

Conditions of Service and Sale

1. Quotations

If this is a Quotation, the heading "Quotation" will appear overleaf. A Quotation constitutes a firm offer at the stated cost to you, the Client ("you", "your") providing that the quoted cost may be altered by us, the Contractor ("we", "us", "our"), where:

- your original requirements are changed or added to by you
 - conditions outside our control cause delays to either the commencement or completion of the work covered under this agreement
 - any PC (Provisional Cost) Sum, Contingency Sum or other allowance included in this agreement is altered
 - any special, additional or unanticipated requirements may be imposed by council or any other statutory body in the course of obtaining Resource Consent or Building Consent for the work
 - unknown or unforeseen conditions or problems (such as rot, borer, subsidence, poor or faulty construction, systems or materials) are discovered after the commencement of the work
 - damage is done which is unavoidable and not the fault of the Contractor due to conditions such as those in (e) above, or the age or condition of existing building components and materials which make them unable to be retained or unsuitable to be re-installed or re-fitted
 - any plans, specifications or information provided by you and relied upon by us for the purpose of providing the Quotation prove to be inaccurate or unreliable
 - any manufactured product supplied by you proves not to be suitable or of sufficient quality or standard
 - any work or services provided by you or any sub-contractor, employee or agent engaged by you are not completed at the agreed time, cause delays or are not suitable or of insufficient quality or standard
 - any other change or variation which may be recommended by us or requested by you
- Unless otherwise stated, a Quotation is valid for 14 days from the date shown overleaf but we reserve the right to amend or withdraw the Quotation at any time prior to the commencement of the Job.

2. Estimates

If this is an Estimate, the heading "Estimate" will appear overleaf. An Estimate does not constitute an offer and is given as an indication only of the cost based on your known requirements and may be altered to reflect your actual requirements or the conditions of the work covered under this agreement. The provisions of section 1 above also apply to the Estimate.

3. Acceptance of Quotation or Estimate

A Quotation or Estimate and these Conditions of Service and Sale are deemed to be accepted by you when you sign the Quotation/Estimate Acceptance section overleaf and pay any deposit specified overleaf. Upon the work covered under the agreement being confirmed and scheduled by us, the accepted Quotation/Estimate becomes a Job.

4. Postponement or Cancellation of Job

Should a Job be postponed by you within seven days of the agreed commencement date of the Job, we reserve the right to invoice you for any additional or special costs incurred by us as a result of the postponement. Should a Job be cancelled by you at any time, we reserve the right to retain any deposit paid by you in respect to the Job and to invoice you for compensation for our time and any other costs incurred in preparing for the Job. These costs include the costs of preparing construction plans, applying for or obtaining Resource and/or Building Consent, any deposits paid to suppliers, sub-contractors or other third parties, travel and freight expenses, and any non-returnable materials purchased specifically for the Job.

5. Variation to Quotation or Estimate

Where any alterations to a Quotation or Estimate are required as above, we will list them in a Variation to Quotation/Estimate and seek your written approval before continuing with the work.

6. Tax Invoice

If this is a Tax Invoice, the heading "Tax Invoice" will appear overleaf.

7. Terms of Payment

Unless otherwise agreed, the deposit specified overleaf is payable upon acceptance of this quotation or estimate. We reserve the right to claim progress payments specified overleaf. Payment in full (less any paid deposit and progress payments) is due on completion of the work covered under this agreement and you may not deduct any set off, deduction or other claim from the agreed payment. If you breach any of these conditions of service and sale or if any progress payment or payment in full is not received when due, we reserve the right to:

- suspend or cancel the delivery of any Goods and/or Services
- give notice requiring any money owing from time to time by you whether or not it is due to be paid immediately

- charge interest at 10% per month plus GST (if applicable) to the outstanding amount
 - pass to you any costs which we incur internally or pay to our agents (including debt collection costs and legal costs on a solicitor-client basis) in recovering the money owed or in exercising our other rights
- The provisions of the Construction Contracts Act 2002 apply to this agreement except if it is a "residential construction contract" as defined by that Act in which case any limitations imposed by the Act are applicable to this agreement.

8. Ownership of Goods

We retain ownership of any product, equipment, material or other item supplied by us ("Goods") to you until you have paid us all amounts that you owe us. We may without prejudice to any other rights seek payment from you even though ownership is not passed. You grant us the right to enter the premises where the Goods are stored and remove them without being responsible for any damage caused in doing so. We may re-sell any of the Goods and apply the proceeds of sale in reduction of any outstanding payment. Under the terms of the Personal Property Securities Act 1999, you acknowledge that:

- these Conditions of Service and Sale are a security agreement for the purposes of section 36 of the PPSA
- we take a security interest in all Goods that we have previously supplied to you (if any) and all Goods that we will supply to you in the future, to secure (with equal priority) payment of all amounts that you owe us
- the security interest will continue until you have paid all amounts owing, and
- you waive your right to receive a verification statement under section 148 of the PPSA

Once Goods are delivered to you, they become your responsibility and you are responsible for insurance of the Goods.

9. Liability and Indemnity

We are not liable for:

- any loss or damage caused or contributed to by you
 - any failure or delay in performing any obligation in this agreement if it is due to a cause beyond our control and we have used our best endeavours to perform on time despite the cause
 - any negligent act or omission on our part, or any breach of this agreement, which causes or contributes to any damage, loss or cost (including legal expenses)
 - any loss, injury or damage suffered by you as a result of the breach of the Health and Safety in Employment Act 1992 where you have entered or are on the job site without our consent or in breach of the terms of any consent given or any notice or notices which we have erected
- You agree:
- that if despite clauses 9(a) to (c) we are ever held liable to you for any loss, damage or costs, however they are incurred, our liability will be limited to the price of the Goods and Services provided under this agreement for that part of the Job affected by the damage or loss, and
 - to indemnify us for any damage, loss or costs (including but not limited to any legal expenses and any award made under the Health and Safety in Employment Act 1992) caused to us or any of our representatives and will protect us from any claim or proceedings against us caused or contributed to by you in respect of this agreement

10. Warranty

Goods are subject to manufacturers' warranties only. This agreement is subject to the terms of the Consumer Guarantees Act 1993 except where the Goods and Services are being provided for the purposes of a "Business" as defined by Act, in which case the Act does not apply.

11. Privacy

In respect of the Privacy Act 1993, you authorise us to:

- obtain information about you or your company or trust from any third party for the purpose of obtaining credit references
- provide all or part of the information given by you, any details of this agreement and payments made or to be made under it to any person or company for the purpose of recovering any amounts outstanding or enforcing any defaults by you and may publish as and where we think fit details of any Court proceedings or judgements against you

12. Customer Acknowledgement

You acknowledge that this is an entire agreement and has not been entered into by you on your reliance on any representations, comments or opinions.