

Terms and Conditions

PARTIES

1. **Bud Outdoor Solutions Limited** with its registered office at 93 West Belt, Rangiora, North Canterbury ("the Company")
2. **The Customer** ("the Customer")

BACKGROUND

- A. The Company provides Services.
- B. The Customer wishes to purchase the Services, and the parties enter into this Agreement to record the terms under which the Services are to be provided.

THE PARTIES AGREE as follows:

1. Definitions

"Agreement" means these standard terms and conditions, including any Schedule, the quote provided to the Customer and any other document specifically referenced in this Agreement or in any Schedule;

"Price" means the price at which the Customer is to buy the Services from the Company as specified in the written quote given by the Company;

"Services" means the work undertaken by the Company for the Customer as set out in the written quote provided by the Company.

2. Purchase of Services

- 2.1. The Customer agrees to purchase the Services from the Company for the Price and acknowledges it has the authority to purchase the Services and has any consents or similar authority to allow the Services to be undertaken.
- 2.2. The purchase of the Services, or the agreement to purchase the Services in any manner, by the Customer is deemed acceptance of this Agreement.

3. Terms of Payment

- 3.1. Invoices will be rendered at the completion of the Services and payment is to be made at the time the invoice is rendered or as otherwise agreed.
- 3.2. No payment shall be withheld nor reduced by virtue of alleged set-off, counterclaim or otherwise. Time shall be of the essence.
- 3.3. Payment shall be made by cheque, cash or other means by arrangement.
- 3.4. Interest is entitled to be charged at 2% above the then standard overdraft rate of the Company's bank, with a letter from the Company's bank, being conclusive of this rate.
- 3.5. In the event that payment has not been made by the due date, the Company reserves the right to cease the provision of further Services without notice.
- 3.6. The Customer shall be liable for all costs and incidental expenses incurred by the Company recovering amounts payable including legal fees on a solicitor-client basis.

4. Quotations – Validity

- 4.1. All quotations must be in writing, are in New Zealand Dollars and inclusive of GST.
- 4.2. The Company's quotation shall be valid for a period of 60 days unless otherwise stated. The quotation is subject to confirmation by the Company at the time of acceptance.
- 4.3. The Company's quotation shall be deemed to correctly interpret the Customer's specifications. Any variations in costs, duties or subsequent alterations to these specifications shall be to the Customer's account.
- 4.4. Quotations are subject to correction by the Company for omissions and typing errors. The Company reserves the right to change specifications at any time in the interests of continued service improvement and development.
- 4.5. Quotations are based on the site(s) being free from any undisclosed foreign objects (including concrete and nails) and subject to immediate change if any foreign objects are discovered. The Customer indemnifies the Company against any damage caused to third parties and any damage caused to the Company's equipment due to any undisclosed foreign objects.

5. Warranty

- 5.1. The Company warrants that the Services will be undertaken in a professional and competent manner and in accordance with any applicable New Zealand laws and regulations.

5.2. The warranty set out in clause 5.1 is the Company's sole warranty and liability to the Customer in respect of the Services, and is in lieu of all other warranties whether expressed or implied, including any warranty for skill or fitness for purpose.

5.3. The Company will not be liable under Clause 5.1 to the extent the provision of the Services have been disrupted in any way by the Customer or a third party or any factor outside the Company's control.

5.4. Any claim under clause 5.1 must be made within 6 months of the completion of the Services.

6. Exclusions from Warranty

6.1. The Company has agreed to provide the services to the Customer and apart from the warranty in clause 5.1 excludes any liability to the Customer or to any third party who relies upon the Services or any result of the provision of the Services. This clause is subject to clause 7.4.

6.2. Concrete is a natural product and all hardened concrete has a tendency to crack. Whilst we cannot give a 100% guarantee, we will take all possible steps to minimise and/or prevent cracking to concrete product.

7. Liability

7.1. The Customer indemnifies and keeps indemnified the Company from and against any and all loss, damage or liability suffered by the Company resulting from any act, neglect or default of the Customer, its agents, employees or licensees, including the representation given at clause 2.1.

7.2. The Company's total aggregate liability to the Customer arising under or in connection with this Agreement or any breach or non-performance of it (including by reason of the Company's negligence) in contract, tort, under any indemnity or otherwise shall be limited to the sum paid for the services by the Customer.

7.3. The Company shall not be liable to the Customer for any loss of profit, revenue or goodwill nor for any indirect or consequential loss or damage arising out of or in connection with this Agreement or any breach or non-performance of it (including by reason of negligence), whether or not the Company had been informed of or was aware that there was a possibility of such loss.

7.4. Notwithstanding any contrary provision in this Agreement, neither party limits or excludes its liability in respect of any statutory or other liability which cannot be excluded under applicable law.

8. The Consumer Guarantees Act 1993

8.1. The Consumer Guarantees Act 1993 (the "Act") may apply to the Services the Company provides if the Services are for personal, domestic or household use. If the Act applies, all rights the Customer may have under it apply in addition to the rights the Customer has in this Agreement. Nothing in this Agreement will limit or exclude any rights under the Act. Where the Customer acquires or holds itself out as acquiring the supply of goods from the Company for the purposes of a business, then the Customer agrees that the provisions of the Act will not apply to the Services, to the extent allowed by law.

9. Force Majeure

9.1. Both parties will be released from their respective obligations under this Agreement in the event of national emergency, war, prohibitive governmental regulation, or if any other event beyond the reasonable control of the parties or either of them renders the performance of this Agreement impossible. On the occurrence of such an event all money due under this Agreement must be paid immediately.

10. Confidentiality and Technical Information

10.1. All technical information relating to the Services, which is confidential and proprietary to the Company is to be regarded and treated as the property of the Company. The Customer will maintain and preserve full confidentiality of all such information relating to the Services, whether received directly or indirectly, and will take all necessary steps to prevent its disclosure to third parties.

10.2. Nothing in this section is to be construed as imposing any obligation on the part of the Company to disclose such technical information to the Customer.

11. Site Access and Responsibility

11.1. The Customer agrees and acknowledges that in order for the Company to provide the Services it must have access to the site on which the Services are to be undertaken. If the Customer is unable to provide the Company with access to the site at the time agreed between the Company and the Customer then the Company is under no obligation to provide the Services

and may at its sole election cancel the Agreement and/or charge the Customer for the Services even though these have not been provided.

11.2. The Customer accepts full responsibility for any damage to any paths, driveways, the site, or any improvements on the site on which the Services are provided, caused by any machinery or any other act necessary to provide the Services.

11.3. The Customer takes responsibility for pointing out where any utility services on the site are located and accepts responsibility for any damage caused to these utility services.

12. Governing Law

12.1. This Agreement is made in accordance with the law of New Zealand and will be interpreted in accordance with the law of New Zealand. The parties submit to the exclusive jurisdiction of the New Zealand courts.

13. Entire Agreement / Supersedes Prior Agreements

13.1. This Agreement constitutes the whole agreement between the parties and supersedes any prior agreement between the parties whether written or oral and any such prior agreements are cancelled as at the date this Agreement is entered into, but without prejudice to any rights, which have already accrued to either of the parties.

13.2. The Parties agree that any terms or conditions that are not stipulated in this Agreement, including those that may appear on any of the Customer's order forms or other documentation which may be presented to the Company from time to time, have no validity whatsoever for the purposes of this Agreement.

14. Waiver

14.1. The failure by the Company to enforce at any time or for any period any one or more of the terms or conditions of this Agreement is not a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

15. Amendment

15.1. This Agreement may not be modified or amended unless agreed in writing by each of the parties, such amended terms to be attached as an Appendix to this Agreement.