

1. Definitions and Agreement

- 1.1 In this Contract, unless the context requires otherwise:
 "us" and "we" means the SRG Global entity or our related company submitting the Quote or performing the supply.
 "you" means the party purchasing the Products from us pursuant to these terms and conditions.
 "Contract Sum" means the price payable for the Products.
 "Defect" is a failure of the Products to meet the description specified in a Purchase Order, or a Product which is not of merchantable quality.
 "Delivery Point" means the address where the Products will be supplied as specified in the Quote. The default Delivery Point is our place of business, unless the Quote provides for another location.
 "Products" means the products, materials or other goods to be supplied by us pursuant to these terms and conditions and as described in our Quote.
 "Quote" means our written response to your request for tender / price and any ancillary documents we supplied to you that describes the supply of the Products including the Contract Sum, quantity and other specific delivery terms.
- 1.2 We agree to supply the Products in accordance with these terms and conditions, and you agree to pay us the Contract Sum at the times and in the manner provided for in these terms and conditions.
- 1.3 Upon acceptance of the offer contained in our Quote, by way of you signing the Quote, placing a Purchase Order or otherwise, these enclosed terms and conditions are deemed accepted.
- 1.4 These terms and conditions will govern the supply of the Products and will remain in force until the parties negotiate, agree and execute another form of agreement to replace these terms and conditions.
- 1.5 Together the following documents constitute the "Contract" between us and you, and irrespective of any other clause to the contrary, in the event there is any ambiguity or conflict the order of precedence shall be:
 (a) these terms and conditions; and
 (b) our Quote.
 Without limiting the order of precedence set out above, any conditions within any Contract document that seek to amend the provisions of this clause 1 or clauses 6.4, 8 and 9 of these terms and conditions shall be void and of no effect. All other terms, conditions or warranties implied by law are excluded to the fullest extent possible.

2. Purchase Orders

- 2.1 All orders for Products must be made in writing by you to us (a "Purchase Order") and must include the following information:
 (a) the Product/s you are ordering (identified by the Product model, part number or other identifying number as applicable);
 (b) the amount or quantity of each Product/s you are ordering;
 (c) the unit price of each Product/s you are ordering as agreed to by us;
 (d) the location for delivery of the Product/s; and
 (e) the delivery date for the Product/s as agreed to by us.
- 2.2 Each Purchase Order is deemed to incorporate these terms and conditions and constitutes an offer by you to purchase the Products subject to these terms and conditions.
- 2.3 If a Purchase Order issued by you includes any other terms and conditions, you agree that those terms and conditions are excluded, and the Contract is only constituted of the documents listed in clause 1.5 above. In addition, this Contract prevails over any inconsistency or conflict with any terms set out in any document provided by you.

3. Acceptance, Modification and Rejection of a Purchase Order

- 3.1 We will, within seven (7) days of receiving a Purchase Order from you, acting reasonably, accept, reject or propose a modification to the Purchase Order by sending you written notice of its acceptance, rejection or modification.
- 3.2 We may propose a modification to the Purchase Order by providing a notice to you in writing. You will not unreasonably reject a proposed amendment to the Purchase Order without first discussing your reasons for rejection with us.
- 3.3 If either party fails to notify the other within 7 days of acceptance, rejection or modification of a Purchase Order, the other party may deem that the Purchase Order is accepted.

4. Delivery and Acceptance

- 4.1 We will deliver or arrange delivery of the Products to the Delivery Point and by the time and in the manner specified in the Quote or as otherwise notified to you by us from time to time, acting reasonably.
- 4.2 You agree that we may make partial deliveries or deliveries by instalments in any amount we may determine.
- 4.3 If we are or will be delayed in delivering the Products:
 (a) by an act, default or omission of you; or
 (b) by any reason beyond our reasonable control (including but not limited to events of force majeure, national and state-wide industrial disputes, illnesses and diseases, pandemics, delays or directions by authorities and changes in legislative requirements),
 we will be entitled to an extension of time for that period of delay and any costs incurred by us due to the delay, including the costs to mitigate any delay, will be priced as a variation and added to the Contract Sum.
- 4.4 We will be deemed to have met our obligations to deliver at the earlier of:
 (a) the delivery of the Products to the Delivery Point; or
 (b) the collection of the Products by you.
- 4.5 You will take possession of the Products when delivered to the Delivery Point. If you refuse to take possession when the Products are delivered or fail to provide information or instructions required for the delivery, the Products will be stored at your risk. In that event, you shall be liable to us for all additional costs, including the cost of storing or redelivering the Products plus a reasonable margin for our administrative costs incurred.
- 4.6 If the quantity of the Products delivered is not more than 10% greater, or not less than 10% less, than that stated in our Quote, you will take delivery and the price will be adjusted pro rata to the difference.
- 4.7 You may inspect the Products for Defects after delivery to the Delivery Point or the collection of the Products and notify us in writing within three (3) days of taking possession of the Products whether a Defect exists.
- 4.8 On receipt of your written notice pursuant to clause 4.7 that a Defect exists, we will remedy such Defect by either:
 (a) replacing any Products with Products that do not contain a Defect; or
 (b) refund you the cost of any Product with a Defect for the actual price paid only.
- 4.9 If you fail to notify us of a Defect within three (3) days of taking possession of the

Products you are deemed to have accepted them on an as-is basis.

- 4.10 If applicable, Products will be accompanied by any necessary instructions and technical documentation, including operating and service manuals.

5. Title and Risk

- 5.1 The legal title in the Products supplied passes to you on payment of the Contract Sum.
- 5.2 Risk in the Products and the responsibility for the care of the Products passes to you when the Products are delivered to the Delivery Point.

6. Purchase and Payment

- 6.1 You must pay us the Contract Sum (without any set off or deduction) within 7 days after the date of invoice. Time is of the essence for payment of the Contract Sum.
- 6.2 If you pay by credit card, a surcharge of up to 1.5% of the price may be imposed. We reserve the right of disposal of the Products until the price has been paid. This right is not lost by part delivery.
- 6.3 If any moneys due to us pursuant to an invoice remain unpaid after the expiration of the period referred to in clause 6.1, then interest will apply at 15% per annum pro-rata for every day your payment is late.
- 6.4 The Contract Sum excludes Goods and Services Tax (GST), and any other duty, tax or charge that is payable in respect of the Products. If GST is payable for the Products, you will pay us the amount due for GST in addition to the Contract Sum.
- 6.5 You have no right to set off or back charge and are not permitted to make any deduction for damages or losses or other claims from the payment due to us.
- 6.6 This clause survives termination or expiry of the Contract.

7. Limited Warranty

- 7.1 We warrant to you that:
 (a) we have the right to sell the Products to you;
 (b) the Products will correspond with the description in our Quote; and
 (c) the Products will be of merchantable quality.
- 7.2 The Products are not sold by sample and no other warranty or condition applies as to the quality or fitness for any particular purpose of the Products.
- 7.3 If the Products benefit from any third party guarantee or warranty, we will assign or transfer any benefit to you or if it cannot be assigned or transferred, we will hold the benefit of the guarantee or warranty as trustee for you and on your behalf.
- 7.4 We will not be liable or responsible for providing any guarantee or warranty beyond that provided by the original manufacturer or fabricator of the Products.
- 7.5 Notwithstanding anything to the contrary, our maximum liability for any warranty event as described in this clause will not exceed that stated in clause 9 below.

8. Indemnity

- 8.1 You agree to indemnify and hold us harmless against any and all liability arising from:
 (a) losses, including loss of use of, or damage to any property owned by us, or which we are responsible for, including property held in trust;
 (b) claims for personal injury, death, loss of (including resultant loss) or damage to any other property not owned or controlled by us;
 (c) loss caused by a breach by you of this Contract; and
 (d) any other claim for loss, damages or expenses suffered or incurred by us, arising out of your acts, defaults or omissions.
- 8.2 Your obligation to indemnify us shall be reduced proportionately to the extent our negligence, breach or wilful misconduct contributed to an indemnity event under clause 8.1.
- 8.3 You agree to indemnify and hold us harmless from and against all claims for loss, damage, injury or expenses by third parties resultant from your use of the Products, including but not limited to:
 (a) improper storage or handling;
 (b) incorrect installation or use, including installation or use by others;
 (c) any failures, whether inadvertent or otherwise, by you to properly advise or inform any third party, including those using or installing the Products on your behalf or third parties you have supplied the Products to, on the use, handling, storage and application or purpose of the Products; and
 (d) any breach by you of an obligation or duty owed by you to any third party.
- 8.4 This clause survives termination or expiry of this Contract.

9. Liability

- 9.1 Notwithstanding any other provision of this Contract, each party's liability to the other party in connection with, arising out of or related to the supply of the Product performed under this Contract, whether in contract, tort (including negligence), under statute (to the extent that it is possible to exclude such liability), pursuant to an indemnity, or on any other basis in law, in equity or otherwise, and whether arising in connection with one or more events, is limited to the lesser of:
 (a) the difference between the value of the Products at the time of delivery to you, and the value which they would have had if they had complied with the Contract;
 (b) the cost of resupplying or repairing the defective Products, or equivalent goods; or
 (c) 20% of the Contract Sum.
 For the avoidance of doubt, this clause 9.1 does not apply to or limit your liability to pay us the purchase price of the Products.
- 9.2 In the case of delayed or non-delivery where we are at fault, our liability is capped at the lesser of 5% of the Contract Sum and the difference between the Contract Sum and the market or current value of the Products at the time when they should have been delivered.
- 9.3 Instead of incurring any liability under this Contract, we may, at our absolute discretion, elect to resupply the Products to you.
- 9.4 Notwithstanding any other provision of this Contract, neither party is liable to the other party for any of the following types of loss, however arising:
 (a) any financial or economic loss, including loss of profit, loss of revenue, loss of use, loss of production, loss of agreement or contract, loss of goodwill or loss of business opportunity;
 (b) any new or increased costs and expenses, including financing, capital or operating costs;
 (c) any special, incidental, indirect or consequential loss; and
 (d) any loss resulting from any liability of the other party to any third party whether arising under contract or otherwise.
- 9.5 Nothing under this clause 9 shall reduce or waive our right to be indemnified by

you at law or other such relief made available under this Contract.
 9.6 This clause survives termination or expiry of this Contract.

10. Variations

- 10.1 A party may give the other party written notice of a proposed variation, in respect of the Products.
- 10.2 If you give a notice of a proposed variation pursuant to this clause 10.1, we shall as soon as reasonably practicable after receiving such notice, notify you in writing whether the proposed variation can be effected together with, if it can be effected, our estimate of the:
 - (a) effect on the delivery date; and
 - (b) costs of the proposed variation.
- 10.3 The variation will be valued as agreed between the parties, or if we cannot agree, at reasonable market rates or prices as determined by us, which shall include a reasonable amount for profit and overheads.

11. Personal Property Security Act

- 11.1 You acknowledge and agree that this Contract creates a Security Interest over the Products for the purposes of the *Personal Property Securities Act 1999* (New Zealand) ('PPSA') (as that term is defined in the PPSA) ('Security Interest').
- 11.2 You consent for us to register our Security Interests in the Products and you undertake to promptly do all things reasonably required by us to enable us to do so.
- 11.3 You must promptly do anything (including signing further documents and providing further information) which we may reasonably require to:
 - (a) register a Financing Statement on the Personal Property Securities Register (as those terms are defined in the PPSA) in relation to Security Interests in the Products;
 - (b) register any other document on the Personal Property Securities Register to perfect our Security Interests in the Products; or
 - (c) ensure that the Security Interests granted to us have priority over all other Security Interests.
- 11.4 You agree not to cause (directly or indirectly) the registration of a Security Interest, or the discharge of any registration, in respect of any Product supplied under this Contract or to make any Demand (as that term is defined in the PPSA) without our prior written consent and payment by you to us in respect of that Product.

12. Termination and Suspension

- 12.1 Either party may terminate this Contract where the other party:
 - (a) has breached a material term of this Contract and has not remedied the breach within 14 days of written notice to do so; or
 - (b) is made bankrupt, becomes insolvent or an external administrator, liquidator or receiver is appointed.
- 12.2 If you fail to remedy a material breach of this Contract after written notice to do so pursuant to clause 12.1, including failing to make payment when due to us, in addition to our right to terminate this Contract we may also at our sole and absolute discretion:
 - (a) retain possession of all or any of the Products;
 - (b) cease or suspend any further deliveries of the Products to you;
 - (c) resell part or all of the Products ordered by you;
 - (d) recover the loss caused by your breach plus interest at the applicable court penalty interest rate, accruing from the earlier of the due date for payment and the date of the breach;
 - (e) execute our rights under law to recover any loss caused by a breach by you of this Contract, including any court penalty interest accruing from the earlier of the due date for payment or the breach of this Contract by you; or
 - (f) a combination of the above.
- 12.3 We may terminate this Contract at any time for any reason (and without any requirement or provide a reason) by reasonable prior written notice to you. In the event we terminate pursuant to this clause 12.3 and you have paid for Products not yet delivered we can elect to:
 - (a) deliver the Products; or
 - (b) repay the amount paid to us in advance of the delivery of the Products. Such repayment will constitute full and final compensation payable by us under or in connection with this Contract.

Other than as expressly provided in this Contract, you will have no claim against us in relation to termination pursuant to this clause 12.3 and we will not be liable to you for any other loss or cost you incur.

- 12.3 Termination of this Contract will not affect any right, power, remedy, obligation, duty or liability of any party under this Contract which has accrued at the date of termination.
- 12.4 Any clause capable of continuing to apply after the delivery of the Products is completed or terminated for any reason shall do so.

13. Dispute Resolution

- 13.1 If a dispute arises between the parties in connection with the subject matter of this Contract, then either party will give the other written notice adequately identifying and providing details of the dispute.
- 13.2 Within 5 business days after receiving notice of the dispute, the parties will confer to resolve the dispute. If the dispute is not resolved within 10 business days of service of the notice of dispute, the dispute may be referred to litigation or other dispute resolution method agreed by the parties in writing.
- 13.3 Notwithstanding the existence of a dispute, the parties must continue to perform their obligations under this Contract.

14. General

- 14.1 Nothing in this Contract creates or implies an obligation of exclusivity on either party.
- 14.2 All references to "you" in this Contract includes your employees, contractors, consultants or agents purchasing the Products.
- 14.3 You must maintain strict confidentiality about this Contract and may only use and disclose to employees who have a need to know, any documents, know-how and confidential information of or about us of which you become aware or generate in connection with us performing the supply of the Products.
- 14.4 We retain at all times ownership of any and all intellectual property relating to the Products and, unless otherwise agreed by us in writing, no licence is granted to you to use such intellectual property.
- 14.5 This Contract does not create a relationship of employment, agency or

partnership between the parties.

- 14.6 This Contract constitutes the entire agreement between us and you in relation to the supply of the Products. Any assumptions, conditions or qualifications in your request for tender/quote, any communication between the parties or other terms and conditions provided by you at any time do not form part of this Contract except to the extent expressly set out in this Contract (and not merely by incorporation by reference). For the avoidance of doubt, we will not be liable for any terms, condition, obligation or documentation of any head or principal agreement except to the extent expressly set out in this Contract. This clause does not exclude a party's liability for prior false, misleading or deceptive statements or misrepresentations, whether oral or written.
- 14.7 Either party may, (with prior written consent of the other party), assign, novate or otherwise transfer any rights and obligations under the Contract.
- 14.8 Subject to clauses 10, 14.8 and 14.9, this Contract may not be amended, supplemented or varied other than in writing signed by each party.
- 14.9 We reserve the right to alter, modify or otherwise amend these terms and conditions at any time.
- 14.10 If the supply of Products connected with this Contract extends for a period of 12 months or more from the date of the first supply of Products, the terms and conditions applicable to the supply of Products after such 12 month period will be those in force at the time any Purchase Order is issued by you. You may request a copy of our most current terms and conditions covering the supply of the Products by submitting a written request to us.
- 14.11 Any notice required to be given under this Contract must be in writing and addressed to the designated contact in the Contract documents.
- 14.12 No waiver by us of any breach of this Contract by you will be considered as a waiver of any subsequent breach of the same or any other provision.
- 14.13 If any provision of this Contract is held invalid, unenforceable or illegal for any reason, the validity of all other provisions of this Contract are not affected.
- 14.14 Clause headings shall not form part of, and shall not be used in the interpretation of, this Contract.
- 14.15 Our rights and remedies under our contract are in addition to our rights and remedies provided by law.
- 14.16 A reference to a statute, ordinance, code or other legislation includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- 14.17 This Contract is governed by and to be construed in accordance with New Zealand laws.
- 14.18 -Not used-
- 14.19 Where we 'may' do or not do something, or otherwise have a discretion, that discretion is absolute. We are not required to exercise any discretion for your benefit, nor having regard to you, and the discretion given may include conditions.