

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1 "C P & N C Holdings" shall mean C P & N C Holdings Limited, or any agents or employees thereof
- 1.2 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing Products from C P & N C Holdings
- 1.3 "Products" shall mean
 - 1.3.1 all Products of the general description specified on the front of this agreement and supplied by C P & N C Holdings to the Customer; and
 - 1.3.2 all Products supplied by C P & N C Holdings to the Customer; and
 - 1.3.3 all inventory of the Customer that is supplied by C P & N C Holdings; and
 - 1.3.4 all Products supplied by C P & N C Holdings and further identified in any invoice issued by C P & N C Holdings to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
 - 1.3.5 all Products that are marked as having been supplied by C P & N C Holdings or that are stored by the Customer in a manner that enables them to be identified as having been supplied by C P & N C Holdings; and
 - 1.3.6 all of the Customer's present and after-acquired Products that C P & N C Holdings has performed work on or to or in which goods or materials supplied by C P & N C Holdings have been attached or incorporated.
 - 1.3.7 The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4 "Products" shall also mean all products, goods, services and advice provided by C P & N C Holdings to the Customer and shall include without limitation C P & N C Holdings and all charges for time and attendances, hire charges, insurance charges, or any fee or charge associated with the supply of Products by C P & N C Holdings to the Customer.
- 1.5 "Price" shall mean the cost of the products as agreed between C P & N C Holdings and the customer and includes all disbursements eg charges C P & N C Holdings pay to others on the customers behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1 Any instructions received by C P & N C Holdings from the customer for the supply of products shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The customer authorises C P & N C Holdings to collect, retain and use any information about the customer, for the purpose of assessing the customer's credit worthiness, enforcing any rights under this contract, or marketing any product provided by C P & N C Holdings to any other party. Such information will be accessible to the Customer and subject to correction.
- 3.2 The customer authorises C P & N C Holdings to disclose any information obtained to any person, for the purposes set out in clause 3.1. The customer authorises C P & N C Holdings to collect, retain and use any information about the customer, for the purpose of assessing the customer's credit worthiness, enforcing any rights under this contract, or marketing any product provided by C P & N C Holdings to any other party, although such authorisation may be withdrawn by the Customer at any time.
- 3.3 Where the customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1 Where no price is stated in writing or agreed to orally the price shall be deemed to be supplied at the current amount as such Products are supplied by C P & N C Holdings at the time of the contract.
- 4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Products that is beyond the control of C P & N C Holdings between the date of the contract and the supply of the Products.

5. PAYMENT

- 5.1 Unless otherwise agreed payment for Products, including progress payments and payment claims made in accordance with the Construction Contracts Act 2002 ("payment claim"), shall be made in full on or before the 20th day of the month following the date of the invoice or the payment claim ("the due date").
- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by C P & N C Holdings in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable legal fees or debt collection agency fees.
- 5.4 Until the issuing bank has confirmed that payment has been cleared, receipt of a cheque shall not constitute payment.
- 5.5 A deposit and progress payments may be required.

6. QUOTATION

- 6.1 Where a quotation is given by C P & N C Holdings for:
 - 6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
 - 6.1.2 The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
 - 6.1.3 C P & N C Holdings reserve the right to alter the quotation because of circumstances beyond its control.
- 6.2 Where Products are required in addition to the quotation the Customer agrees to pay for the additional cost of such Products.

7. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 7.1 Title in any Products supplied by C P & N C Holdings passes to the Customer only when the Customer has made payment in full for all Products provided by C P & N C Holdings and of all other sums due to C P & N C Holdings by the customer on any account whatsoever.
- 7.2 Until all sums due to C P & N C Holdings by the customer have been paid in full, C P & N C Holdings has a security interest in all products supplied by C P & N C Holdings Ltd to the Customer and in all the customer's present and after acquired property.
- 7.3 The Customer gives irrevocable authority to C P & N C Holdings to enter any premises occupied by the Customer or on which Products are situated at any reasonable time after default by the Customer or before default if C P & N C Holdings believes a default is likely and to remove and repossess any Products and any other property to which Products are attached or in which Products are incorporated. C P & N C Holdings shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. C P & N C Holdings may either resell any repossessed Products and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and credit the Customers's account with the invoice

value thereof less such sum as C P & N C Holdings reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

- 7.4 Where Products are retained by C P & N C Holdings pursuant to clause 7.3 the Customer agrees to waive the right to receive the specified notices required under sections 114(1)(a), 116 and 120 of the Personal Property Securities Act 1999 ("the Act") and agrees to waive the right to object under s.121 of the Act.
- 7.5 The Customer also agrees to waive its right to receive a verification statement in accordance with section 148 of the Act.
- 7.6 The following shall constitute defaults by the Customer.
 - 7.6.1 Non payment of any sum by the due date.
 - 7.6.2 The Customer intimates that it will not pay any sum by the due date.
 - 7.6.3 Any Products are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products.
 - 7.6.4 Any Products in the possession of the Customer are materially damaged while any sum due from the Customer to C P & N C Holdings remains unpaid.
 - 7.6.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distrains against any of the Customer's assets.
 - 7.6.6 A Court judgment is entered against the customer and remains unsatisfied for seven (7) days.
 - 7.6.7 Any material adverse change in the financial position of the customer.
- 7.7 If the Credit (Repossession) Act 1997 applies to any transaction between the customer and C P & N C Holdings, the customer has the rights provided in that Act despite anything contained in these terms and conditions of trade.

8. LIABILITY

- 8.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon C P & N C Holdings which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on C P & N C Holdings, C P & N C Holdings's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 8.2 Except as otherwise provided by clause 8.1 C P & N C Holdings shall not be liable for:
 - 8.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Products by C P & N C Holdings Ltd to the Customer, including consequential loss whether suffered or incurred by the customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products provided by C P & N C Holdings to the Customer, and
 - 8.2.2 The Customer shall indemnify C P & N C Holdings against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of C P & N C Holdings or otherwise, brought by any person in connection with any matter, act, omission, or error by C P & N C Holdings its agents or employees in connection with the customer.
 - 8.2.3 If contrary to the disclaimer of liability contained in these terms and conditions of trade C P & N C Holdings Ltd is deemed liable to the Customer, following and arising from the supply of Products by C P & N C Holdings Ltd to the Customer, then such liability is limited in its aggregate to \$1,000.

9. WARRENTY

- 9.1 Manufacturer's warranty applies where applicable.
- 9.2 Any written warranty that C P & N C Holdings provide to the Customer will also form part of these terms and conditions of trade.

10. CONSUMER GUARANTEES ACT 1993

- 10.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Products from C P & N C Holdings for the purposes of a business in terms of section 2 and 43 of that Act.

11. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 11.1 If the customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for C P & N C Holdings agreeing to supply Products and grant credit to the customer at their request, also sign this contract in their personal capacity and Jointly and severally personally undertake as principal debtors to C P & N C Holdings the payment of any and all monies now or hereafter owed by the customer to C P & N C Holdings and indemnify C P & N C Holdings against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

12. MISCELLANEOUS

- 12.1 C P & N C Holdings shall not be liable for delay or failure to perform its obligations. If the cause of the delay or failure is beyond its control.
- 12.2 Failure by C P & N C Holdings to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations C P & N C Holdings has under this contract.
- 12.3 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 12.4 Where applicable the Construction Contracts Act 2002 applies.
- 12.5 If the Customer defaults in payment then the Customer agrees that such default gives rise to a legal or equitable estate or interest in the Customer's land which entitles C P & N C Holdings Ltd to enter a caveat against the Customer's land pursuant to the Land Transfer Act 1952 and its amendments or any legislation in substitution thereof.