

Terms of Trade

Ground Up Works

Ormandy Rd, Mangapai 0178

Definitions

In these conditions unless the context otherwise requires:

Company means Mihitki Thoms trading as Ground Up Works

Customer means the person, or company buying the goods and/or services from the Company.

Products and/or services mean the products and/or services being purchased by the Customer from the Company.

Contract means the contract between the Company and the Customer for the purchase of the goods.

Date of the contract means the earlier of: the date of *acceptance* of any given quote; or the date on which non-quoted works commence

Contract price means the price of goods and services as agreed between the Customer and the Company.

Person includes a corporation, association, firm, company, partnership or individual.

Quotation shall mean price on offer for a fixed term.

Quotation

The Customer may request a Quotation ("Quote") from the Company setting out the price and quantity of the Goods and/or services to be supplied. The Company is not obliged to provide any such quote. Where a quote is provided, it shall remain valid for 21 days.

Acceptance

If any instruction is received by Ground Up Works from the Customer for the supply of products and/or services, it shall constitute acceptance of the terms and conditions contained herein. Upon acceptance of these terms and conditions by the Customer, the terms and conditions are definitive and binding.

Terms and Conditions

These terms and conditions and any subsequent terms and conditions issued by the Company shall apply to all orders for the goods and the services made by the Customer after the date and time at which these conditions are first brought to the notice of any authorised representative of the Customer. It shall be the Customer's responsibility to ensure that these conditions are promptly brought to the attention of the appropriate staff of the Customer, and accordingly any order made by the Customer after the date and time described above in this clause shall be deemed to be an acceptance of these conditions.

Price

- 1.1. The Price shall be as indicated on invoices provided by the Company to the Customer in respect of products and/ or services supplied including any of:
 - Advance Requisition Invoices
 - Work In Progress (WIP) Invoices
 - Amendment or Extension-To-Contract Invoices
 - Final Invoices
- 1.2. The Customer agrees that the Price shall be determined by the Company, and shall take into consideration "one-off" costs such as design and production.
- 1.3. The Company reserves the right to implement a surcharge for alterations to specifications of products after the order has been placed.
- 1.4. Non-quoted work is undertaken on an hourly basis: Billable hours shall include; travel time to the worksite; and between worksites; and two fifteen minute breaks on a daily basis and shall exclude return travel and all time taken for meal breaks.

Payment, Late Payment, Default of Payment and Consequences of Default of Payment

- 1.5. Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Customer and the Company.
- 1.6. *Payment shall be divided – a percentage between 45 and 70% of the quote becomes immediately payable upon acceptance, with the balance as indicated on the final invoice due upon completion of works.*
- 1.7. Late payment shall incur interest at the compounding rate of 10% for the first 30 days and 20% thereafter, calculated on a daily basis. This shall be payable on any monies outstanding under the Contract from the date payment was due until the date payment is received by the Company, but without prejudice to the Company's other rights or remedies in respect of the Customer's default in failing to make payment on the due date.
- 1.8. Should payment not be received within 6 months (180 days), the Company will register the debt with a collection agency.
- 1.9. Without prejudice to any other remedies the Company may have, if at any time the Customer is in breach of any obligation (including those relating to payment), the Company may suspend or terminate the supply of Goods and/or services to the Customer and any of its other obligations under the terms and conditions. The Company will not be liable to the Customer for any loss or damage the Customer suffers because the Customer exercised its rights under this clause.

Governing laws

These Terms of Trade will be interpreted in accordance with applicable legislation, which will have exclusive legal jurisdiction over any dispute in relation to the products and/or services or these Terms of Trade.

Dispute resolution

In the first instance Ground Up will always attempt to resolve any disputes, whether falling under these terms or not, through discussion and negotiation without the need for Court proceedings. Any such attempt is without legal prejudice.

Reservation of title

Ownership and title of the goods remains with The Company until the purchased price and all other monies owing by the Customer, under the contract or any other contract to The Company, have been paid in full.

Warranty

The Company warrants that it will repair or make good any defects if written notice of the claim is received by the Company within fourteen (14) days from the date of completion, or, within reason, the date on which the defect becomes apparent.

No claim shall be accepted under such warranty if any attempt at repair is made by any person not authorised by the Company, or if the defect is caused by misuse, abuse or neglect of the Customer. Where a defect is deemed to have been caused material failure the Company will instigate proceedings with the relevant supplier in order to seek remedy. If the Company elects to make good any defects it shall be done within a reasonable timeframe and at no additional cost to the customer. This clause does not impinge any other rights of the Customer under applicable legislation.

Liability

The Company shall not be liable for any inconsequential (not as a direct result of the actions or inactions of the Company or its authorised agents) loss, damage or injury caused to the Customer's servants, agents, contractors, buyers, visitors, tenants, trespassers or other persons. The Customer shall indemnify the Company against any claim by any such person.