



CREDIT ACCOUNT APPLICATION

GST No: 13 581 312

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade and initial each page attached.

Client's Details: <input type="checkbox"/> Individual <input type="checkbox"/> Sole Trader <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/> Other:				
Full or Legal Name:				
Trading Name: <i>(If different from above)</i>				
Physical Address:				Postcode:
Billing Address:				Postcode:
Email Address:				
Phone No:		Fax No:		Mobile No:
Personal Details: <i>(please complete if you are an Individual)</i>				
D.O.B.:			Driver's Licence No:	
Business Details: <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>				
Company Number:			Date Incorp. <i>(current owners)</i> :	
Nature of Business:				GST No: <i>(if applicable)</i>
Paid Up Capital: \$			Estimated Monthly Purchases: \$	
Principal Place of Business is: <input type="checkbox"/> Rented <input type="checkbox"/> Owned <input type="checkbox"/> Mortgaged <i>(to whom)</i> :				
Directors / Owners / Trustee <i>(if more than two, please attach a separate sheet)</i>				
(1) Full Name:			D.O.B.:	
Private Address:				Postcode:
Driver's Licence No:		Phone No:		Mobile No:
(2) Full Name:			D.O.B.:	
Private Address:				Postcode:
Driver's Licence No:		Phone No:		Mobile No:
Account Terms: <input type="checkbox"/> 30 Days <input type="checkbox"/> COD <input type="checkbox"/> Other:				
Purchase Order Required? <input type="checkbox"/> YES <input type="checkbox"/> NO			Accounts to be emailed? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Accounts Email Address:				
Accounts Contact:				Phone No:
Bank and Branch:				Account No:
Trade References: <i>(please provide companies that are willing to do trade references)</i>				
Name:		Address:		Phone / Fax / Email:
1.				
2.				
3.				

I (please print clearly) of (full residential address).....
 certify that the above information is true and correct
 and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Ullrich Aluminium Co Limited which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. **I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Client I shall be personally liable for the performance of the Client's obligations under this contract.**
I guarantee due and punctual payment to the Supplier of all monies now or at any time due by (full name of company) for Goods supplied or to be supplied or any other Services rendered by the Supplier or any of its associated or subsidiary companies, and there shall be no limit to my liability to the Supplier hereunder. I acknowledge that no granting of credit extension, no waiver indulgence or neglect on the Supplier's part to sue shall impair or otherwise affect my liability under this guarantee, as between myself and the Supplier I shall be deemed to be a principal debtor, and to be liable accordingly.

SIGNED (CLIENT): _____	SIGNED (SUPPLIER): _____
Name: _____	Name: _____
Position: _____	Position: _____
WITNESS TO CLIENT'S SIGNATURE:	
Signed: _____	Name: _____ Date: _____

OFFICE USE ONLY				
Account / Ref. No.	CREDIT LIMIT	APPROVED BY	DATA INPUTTED	DATE
	\$			/ /

Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of Ullrich Aluminium Co Limited and its successors and assigns ("the Supplier") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

("the Client") *[Insert Company Name In Box Provided]*

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

1. **GUARANTEE** the due and punctual payment to the Supplier of all monies which are now owing to the Supplier by the Client and all further sums of money from time to time owing to the Supplier by the Client in respect of goods and services supplied or to be supplied by the Supplier to the Client or any other liability of the Client to the Supplier, and the due observance and performance by the Client of all its obligations contained or implied in any contract with the Supplier, including but not limited to the Terms & Conditions of Trade signed by the Client and annexed to this Guarantee and Indemnity. If for any reason the Client does not pay any amount owing to the Supplier the Guarantor will immediately on demand pay the relevant amount to the Supplier. In consideration of the Supplier agreeing to supply the Goods to the Client, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 1999 ("PPSA") and unequivocally consents to the Supplier registering any interest so charged. Furthermore, it is agreed by both parties that where the Guarantor is acting in the capacity as a trustee for a trust, then the Guarantor agrees to charge all its right title and interest in any land realty, or other assets capable of being charged in its own capacity and in its capacity as trustee and shall be subject to the PPSA Registration as stated above. The Guarantor irrevocably appoints the Supplier and each director of the Supplier as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which the Supplier may reasonably require to:
 - (a) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (b) register any other document required to be registered by the PPSA or any other law; or
 - (c) correct a defect in a statement referred to in clause 1(a) or 1(b).
2. **HOLD HARMLESS AND INDEMNIFY** the Supplier on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, the Supplier in connection with:
 - (a) the supply of goods and/or services to the Client; or
 - (b) the recovery of monies owing to the Supplier by the Client including the enforcement of this Guarantee and Indemnity, and including but not limited to the Supplier's nominees' costs of collection and legal costs; or
 - (c) monies paid by the Supplier with the Client's consent in settlement of a dispute that arises or results from a dispute between, the Supplier, the Client, and a third party or any combination thereof, over the supply of goods and/or services by the Supplier to the Client.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

3. **I/We have received, read and understood the Supplier's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
4. This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of monies owing to the Supplier by the Client and all obligations herein have been fully paid satisfied and performed.
5. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Supplier's part (whether in respect of the Client or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Client's obligations to the Supplier, each Guarantor shall be a principal debtor and liable to the Supplier accordingly.
6. If any payment received or recovered by the Supplier is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the Supplier shall each be restored to the position in which they would have been had no such payment been made.
7. The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor and shall include the Guarantor's executors, administrators, successors and permitted assignments (where applicable) contained in this Guarantee and Indemnity shall bind them jointly and severally.
8. **I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Client to the Supplier.**
9. I/we irrevocably authorise the Supplier to obtain from any person or company any information which the Supplier may require for credit reference purposes. I/We further irrevocably authorise the Supplier to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with the Supplier as a result of this Guarantee and Indemnity being actioned by the Supplier.
10. The above information is to be used by the Supplier for all purposes in connection with the Supplier considering this Guarantee and Indemnity and the subsequent enforcement of the same.

GUARANTOR-1

SIGNED: _____

FULL NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____

SIGNATURE OF WITNESS: _____

NAME OF WITNESS: _____

OCCUPATION: _____

PRESENT ADDRESS: _____

GUARANTOR-2

SIGNED: _____

FULL NAME: _____

HOME ADDRESS: _____

DATE OF BIRTH: _____

SIGNATURE OF WITNESS: _____

NAME OF WITNESS: _____

OCCUPATION: _____

PRESENT ADDRESS: _____

Note: 1. If the Client is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
 2. If the Client is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member

WARNING: THIS IS AN IMPORTANT DOCUMENT. YOU SHOULD SEE YOUR OWN LAWYER OR ADVISOR BEFORE SIGNING IT

Client's Initials: _____

Date: _____

Ullrich Aluminium Co Limited – Terms & Conditions of Trade

1. Definitions

- 1.1 **"Contract"** means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 **"Supplier"** means Ullrich Aluminium Co Limited, its successors and assigns or any person acting on behalf of and with the authority of Ullrich Aluminium Co Limited.
- 1.3 **"Client"** means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting the Supplier to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Client, is a reference to each Client jointly and severally; and
 - (b) if the Client is a partnership, it shall bind each partner jointly and severally; and
 - (c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and
 - (d) includes the Client's executors, administrators, successors and permitted assigns.
- 1.4 **"Goods"** means all Goods or Services supplied by the Supplier to the Client at the Client's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).
- 1.5 **"Confidential Information"** means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, **"Personal Information"** such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.6 **"Cookies"** means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including personal information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. **If the Client does not wish to allow Cookies to operate in the background when using the Supplier's website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to making enquiries via the website.**
- 1.7 **"Price"** means the Price payable (plus any Goods and Services Tax ("GST") where applicable) in New Zealand Dollars for the Goods as agreed between the Supplier and the Client in accordance with clause 5 below.

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts Delivery of the Goods.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Client acknowledges that the supply of Goods on credit shall not take effect until the Client has completed a credit application with the Supplier and it has been approved with a credit limit established for the account.
- 2.5 In the event that the supply of Goods request exceeds the Client's credit limit and/or the account exceeds the payment terms, the Supplier reserves the right to refuse delivery.
- 2.6 These terms and conditions are meant to be read in conjunction with the Terms and Conditions posted on the Supplier's website. If there are any inconsistencies between the two documents then the terms and conditions contained in this document shall prevail.
- 2.7 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

- 3.1 The Client acknowledges and accepts that the Supplier shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- (a) resulting from an inadvertent mistake made by the Supplier in the formation and/or administration of this Contract; and/or
 - (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by the Supplier in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of the Supplier; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Change in Control

- 4.1 The Client shall give the Supplier not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address and contact phone or fax number/s, change of trustees or business practice). The Client shall be liable for any loss incurred by the Supplier as a result of the Client's failure to comply with this clause.

5. Price and Payment

- 5.1 At the Supplier's sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by the Supplier to the Client; or
 - (b) the Supplier's quoted price (subject to clause 0) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

Client's Initials: _____

Date: _____

- 5.2 The Supplier reserves the right to change the Price:
- (a) if a variation to the Goods which are to be supplied is requested; or
 - (b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or
 - (c) inaccurate measurements provided by the Client for custom or special order Goods which are only discovered on commencement of the Services; or
 - (d) in the event of increases to the Supplier in the cost of labour or materials (including but not limited to increases to the Supplier in the cost of performing the carriage of the Goods which are beyond the reasonable control of the Supplier, overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange, taxes, levies, duties and/or international freight and insurance charges, warehousing costs, or changes and/or prohibitions to government, council or other regulations etc.) which are beyond the Supplier's control.
- 5.3 Variations will be charged for on the basis of the Supplier's quotation, and will be detailed in writing, and shown as variations on the Supplier's invoice. The Client shall be required to respond to any variation submitted by the Supplier within ten (10) working days. Failure to do so will entitle the Supplier to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 5.4 In the case of export sales:
- (a) the Client must comply with such other requirements as the Supplier may request, including providing security in the form of the Client's irrevocable letter of credit confirmed by a major national bank of the Supplier's choosing; and
 - (b) the Client warrants that sale transactions comply with all applicable laws, including all import, export and exchange control regulations.
- 5.5 At the Supplier's sole discretion a non-refundable deposit may be required.
- 5.6 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by the Supplier, which may be:
- (a) on or before delivery of the Goods;
 - (b) by way of instalments/progress payments in accordance with the Supplier's payment schedule;
 - (c) due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices; or
 - (d) for approved credit account holders thirty (30) days following the date of any invoice; or
 - (e) the date specified on any invoice or other form as being the date for payment; or
 - (f) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by the Supplier.
- 5.7 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Client and the Supplier.
- 5.8 The Supplier may in its discretion allocate any payment received from the Client towards any invoice that the Supplier determines and may do so at the time of receipt or at any time afterwards. On any default by the Client the Supplier may re-allocate any payments previously received and allocated. In the absence of any payment allocation by the Supplier, payment will be deemed to be allocated in such manner as preserves the maximum value of the Supplier's Purchase Money Security Interest (as defined in the PPSA) in the Goods.
- 5.9 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by the Supplier nor to withhold payment of any invoice because part of that invoice is in dispute.
- 5.10 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to the Supplier an amount equal to any GST the Supplier must pay for any supply by the Supplier under this or any other contract for the sale of the Goods. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 6. Delivery of Goods**
- 6.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:
- (a) the Client or the Client's nominated carrier takes possession of the Goods at the Supplier's address; or
 - (b) the Supplier (or the Supplier's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.
- 6.2 The Supplier is authorised to deliver the Goods at the address given to the Supplier by the Client for that purpose and it is expressly agreed that the Supplier shall be taken to have delivered the Goods in accordance with this Contract if at that address the Supplier obtains from any person a receipt or a signed delivery docket for the Goods.
- 6.3 It is agreed that the person delivering any Goods to the Supplier for carriage or forwarding is authorised to sign the consignment note for the Client.
- 6.4 At the Supplier's sole discretion the cost of Delivery is either included in the Price or is in addition to the Price.
- 6.5 The Supplier may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 6.6 The Client shall take delivery of the Goods tendered notwithstanding that the quantity so delivered shall be either greater or lesser than the quantity purchased provided that:
- (a) such discrepancy in quantity shall not exceed five percent (5%); and
 - (b) the Price shall be adjusted pro rata to the discrepancy.

Client's Initials: _____

Date: _____

6.7 Any time specified by the Supplier for Delivery of the Goods is an estimate only. The Client must take Delivery by receipt or collection of the Goods whenever they are tendered for Delivery. The Supplier will not be liable for any loss or damage incurred by the Client as a result of Delivery being late. In the event that the Client is unable to take Delivery of the Goods as arranged then the Supplier shall be entitled to charge a reasonable fee for redelivery and/or storage.

7. Export Contracts

7.1 In the event that the Goods are exported, delivery of the Goods may be subject to either FOB Contract or CIF Contract.

7.2 In the event of a FOB Contract the following shall apply

- (a) the Goods shall be delivered to the Client by delivery on board the agreed upon mode of transport on the delivery date. The Supplier shall promptly notify the Client that the Goods have been delivered aboard. Title (subject to clause 16) to, and risk in the Goods shall pass to the Client upon such delivery being effected. The Supplier shall promptly provide the Client with a clean shipped bill of lading in respect of the Goods;
- (b) the Client shall reserve the necessary space on board the agreed upon mode of transport and give the Supplier due notice of the loading berth and any revised delivery dates. The Client shall bear any additional costs caused due to the failure of the agreed upon mode of transport being available to load the Goods on the delivery date.

7.3 In the event of a CIF contract the following shall apply:

- (a) the Goods shall be delivered to the Client by delivery on board the agreed upon mode of transport on or before the delivery date. The Supplier shall procure a contract of carriage and insure the Goods from dispatch until delivery on terms current in the trade for the benefit of the Client. The Supplier shall promptly tender to the Client a clean shipped bill of lading, the insurance policy and an invoice in respect of the Goods;
- (b) the Client shall accept the documents tendered by the Supplier if they correspond to this contract and take delivery of the Goods at the port of destination and bear all other costs and charges arising out of shipment of the Goods to the port of destination.

7.4 In the event that the Goods are exported, and delivery of the Goods are to be subject to a CFR contract, then following shall apply:

- (a) the Supplier shall clear the Goods for export and the Goods shall be delivered to the Client by delivery by sea to an agreed port of destination. The Supplier shall be responsible for supplying the Client with all documentation necessary to uplift the Goods from the carrier at the port of destination;
- (b) the risk of loss or damage to the Goods, as well as any additional costs due to events occurring after the Goods have been delivered on board the shipping vessel, is transferred to the Client immediately that the Goods pass the ships rail in the port of shipment;
- (c) the Client (unless otherwise agreed in writing) must ensure that the Goods are insured against damage and loss, and all other usual risks immediately that the Goods pass the ships rail in the port of shipment. Furthermore the Client agrees to indemnify the Supplier against any loss or damage that the Supplier may incur through the Client's failure to comply with this clause (c).

8. Method of Transport and Route Deviation

8.1 If the Client instructs the Supplier to use a particular method of carriage, the Supplier will give priority to the method designated but if that method cannot conveniently be adopted by the Supplier the Client shall be deemed to authorise the Supplier to carry or have the Goods carried by another method(s).

8.2 The Client shall be deemed to authorise any deviation from the usual route or manner of carriage of Goods that may in the absolute discretion of the Supplier be deemed reasonable or necessary in the circumstances.

9. Charges Earned and Demurrage

9.1 The Supplier's charges shall be considered earned in the case of Goods for carriage as soon as the Goods are loaded and dispatched from the Client's premises.

9.2 The Client will be and shall remain responsible to the Supplier for all its proper charges incurred for any reason. A charge (in addition to the Price under clause 5.2) may be made by the Supplier in respect of any delay in excess of thirty (30) minutes in loading or unloading occurring other than from the default of the Supplier. Such permissible delay period shall commence upon the Supplier reporting for loading or unloading. Labour to load or unload the vehicle shall be the responsibility and expense of the Client or consignee.

10. Loss or Damage

10.1 Subject to clause 19 and any statutory provisions imposing liability in respect of the loss of or damage to the Goods, the Supplier shall not be under any liability for:

- (a) any delay or any loss or damage to the Goods occasioned during carriage arising from any Force Majeure or any confiscation, requisition, destruction of or damage by order of any authority, or seizure under legal process;
- (b) compliance with the directions of any person or lawful authority entitled to give them;
- (c) deterioration, contamination (including any contamination of any cargo compromising the Goods), evaporation, breakdown, wrongful delivery, misdelivery, delay in delivery or non-delivery of the Goods whenever or howsoever occurring (and whether the Goods are or have been in the possession of the Supplier or not);
- (d) any instructions, advice, information or service given or provided to any person, whether in respect of the Goods or any other thing or matter, nor for any consequential or indirect loss, loss of market or consequences of delay; and
- (e) any act or omission whether wilful, reckless, negligent or otherwise of the Supplier, or its servants or agents or subcontractors;
- (f) any latent defect or inherent vice or natural deterioration or wastage of the Goods or packaging;
- (g)

Client's Initials: _____

Date: _____

(h) any act, omission or neglect of the Client, including insufficient or improper packaging, labelling or addressing, or failure to take delivery, or any handling, loading, storage or unloading of the Goods.

11. Claims

- 11.1 Notwithstanding clauses 19 and 10, in the event that the Client believes that they have any claim against the Supplier then they must lodge any notice of claim for consideration and determination by the Supplier within seven (7) days of the date of delivery, or for non-delivery within seven (7) days of the anticipated date of delivery or the removal or destruction of the Goods.
- 11.2 The failure to notify a claim within the time limits under clause 11.1 is evidence of satisfactory performance by the Supplier of its obligations.

12. Risk

- 12.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.
- 12.2 If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Client, the Supplier is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any person dealing with the Supplier to make further enquiries.
- 12.3 If the Client requests the Supplier to leave Goods outside the Supplier's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk.
- 12.4 This clause 12 shall not apply where Goods are being exported and clause 7 is applicable.

13. Accuracy of Client's Plans and Measurements

- 13.1 The Supplier shall be entitled to rely on the accuracy of any plans, and other information provided by the Client. The Client acknowledges and agrees that in the event that any of this information provided by the Client is inaccurate, the Supplier accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans or other information.
- 13.2 Where the Client is to supply the Supplier with any design specifications (including, but not limited to CAD drawings) the Client shall be responsible for providing accurate data. The Supplier shall not be liable whatsoever for any errors in the Goods that are caused by incorrect or inaccurate data being supplied by the Client

14. Specifications

- 14.1 The Client acknowledges that:
- (a) all descriptive specifications, illustrations, drawings, data, dimensions and weights stated in the Supplier's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Client shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the contract, unless expressly stated as such in writing by the Supplier; and
 - (b) while the Supplier may have provided information or figures to the Client regarding the performance of the Goods, the Client acknowledges that the Supplier has given these in good faith, and are estimates based on industry prescribed estimates; and
 - (c) Goods supplied may:
 - (i) expand, contract or distort as a result of exposure to heat, cold, weather; and
 - (ii) mark or stain if exposed to certain substances; and
 - (iii) be damaged or disfigured by impact or scratching.
- 14.2 The Client shall be responsible for ensuring that the Goods ordered are suitable for their intended use.
- 14.3 The Supplier reserves the right to substitute comparable Goods (or components of the Goods), and in all such cases the Supplier will notify the Client in advance of any such substitution.

15. Compliance With Laws

- 15.1 The Client and the Supplier shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services or any other relevant safety standards or legislation pertaining to the Services.
- 15.2 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Services (including but not limited to, any taxes, duties, levies, customs and import duties (where applicable) etc).

16. Title

- 16.1 The Supplier and the Client agree that ownership of the Goods shall not pass until:
- (a) the Client has paid the Supplier all amounts owing to the Supplier; and
 - (b) the Client has met all of its other obligations to the Supplier.
- 16.2 Receipt by the Supplier of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 16.3 It is further agreed that until ownership of the Goods passes to the Client in accordance with clause 16.1:
- (a) the Client is only a bailee of the Goods and must return the Goods to the Supplier on request;
 - (b) the Client holds the benefit of the Client's insurance of the Goods on trust for the Supplier and must pay to the Supplier the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;

Client's Initials: _____

Date: _____

- (c) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for the Supplier and must pay or deliver the proceeds to the Supplier on demand;
- (d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of the Supplier and must sell, dispose of or return the resulting product to the Supplier as it so directs;
- (e) the Client irrevocably authorises the Supplier to enter any premises where the Supplier believes the Goods are kept and recover possession of the Goods;
- (f) the Supplier may recover possession of any Goods in transit whether or not Delivery has occurred;
- (g) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of the Supplier;
- (h) the Supplier may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

17. Personal Property Securities Act 1999 ("PPSA")

- 17.1 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:
- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) a security interest is taken in all Goods and/or collateral (account) – being a monetary obligation of the Client to the Supplier for Services – that have previously been supplied and that will be supplied in the future by the Supplier to the Client.
- 17.2 The Client undertakes to:
- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Supplier may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, the Supplier for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;
 - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of the Supplier; and
 - (d) immediately advise the Supplier of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 17.3 The Supplier and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 17.4 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.
- 17.5 Unless otherwise agreed to in writing by the Supplier, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 17.6 The Client shall unconditionally ratify any actions taken by the Supplier under clauses 17.1 to 17.5.
- 17.7 Subject to any express provisions to the contrary (including those contained in this clause 17), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

18. Security and Charge

- 18.1 In consideration of the Supplier agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 18.2 The Client indemnifies the Supplier from and against all the Supplier's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Supplier's rights under this clause.
- 18.3 The Client irrevocably appoints the Supplier and each director of the Supplier as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 18 including, but not limited to, signing any document on the Client's behalf.

19. Defects and Returns

- 19.1 The Client shall inspect the Goods on delivery and shall within five (5) days of delivery (time being of the essence) notify the Supplier of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford the Supplier an opportunity to inspect the Goods within a reasonable time following Delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which the Supplier has agreed in writing that the Client is entitled to reject, the Supplier's liability is limited to either (at the Supplier's discretion) replacing the Goods or repairing the Goods.
- 19.2 Goods will not be accepted for return other than in accordance with 19.1 above, and provided that:
- (a) the Supplier has agreed in writing to accept the return of the Goods; and
 - (b) the Goods are returned at the Client's cost within five (5) days of the Delivery date; and
 - (c) the Supplier will not be liable for Goods which have not been stored or used in a proper manner; and
 - (d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.
- 19.3 The Supplier may (in its discretion) accept the return of Goods for credit but this may incur a handling fee of fifteen percent (15%) of the value of the returned Goods plus any freight.

Client's Initials: _____

Date: _____

19.4 Subject to clause 19.1, non-stocklist items or Goods made to the Client's specifications are not acceptable for credit or return.

20. Warranty

20.1 Subject to the conditions of warranty set out in clause 20.2 the Supplier warrants that if any defect in any workmanship of the Supplier becomes apparent and is reported to the Supplier within one (1) month of the date of delivery (time being of the essence) then the Supplier will either (at the Supplier's sole discretion) replace or remedy the workmanship.

20.2 The conditions applicable to the warranty given by clause 20.1 are:

(a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:

(i) failure on the part of the Client to properly maintain any Goods; or

(ii) failure on the part of the Client to follow any instructions or guidelines provided by the Supplier; or

(iii) any use of any Goods otherwise than for any application specified on a quote or order form; or

(iv) the continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or

(v) fair wear and tear, any accident or act of God.

(b) the warranty shall cease and the Supplier shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without the Supplier's consent.

(c) in respect of all claims the Supplier shall not be liable to compensate the Client for any delay in either replacing or remedying the workmanship or in properly assessing the Client's claim.

20.3 For Goods not manufactured by the Supplier, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Supplier shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

20.4 The conditions applicable to the warranty given on Goods supplied by the Supplier are contained on the "Warranty Card" that will be supplied with the Goods.

20.5 To the extent permitted by statute, no warranty is given by the Supplier as to the quality or suitability of the Goods for any purpose and any implied warranty, is expressly excluded. The Supplier shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.

20.6 In the case of second hand Goods, the Client acknowledges that full opportunity to inspect the same has been provided and accepts the same with all faults and that no warranty is given by the Supplier as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Supplier shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.

21. Consumer Guarantees Act 1993

21.1 If the Client is acquiring Goods for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by the Supplier to the Client.

22. Intellectual Property

22.1 Where the Supplier has designed, drawn or developed Goods for the Client, then the copyright in any designs and drawings and documents shall remain the property of the Supplier. Under no circumstances may such designs, drawings and documents be used without the express written approval of the Supplier.

22.2 The Client warrants that all designs, specifications or instructions given to the Supplier will not cause the Supplier to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify the Supplier against any action taken by a third party against the Supplier in respect of any such infringement.

22.3 The Client agrees that the Supplier may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which the Supplier has created for the Client.

23. Default and Consequences of Default

23.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at the Supplier's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

23.2 If the Client owes the Supplier any money the Client shall indemnify the Supplier from and against all costs and disbursements incurred by the Supplier in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Supplier's collection agency costs, and bank dishonour fees).

23.3 Further to any other rights or remedies the Supplier may have under this Contract, if a Client has made payment to the Supplier, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Supplier under this clause 23 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.

23.4 Without prejudice to the Supplier's other remedies at law the Supplier shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable if:

(a) any money payable to the Supplier becomes overdue, or in the Supplier's opinion the Client will be unable to make a payment when it falls due;

(b) the Client has exceeded any applicable credit limit provided by the Supplier;

Client's Initials: _____
Date: _____

- (c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

24. Cancellation

- 24.1 Without prejudice to any other remedies the Supplier may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions the Supplier may suspend or terminate the supply of Goods to the Client. The Supplier will not be liable to the Client for any loss or damage the Client suffers because the Supplier has exercised its rights under this clause.
- 24.2 The Supplier may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice the Supplier shall repay to the Client any money paid by the Client for the Goods. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 24.3 In the event that the Client cancels Delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by the Supplier as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 24.4 Cancellation of orders for Goods made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

25. Privacy Policy

- 25.1 All emails, documents, images or other recorded information held or used by the Supplier is Personal Information as defined and referred to in clause 25.3 and therefore considered confidential. The Supplier acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1993 ("the Act") including Part II of the OECD Guidelines and as set out in Schedule 5A of the Act and any statutory requirements where relevant in a European Economic Area "EEA" then the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). The Supplier acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by the Supplier that may result in serious harm to the Client, the Supplier will notify the Client in accordance with the Act and/or the GDPR. Any release of such personal information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.
- 25.2 Notwithstanding clause 25.1, privacy limitations will extend to the Supplier in respect of Cookies where the Client utilises the Supplier's website to make enquiries. The Supplier agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:
 - (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to the Supplier when the Supplier sends an email to the Client, so the Supplier may collect and review that information ("collectively Personal Information")If the Client consents to the Supplier's use of Cookies on the Supplier's website and later wish to withdraw that consent, the Client may manage and control the Supplier's privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when existing the site.
- 25.3 The Client authorises the Supplier or the Supplier's agent to:
 - (a) access, collect, retain and use any information about the Client;
 - (i) (including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Client.
 - (b) disclose information about the Client, whether collected by the Supplier from the Client directly or obtained by the Supplier from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.
- 25.4 Where the Client is an individual the authorities under clause 25.3 are authorities or consents for the purposes of the Privacy Act 1993.
- 25.5 The Client shall have the right to request the Supplier for a copy of the Personal Information about the Client retained by the Supplier and the right to request the Supplier to correct any incorrect Personal Information about the Client held by the Supplier.

26. Service of Notices

- 26.1 Any written notice given under this Contract shall be deemed to have been given and received:
 - (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Contract;
 - (c) by sending it by registered post to the address of the other party as stated in this Contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.

Client's Initials: _____

Date: _____

26.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

27. Trusts

27.1 If the Client at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not the Supplier may have notice of the Trust, the Client covenants with the Supplier as follows:

- (a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
- (b) the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
- (c) the Client will not without consent in writing of the Supplier (the Supplier will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Client as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.

28. General

- 28.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 28.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Manukau, New Zealand.
- 28.3 The Supplier shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Supplier of these terms and conditions (alternatively the Supplier's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 28.4 The Supplier may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.
- 28.5 The Client cannot licence or assign without the written approval of the Supplier.
- 28.6 The Supplier may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of the Supplier's sub-contractors without the authority of the Supplier.
- 28.7 The Client agrees that the Supplier may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for the Supplier to provide Goods to the Client.
- 28.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 28.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.