to replacement of the goods or a credit in respect of the goods.

4.5 The liability of Aotea in respect of the failure to deliver due to loss in transit or damage in transit where risk has not passed to the Customer shall be limited to paying the requisite insurance proceeds to the Customer or assigning any such claim to the Customer and in no event whatsoever shall any claim for defect in goods exceed the purchase price of the such defective goods supplied.

4.6 Risk shall pass back from the Customer to Aotea only if Aotea repossesses the goods.

5 Bailment

5.1 Any items left with Aotea for service, repair or storage shall be held by Aotea as bailee in possession.

5.2 The risk of damage of any such items shall remain at all times with the Customer and the Customer is required to maintain insurance policies over those items while they are in Aotea's possession

5.3. If the Customer defaults in payment of any Invoice for a period of more than 10 working days, Aotea shall be entitled to, having provided written notice to the Customer at their last known address, cancel the bailment, take possession of and sell the items and direct the proceeds of

such sale to the recovery of all costs incurred by Aotea, including the costs of repair, debt collection commission and or legal fees (on a solicitor client basis) and any other costs incurred by Aotea whatsoever as a result of the default.

6 Health and Safety / Site Access

- 6.1** The Customer will provide Aotea with full unhindered access to all areas required to carry out the installation of any Goods to complete any Services, including without limitation the removal of any Goods pursuant to clause 8.2 of these Terms, and will provide Aotea with the Customer's Health and Safety Worksite Plan for assessment and approval ahead of Aotea accessing any Customer controlled worksite as it relates to the Health and Safety at Work Act 2015, if applicable.
- 6.2** In the event Aotea believes the worksite is unsafe, or the Customer's Health and Safety Worksite Plan is insufficient or does not meet the requirements of Aotea's Health and Safety Plan, Aotea may suspend all work at the Customer's work site until that work site is made safe in the opinion of Aotea, at Aotea's sole discretion.
- 6.3** Aotea will be responsible for their own Health and Safety. Aotea must comply with the Health and Safety at Work Act 2015, any regulations made under this act and any Health and Safety policies, directives or procedures of Aotea.

7 Personal Property Securities Act 1999 (PPSA)

- 7.1** All terms in this clause 7 of these Terms of Trade have the meaning given in the PPSA, and section references shall be to sections of the PPSA.
- 7.2** Clause 1 of these Terms of Trade creates a security interest in all present and after acquired Goods of the Customer and their proceeds.
- 7.3** The Customer consents to Aotea registering on the Personal Property Security Register ("PPSR") a general security interest over all the Customer's assets, and a security interest over all Goods supplied by Aotea.
- 7.4** The Customer waives its rights under sections 114 (1)(a), 116, 117, 119, 120(2), 121, 125, 129, 131, 132, 133,134 and 148 of the PPSA.
- 7.5** If requested by Aotea, the Customer will promptly execute any documents, provide all necessary information including supplying identification suitable to Aotea, and do anything else required by us to ensure that the security interest created under this Agreement constitutes a perfected security interest in the Goods and their proceeds which will have priority over all other security interests in the Goods.

- 7.6** The Customer will pay to Aotea all fees and expenses incurred by Aotea in relation to the filing of a financing statement or a financing change statement in connection with these Terms.
- 7.7** The Customer will give Aotea prior written notice of a proposed change in the Customer's name or address and notify Aotea of any other information Aotea may need in order to complete a financing change statement.
- 7.8** The Customer will not enter into any security agreement that permits any person for any reason to register any security interest in respect of the goods or the proceeds in priority to the security interest held by Aotea.

8 Default

- 8.1** The security interest created by clauses 1 and 7.3 of these Terms of Trade becomes enforceable if any of the following events occur:
- (a) The Customer fails to pay any money owing on the due date;
 - (b) The Customer sells, parts with possession, leases or disposes of any Goods or does anything inconsistent with Aotea's ownership of the Goods prior to making full payment;
 - (c) Aotea believes the Customer has committed or will commit an act of bankruptcy, has had or is about to have a receiver appointed, or is declared insolvent;
 - (d) The Goods are at risk, as that term in is defined in the PPSA;
 - (c) Any other of the events provided for in the PPSA apply.
- 8.2** In addition to rights conferred by part 7 of the PPSA, Aotea may take possession of any Goods and may enter any premises controlled by the Customer, whether or not the Customer is present in order to take possession of Goods pursuant to this clause.

9 Costs

- 9.1** In the first instance, reasonable endeavors must be exhausted to resolve any dispute. You the Customer must pay all of Aotea's costs of and incidental to the enforcement or attempted enforcement by Aotea of its rights, remedies and powers under these terms, such costs to include debt collection and legal costs (as between solicitor and Customer) on a full indemnity basis.

10 Credit Limits

10.1 Aotea may restrict the amount of credit provided to the Customer and may change that limit from time to time only with prior notice.

10.2 The Customer agrees that where it has obtained credit in excess of any limit noted on the application, or imposed by Aotea, the Customer will be liable in full for payment of any amount owing in excess of that limit and agrees to immediately pay a sum equal to that excess to Aotea if demanded.

11 Limitation of Liability

11.1 Aotea is not responsible for any damage caused either to the Goods supplied, or any other equipment, chattel or part of the Customer's premises resulting from a malfunction if:

- (a) The Goods are installed, connected, placed or otherwise delivered by someone other than Aotea; and
 - (i) That person is not suitably qualified; or
 - (ii) The Goods are not fitted to a good trade standard; or
- (b) The Goods are in any way adapted to a use for they are not specifically intended; or
- (c) The Goods are added to or repaired using components not recommended or approved by the manufacturer.

11.2 Aotea has no further liability or responsibility for any direct, indirect or consequential injury, loss or damage arising from any supply of Goods or Services to the Customer.

11.3 Damages for faulty Goods or Services will be limited to the purchase price of those Goods or the value of the Services contracted for.

12 Penalty Interest

12.1 Penalty Interest will be calculated at a rate of 2.5% above the current overdraft interest rate per month on a daily basis from the due date to the date of payment. Such interest will be payable upon demand.

13 Privacy Act

13.1 The Customer authorises Aotea to:

- (a) Make enquires with relevant third parties and/or credit agencies regarding the Customer's credit history
- (b) Release information for the above purpose to the extent necessary to relevant third parties and/or credit agencies

- (c) Instruct an agent to carry out any credit enquires, and the Customer agrees the above authorisations will apply to such agent.

13.2 The Customer authorises any credit agencies and/or relevant third parties to disclose any relevant information to Aotea in response to credit enquires. The Customer acknowledges that any information disclosed to a credit agency will be held on their systems and used to provide their credit reporting service.

14 Force Majeure

In the event of a Force Majeure, including for the avoidance of doubt the following situations:

14.1. any condition or reasonably unforeseeable event which prevents the performance by Aotea of its obligations, or which renders the performance of such obligations so difficult or costly as to make such performance commercially unreasonable including, but not limited to:

- (a) war or warlike conditions, riot or civil commotion, terrorism, mobilisation insurrections;
- (b) import or export bans, blockades or embargoes;
- (c) statutory or union contract reductions in working hours, strike, lockout or other labour conflicts; and
- (d) natural catastrophe, earthquakes, storms, floods, fires, epidemic.

14.2. wholly or partially prevent or delay Aotea from fulfilling its obligations under these additional terms, Aotea shall:

- (a) use reasonable endeavors to resolve the Force Majeure as quickly as practicable, but shall not be liable to resolve any of the aforementioned labour conflicts on terms not reasonably acceptable to Aotea; and
- (b) notify the Customer of the Force Majeure incident, its likely duration and the period (in Aotea's opinion) of any consequent delays or other relevant events, and the said dates will be so extended unless the Client disputes the delay period within seven (7) days of the receipt of the notice in which case the Parties shall consult and endeavor to agree upon a satisfactory extension of time and failing agreement, within seven (7) further days, either Party may refer the matter to dispute resolution pursuant to clause 9.1 herein.

15 Miscellaneous

15.1 By having work undertaken the Customer is deemed to have accepted these Terms of Trade and accepted liability for the associated Customer Credit Account.

15.2 These Terms of Trade may be varied by Aotea at any time. Any updated changes must be sent to the client. New Terms of Trade will be enforceable by Aotea from the date the New Terms of Trade are sent to the client.

15.3 The Credit Application and these Terms of Trade are the entire agreement between Aotea, the Customer and the Guarantor, unless agreed in writing between the Customer and Aotea.

16 Construction Contracts Act 2002

16.1 Terms of Trade for construction projects are governed by the Construction Contracts Act 2002 and associated legislation and amendments to that legislation.

16.2 All retention monies owed to Aotea under a claim must be made by that due date.

16.3 Note that retention monies held and not paid per any enforceable claim will attract a 2.50% interest rate above the current overdraft interest rate per month, calculated on a daily basis from the due date.

Individual Terms

If applicable

Agreement

By signing this agreement, you are authorised by the Customer to sign this Terms of Trade which shall be legally binding on the Customer.

Aotea Security (NZ) Limited Authorised Representative:

Name:.....

Signature:.....

Date:.....

Client name:.....

Name:.....

Signature:.....