

Type of entry (tick box)

Public Company Trustee Company Sole Trader Private Company Partnership Other

Registered Business Name

Trading Name

GST Number

Incorporation Number

Parent Company Name

Incorporation Number

Nature of Business

Date Business Commenced

Physical Address

Postal Address

Contact Person

Position

Phone Number

Fax Number

Names and Addresses of Directors 1:

Names and Addresses of Directors 2:

Accountant

Bank and Branch

TRADING REFERENCES

Company 1

Contact

Phone

Company 2

Contact

Phone

Company 3

Contact

Phone

STANDARD TERMS AND CONDITIONS OF SUPPLY (NZ)

1. TERMS AND CONDITIONS OF SALE
 - 1.1 These terms and conditions of sale ("Terms") apply to all supplies of goods and services by the company specified in the invoice or contract by any related company of those entities (in any case called the "Company") to every Purchaser ("Purchaser"). These Terms form the basis on which the Company supplies and sells goods to the Purchaser. Each such supply and sale shall be effected pursuant to the terms of these Terms (unless in any specific case agreed otherwise in writing). Any by-laws or other Company policies or conditions or describing any Goods is incorporated into and forms part of the Terms.
 - 1.2 Where any purchase order purports to be made on or subject to terms and conditions other than the terms and conditions set out in this contract, the Purchaser agrees that such terms and conditions are disregarded and form no part of this contract unless the Company agrees otherwise in writing.
 - 1.3 In these terms and conditions, "contract" means the agreement between the Purchaser and the Company for the supply of goods and services on these terms and conditions and includes the details on the purchase order together with the relevant credit application form (if applicable).
 2. ACKNOWLEDGMENT

The Purchaser acknowledges and agrees that:

 - 2.1 the Company's liability under these conditions falls solely on the Company; and
 - 2.2 the obligations the Purchaser accepts and warrants the Purchaser makes are accepted and made for the benefit of the Company and all of the Company's related bodies corporate.
 3. QUOTATIONS AND ORDERS
 - 3.1 Unless otherwise stated in writing by the Company, any quotation given by the Company lapses if not accepted within 30 days from the date of quotation, provided that the Company shall be entitled to withdraw such quotation at any time before receipt of a written acceptance or order.
 - 3.2 All orders must be accompanied by an order number specified by the Company.
 - 3.3 If the Purchaser has provided the Company with a forecast of future requirements, it acknowledges that the Company will be entitled to rely on the accuracy of the forecast for the purpose of ordering raw materials and arranging its resources so as to be able to meet those forecast requirements. In the event that any such forecast is materially inaccurate the Company shall be entitled to invoice the Purchaser for all costs, expenses or losses which result from the Company having relied on the inaccurate forecast. Such invoice will be subject to the normal terms of payment applying to the Purchaser. In any event, the Company shall be entitled to invoice the Purchaser for all finished goods made to forecast and not ordered by the Purchaser within 3 months of manufacture. Such invoice will be subject to the normal terms of payment applying to the Purchaser.
 4. PALLETS AND CONTAINERS
 - 4.1 If any pallets or containers are used in the delivery or packaging of the goods:
 - a) the pallets or containers will remain the property of the Company or the owner (in the case of hired pallets or containers); and
 - b) If the Purchaser damages or fails to return the pallets or containers to the Company within the time specified by the Company or otherwise in accordance with the Company's instructions, the Company may require the Purchaser to pay for the replacement cost of such pallets or containers or reimburse it for any hire charges, penalty charges or other cost incurred as a result of such damage or failure.
 5. PRINTING PLATES, ARTWORK, BARCODES, DIES AND TOOLS - (IF APPLICABLE) OWNERSHIP OF WORKS

All works produced by the Company, and any intellectual property in and to such works, remain the exclusive property of the Company unless otherwise agreed in writing, and the Company may charge the Purchaser for maintenance of such works. Where the Purchaser supplies a mould, die, cool printing plate or any other item (including those used in the manufacturing process):

 - a) the Company shall not be liable for any loss or damage of any such item; and
 - b) the Purchaser shall reimburse the Company for all maintenance expenses.
 - 5.2 When applying the E.A.N symbol on goods the Company will exercise all due care and skill and will produce in accordance with the relevant recommended procedures from time to time by the New Zealand Product Number Association limited PROVIDED THAT, the liability of the Company whether in contract or in tort for any loss or damage arising directly or indirectly from any defect or non-compliance of any symbol applied by the Company on any goods shall be limited at the option of the Company to the replacement of such symbol and/or goods or to a refund of the price actually paid by the Purchaser for the application of such symbol.
 6. INTELLECTUAL PROPERTY

Any technical information, knowledge or processing methods at any time transmitted either orally or in writing by the Company to the Purchaser/Purchaser shall remain the property of the Company and shall be considered absolutely confidential by the Purchaser who shall not use them for any purpose nor sell transfer or divulge them in any manner to anyone without the prior written consent of the Company. The Purchaser warrants that the use by the Company of any designs or instructions supplied by the Purchaser will not infringe the patents, trade marks, design rights, copyright or other intellectual property of any other person. If at any time a Claim is made against the Company or the Company becomes aware that a claim is likely to be made against the Company for infringing any intellectual property or contributing to any such infringement by the Company or any other person as a result of supplying goods, the Company may immediately terminate or suspend this contract.
 7. QUANTITY AND QUALITY TOLERANCES
 - 7.1 Where the Purchaser supplies specifications to the Company, any goods not varying in the specification stipulated by the Purchaser by more than the established industry tolerance shall be accepted by the Purchaser as complying with the contract.
 - 7.2 Should the Company be required to match any shade or colour a light and dark tolerance shall be allowed to such extent as shall be agreed upon by the Company and the Purchaser at the time the standard colour is specified and in the absence of any agreement a reasonable tolerance shall be allowed.
 8. PRICE
 - 8.1 The Purchaser shall pay the price indicated on the invoice, order form or other similar document issued by the Company.
 - 8.2 Where Goods and Services Tax or other value-added tax is payable in respect of the supply of goods and services or in respect of any amount payable under Condition 8.1 the Purchaser shall pay such tax. Unless otherwise specified, prices quoted do not include GST or other such taxes.
 - 8.3 Unless otherwise agreed, between the date of quotation and the date of delivery the Company will have the right to increase its prices in order to recover from the Purchaser: (a) increase in the cost of labour, insurance, customs and other duties and taxes and other factors affecting the cost of production and/or delivery; and (b) any additional costs resulting from changes in the price of materials due to fluctuations in currency exchange rates from the time of order to the time of supply or otherwise.
 - 8.4 When a delivered price is given this price includes the usual methods of transportation used by the Company. Where the Purchaser requests a method of special delivery, any additional costs shall be added to the price payable by the Purchaser.
 9. TERMS OF PAYMENT
 - 9.1 All prices quoted are in New Zealand currency, unless otherwise agreed in writing by the parties.
 - 9.2 Unless otherwise agreed to in writing, the Purchaser shall pay all net amounts due (without deduction or set-off of any kind) to the Company by the 20th day of the month following the date of invoice, unless otherwise agreed to by the Supplier in writing, with the exception of any amount pursuant to which a claim has been notified in accordance with condition 15.2 or 15. Australian customers wishing to be invoiced in AUD will have invoice amounts converted at a spot exchange rate determined by the Company.
 - 9.3 If the Purchaser is not resident in New Zealand or is not a New Zealand company, payment must be made by irrevocable letter of credit. If the Purchaser requires delivery of the goods outside New Zealand, prices are quoted "free alongside ship" unless otherwise agreed in writing by the Company.
 - 9.4 If for any reason the Company reasonably considers that the Purchaser is or may be unable to meet its payment obligations to the Company, the Company shall be entitled to demand all or part of all such amounts due or may require security for such obligations to its full satisfaction before any further supplies are made to the Purchaser.
 - 9.5 In the event payment is not received by the due date the Company reserves the right to charge interest at the 90 day Bank Bill Swap Bid Rate (as quoted on Reuters page BKBM at 10.45am) plus 5% commencing from the due date of payment in respect of all the Purchaser's indebtedness which is overdue. Such interest shall accrue on a daily basis from the date when payment is due until the date when payment is actually made and the Purchaser shall be liable to pay all expenses and legal costs of the Company as between solicitor and client in relation to obtaining remedy of such failure to pay.
 - 9.6 The Purchaser shall pay all costs and expenses incurred by the Company (including costs on a solicitor/client basis and debt collectors' costs) incurred in the registration of a financing statement or a financing charge statement, protection or preservation of the Company's security interest (as defined in section 17 of the PPSA ("Security Interest")) or its registration, recovery or attempted recovery of outstanding monies and the enforcement of this contract.
 - 9.7 If the Purchaser makes default in payment or in taking delivery on time, the Company shall be entitled to terminate the contract so far as it is unfulfilled, without prejudice to its right to recover all sums owing to it in respect of deliveries already made or work already completed. Upon termination of the contract, the Company shall be entitled to dispose of the balance of the goods contracted for and the Purchaser shall indemnify the Company for any loss in price incurred by it on realisation against the price at which such goods were contracted to be bought by the Purchaser.
 - 9.8 Where the Purchaser owes any amount to the Company, the Company shall be entitled, at its complete discretion, to accept any payment received and apply it towards satisfaction of such indebtedness.
 - 9.9 The Company shall be entitled to cancel all or any part of the contract or to sue the Purchaser, in addition to its other remedies, in the following circumstances:
 - a) if any amounts payable by the Purchaser to the Company are overdue; or
 - b) if the Purchaser fails to meet any obligation under this or any other contract or obligation to the Company; or
 - c) if the Purchaser becomes or is likely to become insolvent; or
 - d) if a receiver, liquidator, statutory manager or trustee of property is appointed in respect of the assets of the Purchaser, or the Purchaser is placed into any form of statutory administration; or
 - e) if the Purchaser no longer carries on business or threatens to cease carrying on business; or
 - f) if an arrangement with the Purchaser's creditors is made or is likely to be made; or
 - g) if the Purchaser gives a notice under section 162 of the PPSA ("Event of Default").
 - 9.10 In addition to the remedies referred to in condition 8.9, if an Event of Default occurs the Company may enter upon the Purchaser's premises or any other place the Company believes the goods are stored, take possession of and sell the goods, even if the Company does not have priority over other persons having a claim or interest in the goods, and sections 109, 109 and 120 of the PPSA do not apply to the extent that they are inconsistent with this clause. The Company may only recover and resell for its own account sufficient goods to satisfy all unpaid liabilities, the costs of recovery and resale and the costs referred to in conditions 8.5 and 8.6. If the Company recovers any excess, it will not be liable in damages to the Purchaser but must account to the Purchaser for the excess. The Company may appoint a receiver over all or any of the goods which were supplied by the Company.
10. DELIVERY
 - 10.1 Delivery by the Company to a carrier nominated by the Purchaser shall be deemed to be delivery to the Purchaser. The Purchaser must unload the goods at the Purchaser's risk.
 - 10.2 Where the Purchaser fails to accept the goods by the delivery date specified by the Purchaser's order or such later date as the parties agree, the Purchaser shall pay reasonable storage costs until such time as the Purchaser accepts the goods, such costs to be determined by the Company.
 - 10.3 If the goods are ready for delivery on the date specified by the Purchaser's order and the Purchaser does not take delivery when requested by the Company to do so, the Company shall be entitled to invoice the Purchaser for payment in accordance with condition 8.2.
 - 10.4 The Company reserves the right to deliver in instalments, and each instalment shall be deemed to be sold under a separate contract, the terms of which are deemed to be the same as the main contract. The failure to deliver any instalment shall not entitle the Purchaser to cancel the contract.
 - 10.5 The quantity of the Goods delivered by the Company under the Purchase Order can vary by up to 10% of the quantity specified by the Purchaser in the Purchase Order, provided the Purchase Order satisfies the minimum run-size requirements of the Company.
11. RISK AND TITLE
 - 11.1 Notwithstanding condition 11.2, the risk in the goods shall pass from the Company to the Purchaser when the goods are delivered or when the Company first makes an attempt to deliver if the Purchaser fails to accept the goods or on the date of a request by the Purchaser to delay delivery.
 - 11.2 Legal and beneficial ownership of the goods shall not pass to the Purchaser until all amounts due to the Company (whether in relation to the goods or otherwise) have been paid in full and in cleared funds. Until ownership passes, the Company holds a Security Interest in all goods and their proceeds for payment of those moneys, and the Purchaser shall hold such goods as fiduciary bailee of the Company and in accordance with the remainder of this condition 10.5.
 - 11.3 Until all moneys due to the Company are paid, the Purchaser:
 - a) shall not sell, charge or part with possession of the goods otherwise than in the ordinary course of the Purchaser's business;
 - b) must store the goods in such a manner that they are clearly identifiable as the Company's property and will keep separate records in respect of the goods;
 - c) will hold the proceeds of the goods on trust for the Company, in a separate and identifiable account.
 - 11.4 At the Company's request, the Purchaser will promptly sign and deliver (or cause to be signed and delivered) any thing that the Company may require from time to time to give effect to this contract, including without limitation, doing all such things as the Company may require in order to ensure that the Security Interest created under this contract constitutes a perfected Security Interest over the goods.
 - 11.5 The Purchaser grants the Company (or any person authorised by the Company) an irrevocable right to enter upon any premises where the Company believes the goods are located to inspect their condition or repossess the goods at any time. If the goods are located on premises that are leased, the Purchaser will use best endeavours to obtain a written agreement from the landlord of the premises not to distress against the goods for any moneys owing by the Purchaser to the landlord, and consenting to the Company, or its duly authorised agents and employees, entering onto the premises for the purposes of inspecting or repossessing the goods at any time. The Company shall not be liable to the Purchaser or any third party for the exercise of its rights under this condition.
 - 11.6 The Purchaser grants to the Company a security interest (as defined in the PPSA) in each part of the Goods as security for the payment by the Purchaser of all amounts owing by the Purchaser to the Company from time to time and the performance by the Purchaser of all obligations owing by the Purchaser to the Company from time to time.
 - 11.7 The Purchaser waives the right to receive a copy of the verification statement confirming registration of a financing statement or financing charge statement relating to the security interest.
 - 11.8 The Purchaser agrees that nothing in section 114(1)(a), 133 and 134 of the PPSA shall apply to any Contract, or the security under any Contract, and waives the Purchaser's rights under sections 121, 125, 129, 131 and 132 of the PPSA.
12. EXCLUSION OF LIABILITY
 - 12.1 Neither party is liable for any Loss incurred by the other party as a result of any delay or failure to observe any of these terms (other than those that obligate to pay money) as a result of any circumstance beyond the party's control, including but not limited to any strike, lock-out, labour dispute, act of God, fire, flood, material or machine damage or breakdown in machinery. The party affected must notify the other party in writing as soon as possible of such circumstance.
13. CANCELLATIONS
 - 13.1 Where the Purchaser's order has been accepted, a contract for supply will be deemed to exist and no cancellations, addition, deletion, amendment or variation of any kind may be made by the Purchaser except with the consent of the Company in writing and upon terms which will indemnify the Company against all losses incurred by reason of such cancellation or alteration.
 14. SUPPLY FOR BUSINESS PURPOSES
 - 14.1 Where this contract would otherwise be subject to the provisions of the Consumer Guarantees Act 1993, the Purchaser agrees that the goods are supplied for business purposes and that the CCA does not apply.
 - 14.2 Where:
 - a) any supply by the Purchaser or the Purchaser's customer would otherwise be subject to the provisions of the CCA; and
 - b) the ultimate Consumer acquires or holds himself or herself out as acquiring the goods for business purposes in terms of the CCA then the Purchaser warrants that either the Purchaser or the Purchaser's customer (as appropriate) shall obtain the written agreement of the ultimate Consumer that the CCA shall not apply to the supply to the ultimate Consumer.
 - 14.3 Where the Purchaser fails to comply with the warranty in Condition 14.2, then the Purchaser shall indemnify the Company against any Loss arising out of that failure.
 15. CLAIMS - GOODS
 - 15.1 Except as provided in any express warranty given by the Company and subject to Condition 13, the liability of the Company in respect of any contract shall be limited to defects in design, materials or workmanship for a period as specified on the face of the contract from the date that the Company delivers the goods and no warranty or condition shall be implied against the Company by any statute at common law or otherwise. If no date is specified then the parties agree that no such warranty or condition shall apply. Subject to this Condition and Condition 14.2, and the rights of the consumers contained in the CCA, the Company shall have no liability or responsibility for any direct, indirect (including loss of profits) or consequential injury, loss or damage whatsoever, howsoever arising.
 - 15.2 In the event of any claim being recognised and accepted by the Company it may, in its complete discretion, repair, replace or give credit for all goods (or in the case of services, re-supply or pay for the cost of re-supply of the services) supplied and established to be defective, but claims in respect of goods shall only be recognised if the following conditions are met:
 - a) All claims must be in writing and received by the Company within 14 days of delivery of the goods or failure of the product within the warranty period. Where applicable the despatch number and/or invoice number must be quoted by the Purchaser; and
 - b) All claims must specifically identify the defect and, where requested, be accompanied by the defective goods or a sample thereof; and
 - c) The defect or loss or claim does not result from the act or omission of the Purchaser (including without limitation any instruction or specification given by the Purchaser to the Company).
 - 15.3 If claims are not received as aforesaid, the Purchaser shall be conclusively deemed to have accepted the goods and the Company shall not incur any subsequent liability whatsoever in relation to such goods.
 - 15.4 Where the Company decides to repair or replace defective goods (other than goods covered by an express written warranty given by the Company), the Company shall deliver such goods to the Purchaser's premises at the Purchaser's own risk and expense.
 16. THIRD PARTIES

No benefit or obligation enforceable at the suit of any party other than the Company or the Purchaser is created by or intended to arise in any way out of these terms and conditions.
 17. TOOLING

Any tooling charges are payable by the Purchaser either as an upfront payment or by amortised payments, as agreed in writing by the parties. Amortised tooling remains the property of the Company unless otherwise agreed.
 18. SIGNIFICANT REGULATORY CHANGES

Should any significant change in law or regulation (including the introduction of any form of emission or carbon trading scheme or emissions or carbon tax) occur during the period of supply, the Company will (subject to clause 20.c) be entitled, by 10 days notice in writing to the Purchaser, to increase the price payable by the Purchaser for Goods by an amount equal to the increased cost that will be incurred by the Company in supplying the Goods to the Purchaser as a result of such significant change.
 19. ALTERATIONS

The Company reserves the right to correct errors and calculations and other errors in the quotation, and to make any changes or improvements to the design or specification of the goods at any time without giving prior written notice to the Purchaser unless otherwise agreed in writing.
 20. GENERAL
 - a) These terms and conditions may be varied by the Company by notice in writing to the Purchaser.
 - b) The waiver by the Company of any provision, or breach of any provision, of this contract is not to be construed as a waiver of any other provision or a breach of any other provision, or further breach of the same or any other provision of this contract.
 - c) If any provision of this contract is unenforceable or void either in whole or in part for any reason, then that provision (or part) is deemed to be deleted without in any way affecting the validity or enforceability of any other provision.
 - d) This contract (including the details appearing on the purchase order) constitute the entire agreement between the Purchaser and the Company and no modification is binding in relation to this contract unless agreed to in writing by the Company including any change to the Purchaser's name.
 - e) The Purchaser may not assign or transfer any of its rights or obligations under this contract (whether in whole or in part) without the Company's prior written consent. A change of control in the Purchaser will be deemed an assignment for the purposes of this contract.
 - f) The parties will keep confidential and not disclose or use any confidential information obtained from the other party pursuant to this contract, except to the extent:
 - g) agreed in writing by the parties;
 - h) required by law;
 - i) necessary to provide carry out any obligation under this contract; or
 - j) that the information is or becomes publicly available without a breach of this contract or of any law.
 - k) Each party will return any confidential information belonging to the other party on termination of this contract or on request.
 - l) In these Terms unless the context otherwise requires:

"Goods" means all plastic and steel containers and all other goods or other property which, in each case, are supplied by the Company to the Purchaser and, for the avoidance of doubt, in each case includes all such goods and property so supplied.
 - m) whether or not described by item or kind that enables them to be identified; and
 - n) either or not comprise, or which are capable of being comprising, inventory of the Purchaser.

"PPSA" means the Personal Property Securities Act 1999.

The terms "after-acquired property", "at risk", "inventory", "lease", "perfected", "proceeds", "purchase money security interest", "rights", "security interest" and "sell" have the respective meanings given to them under, or in the context of, the PPSA.
 21. APPLICABLE LAW

This contract shall be governed by and construed in all respects in accordance with New Zealand law and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

Customer Name

Signed by

Date (DD/MM/YY)

Signer's name

Position