

ACCOUNT APPLICATION FORM

Please complete and return to: PO Box 16899, Hornby, Christchurch 8441 Phone: 0800 99 99 89 Fax: 0800 99 99 87

CUSTOMER INFORMATION

Account Name	<input type="text"/>		
Customer Name	<input type="text"/>	D.O.B	<input type="text"/>
Spouse/Partners Name	<input type="text"/>	D.O.B	<input type="text"/>
Phone No	<input type="text"/>	Fax No	<input type="text"/>
Mobile	<input type="text"/>	Email	<input type="text"/>
Invoices & Statements will be emailed unless stated otherwise			
Postal Address	<input type="text"/>		
	<input type="text"/>		
Requirements	Bulk Fuel <input type="checkbox"/>	Fuel Card <input type="checkbox"/>	Lubricants <input type="checkbox"/>
<small>Tick all applicable</small>		Excise Tax <input type="checkbox"/>	<small>(Report)</small>
Fly Buys No	<input type="text"/>		
Nominated School <small>(Fuel for Schools)</small>	<input type="text"/>	I do not wish for you to advise our nominated school about our involvement with this programme. Please Tick Box <input type="checkbox"/>	
Sign Up Source	<input type="text"/>		

COMMERCIAL CUSTOMERS ONLY

Company Number	<input type="text"/>	Date Established	<input type="text"/>
		Position in company	Contact Number
Contact 1	<input type="text"/>	<input type="text"/>	<input type="text"/>
Contact 2	<input type="text"/>	<input type="text"/>	<input type="text"/>

DETAILS OF OWNER (If Sole Trader) PARTNERS (If Partnership) OR DIRECTORS (If Company)

Full Name	<input type="text"/>	Phone	<input type="text"/>
Home Address	<input type="text"/>		
Full Name	<input type="text"/>	Phone	<input type="text"/>
Home Address	<input type="text"/>		

TRADE REFERENCES

Business Name	<input type="text"/>	Phone	<input type="text"/>
Address / A/C No.	<input type="text"/>	Fax	<input type="text"/>
Business Name	<input type="text"/>	Phone	<input type="text"/>
Address / A/C No.	<input type="text"/>	Fax	<input type="text"/>

SIGNATURE

I certify that the above information is true and correct and that I am authorized to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf) of Southfuels 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 am authorized the use of my personal information as detailed in the Privacy Act clause therein. **I agree that if I am a director or a shareholder (owning at least 15% of the shares) of customer I shall be personally liable for the performance of the Customer's obligations under this contract.**

Signed (Customer)	<input type="text"/>	Name	<input type="text"/>	Date	<input type="text"/>
Witness to Signature <small>(Of Customer)</small>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Signed (Southfuels)	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

OFFICE USE ONLY

Account No	<input type="text"/>	AM	<input type="text"/>	CRM No.	<input type="text"/>		
Entered by	<input type="text"/>	Date	<input type="text"/>	P/C <input type="checkbox"/>	H&S <input type="checkbox"/>	PIC <input type="checkbox"/>	CC <input type="checkbox"/>

DELIVERY INFORMATION

FUEL VOLUME

Please indicate the approximate fuel quantity used per year, including peak & low month quantities

Diesel Annual Vol. Peak Month Lts Petrol Annual Vol. Peak Month Lts
 Min Month Lts Min Month Lts

Delivery Frequency

Peak Season to Diesel Petrol
 Low Season to Diesel Petrol

DELIVERY POINT DETAILS

Fire No Road
 Supplier No Area/Town Post Code

First Delivery

Please advise

TANK INFORMATION

	Tank Size	Is this a Split Tank?	Customer Series
Diesel Tank 1			
Diesel Tank 2			
Petrol			

Occupation
 Dockets
 Keys Code
 Access Truck Only Truck & Trailer

Site Safety Compliance Check List (Y = Yes N = No)

Health and Safety at Work Act 2015 Requirements				Southfuels Requirements	
Tank signage is easy to read? (HAZCHEM Stickers and ID tags)		Tank has ventilation pipe ? (min 25mm)		The tanks fill point is not more than 3m off the ground?	
Are ignition sources, ≥6m away for Petrol tank & ≥ 3m away for Diesel tank?		Is the tank on solid level foundation? (Feet not buried).		Is there a ladder? If yes is it in a sound condition & secured to tank?	
Separation distances are observed? (3m for rubbish & obstructions, 6m from fertilisers, & combustible materials)		Is the tank sound, secure and undamaged? (No modification, unless certified)		Can the truck drive in and out of the site in a forward position?	
Are Petrol & Diesel tanks ≥ 20m from high intensity land use or areas of regular habitation i.e. house, smoko building?		All necessary certification has been obtained. (SCTS & Compliance Certificate)		Is the access road suitable for a Heavy Vehicle & has 'all weather' access?	
Tank is ≥ 20m from a drain or water way, or Stock Feed?		Would any underground tanks be filled? If Yes, do you have certification.			

Comments

OFFICE USE ONLY

Driver Acc. No Run Name
 Account Name
 Home Phone Cell Phone
 Notes

FUEL CARD APPLICATION FORM

CUSTOMER INFORMATION

Account Name	<input type="text"/>		
Customer Name	<input type="text"/>		
Phone No	<input type="text"/>	Fly Buys/ Air Point No*	<input type="text"/>
Account Number (Existing Customers)	<input type="text"/>	Load into our sites	<input type="text"/>

Accepted at all Z Energy, Caltex & Challenge fuel stops throughout New Zealand

Card Details —please complete all fields			
Card Holder Name (or Any Vehicle)	<input type="text"/>	Vehicle Registration (or Pool)	<input type="text"/>
Vehicle Details (or Any Vehicle)	<input type="text"/>	Enter 4 DIGIT Pin No.	<input type="text"/>
Product Requirements	<input type="text"/>	Compulsory Odometer Entry	<input type="text"/>
Card Purchase Limits —please select relevant limits, or no limit			
Monthly Limits \$	<input type="text"/>	Daily Limit \$	<input type="text"/>
Card Details —please complete all fields			
Card Holder Name (or Any Vehicle)	<input type="text"/>	Vehicle Registration (or Pool)	<input type="text"/>
Vehicle Details (or Any Vehicle)	<input type="text"/>	Enter 4 DIGIT Pin No.	<input type="text"/>
Product Requirements	<input type="text"/>	Compulsory Odometer Entry	<input type="text"/>
Card Purchase Limits —please select relevant limits, or no limit			
Monthly Limits \$	<input type="text"/>	Daily Limit \$	<input type="text"/>
Card Details —please complete all fields			
Card Holder Name (or Any Vehicle)	<input type="text"/>	Vehicle Registration (or Pool)	<input type="text"/>
Vehicle Details (or Any Vehicle)	<input type="text"/>	Enter 4 DIGIT Pin No.	<input type="text"/>
Product Requirements	<input type="text"/>	Compulsory Odometer Entry	<input type="text"/>
Card Purchase Limits —please select relevant limits, or no limit			
Monthly Limits \$	<input type="text"/>	Daily Limit \$	<input type="text"/>
Card Details —please complete all fields			
Card Holder Name (or Any Vehicle)	<input type="text"/>	Vehicle Registration (or Pool)	<input type="text"/>
Vehicle Details (or Any Vehicle)	<input type="text"/>	Enter 4 DIGIT Pin No.	<input type="text"/>
Product Requirements	<input type="text"/>	Compulsory Odometer Entry	<input type="text"/>
Card Purchase Limits —please select relevant limits, or no limit			
Monthly Limits \$	<input type="text"/>	Daily Limit \$	<input type="text"/>

BANK INSTRUCTIONS

Bank Account Name

AUTHORITY TO ACCEPT DIRECT DEBITS
(not to operate as an assignment or agreement)

BANK ACCOUNT FROM WHICH PAYMENTS ARE TO BE MADE:

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Bank	Branch	Account Number	Suffix

AUTHORISATION CODE
0 2 1 6 2 8 9

(Please attach an encoded deposit slip to ensure your number is loaded correctly)

Bank

Branch

Town / City
(where account is held)

I/we authorise you until further notice, to debit my/our account with all amounts which **Southfuels Limited** (hereinafter referred to as the initiator) the registered Initiator of the above Authorisation Code, may initiate by Direct Debit. I/We acknowledge and accept that the bank accepts this authority only upon the conditions listed.

INFORMATION TO APPEAR ON MY/OUR BANK STATEMENT

Payer Particulars <input type="text"/>	Payer Code <input type="text"/>	Payer Reference <input type="text"/>
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Signature/s Date

Approved 1628 <hr/> 09 06	FOR BANK USE ONLY DATE RECEIVED: <input type="text"/> RECORDED BY: <input type="text"/> CHECKED BY: <input type="text"/>	BANK STAMP <input type="text"/>
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1. THE INITIATOR

(a) Has agreed to give written advance notice of the net amount of each Direct Debit and the due date of debiting at least *..... business days before the date when the Direct Debit will be initiated. This advance notice must be provided either:

- (i) in writing; or
- (ii) by any other means which provides a verifiable record of the initiated transaction and where the Customer has provided prior written consent to the Initiator.

The advance notice will include the following message:
"The Amount of \$..... will be direct debited to your bank account on (initiating date)."

(b) May, upon the relationship which gave rise to this Authority being terminated, give notice to the Bank that no further Direct Debits are to be initiated under the Authority. Upon receipt of such notice the Bank may terminate this Authority as to future payments by notice in writing to me/us.

2. THE CUSTOMER MAY

- (a) At any time, terminate this Authority as to future payments by giving written notice of termination to the Bank and the Initiator.
- (b) Stop payment of any Direct Debit to be initiated under this Authority by the Initiator by giving written notice to the Bank prior to the Direct Debit being paid by the Bank.

3. THE CUSTOMER ACKNOWLEDGES THAT:

- (a) The Authority will remain in full force and effect in respect of all Direct Debits made from my/our account in good faith notwithstanding my/our death, bankruptcy or other revocation of this Authority until actual notice of such event is received by the Bank.
- (b) In any event this Authority is subject to any arrangement now or hereafter existing between me/us and the Bank in relation to my/our account.
- (c) Any dispute as to the correctness or validity of an amount debited to my/our account shall not be the concern of the Bank except in so far as the Direct Debit has not been paid in accordance with this Authority. Any other disputes lies between me/us and the initiator.
- (d) Where the bank has used reasonable care and skill in acting in accordance with this Authority, the Bank accepts no responsibility or liability in respect of:
 - the accuracy of information about Direct Debits on Bank Statements
 - any variations between notices given by the Initiator and the amounts of the Direct Debit.
- (e) The Bank is not responsible for, or under any liability in respect of the initiator's failure to give written advance notice correctly nor for the non-receipt or late receipt of notice by me/us for any reason whatsoever. In any such situation the dispute lies between me/us and the initiator.

4. THE BANK MAY:

- (a) In its absolute discretion conclusively determine the order of priority of payment by it of any monies pursuant to this or any other Authority, cheque or draft properly executed by me/us and given to or drawn on the bank.
- (b) At any time terminate this authority as to future payments by notice in writing to me/us.
- (c) Charge its current fee for this service in force from time-to-time.

PERSONAL/DIRECTORS'S GUARANTEE AND INDEMNITY



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

("the Customer") [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 Seller of all moneys which are now owing to the Seller by the Customer and all further sums of money from time to time owing to the Seller by the Customer in respect of goods and services supplied or to be supplied by the Seller to the Customer or any other liability of the Customer to the Seller, and the due observance and performance by the Customer of all its obligations contained or implied in any contract with the Seller. If for any reason the Customer does not pay any amount owing to the Seller the Guarantor will immediately on demand pay the relevant amount to the Seller.
2. **HOLD HARMLESS AND INDEMNIFY** the Seller on demand as a separate obligation against any liability (including but not limited to damages costs losses and legal fees (as defined hereunder in paragraph (b) hereof)) incurred by or assessed against the Seller in connection with:
 - (a) the supply of goods and/or services to the Customer; or
 - (b) the recovery of moneys owing to the Seller by the Customer including the enforcement of this Guarantee and Indemnity, and including but not limited to the Seller's nominees costs of collection and legal costs calculated on a solicitor and own client basis; or
 - (c) moneys paid by the Seller with the Customer's consent in settlement of a dispute that arises or results from a dispute between, the Seller, the Customer, and a third party or any combination thereof, over the supply of goods and/or services by the Seller to the Customer.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

3. 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 moneys owing to the Seller by the Customer and all obligations herein have been fully paid satisfied and performed.
4. No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Seller's part (whether in respect of the Customer 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 Customer's obligations to the Seller, each Guarantor shall be a principal debtor and liable to the Seller accordingly.
5. If any payment received or recovered by the Seller is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the Seller shall each be restored to the position in which they would have been had no such payment been made.
6. 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 contained in this Guarantee and Indemnity shall bind them jointly and severally.
7. **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 Customer to the Seller.**
8. I/we irrevocably authorise the Seller to obtain from any person or company any information which the Seller may require for credit reference purposes. I/We further irrevocably authorise the Seller 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 Seller as a result of this Guarantee and Indemnity being actioned by the Seller.
9. The above information is to be used by the Seller for all purposes in connection with the Seller considering this Guarantee and Indemnity and the subsequent enforcement of the same.

GUARANTOR-1	
SIGNED: _____	
FULL NAME: _____	
PRESENT ADDRESS: _____	
SIGNATURE OF WITNESS: _____	
NAME OF WITNESS: _____	OCCUPATION: _____
PRESENT ADDRESS: _____	
EXECUTED as a Deed this _____ day of _____ 20____	

GUARANTOR-1	
SIGNED: _____	
FULL NAME: _____	
PRESENT ADDRESS: _____	
SIGNATURE OF WITNESS: _____	
NAME OF WITNESS: _____	OCCUPATION: _____
PRESENT ADDRESS: _____	
EXECUTED as a Deed this _____ day of _____ 20____	

- Note:
1. If the Customer is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
 2. If the Customer 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

Date:

To:

We wish to advise that as of _____ . Southfuels will be delivering fuel to the following customer as per their instructions:

Customer name:

Customer current supplier account number is:

Contact name:

Contact phone number:

Delivery address:

Customer Signature _____

Please therefore cancel any pending and future deliveries to this customer.

If you have any questions regarding this changeover, please let us know.

Kind regards,
The Southfuels Team
0800 99 99 89



1. Definitions

- 1.1 "Seller" shall mean Southfuels Limited its successors and assigns or any person acting on behalf of and with the authority of Southfuels Limited.
- 1.2 "Customer" shall mean the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any quotation, work authorisation or other form as provided by the Seller to the Customer.
- 1.3 "Guarantor" shall mean that person (or persons), or entity, who agrees to be liable for the debts of the Customer on a principal debtor basis.
- 1.4 "Goods" shall mean Goods supplied by the Seller to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined) and includes Goods described on any invoices, quotation, work authorisation or any other forms as provided by the Seller to the Customer.
- 1.5 "Services" shall mean all services supplied by the Seller to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 1.6 "Price" shall mean the price payable for the Goods as agreed between the Seller and the Customer in accordance with clause 3 of this contract.

2. Acceptance

- 2.1 Any instructions received by the Seller from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by the Seller shall constitute acceptance of the terms and conditions contained herein.
- 2.2 The Customer acknowledges that the supply of Goods on credit shall not take effect until the Customer has completed a credit application with the Seller and it has been approved with a credit limit established for the account.
- 2.3 Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
- 2.4 Upon acceptance of these terms and conditions by the Customer the terms and conditions are binding and can only be amended with the written consent of the Seller.
- 2.5 The Customer shall give the Seller not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, facsimile number, or business practice). The Customer shall be liable for any loss incurred by the Seller as a result of the Customer's failure to comply with this clause.
- 2.6 Goods are supplied by the Seller only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Customer's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.

3. Price And Payment

- 3.1 At the Seller's sole discretion the Price shall be either:
- (a) as indicated on invoices provided by the Seller to the Customer in respect of Goods supplied; or
- (b) the Seller's current price at the date of delivery of the Goods according to the Seller's current Price list; or
- (c) the Seller's quoted Price (subject to clause 3.2) which shall be binding upon the Seller provided that the Customer shall accept the Seller's quotation in writing within one (1) days.
- 3.2 The Seller reserves the right to change the Price in the event of a variation to the Seller's quotation.
- 3.3 At the Seller's sole discretion:
- (a) payment shall be due prior to delivery; or
- (b) payment for approved Customer's shall be due twenty (20) days following the end of the month in which a statement is posted to the Customer's address or address for notices.
- (c) if the account becomes overdue it will automatically be placed on 'stop supply'.
- 3.4 Payment will be made by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Customer and the Seller.
- 3.5 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

4. Delivery Of Goods

- 4.1 At the Seller's sole discretion delivery of the Goods shall take place when:
- (a) the Customer takes possession of the Goods at the Seller's address; or
- (b) the Customer takes possession of the Goods at the Customer's nominated address (in the event that the Goods are delivered by the Seller or the Seller's nominated carrier).
- 4.2 At the Seller's sole discretion the costs of delivery are:
- (a) included in the Price; or
- (b) in addition to the Price; or
- (c) for the Customer's account.
- 4.3 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.
- 4.4 The failure of the Seller to deliver shall not entitle either party to treat this contract as repudiated.
- 4.5 The Seller shall not be liable for any loss or damage whatsoever due to failure by the Seller to deliver the Goods (or any of them) promptly or at all.

5. Risk

- 5.1 If the Seller retains ownership of the Goods nonetheless, all risk for the Goods passes to the Customer on delivery.
- 5.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Seller is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Seller is sufficient evidence of the Seller's rights to receive the insurance proceeds without the need for any person dealing with the Seller to make further enquiries.

6. Title

- 6.1 The Seller and Customer agree that ownership of the Goods shall not pass until:
- (a) the Customer has paid the Seller all amounts owing for the particular Goods; and
- (b) the Customer has met all other obligations due by the Customer to the Seller in respect of all contracts between the Seller and the Customer.
- 6.2 Receipt by the Seller 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 and until then the Seller's ownership or rights in respect of the Goods shall continue.
- 6.3 It is further agreed that:
- (a) where practicable the Goods shall be kept separate and identifiable until the Seller shall have received payment and all other obligations of the Customer are met; and
- (b) until such time as ownership of the Goods shall pass from the Seller to the Customer the Seller may give notice in writing to the Customer to return the Goods or any of them to the Seller. Upon such notice being given the rights of the Customer to obtain ownership or any other interest in the Goods shall cease; and
- (c) the Customer is only a bailee of the Goods and until such time as the Seller has received payment in full for the Goods then the Customer shall hold any proceeds from the sale or disposal of the Goods, up to and including the amount the Customer owes to the Seller for the Goods, on trust for the Seller; and
- (d) until such time that ownership in the Goods passes to the Customer, if the Goods are converted into other products, the parties agree that the Seller will be the owner of the end products; and
- (e) if the Customer fails to return the Goods to the Seller then the Seller or the Seller's agent may enter upon and into land and premises owned, occupied or used by the Customer, or any premises where the Goods are situated as the invitee of the Customer and take possession of the Goods, and the Seller will not be liable for any reasonable loss or damage suffered as a result of any action by the Seller under this clause.

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

- 7.1 Upon assenting to these terms and conditions in writing the Customer 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 previously supplied by the Seller to the Customer (if any) and all Goods that will be supplied in the future by the Seller to the Customer.
- 7.2 The Customer 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 Seller 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 Seller 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 a financing change statement or a change demand without the prior written consent of the Seller; and
- (d) immediately advise the Seller 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.
- 7.3 The Seller and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 7.4 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.
- 7.5 Unless otherwise agreed to in writing by the Seller, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 7.6 The Customer shall unconditionally ratify any actions taken by the Seller under clauses 7.1 to 7.5.

8. Customer's Disclaimer

- 8.1 The Customer hereby disclaims any right to rescind, or cancel any contract with the Seller or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Customer by the Seller and the Customer acknowledges that the Goods are bought relying solely upon the Customer's skill and judgment.

9. Defects

- 9.1 The Customer shall inspect the Goods on delivery and shall within seven (7) days of delivery (time being of the essence) notify the Seller of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford the Seller an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Seller shall be presumed to be free from any defect or damage. For defective Goods, which the Seller has agreed in writing that the Customer is entitled to reject, the Seller's liability is limited to either (at the Seller's discretion) replacing the Goods or repairing the Goods.
- 9.2 Goods will not be accepted for return other than in accordance with 9.1 above.
- 9.3 The Customer acknowledges and agrees that any dispute or query of the invoice must be submitted in writing within ten (10) days of the date the invoice was issued.

10. Warranty

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

11. Consumer Guarantees Act 1993

- 11.1 If the Customer is acquiring Goods for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by the Seller to the Customer.

12. Default & Consequences Of Default

- 12.1 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 one half percent (2.5%) per calendar month (and at the Seller's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 12.2 In the event that the Customer's payment is dishonoured for any reason the Customer shall be liable for any dishonour fees incurred by the Seller.
- 12.3 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Seller from and against all costs and disbursements incurred by the Seller in pursuing the debt including legal costs on a solicitor and own client basis and the Seller's collection agency costs.
- 12.4 Without prejudice to any other remedies the Seller may have, if at any time the Customer is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Goods to the Customer and any of its other obligations under the terms and conditions. The Seller will not be liable to the Customer for any loss or damage the Customer suffers because the Seller has exercised its rights under this clause.
- 12.5 If any account remains overdue after thirty (30) days then an amount of the greater of twenty dollars (\$20.00) or ten percent (10%) of the amount overdue (up to a maximum of two hundred dollars (\$200.00)) shall be levied for administration fees which sum shall become immediately due and payable.
- 12.6 Without prejudice to the Seller's other remedies at law the Seller shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to the Seller shall, whether or not due for payment, become immediately payable in the event that:
- (a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Customer will be unable to meet its payments as they fall due; or
- (b) the Customer 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
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

13. Security And Charge

- 13.1 Despite anything to the contrary contained herein or any other rights which the Seller may have howsoever:
- (a) where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Seller or the Seller's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Customer and/or the Guarantor acknowledge and agree that the Seller (or the Seller's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met.
- (b) should the Seller elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and/or Guarantor shall indemnify the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own client basis.
- (c) the Customer and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint the Seller or the Seller's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 13.1.

14. Cancellation

- 14.1 The Seller 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 Customer. On giving such notice the Seller shall repay to the Customer any sums paid in respect of the Price. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 14.2 In the event that the Customer cancels delivery of the Goods the Customer shall be liable for any loss incurred by the Seller (including, but not limited to, any loss of profits) up to the time of cancellation.

15. Privacy Act 1993

- 15.1 The Customer and the Guarantor/s (if separate to the Customer) authorises the Seller to:
- (a) collect, retain and use any information about the Customer and/or Guarantors, for the purpose of assessing the Customer's and/or Guarantors creditworthiness or marketing products and services to the Customer and/or Guarantors; and
- (b) disclose information about the Customer and/or Guarantors, whether collected by the Seller from the Customer and/or Guarantors directly or obtained by the Seller 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 Customer and/or Guarantors.
- 15.2 Where the Customer and/or Guarantors are an individual the authorities under clause 15.1 are authorities or consents for the purposes of the Privacy Act 1993.
- 15.3 The Customer and/or Guarantors shall have the right to request the Seller for a copy of the information about the Customer and/or Guarantors retained by the Seller and the right to request the Seller to correct any incorrect information about the Customer and/or Guarantors held by the Seller.

16. General

- 16.1 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.
- 16.2 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 New Zealand.
- 16.3 The Seller shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Seller of these terms and conditions.
- 16.4 In the event of any breach of this contract by the Seller the remedies of the Customer shall be limited to damages which under no circumstances shall exceed the Price of the Goods.
- 16.5 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by the Seller nor to withhold payment of any invoice because part of that invoice is in dispute.
- 16.6 The Seller may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 16.7 The Seller reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Seller notifies the Customer of such change.
- 16.8 The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if section 15(d) were omitted from the Contractual Remedies Act 1979.
- 16.9 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.
- 16.10 The failure by the Seller to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Seller's right to subsequently enforce that provision.