

MPK painting Terms and Conditions of Sale

These Terms and Conditions apply to any goods and/or services supplied by the Company to the Customer except where they are varied by notice in writing by the Company to the Customer prior to the supply of any goods.

1. WORDS USED IN THIS AGREEMENT

1. 1.1. "Amount owing" shall mean the price of the goods plus all costs, hire charges, insurance charges, repairs, expenses, disbursements and penalties for which you are liable to pay Us.
2. 1.2. "CCA" shall mean the Construction Contract Act 2002 and its amendments.
3. 1.3. "MPK painting" "We" "Us" or "Our" shall mean MPK Painting Ltd or any associated division, company, agent or employee.
4. 1.4. "Customer", "You" or "Your" shall mean the purchaser of any good or service from Us and shall include any representative, agent or employee.
5. 1.5. "Default" includes you or any Guarantor:
 - (a) Being unable to pay your debts as they fall due; or
 - (b) Breaching your obligations under any agreement with Us; or
 - (c) Suffering a material adverse change in its financial position or stability or acting in any way which is detrimental to Us or Our goods or should you advise any person that you intend to cease carrying on business; or
 - (d) Having an application made (or resolution passed) for you or any guarantor to be bankrupted or liquidated; or
 - (e) Convening a meeting of creditors or proposing to enter into a scheme of arrangement or composition for the benefit of creditors; or
 - (f) Having or taking steps to have a receiver, liquidator, voluntary administrator or other statutory manager appointed; or
 - (g) Being convicted of a criminal offence; or
 - (h) Doing any act that causes Us to consider that Our Goods are "at risk" as within the meaning of section 109 of the PPSA; or
 - (i) Having all or substantially all your assets acquired by another entity either governmental or private or effective control of your business is transferred or agreed to be transferred to any third party; or
 - (j) Indicating by notice or conduct that you no longer intend to comply with your obligations under any agreement with Us.
6. 1.6. "Force Majure Event" means any event outside Our reasonable control including acts of God, declared or undeclared war, fire, flood, storm, slide, earthquake, hurricanes, cyclones, riot, power failure, industrial action, defaults of manufacturers and suppliers, the inability to obtain equipment, supplies or other facilities that are not caused by a failure to pay, labour disputes, theft, any criminal act or other similar events beyond Our control that may prevent or delay Our supply of goods or services to you. "Goods" means all goods, parts, chattels and services supplied or manufactured by Us and supplied to You and include "consumer goods", "inventory" and "equipment" as defined by the Personal Property Securities Act 1999.
7. 1.7. "PPSA" means Personal Property Securities Act 1999 and its amendments.
8. 1.8. "Quote" or "Quotation" shall include any offer or tender and any drawings or specifications listed therein.

2. CUSTOMERS AUTHORITY

1. 2.1. You warrant that: (a) You are either the Customer or the authorised agent of the Customer; or

(b) You are authorised to accept and are accepting these terms personally or as agent for and on behalf of the Customer.

2. 2.2. If the Customer is a trust, these terms will bind each trustee of the trust as well as personally. Our rights against each trustee will only be limited if the trustee is an independent trustee (being a trustee who is not listed as a beneficiary) in which case the trustee's liability will be limited to the assets of the trust. This clause will however not affect the liability of an independent trustee who has guaranteed Your obligations under this agreement.

3. 2.3. You shall not assign all or any of Your rights or obligations under this contract unless We agree specifically in writing. You shall advise Us of any alteration to Your entity structure and/or of any revocation of an agent's authority to purchase. Until such written confirmation is received and specifically accepted by Us in writing, You shall remain liable for any amount owing and Our conduct shall not be deemed acceptance or affirmation of any assignment or revocation.

3. ACCEPTANCE

1. 3.1. All Goods are supplied on the basis of these terms and conditions ("terms") and any order received by Us from You and/or use of Your credit account with Us (if any) shall constitute acceptance of these terms and conditions.

4. QUOTATIONS

1. 4.1. Unless withdrawn in writing Our Quote is available for acceptance for 30 days (or any longer period stated in the quote) from the date of quotation, and thereafter is subject to confirmation. Your acceptance should be confirmed in writing prior to supply, but in the absence of written acceptance, Our supply of the Goods will be taken as Your acceptance by conduct.

2. 4.2. An order or letter of acceptance that contains terms or conditions in conflict with or seek to amend Our quote or these terms and conditions will not be binding on Us.

5. PRICE

1. 5.1. Unless otherwise agreed by Us in writing, the price of the goods or service shall be Our price ruling at the date of dispatch of Goods. Unless specifically stated otherwise, all quotes are stated in New Zealand dollars.

2. 5.2. Our prices are based on costs and charges at the date of quote. Unless specifically stated as a fixed price, the price (including any quote) will be increased by the amount of any GST and other applicable taxes and duties. We may also increase the price at any time as a result of:

(a) Any increase in the cost to Us of supply, production or delivery that occurs between Our acceptance of the order and the date of delivery including but not limited to fluctuations in currency exchange, prices of materials and services, labour costs and government charges or regulations.

(b) If You are not paying by cash, any and all costs incurred by Us as a result of Your method of payment, including without limitation, any credit card costs or payment costs.

6. VARIATION OF ORDERS

1. 6.1. Any changes required to the work quoted, or to the work reasonably foreseeable by Us at the date of quotation, shall be a variation. Variations include, without limitation, any change to the scope, quality or timing of the work, any circumstance that changes the cost of performing Our work from that reasonably foreseeable at the time of quotation, or any other circumstance which is stated in these terms and conditions to be a variation, whether arising out of any oral or written instruction from You or Your representative or otherwise.

2. 6.2. We will advise You as soon as practicable of any change to Our contract price arising out of any variation. Variations will generally be valued on the same basis or rates as corresponding original work. Where work does not directly correspond to the quotation, or cannot be performed in the most economic manner, variations may at Our sole discretion be priced on the basis of time and

materials (charge-up) at Our normal rates current at the time of performing the work.

3. 6.3. Your acceptance of any variation should be confirmed in writing prior to commencement of work, but in the absence of written acceptance Our commencement of the work pertaining to the variation will be taken as Your acceptance by conduct.

4. 6.4. We shall be entitled to be paid progressively as specified by Us for the reasonable value of any variation whether or not the value of it has been agreed.

7. DELIVERY AND RISK OF GOODS

1. 7.1. Unless specified in writing:

(a) Delivery costs are not included in the quote unless specifically noted; and

(b) Delivery shall be deemed complete when We give possession of the Goods to You at Our premises or to a carrier for delivery to You, or as You have directed. Risk in the Goods passes to You at that point. Title will not pass in the Goods until payment is received in full.

2. 7.2. Where We do agree to deliver or arrange delivery of the Goods for You:

(a) You will be liable for the Goods during transit; and

(b) We will attempt to meet any reasonable delivery or target completion date(s) made known to Us or agreed by Us. In the absence of any agreed date(s), We will deliver the Goods and/or complete Our work within a reasonable time. Unless expressly agreed We will not be liable for liquidated or any other damages caused by delivery or completion delays.

(c) We reserve the right to deliver the Goods by instalments and each instalment shall be deemed to be a separate contract subject to the same conditions as the main contract. Failure by Us to deliver one or more instalment, shall not entitle You to cancel any contract relating to the Goods. If You request and We agree to a delay in delivery, risk shall pass upon the date of Your request for such delay.

(d) The time for completion of delivery shall be extended for any event directly or indirectly causing delay including but not limited to: access, weather conditions, labour disputes, strikes, accidents, fire, changed work sequence, lack of information or approvals, or for any suspension of work.

(e) Should it be necessary, due to circumstances beyond Our reasonable control, to engage other resources or to work outside ordinary working hours (7.30am to 5pm on "working days" as defined in the CCA) to endeavour to meet Your completion target, any extra cost incurred will be an agreed variation.

8. AUTHORITY TO ENTER

1. 8.1. You irrevocably authorise Us to enter Your site at any time to deliver Goods or for any other purposes pursuant to the performance of this contract.

2. 8.2. Unless otherwise agreed in writing YOU agree to:

(a) Provide suitable access, information, documents and facilities required by Us to properly complete or co-ordinate Our site access including use of Goods or passenger lifts, cranes, hoists and scaffolding, rubbish removal facilities, temporary power and water supply, hygienic ablutions and safety lighting to allow Us to safely and efficiently perform any purpose that forms the matter of this contract; and

(b) Provide or obtain all consents or other authorities required for the work, including approvals from owners, occupiers and others, as specified.

9. HEALTH AND SAFETY AND THE ENVIRONMENT

1. 9.1. We will comply with all relevant health and safety requirements and with any site-specific safety requirements notified to Us. You will inform Us of any hazards in the workplace to which We may be exposed in working on designated premises, and will provide a site-specific safety plan if so

requested. We may refuse to perform work if at Our sole discretion We are not satisfied that it can be performed safely.

2. 9.2. You acknowledge and understand that:

(a) Safety instructions and associated hazard information have been provided by Us and where applicable that safety equipment has been offered.

(b) Misuse and neglect of the Goods may cause harm to the environment and You undertake to comply with all statutory laws relating to safety and protection of the environment.

3. 9.3. You shall and hereby agree to ensure that the Goods are used within the safety and environmental instructions provided by Us or the manufacturer and only for the purpose and within the capacity for which they were designed.

10. RECEIPT OF GOODS, RETURNS, VARIATIONS & CANCELLATION OF ORDERS

1. 10.1. All Goods must be carefully checked upon receipt. You shall check all Goods are correct in name, colour, quantity, size, mix, finish, and free from faults at the time of delivery

2. 10.2. You acknowledge that there may be minor variations, within industry standards, between the Goods and samples and colour indications shown to You. We may, at Our discretion, supply equivalent alternative options, on an agreed cost.

3. 10.3. No claims for returns, variations or cancellation will be accepted once Goods have been converted in any way. We shall be at liberty to decline or refuse such a request as We think fit. We shall be entitled to charge a re-stocking fee for any returns or variations We accept.

4. 10.4. Returns will only be accepted if the Goods are not in accordance with Your order and are returned intact and undamaged within 7 days of receipt of Goods. You shall afford Us the opportunity to inspect the Goods within a reasonable time. If You fail to comply with this provision, the Goods shall be conclusively presumed to be in accordance with these terms and conditions and free from any defect or damage.

5. 10.5. You may not cancel or vary any order or part of it without Our written consent. If You do so, in addition to any other rights We have, We may retain any deposit paid. You will be liable for all costs or losses (including profit and time) incurred by Us as a result of You varying or cancelling any order.

6. 10.6. We may at any time and without reason or notice to You and/or any Guarantor cancel without liability, any agreement either in whole or part for the supply of Goods to You. Any cancellation or suspension under this clause shall not affect Our claim for any amount owing or for any damages for any breach of Your obligations under this contract.

11. CREDIT FACILITIES

1. 11.1. We may grant or decline to grant credit to You. We may in Our sole discretion, at any time and without reason or notice to You and/or any Guarantor, and without prejudice to any other right it has in law or equity :

(a) increase, decrease, suspend the amount of credit supplied to You.

(b) terminate or suspend any credit arrangement We have with You in which case all monies owing by You to Us shall be immediately due; and

(c) request additional security from You on terms satisfactory to Us before proceeding further with any order.

2. 11.2. You acknowledge that neither these terms nor Your credit application shall be construed to be a consumer credit contract as defined by section 11 of the Credit Contracts and Consumer Finance Act 2003.

12. PAYMENT TERMS & PAYMENT VALIDITY

1. 12.1. Any deposit required by Us will be paid immediately on the creation of this contract and

is non-refundable.

2. 12.2. All invoices shall be payable before delivery or collection upon receipt of invoice from Us. Where credit facilities have been granted, all accounts shall be paid no later than 7 days following either date of invoice or receipt of Goods, whichever is the earlier.

3. 12.3. You acknowledge that:

(a) You will comply with the term headed "Disputes" contained herein for any disputed accounts; and

(b) We may allocate payments as We see fit notwithstanding any specific tender by You.

(c) We supply all Goods to You on condition that all payments made to Us from You are valid and in the ordinary course of business and by accepting payment from You, We alter Our position in reliance on the validity of that payment by;

(i) delaying revocation of the authority granted by Us to You pursuant to the clauses herein headed Personal Properties Securities Act 1999;

(ii) the continued supply by Us to You after the receipt of such payment, whether or not those Goods are paid for by You;

(iii) using the payment for Our own purposes; and

(iv) if the payment is made after the due date by foregoing its immediate right to take action against You and any Guarantor in relation to the late payment.

13. DISPUTES

1. 13.1. If You dispute an invoice You must prior to the date payment is due under clause 12.2 (within 30 days from the date of the disputed invoice) provide Us with a written payment schedule which:

(a) Identifies the invoice to which it relates; and

(b) What amount You do not dispute ("Scheduled Amount") and

(c) If the Scheduled amount is less than the claimed amount:

(i) How You calculated the Scheduled Amount; and

(ii) Your reason for the difference between the scheduled amount and the claimed amount ("Disputed Amount"); and

(iii) Your reason(s) for withholding payment of the Disputed Amount.

2. 13.2. If You:

(a) do not respond to the invoice by paying the invoiced amount in full; or

(b) providing a valid payment schedule within the stipulated timeframe; You acknowledge You will become liable for the claimed amount.

3. 13.3. Subject to the clause headed "Payment Terms and Payment Validity":

(a) Both parties will attempt to resolve any dispute arising from this contract by negotiation. Either party may at any time refer any dispute to adjudication and may refer any matter that is not finally resolved by adjudication to arbitration under the Arbitration Act 1996.

(b) Notwithstanding the above clause, should You fail to seek adjudication or arbitration within 14 days of notification of the dispute, We shall be entitled to enforce Our rights to payment of the invoiced amount unpaid.

14. DEFAULT

1. 14.1. In the event of Your default of any of these terms (and until the default is corrected):

(a) We may immediately suspend or terminate any credit facilities You have with Us.

(b) We may withhold further supplies to You. We shall be entitled to recover all costs and losses incurred in suspending and resuming work (including, but not limited to costs for lost time, and costs attributable to demobilisation and remobilisation to site) and such costs shall be an agreed

variation.

(c) We may terminate the contract immediately by written notice. You will be liable for all costs and losses including loss of profit arising out of such termination.

(d) We may exercise Our right to repossess Our Goods pursuant to Our retention of title clause and/or enforce any security interest We may hold.

(e) Any discounts may be disallowed and We revert You to Our standard pricing.

(f) We reserve the right to withhold or refuse warranty service until You correct the default.

(g) Any Amount Owing will immediately become due and payable notwithstanding that the due date has not yet arisen.

(h) Interest may be charged (as liquidated damages) on overdue accounts at the rate of 2.5% per month at Our discretion.

(i) We may exercise Our right to mortgage the Goods held by You.

(j) You shall be liable for ALL costs incurred by Us in recovering the amount owing including debt collection agency commission and fees and Our legal costs.

15. RETENTION OF TITLE

1. 15.1. Notwithstanding any period of credit or the passing of risk in the Goods supplied by Us to You, ownership in any Goods supplied by Us shall not pass to You until the Amount Owing has been paid in full or until You resell the Goods pursuant to the authority granted below.

2. 15.2. We authorise You, in the ordinary course of the Your business, to use the Goods or sell them for full consideration. This authority is revoked immediately if:

(a) You default in these terms and conditions; or

(b) We notify You in writing that this authority is revoked.

3. 15.3. Until We have been paid in full for the Goods:

(a) You shall hold the Goods as Our agent and shall store the Goods (or any funds You receive in payment of the Goods) in such a way that it is clear that they are Our property and so they will not deteriorate.

(b) You will immediately notify Us of any action which affects Our interest in the Goods.

(c) the proceeds of any Goods You resell or use shall be received and held by You (in whatever form) in trust for both You and Us. Our interest as beneficiary under that trust shall be that portion of the proceeds which does not exceed the Amount Owing. The balance of the proceeds (if any) shall be Your beneficial interest under that trust.

4. 15.4. You irrevocably give Us licence without the necessity of giving any notice to enter all premises at which We on reasonable grounds believe the Goods to be stored, to inspect, remove, or repossess any Goods supplied by Us and not paid for by You. We shall not be liable for costs, damages or expenses or any other moneys or losses suffered by You or any third party as a result of this action. You shall indemnify Us for any liability We suffer as a result of such actions.

5. 15.5. We may bring an action for the Amount Owing on the Goods sold despite the fact ownership of the Goods may not have passed to You.

6. 15.6. The Security Interest created under these Terms extends to the proceeds from selling the Goods and extends to any product or mass into which the Goods sold are processed or commingled and maintains its priority if the Goods become part of an accession.

16. SECURITY & RIGHT TO MORTGAGE

1. 16.1. You and/or any Guarantor agree that in the event of default We shall have the right to complete and register a mortgage (on the most current Auckland District Law Society all moneys memorandum of mortgage as updated from time to time) over any property owned by You and/or any Guarantor in order to protect Our rights and interest under these terms. We shall also have the

right at Our discretion to place a caveat on any such property for the purpose of this clause.

2. 16.2. You agree to do all acts required for Us to register the security and if You fail to do so within 3 working days of Our request, You and/or the Guarantor hereby irrevocably appoints Us as Your attorney for the purpose of Us exercising Our rights under this clause.

17. PERSONAL PROPERTY SECURITIES ACT 1999

1. 17.1. Interpretation ? all section references in this clause shall mean the relevant clause in the PPSA.

2. 17.2. Security: Upon consenting to these terms or by accepting supply from Us, You acknowledge and agree that:

(a) You grant a security interest (by virtue of Our retention of title clause) to Us in all present Goods supplied by Us to You (if any) and all after acquired Goods supplied by Us to You (or for Your account). You further agree that the security interest is a Purchase Money Security Interest (PMSI).

(b) You will not allow any Goods to become an accession to any property that is not subject to the security interest granted pursuant to these terms;

(c) You will not do, or omit to do, or allow to be done or omitted to be done, anything which might adversely affect any security interest in Goods granted in Our favour and You will not move any of the Goods outside New Zealand;

3. 17.3. Financing Statement: You acknowledge, agree and undertake (as the case may be) to:

(a) sign any further documents and/or provide any further information (which information You warrant to be complete accurate and up to date in all respects) which We may reasonably require to register a financing statement or financing change statement on the Personal Properties Securities Register.

(b) irrevocably appoint Us to be Your attorney to do anything which You agree to do under this agreement and anything which the attorney thinks desirable to protect the Company's interest under this agreement and You ratify anything done by the attorney under this clause

(c) not register a change demand without Our prior written consent, which may be given or withheld at Our absolute discretion.

(d) You will, upon demand, meet Our costs:

(i) In relation to registering a financial statement or financing change statement, or releasing any financing statement on the Personal Property Securities Register;

(ii) Enforcing Our security interest including Our legal costs on a solicitor client basis;

(e) give Us not less than 14 days prior written notice of any proposed change in Your name, and/or any other change in Your details or otherwise (including but not limited to a change in the Your place of incorporation, address, location, nature of business, ownership, facsimile or phone number, or business practice);

4. 17.4. Waiver and Contract Out - To the extent permitted by law, You and Us agree to contract out of:

(a) Sections 108, 109(1) and 120(1) of the PPSA in respect of particular Goods if and only for as long as We are not the secured party with priority over all secured parties in respect of those Goods.

(b) Sections 114(1)(a) 133, 134 and 148 of the PPSA; and

(c) The Buyer's rights referred to in sections 107(a) to (i) of the PPSA.

18. PRIVACY ACT CONSENT & RIGHTS

1. 18.1. Where You are an individual, You understand this information is being collected in accordance with the Privacy Act 1993 and that You have rights of access to and correction of personal information held by Us. You agree and authorise Us to obtain or divulge any information

about You (including adverse information) from or to any third party (including credit reporting and debt collection agencies) in the course of Our business activities including credit assessment, debt collection and direct marketing activities.

2. 18.2. You warrant that all information provided to Us has been collected in accordance with the principles of the Privacy Act 1993 and that any third party has authorised the use or disclosure of any personal information in any way deemed necessary by Us for the purpose of carrying out the service or supply of Goods requested by the client. You further undertake to indemnify Us against any claims arising from any action taken by itself on Your behalf.

19. WARRANTIES AND MAINTENANCE

1. 19.1. The supply of nominated or specified Goods, materials, equipment or systems does not imply a warranty as to fitness or suitability. We do not provide any warranty that the Goods are fit and suitable for the purpose for which You require them and shall not be liable if they are not. You shall (and hereby agree to) determine using Your sole judgement that the Goods are suitable and in a condition fit for the task intended. However, where the Goods are subject to a manufacturer's warranty, to the extent We are able We will make the benefit of that warranty available to You.

2. 19.2. No guarantees, warranties, representations or agreements made on Our behalf (including those implied or expressed by law) shall apply or be binding on Us unless specifically made in writing by Us.

3. 19.3. Subject to Our clause headed "Disputes" above, You will notify Us promptly of any defects You assert in Our workmanship or materials. We will remedy any agreed defective workmanship and at Our sole discretion repair or replace any faulty Goods reported to Us in writing within 30 days of date of payment in full, or within any longer period agreed or stated in Our quotation. This warranty is in addition to any rights You may have as a consumer under the Consumer Guarantees Act 1993.

20. CONSUMER GUARANTEES ACT 1993

1. 20.1. Nothing in these terms of trade excludes, limits, restricts or is intended to derogate from any right or remedy which You may have pursuant to the Consumer Guarantees Act 1993 ("the CGA"), if You are a consumer as defined in the CGA who requests the goods and services for personal use. However the guarantees contained in the CGA are expressly excluded where You acquire goods or services from Us for the purposes of a business.

2. 20.2. If You on sell the Goods to a third party, You agree: (a) where permitted by law, to contract out of the CGA; and (b) to neither give or make any assertion or representation in relation to Our Goods without Our prior written approval nor hold yourself out to be Our agent. (c) to indemnify Us for any losses incurred due to third party claims against Us as Manufacturer/Importer.

21. LIMITATION AND EXCLUSION OF LIABILITY

1. 21.1. You acknowledge and accept that all advice, recommendations and information in whatever form has been given gratuitously and without liability. Illustrations are not binding as to detail as modifications and improvements in manufacture are introduced from time to time. We shall not be liable for any loss, damages, cost or claim arising from the reliance on or use of the information, howsoever caused, including indirect or consequential loss, damage or liability.

2. 21.2. To the maximum extent permitted by law, We shall not be liable to You or any Guarantor (or any agents or employees) whether in contract, tort, breach of statutory duty or otherwise for: (a) Any minor variation in product specifications including but not limited to colour or design, which may occur from time to time; or (b) Any consequential, indirect or special loss, damage or injury; or (c) Any delays in delivery, loss of profits, revenue, business opportunity, anticipated savings, wasted

overheads or damage to goodwill, regardless of whether in the circumstances it is deemed direct, indirect, consequential or special losses.

3. 21.3. In any event and subject to the clause detailed above, should a court or adjudicator of relevant jurisdiction find Us liable, Our maximum aggregate liability to You arising out of any claim for loss or damages, however arising, shall not exceed the lesser of: (a) The contract price; or (b) The value of the goods or service which are the subject of the claim; or (c) The actual value of the loss You have incurred.

4. 16.4. Nothing in these clauses shall excuse payment of the Amount Owing by You as it becomes due under these terms.

22. FORCE MAJEURE

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2. 22.1. Without limiting any other provisions of these terms, We shall not be liable for any claims resulting from Our delay or failure in the performance of any obligation or the exercise of any right as a result of a Force Majeure Event.

3. 23.2. Nothing in this clause shall excuse payment of any Amount Owing due by You or which becomes due under these terms and the occurrence of a force majeure event shall not give You a right to cancel any agreement with Us.

23. PLANT SUPPLIED OR HIRE OF EQUIPMENT

1. 23.1. Any plant or equipment ("Plant") supplied or hired by Us to You, whether in consideration of rental or free of charge, shall remain Our property. Whilst Our plant is in Your possession, You shall:

(a) Keep Our Plant fully insured in Our name against all risks of every usual description and such other risks as We may require from time to time.

(b) Not attempt to sell, assign, mortgage, sublet, lend or otherwise deal with or part with the possession or control of Our Plant or any part thereof.

(c) Not alter or make any additions to the Plant, including, but without limitation, alter make any additions to, deface or erase any identifying mark, plate or number or any part thereof, on or in the Plant of any other part of the Plant or in any other manner interfere with the Plant; and

(d) Irrevocably permit Us (or Our agents) at any time without notice to enter all premises at which We believe on reasonable grounds the Plant to be stored, to inspect, repair, remove, or repossess the Plant supplied by Us. We shall not be liable for costs, damages or expenses or any other moneys or losses suffered by You as a result of this action. You shall also indemnify Us against any liability against any third party suffered by Us as a result of such actions.

2. 23.2. Where the Plant has a total value in excess of \$1,000 We can register a financing statement on the Personal Property Securities Register (PPSR) to reflect Our interest in the Plant. Where We exercise Our right to register a financing statement We will do so and You further consent to the term of the PPSA clause contained in these terms of trade.

24. OTHER TERMS

1. 24.1. Each term of this document is severable from the other. If for any reason a term is invalid or unenforceable, that term will be severed to the extent that it is invalid (and no further) and it shall not prejudice or affect the validity or enforceability of any other term.

2. 24.2. Unless otherwise expressly agreed in writing by Us, these terms and conditions: (a) May be amended by Us from time to time; and (b) In conjunction with Our quote express the entire understanding and agreement between You and Us; and (c) Shall prevail in the event of any conflict between these terms and the provisions of any document used by You including but not limited to any invitation to tender, conditions of purchase, subcontract or head contract conditions or any other

agreement with Us.

3. 24.3. Where We do agree in writing to amend these terms, You agree that:

(a) Our standard terms of trade form part of that agreement and are only waived to the extent (and no further) where there is a conflict between these terms and conditions and any other agreement signed by Us; and

(b) Where there is a conflict between Our terms of trade or any other agreement signed by Us, the clause contained in the most recently dated written agreement will supersede these terms and any other agreement signed by Us but only so far as the conflict and no further.

4. 24.4. The benefits and obligations of the terms of this contract shall be governed by New Zealand law except to the extent expressly negated or varied by these terms.

5. 24.5. All the rights and remedies under this agreement shall remain in full force notwithstanding any neglect, forbearance or delay in enforcement by Us.

6. 24.6. Any notice to be provided by Us to You or any guarantor, including notification of any alterations of these terms, shall be deemed to be delivered and received by You: (a) Immediately if sent to Your last known fax or email address; or

(b) Three days after posting to Your last known mailing address