

Our Terms Of Trade

TASMAN BAY CONTRACTING LIMITED TERMS OF TRADE Ask for a copy:

tbc@tasmanbaycontracting.co.nz

1. Definitions “Customer” means the customer of TBC;

“Products” means products procured for the Customer by TBC;

“Quotation” means an estimate of the amount that TBC will charge the Customer for the Services and/or Products it provides;

“TBC” means Tasman Bay Contracting Limited and any of its subsidiaries, related companies, employees, authorised representatives and contractors; and

“Services” means all services provided by TBC for the Customer.

2. Ownership

2.1 Ownership of and title to the property and any Products provided by TBC to the Customer does not pass to the Customer until such time as the full price of those Products have been paid in full by the Customer to TBC.

2.2 The Customer grants TBC a security interest in the Products as security for all amounts owing by the Customer to TBC and performance of the Customer’s obligations under these terms.

Without limitation, if at any time payment from the Customer to TBC shall be in arrears:

2.2.1 TBC shall be entitled to suspend performance of any and all Services and to hold the Products until any such arrears are fully paid and TBC shall not be under any liability to the Customer during such period;

2.2.2 If the payment is in arrears for more than sixty (60) days, TBC shall be entitled to enter onto the premises of the Customer in order to recover any such Products that have been located on the Customer’s premises and/or to sell all or any part of the Products in order to recover the amount owed to TBC by the Customer.

3. Limitation of TBC’s Liability

3.1 TBC shall not be liable, whether in contract or in tort (including negligence), to the Customer for any direct, indirect or consequential injury, loss or damage of any kind arising from or in connection with the Services TBC provides to the Customer.

4. Consumer Guarantees Act 1993 (‘CGA’)

4.1 Where the supply of Services and/or Products by TBC is for the business purposes of a Customer, the Customer agrees that the provisions of the CGA do not apply.

4.2 Nothing in these terms limits any rights the Customer may have under the CGA if the supply of Services and/or Products is for personal purposes.

5. Quotations

5.1 All Quotations provided by TBC for the provision of Services and/or Products are based on the

prevailing costs and conditions at the date of the Quotation. The quoted price is subject to amendment in recognition of movements in these costs after the Quotation date. All Quotations are exclusive of GST and are in New Zealand dollars. Page 2 of 4

5.2 The Customer must accept the Quotation within thirty (30) days from the date of the Quotation at which time it will expire absolutely.

5.3 Quotations are based on the original instructions from the Customer. If the Customer's instructions are varied, any additional work will be charged to the Customer at TBC's standard rates.

6. Hazards on Customer's Premises

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7. Claims

7.17.2 It is the Customer's responsibility to point out to TBC whether any hazards exist on the Customer's premises where TBC will be providing Services and/or Products. TBC will endeavour to take all care and responsibility to comply with the provisions of the Health and Safety at Work Act 2015. If any of the TBC's equipment and/or hardware are damaged due to a hazard on the Customer's premises, including but not limited to breakages to machinery or flat tyres, such damage will be immediately notified to the Customer and the Customer agrees that it will be responsible for paying the costs of rectification of such damage to TBC. Any Customers that require TBC to comply with its health and safety policies or to sign a health and safety agreement must forward such policy and/or agreement to TBC for consideration and/or signing by TBC before TBC will commence the provision of Services and/or Products. Any claim against TBC regarding the provision of Services and/or Products must be made in writing within ten (10) days of provision of the Services and/or Products. Any additional work or administration carried out on invoices will be added and charged out. TBC will then liaise with the Customer and will endeavour to agree with the Customer to a mutually satisfactory solution to the Customer's claim.

8. Terms of Payment

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8.6 TBC may require a deposit or immediate payment for the provision of Services and/or Products; however, in any event, the Customer must pay within the 7 days following the dated invoice. Any additional work or administration carried out on invoices will be added and charged

out. TBC reserves the right to charge interest at ten percent (10%) per month on all overdue accounts for any month or part thereof that the account remains overdue, including interest at this rate from the date of judgment until payment in full. Without limiting any other term, the Customer agrees to pay TBC all charges and/or expenses resulting from any delay or frustration in performance or attempted performance of any part of the Services and/or provision of any Products. NON Payments will be referred for Collection Services. Payment of all money is without set-off or deduction of any kind. TBC will apportion payments to outstanding accounts as it deems fit. The Customer will pay GST in addition to the amount set-out in any invoice or Quotation.

9. Personal Property Securities Act 1999 ('PPSA')

9.1 All terms in this clause have the meaning given in the PPSA and section references shall be to sections of the PPSA.

9.2 Clause 2 creates a security interest in all present and after acquired property and its proceeds.

9.3 On the request of TBC, the Customer will promptly execute any documents, provide all necessary information and do anything else required by TBC to ensure that the security interest created under these Terms of Trade constitutes a perfected security interest in the Services and/or Products and their proceeds which will have priority over all other security interests in the Services and/or Products. Page 3 of 4

9.4 The Customer will pay to TBC all fees and expenses incurred by TBC in relation to the filing of a financing statement or a financing change statement in connection with these Terms of Trade.

9.5 The Customer agrees that nothing in sections 133 and 134 of the PPSA will apply to these Terms of Trade.

9.6 The Customer waives its right to:

9.6.1 receive a notice under section 114(1)(a) or 120(2);

9.6.2 receive a statement of account under section 116;

9.6.3 object to any proposal of the Company to retain collateral under section 121;

9.6.4 receive a copy of any Verification Statement.

9.7 The Customer will pay all costs and charges (including legal costs as between solicitor and client) incurred by TBC in consequence of or in connection with any breach or default by the Customer in the performance or observance of any of the terms of these conditions or their enforcement.

10. Term and Termination

10.1 Except where the Customer and TBC agreed to fix the term during which TBC will provide Services and/or Products to the Customer, either party may terminate these terms by giving one (1) month's notice in writing to the other party.

10.2 TBC may terminate these terms immediately if the Customer fails to pay any money by the due date, commits any other breach of these terms, becomes bankrupt, goes into receivership

or liquidation, or (if an individual) dies.

10.3 Termination of these terms does not affect the accrued rights or liabilities of either party, which continue in full force and effect.

11. No Assignment

11.1 The Customer will not assign, transfer or otherwise dispose of any right or obligation under any contract with TBC.

11.2 The Customer acknowledges that TBC may sub-contract its performance of all or any of these terms at any time, with or without notice. The Customer agrees that any such contractor or agent has the benefit of any applicable term; and that these terms are available and extend to protect anyone who is vicariously liable for the acts of any such contractor or agent, and any such person is deemed to be a party for those purposes to these terms.

12. Disputes Resolution

12.1 If a dispute arises out of or relates to these terms then the parties agree to:

12.1.1 Endeavour to settle the dispute by mediation; and

12.1.2 If agreement cannot be reached through mediation, to refer the dispute to arbitration.

12.2 In the event of any dispute concerning a telephone conversation between the Customer and TBC, a certificate by TBC is conclusive evidence of the content of that telephone conversation.

13. Notices

13.1 All notices required or permitted under these Terms of Trade are to be served as provided in section 152 of the Property Law Act 1952, or by facsimile, in which case notice is deemed to be given the day after sending.

14. Force Majeure

14.1 TBC is not liable to the Customer for any failure or delay to carry out its obligations where such failure or delay is caused by any event or cause beyond the reasonable control of TBC. Page 4 of 4

15. Severability

15.1 If a decision is made by a Court that any of these terms are unlawful and unenforceable, that term will be severed from these Terms of Trade to the extent that it is unlawful and unenforceable, and the rest of the terms will remain in force.

16. Confidentiality

16.1 Each Party may have access to information of or concerning the other party which is confidential ("Confidential Information"). Neither party may:

16.1.1 disclose, reproduce or use;

16.1.2 permit or allow the disclosure, production or use by any person of; or

16.1.3 permit or allow any person access to, any Confidential Information of the other party except (in the case of TBC) to the extent necessary to provide the Services and/or Products.

16.2 TBC will use all reasonable endeavours to ensure the Customer's Confidential Information is kept secure from unauthorised access, use and disclosure. This clause survives the completion or

cancellation of any order for services the Customer asks TBC to perform for the Customer.

17. Credit Agencies

17.1 The Customer consents to TBC or any credit consulting agency making inquiries of and obtaining information about the financial standing and credit worthiness of the Customer. The Customer further consents to TBC furnishing to any other third party information held by TBC about the Customer for the purpose of that third party enquiring into the financial standing and credit worthiness of the Customer. EXECUTED on this _____ day of

_____, 20____. SIGNED by TASMAN BAY CONTRACTING LIMITED

_____ in the presence of: Authorised Signatory Witness

signature: _____ Witness name:

_____ Witness occupation:

_____ Witness address:

_____ SIGNED by the

Customer _____

in the presence of:

Witness signature: _____

Witness name: _____

Witness occupation: _____

Witness address: _____