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TERMS OF TRADE

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PART A: OVERVIEW OF THESE TERMS

These Terms of Trade apply to all Products and Services that we supply to you.

At Condor New Zealand Limited ensuring our Terms are transparent and easy to understand is important to us. If you have any questions or are unsure about anything, please contact us.

To make these Terms easy to use, we:

(a) have set out a '**Dictionary**' in Part H, which explains the specific meaning, for the purposes of these Terms, of the capitalised words used in these Terms; and

(b) have included **summaries / outlines** for each Part in blue boxes – these are intended for guidance only and do not replace any of the terms in these Terms.

1. Introduction

1.1 These Terms set out all of the terms and conditions that apply to Products and Services that we supply to you.

1.2 Any other terms and conditions will not apply unless expressly approved in writing by us for a particular Order.

1.3 We may update these Terms on notice to you in writing. Our updated Terms will apply to all Products and Services you order after we have notified you that we have updated our Terms.

PART B: PRODUCTS AND SERVICES

Part B sets out details about placing Orders. It also sets out the process that applies if there are any issues with an Order or if an Order is cancelled.

2. Order process

2.1 You may order Products and Services from us in accordance with our order processes that we advise to you at any time.

2.2 All Orders are subject to acceptance by us. We may accept an Order (in whole or in part) by issuing an invoice for the applicable Products and Services, delivering the Products and Services or otherwise confirming the order in writing.

2.3 We are under no obligation to enquire as to the authority of any person placing an Order on your behalf.

2.4 You may request Variations to Orders. However, acceptance is at our discretion and is subject to our approval in writing, and in accordance with clause 8.

3. Delivery of Products and Supply of Services

3.1 We will use reasonable efforts to deliver Products and provide Services on the Delivery Date specified in the relevant Order. However, unless expressly agreed otherwise, the Delivery Date is indicative only.

3.2 You may collect the Products at our premises, or we will deliver the Products and provide the Services at the delivery location set out in the relevant Order or any other location agreed with you in writing.

3.3 If you request that we leave the Products outside our premises for collection or to deliver the Products to an unattended location, then the Products shall be left at your sole risk. In the event that the Products are lost, damaged or destroyed then replacement of the Products shall be at your expense.

3.4 Subject to clause 17, if the delivery location is at your premises, you must provide our Representatives with suitable access to your premises during normal business hours, together with any assistance reasonably required by our Representatives to deliver the Products and perform the Services.

4. Supply of Products

4.1 Clauses 4 and 6 applies if your Order relates to Products.

4.2 We may deliver Orders in instalments (unless agreed otherwise).

4.3 If you delay, fail or refuse to accept delivery of Products, the Products will be treated as delivered when we were willing and able to deliver the Products. Without affecting any other rights we may have, we may charge you for any reasonable expenses or additional costs incurred by us as a result of the delay, failure or refusal to accept delivery (including storage).

4.4 Risk in the Products passes to you on delivery.

4.5 You are responsible for ensuring that any instructions, recommended uses, applications and installation methods are followed for Products and any cautions and/or warnings are observed.

5. Second-hand Products

5.1 In the case of second-hand Products we supply, you agree that you have had full opportunity to inspect the second-hand Products prior to delivery.

5.2 Subject to us complying with clause 5.1, you agree that:

(a) any second-hand Products supplied may contain defects, which will not be treated as a Defect under these Terms;

(b) we do not give any warranty as to the quality or suitability of such Products; and

(c) any implied warranty (statutory or otherwise) in relation to such Products, is (to the extent permitted by law) expressly excluded.

6. Defects

6.1 You must inspect the Products on the date of delivery and notify us of any alleged defect or damage or incorrect products or quantity (**Defects**). Upon request, you must allow us to inspect, or return to us, any defective or damaged Products. You should notify us of any alleged Defects as soon as possible to enable us to confirm that any Defects occurred before delivery to you.

6.2 If there are any Defects in an Order, the remedies set out in clause 26.1 will apply.

7. Cancellation

7.1 Either party may cancel an Order by written notice if the other party:

(a) commits a material breach of these Terms which is not remedied within 20 Business Days of written notice of the breach from the other party; or

(b) suffers an Insolvency Event.

7.2 If we are unable to deliver any Products or Services to you, due to reasons beyond our reasonable control, we may cancel the Order (in whole or in respect of any instalment) by giving written notice to you. We will repay you any amount you have paid to us in advance for the relevant Products and/or Services. We will not be liable for any loss or damage arising from such cancellation.

7.3 In the case of unsolicited calls and/or visits, you may cancel delivery of the Products and/or Services by written notice within 5 business days of placement of the Order.

8. Variations

8.1 We may require variations to an Order if we identify factors that affect delivery of the Products and Services to you, before or during our provision of the Products and Services. Any such variations will be submitted to you for approval (**Variation Notice**). You must respond to a Variation Notice as soon as possible (and within 7 Business Days). We may suspend or delay provision of the Products and Services pending your approval.

8.2 If you do not respond to a Variation Notice within 7 Business Days, we may assume that you have accepted the applicable variations.

8.3 If you notify us, within 7 Business Days of a Variation Notice, that you do not accept the variations, we will cancel the Order (or, if applicable, the remaining Products and Services to be provided under the Order) on notice to you. We will repay you any amount you have paid to us in advance for the Products and Services that we do not provide as a result of such cancellation (less any unrecoverable costs that we have incurred).

PART C: PRICE

Part C sets out terms relating to the Price for the Products and Services.

9. Price

9.1 The Price for Products and Services will be:

(a) calculated based on our standard hourly rate as at the date of the Services that are provided; or

(b) the Price that we have quoted for the Products and Services (subject to clause 9.5).

9.2 We may update our standard hourly rates at any time on notice to you in advance. Any such updates will only apply to Orders placed after the effective date of the update.

9.3 Unless otherwise stated, the Price does not include GST.

9.4 We may charge you for freight, insurance, installation, disbursements and any applicable taxes, duties and levies, in addition to the Price.

9.5 Where we provide a quotation, proposal or estimate:

(a) unless otherwise specified, the quotation, proposal or estimate is valid for 60 days from the date of issue and may be subject to such further conditions as are expressly set out in the quote, estimate or pricing;

(b) we may withdraw the quotation, proposal or estimate at any time

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before you accept it or we accept an Order by notice in writing to you; and

(c) the quotation, proposal or estimate will be exclusive of any applicable additional amounts referred to in clause 9.4.

PART D: PAYMENT TERMS

Under these Terms, we may supply Products and Services to you on credit. It is very important to us that you pay us in full by the due date for payment. The following clauses provide additional protections for us to reflect that arrangement, including terms that will apply if there are any delays or disputes relating to payments.

10. Payment

10.1 You must pay us all Amounts Owing to our bank account (notified to you and updated at any time) or any other payment method that we agree with you.

10.2 Payment shall be:

(a) before delivery of the Products; or

(b) on delivery of the Products; or

(c) on completion of the Services; or

(d) by way of instalments/progress payments in accordance with the Order; or

(e) the 20th of the month following if approved by us; or

(f) no later than 7 days from the date of the invoice (unless otherwise stated on the invoice), and

(g) in full without deduction, withholding, set off or counterclaim.

10.3 If you have any dispute relating to an invoice issued by us, you:

(a) must notify us of that dispute in writing within 7 days from the date of invoice (after that period, unless there is a manifest error, you will be deemed to have accepted the invoice); and

(b) will only withhold payment of the amount in dispute and will, upon resolution of any dispute, immediately pay the balance (if any) due to us.

10.4 We and you each agree to promptly deal with any disputed invoices and, where possible, to resolve disputes before the due date for payment.

11. Credit terms and repayment obligations

11.1 The supply of Products and Services to you on credit is subject to our prior approval. We may use the services of credit reporters and debt collection agencies (in accordance with clause 19.2).

11.2 You must notify us immediately:

(a) if you suffer an Insolvency Event. Any Amount Owing will, whether or not due for payment, immediately become due and payable if an Insolvency Event occurs; or

(b) if you are a company and there is a material change in your effective management or ownership.

12. Deposit and guarantee

12.1 We may require that you pay us in advance, or pay a deposit, or provide a guarantee or other security, before we supply Products or Services, as security for any Amount Owing.

12.2 If we cancel an Order (for any reason other than your breach of these Terms), we will refund any deposit that you have paid to us in full. Otherwise, any deposit that you pay to us is non-refundable, unless we expressly agree otherwise in writing.

13. Rights to recover Products

13.1 We retain ownership of all Products that we supply to you until we have received payment in full of the Amount Owing.

13.2 You may resell or use any Products in the ordinary course of your business before ownership of the Products has passed to you. However, you will be deemed to hold the proceeds of sale or use (in whatever form) on trust for us to the extent of the Amount Owing.

13.3 If any Amount Owing is overdue or if an Insolvency Event occurs, you must return Products to us on request or permit us to enter any premises where Products may be stored to repossess those Products.

14. Late payments

14.1 If payment in full of any Amount Owing (which is not subject to a genuine dispute) is not made to us on the due date, we may:

(a) suspend, or cancel (in accordance with clause 7.1(a)), the provision of any or all Products and Services to you;

(b) cancel any rebates or discounts (whether or not previously credited); and

(c) charge you interest at a rate of 2.5% per month on the balance of the outstanding amount from the due date of payment until the date the outstanding amount is paid, accruing daily and charged monthly.

15. Costs of recovering Amounts Owing

15.1 You must reimburse us for any reasonable costs and expenses we incur to recover any Amount Owing, or exercise our rights to recover Products, including any debt collection fees or commission and full legal expenses.

16. Security interests

16.1 You acknowledge that these Terms create, in our favour, a security interest (as defined in the PPSA) in all Products and the proceeds of any Products (in accordance with clause 13.1) (**Security Interest**), to secure the payment by you to us of the Amount Owing.

16.2 You undertake to promptly sign any further documents which we may reasonably require to enable us to perfect and maintain the perfection of the Security Interest (including by registration of a financing statement) and to provide not less than 14 days' prior written notice of any proposed change in your name and/or any other change in details (including changes in address, trading name or business practice).

16.3 The parties agree to contract out of sections 114(1)(a), 133 and 134 of the PPSA. You agree to waive your rights under the PPSA to the extent permitted by section 107(2) of the PPSA and to receive a verification statement relating to the Security Interest. Where we have rights in addition to Part 9 of the PPSA, those rights will continue to apply.

16.4 We reserve the right to require a guarantee, or any other additional security (at your cost), as security for payment, before we provide Products or Services to you.

PART E: COMPLIANCE AND INFORMATION

Part E sets out the provisions relating to health and safety, privacy, confidentiality and intellectual property rights. Unless we agree otherwise, we own all intellectual property rights in the Products and Services.

17. Health and safety

17.1 Each party will comply with the Health and Safety at Work Act 2015 (**HSW Act**), including all applicable regulations under the HSW Act, as well as all applicable standards and codes of practice relating to health and safety. In addition, each party will comply with the other party's pre-notified and reasonable health and safety policies when on the party's premises.

17.2 You must notify us of any known hazards arising from your premises to which any of our Representatives may be exposed while on the premises and ensure that your workplace is without risks to the health and safety of any person.

17.3 Each party must consult, co-operate with and co-ordinate activities with all other persons who have a health and safety duty in relation to the same matter in providing the Products and/or Services (including in connection with the delivery of the Products and/or Services).

18. Compliance

18.1 Both shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Products and/or Services.

18.2 You shall obtain (at your expense) all licenses and approvals that may be required for the Services.

19. Privacy

19.1 We may collect, use and share Personal Information:

(a) for the purposes of the performance of our obligations or exercise of our rights under these Terms; and

(b) in accordance with the Privacy Act 2020.

This may include sharing Personal Information with our Related Companies.

19.2 We may use the services of credit reporters and debt collection agencies. We may provide your Personal Information to those agencies in order to use their services. Information disclosed to credit reporters (including default information) will be held by them and used to provide credit reporting services.

19.3 If you provide us with any information about a third party (including a Representative), or authorise us to collect that information, you confirm that you are authorised by the individual concerned to provide their Personal Information to us or authorise the collection of information about them in accordance with this clause 19. You also confirm that you have informed the individual of their rights to access and request correction of Personal Information.

19.4 You (if you are an individual) and your Representatives have the right to access, and request correction of, any of your Personal Information held by us.

20. Confidentiality

20.1 Each party must keep confidential all Confidential Information.

20.2 Nothing in clause 20.1 prevents a party from disclosing Confidential Information if disclosure is:

(a) required by law or a Regulator (but only to the extent required or, if applicable, requested by a Regulator);

(b) is reasonably required to enable a party to perform its obligations or exercise its rights under these Terms; or

(c) to a Related Company or Representatives on a 'need to know' basis, provided that person is under a duty to keep the Confidential Information confidential in accordance with these Terms.

20.3 We may refer to you as a customer (including by using your logo) and publish any testimonials or references that you provide to us, on our website and associated marketing materials. We will ensure that any such references or testimonials accurately represent your experience with our Products and Services. Please contact us if you do not approve us referring to you in accordance with this clause or have any comments on published content.

21. Insights and Intellectual property

21.1 We may also use any information that we collect in connection with the Products and Services to improve our Products and Services, for statistical and research purposes, and for general information purposes including to provide industry and market insights (together, **Insights**), provided that:

(a) we must ensure that our obligations of confidentiality and privacy are paramount – for example, we will ensure that any information that we disclose or publish in accordance with this clause 21.1 is in a fully aggregated and de-identified form (so that it does not identify you or any individuals); and

(b) we will not use information that we collect in connection with the provision of Products and Services to you, in accordance with this clause 21.1, if you have informed us that you do not authorise us to do so.

21.2 To the extent required by law, you grant us a non-exclusive, perpetual, irrevocable, royalty-free licence to use and sub-licence information we

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collect in connection with the provision of Products and Services to you, in accordance with clause 21.1. However, for clarity, we own the intellectual property rights in all Insights.

21.3 We (or our licensors) own all rights, title and interest in the intellectual property rights in the Products and Services at all times.

21.4 Any new intellectual property which is created by us or on our behalf, including as a result of, or in connection with, the provision of our Products and Services, will be owned by us, unless otherwise agreed in writing.

21.5 You assign all intellectual property rights to us with effect from creation, to the extent required to give effect to clause 21.3 and 21.4, and agree to do all things reasonably required by us to give effect to such assignment.

21.6 You warrant that the use by us of any designs, instructions or specifications supplied to us by you will not infringe the intellectual property rights of any other person and indemnify us against any losses, damages, liabilities or costs (including full legal costs) that we may suffer or incur in the event of any such infringement.

PART F: DISPUTE RESOLUTION AND LIABILITY

If a dispute arises under these Terms, we must follow the process in this part F to resolve the matter. If a claim arises under these Terms, any amount payable by you or us will be limited by the liability framework set out in this Part F.

22. Dispute Resolution

22.1 If a dispute arises out of or in connection with these Terms, either party may give a notice to the other setting out the details of the dispute (**Dispute Notice**).

22.2 Following receipt of a Dispute Notice:

(a) a Representative of each of us (with authority to settle the dispute) will meet, within 10 Business Days, to try to resolve the dispute;

(b) if the dispute is not resolved within 10 Business Days of our Representatives meeting (or if the meeting does not take place, for any reason, within 10 Business Days of the date of a Dispute Notice), the dispute will be referred to the senior manager of each party (if applicable), who will try to resolve the dispute within a further 10 Business Days; and

(c) if the dispute is not resolved by our respective Representatives in accordance with clause 22.2(b), then either party may commence court proceedings.

22.3 This clause 22 does not restrict either party from applying to a court for interim measures or any other form of urgent relief at any time. However, neither party may commence any other form of court proceeding without first following the procedure set out in this clause 22.

22.4 Each party must continue to perform its obligations in these Terms, despite the existence of a dispute, subject to the termination rights set out in these Terms.

23. Consumer Guarantees Act

23.1 If you are acquiring, or hold yourself out as acquiring, any Products or Services in trade, to the extent permitted by law, you agree that the parties are contracting out of the CGA (to the extent that the CGA would otherwise apply) and that the CGA does not apply to any matters covered by these Terms.

23.2 If you are acquiring any Products for the purpose of resupply in trade, you undertake that you will:

(a) contract out of the CGA to the maximum extent permitted by law in your contracts with your own customers; and

(b) procure that your customers, and each other person in the distribution chain thereafter, contract out of the CGA to the maximum extent permitted by law in their contracts with customers.

You will indemnify us against any liability or cost incurred by us as a result of your breach of this clause 23.2.

24. Warranties

24.1 We warrant that all Products and Services are free from material defects in materials and workmanship. However, this warranty will not cover any defect or damage to the extent that it is caused by:

(a) any fault or defect in our Products or Services resulting from any of your (or your Representatives) acts or omissions (outside of the ordinary use of the Products or Services); or

(b) minor deviations in specification, measurements, colour, weight, size or strength of the Products.

24.2 You acknowledge that, except for the warranty set out in clause 24.1 and any written materials that we provide to you:

(a) we do not provide any other express warranties relating to the Products and Services; and

(b) we expressly exclude any other Product and and/or Service warranties, including any warranties relating to the suitability for resale, quality or fitness for any particular purpose, of our Products or Services. However, this clause 24.2 is subject to any rights that you may have under the CGA (in accordance with clause 23).

25. Third party suppliers

25.1 If you request and authorise us to arrange the provision of Products or Services directly to you by a third party supplier (whether or not such arrangement involves us contracting as your agent), to the extent applicable, these Terms will apply to our Services in arranging such supply, provided that to the extent permitted by law we exclude all liability in connection with the supply of Products and Services to you directly by a third party supplier. You agree to pay any commission or other payments due to us in accordance with these Terms.

26. Limitation of liability

26.1 To the extent permitted by law, subject to clause 26.3, our total liability under or in connection with these Terms and the Products and Services is limited to, at our option:

(a) in the case of Products, any one or more of the following:

(i) the replacement of the Products or the supply of equivalent products;

(ii) the repair of the Products;

(iii) the payment of the cost of replacing the Products or of acquiring equivalent products; or

(iv) the payment of the cost of having the Products repaired; or

(b) in the case of Services:

(i) supplying the Services again; or

(ii) the payment of the cost of having the Services supplied again.

26.2 Subject to clause 26.3, if we have any liability under or in connection with these Terms, to the maximum extent permitted by law:

(a) our total aggregate liability to you for any loss, damage or liability arising out of or in connection with these Terms will be limited to the Price paid by you to us for the applicable Products and/or Services; and

(b) we will not be liable for any:

(i) indirect, special or consequential loss or damage whatsoever; or

(ii) loss of profits, revenue, data, goodwill, customers or opportunity or loss of or damage to reputation.

26.3 Nothing in these Terms (including clauses 26.1 and 26.2) will limit or exclude our liability for:

(a) any fraudulent act or omission;

(b) a breach of clause 20 (Confidentiality);

(c) our wilful breach of these Terms;

(d) our gross negligence; and/or

(e) any matter to the extent that liability cannot be excluded or limited by law.

26.4 The limitations and exclusions on liability in this clause 26 will apply irrespective of whether the legal basis for the applicable claim contract, equity or tort (including negligence) is. However, this clause 26 does not limit or exclude any rights that you may have under statute.

26.5 In no circumstances will we have any liability whatsoever under or in connection with these Terms:

(a) for the acts or omissions of your Representatives or any third party;

(b) for any acts or omissions of performance in accordance with your instructions (or instructions from your Representatives); or

(c) to any third party.

PART G: GENERAL

Part G describes miscellaneous provisions necessary for the proper operation of these Terms.

27. General

27.1 **Governing Law**: These Terms are governed by and to be construed in accordance with the laws of New Zealand and each party submits to the exclusive jurisdiction of the Lower Hutt Courts of New Zealand.

27.2 **Previous Agreements**: These Terms supersede and replace any previous written agreements between the parties relating to the Products and Services.

27.3 **Sub-contracting**: We may subcontract the performance of our obligations (including to a Related Company), on the basis we remain solely liable to you for the performance of our obligations.

27.4 **Assignment**: You must not assign, novate or transfer your rights or obligations under these Terms without our prior written consent (which may be withheld in our sole discretion). We may assign these Terms to any other person on notice to you (provided that we will request your prior approval (not to be unreasonably withheld or delayed) if the assignment could have any material adverse effect on you). Without limiting the foregoing, we may assign to any other person all or part of the Amount Owing by you to us.

27.5 **Amendments**: Any amendment to these Terms must be in writing signed by each party, except where stated otherwise in these Terms or where we are required to make changes to ensure compliance with applicable laws (in which case we notify you of the changes in writing).

27.6 **Force majeure**: We will not be liable to you for any failure or delay in performing our obligations under these Terms where such failure or delay is caused by events or circumstances beyond our reasonable control, including any strike, lockout, labour dispute, delay in transit, embargo, epidemic, pandemic, accident, emergency, order of government or other authority or act of God.

27.7 **Waiver**: A single or partial exercise or waiver of a right relating to these Terms does not prevent any other exercise of that right or the exercise of any other right.

27.8 **Survival**: Any provision of these Terms, which is by its nature a continuing obligation, will survive termination.

27.9 **Rights of Third Parties**: These Terms are not intended to confer a benefit on any person other than the parties to these Terms.

27.10 **Relationship**: We will provide Products and Services to you as an independent supplier. Nothing in these Terms creates a relationship of employment, trust, agency, joint venture, partnership or any other fiduciary relationship between the parties.

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27.11 **Non-exclusive**: These Terms are not exclusive and do not impose any restriction on us providing Products and Services to, or you purchasing any product or services from, any other person.

27.12 **Counterparts**: These Terms may be executed in any number of counterparts (including by electronic signature or by email exchange of .pdf copies) which together will constitute the one instrument.

PART H: DICTIONARY

Part H sets out a Dictionary, to define the capitalised terms used in these Terms.

28. Definitions

Amount Owing means any amount owed by you to us, from time to time, including the Price, any applicable amounts referred to in clause 9.4, any interest payable by you, your liability under these Terms and any enforcement costs incurred by us in seeking payment of any Amounts Owing by you.

Business Day means Monday to Friday, excluding public holidays in New Zealand.

Confidential Information means all information that could be reasonably regarded in the circumstances as confidential, including information which relates to the business, interests or affairs of a party, the terms of use, the Products and Services (as applicable), and intellectual property rights, but excludes information which is:

(a) in the public domain, other than as a result of a breach of these Terms;

(b) in the possession of a party prior to the commencement of these Terms without any obligation of confidentiality; and

(c) is independently developed or acquired by a party prior to the commencement of these Terms without relying on information which would itself be Confidential Information.

Consumer has the meaning given to that term in the Consumer Guarantees Act 1993.

Delivery Date means the date for delivery of the Products and/or Services, as specified in the Order.

Insolvency Event means, in relation to you, any of the following steps has occurred (or we have reasonable grounds to believe that any of these steps is likely to occur):

(a) the primary, or all, of your business activities is suspended or ceases

(b) the presentation of an application for your liquidation;

(c) the making of any compromise, proposal or deed of arrangement with all or some of your creditors;

(d) the appointment of a liquidator, receiver, statutory manager, or similar official;

(e) your suspension or threatened suspension of the payment of your debts as they fall due;

(f) the enforcement of any security against the whole or a substantial part of your assets;

(g) if you are an individual, anything having a similar effect to any of the events specified above happens in relation to you; or

(h) any other insolvency event or proceedings analogous to any of the foregoing occurs in any relevant jurisdiction,

in each case, unless it takes place as part of a solvent reconstruction, amalgamation, merger or consolidation.

Order means an order for Products or Services that you submit to us and we approve, in accordance with clause 2.

Personal Information has the meaning given to that term in the Privacy Act 2020.

PPSA means the Personal Property Securities Act 1999.

Price means the Price payable, in accordance with clause 9.1.

Products means any Products (and associated services) supplied by us to you at any time, including the Products specified in an Order.

Regulator means any authority, commission, government department, court, tribunal, or similar having regulatory or supervisory authority over the parties or any of the Products and/or Services.

Related Company has the meaning given to it in the Companies Act 1993, read as if a reference to company was a reference to any body corporate of any jurisdiction.

Representatives means directors, officers, employees, agents and contractors of the relevant party.

Services means any services supplied by us to you at any time, including the Services specified in an Order.

Specific Terms means the terms (if any) that are included in Part I to these Terms.

Terms means these Terms of Trade (including any Specific Terms outlined in Part I), as may be amended from time to time, each Order and any additional terms expressly agreed in accordance with clause 1.2 (if applicable).

We or **us** means the supplier of Products and Services, Condor New Zealand Limited.

You or **your** means the customer purchasing Products and Services from us.

29. Interpretation

In these Terms, unless the context otherwise requires:

(a) headings are for convenience only and do not affect interpretation;

(b) a reference to legislation includes all regulations, orders, instruments, codes, guidelines or determinations issued under that legislation or and any modification, consolidation, amendment, re-enactment, replacement or codification of it;

(c) a reference to "in writing" includes by email and a reference to "agree" or "agreement" or "notice" or "approval" means an agreement, notice or approval (as applicable) in writing;

(d) the words "include" or "including", or similar expressions, are to be construed without limitation;

(e) a reference to a party to includes that party's successors and permitted assigns and substitutes; and

(f) a word importing the singular includes the plural and vice versa.

PART I: SPECIFIC TERMS

Part I details any specific terms that apply to your order of the Products and Services.

30. Information we provide

30.1 Any advice, recommendation, or information that we provide you in relation to the Products and Services is based on our knowledge, experience and any relevant information provided by you at that time. We shall not be liable in any way whatsoever for any damages or losses to you suffer or occur where you elect not to adhere to the advice, recommendations or information we provide you.

31. Information we require

31.1 We shall be entitled to rely on the accuracy of any plans, specifications and other information provided by you. You acknowledge and agree that in the event that any of this information provided by you is inaccurate that we accept no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.

31.2 In the event you give information relating to measurements and quantities of the Products required to complete the Services, it is your responsibility to verify the accuracy of the measurements and quantities, before either party places an order based on these measurements and quantities. We accept no responsibility for any loss, damages, or costs however resulting from your failure to comply with this clause.

31.3 Where we are required to install the Products, you warrant that the structure of the premises or equipment in or upon which these Products are to be installed or erected is sound and will sustain the installation and work incidental thereto. We shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising should the premises or equipment be unable to accommodate the installation.

32. Specifications of the Products

32.1 You acknowledge and accept that:

(a) all descriptive specifications, illustrations, drawings, data, dimensions and weights stated in our fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. You 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 these Terms, unless expressly stated as such in writing by us; and

(b) while we may have provided information or figures to you regarding the performance of the Products, we have given these in good faith and are estimates.

32.2 We accept no responsibility for any damage or performance related problems with any Products where they have not been used and/or maintained in accordance with our and/or the manufacturers' recommendations, unless the damage or performance related problems were caused by our negligence.

33. Site conditions

33.1 It shall be your responsibility to:

(a) have the site prepared to enable scheduled Services to be completed in accordance with the schedule of installation. If the Services are interrupted and/or delayed as a result of your failure to adhere to the installation schedule, as agreed to between the parties at the time of the Order, you acknowledge and accept that any additional costs that we incur resulting from such interruptions/delays will be invoiced to you as an extra unless otherwise agreed; and

(b) ensure that access to the site is suitable to accept the weight of laden trucks or other equipment as may be deemed necessary by us.

33.2 If and to the extent that any third parties will be carrying out any activity in or around the site when we are carrying out the Services, you must notify us in writing, and ensure that such third parties are required when performing their activities to use their best endeavours to cooperate with us, not cause or contribute to a breach of any obligation we owe to you and not otherwise interfere with or cause any delay or disruption to the Services.

33.3 You agree to be present at the site when and as reasonably requested by us and our employees, contractors and/or agents.

33.4 Where we require that Products, tools and/or equipment etc. required for the Services be stored at the site, you will supply us a safe area for storage and will take all reasonable efforts to protect all items from destruction, theft or damage. In the event that any of the stored items are destroyed, stolen or damaged, then the cost of repair or replacement will be your responsibility.

34. Underground locations

34.1 Prior to us commencing any work you must advise us of the precise location of all underground services on the site and clearly mark the same. The underground mains and services you must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on the site.

34.2 Whilst we will take all care to avoid damage to any underground services you agree to indemnify us in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified in accordance with clause 34.1.