

General Terms and Conditions of Quotations and Sale

All goods and services are supplied by on the terms and conditions set out herein and no addition or variation to these terms and conditions will have any effect unless expressly agreed in writing by the Seller.

1. Quotations

a) Unless previously withdrawn, a quotation is valid for 30 days or such other period as stated in it. A quotation is not to be construed as an obligation to sell but merely an invitation to treat and no contractual relationship shall arise from it until the Buyer's order has been accepted by the Seller.

b) No Seller shall be bound by any condition attaching to the Buyer's order or acceptance of a Quotation and, unless such conditions are expressly accepted by the relevant Seller in writing, the Buyer acknowledges that such conditions are expressly negated.

c) Cancellation of an order can be made only with the Seller's consent and upon terms that will compensate the Seller against loss.

d) Orders are subject to approval of the Seller's Credit Department and the Seller may at any time alter or suspend credit, refuse shipment or cancel unfilled orders, when in the Seller's opinion the financial conditions of the Customer, or the status of the Customer's account, warrant it.

e) Change orders requested by the Customer shall not be effective unless accepted in writing by the Seller. The Customer shall be liable for any costs, expenses, and liabilities incurred by the Seller in connection with any such change order.

2. Price

a) Quoted prices do not include GST.

b) Quoted prices do not include cost of delivery or fuel surcharge.

c) Notwithstanding Clause 1(a), the Seller:

i) shall be entitled to vary the quoted price for the goods and services at any time prior to delivery if the cost to the Seller of performing the contract is increased by reason of delivery of the goods and services outside normal working hours at the request of the Customer or to an address other than that originally specified by the Customer.

ii) shall be entitled to vary the quoted price for imported goods at any time prior to delivery if the currency used to quote has shifted by more than 2.5% between the date quoted and the date of invoice.

iii) reserves the right to apply prices ruling at the time of delivery.

d) Quoted prices for hire of any fitting tools and equipment in conjunction with goods supply are subject to change if there is any change in quantity or type of the goods purchased.

3. Terms of Payment

- a) Where the Customer has a credit account with the Seller, the invoice amount for the goods and services must be paid in full within thirty (30) days of the end of the month during which the goods and services were invoiced. In all other cases the quoted price for the goods and services must be paid in full on or before delivery.
- b) The Customer is not entitled to withhold payment or make any deduction from the quoted price of the goods and services in respect of any set off or counterclaim.
- c) If the Customer fails to pay for any installment of the goods, the Seller may in its absolute discretion, but without prejudice to any other remedy it may have, postpone the fulfillment of its obligations under this order and under any other order with this Customer until such payment is made and charge to the Customer any extra expense incurred thereby.

4. Property in the Goods

- a) Notwithstanding delivery of the goods to the Customer, property in the goods will not pass to the Customer until the Customer has paid to the Seller all sums owing by the Customer to the Seller under the order.
- b) Until such payment is made, the Customer holds the goods as bailee for the Seller and will store the goods separately from other goods on the premises of the Customer or in some other way as to render them capable of separate identification.
- c) Where payment is not made on or before the due date, the Customer will, upon demand by the Seller, deliver up the goods to the Seller, failing which the Seller is irrevocably authorised to enter upon the place where the goods are situated and remove them and the Customer will indemnify the Seller against any action claim or demand arising out of the exercise by the Seller of its powers under this sub-clause.
- d) Where the Order is for delivery of goods by installments, property will not pass in any installment until payment has been made to the Seller for the whole Order.

5. Risk

Risk will pass to the Customer on delivery of the goods notwithstanding that ownership remains with the Seller until payment is made in full.

6. Delivery

- a) Unless otherwise agreed in writing, the time of delivery is calculated from the date of the Order. Although every effort is made by the Seller to keep the delivery date promised, the Seller assumes no liability for any loss or damages occasioned by delays in delivery. Offers for delivery ex stock are subject to confirmation on receipt of order.
- b) Unless otherwise agreed in writing, the Seller shall be entitled to make delivery by installments and to determine the route and manner of delivery of the goods.
- c) The Seller shall be entitled to deliver the goods to the premises notified by the Customer even though those premises may be unattended by the Customer at the time of delivery.
- d) The Seller's delivery records shall be prima facie proof of delivery of the goods to the Customer.

e) If the Seller is prevented (directly or indirectly) from delivering the goods or any of them by reason of any act of God or strikes, lockouts, trade disputes, fire, breakdown, interruption of transport, governmental action or any other cause whatsoever (whether or not of the like nature to those specified herein) outside its control the Seller will be under no liability whatsoever to the Customer and will be entitled at its option either to terminate the Order or to extend the time of its performance.

7. Cancellation or Suspension of Orders

Except where the Customer has a statutory right of termination, orders accepted by the Seller may not be cancelled either wholly or in part without the consent in writing of the Seller.

8. Liability

a) The Seller makes no warranties, either express or otherwise, under this Agreement except to the extent that the goods supplied are covered by the manufacturer's warranty. The Seller will pass on to the Customer the benefit of the manufacturer's warranty. The warranty will not extend to cover any goods that were delivered by the Seller to the Customer outside of the previous 12 months and does not cover damages or defects due to outside action, lack of care, overload, unsuitable lubricant, natural wear, incorrect choice of product, faulty fitting or other circumstances beyond the Seller's control.

b) Upon discovery of any defect in the goods supplied by the Seller, the Customer shall immediately and without delay notify the Seller in writing. The Customer shall not carry out any remedial work without first obtaining the written consent of the Seller to do so.

c) To the extent permitted by statute, the liability, if any, shall be at the Seller's option and limited to:

- i) the replacement of the goods or resupply of the goods by the Seller; or
- ii) the repair of the goods

d) Any service or advice which may be offered by the Seller, its servants or agents to the Customer or its agents, is rendered in good faith and the Seller shall not be liable for any loss or damage arising therefrom.

e) For the avoidance of doubt, the Seller will be under no liability whatsoever to the Customer for any loss, injury or damage (including consequential loss, injury or damage) suffered or caused as a result of or arising out of any act or omission (whether negligent or otherwise) by the Seller, its servants or agents or any other person in any way related to or arising out of the Order by the Seller.

9. Miscellaneous

(a) The Customer will, upon demand by the Seller, pay to the Seller the amount of any stamp duty or other tax (including sales tax and GST) payable on the supply of any goods and services by the Seller.

10. Intellectual Property

All copyright, design right and other intellectual property in any design, specification, process, method of working or other information relating to the Goods (other than that provided by the Customer to the Seller) shall vest for all time in the Seller. The Seller only grants to the Customer an irrevocable licence to use the Goods.

11. Paramountcy

These General Terms and Conditions of Quotation and Sale shall constitute the entire agreement between the Seller and the Customer and no terms, conditions, obligations or other provisions of any nature not contained in these General Terms and Conditions of Quotation and Sale shall be of any effect. For the avoidance of doubt, these General Terms and Conditions of Quotation and Sale shall apply in all circumstances, including where the Customer validly accept this quotation or where the Customer and the Seller otherwise proceed with carrying out work under the Order, whether or not the Customer, at any time and by any means, purports to impose its own terms and conditions.

12. Governing Law of Contract

These General Terms and Conditions of Quotation and Sale are governed by, and are to be construed in accordance with, the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts and any court hearing appeals from those courts.