



## Personal/Directors Guarantee and Indemnity

In consideration of NZ Manufacturing Ltd agreeing to supply goods and/or services to

\_\_\_\_\_ (“**Customer**”) at my/our request, I/we **JOINTLY AND SEVERALLY AGREE** with NZ Manufacturing Ltd as follows:

1. I/We guarantee all of the obligations of the Buyer in relation to the supply of products and services to the Customer and the obligations under NZ Manufacturing Ltd’s Terms of Trade. I/We indemnify NZ Manufacturing Ltd in relation to any loss, damage or cost arising from any breach of the Terms of Trade.
2. I/We acknowledge that no indulgence, granting of time, waiver or forbearance to sue, or any other matter whereby I/we would be released as a surety will in any way release me/us from liability.
3. This shall be a continuing guarantee to NZ Manufacturing Ltd for all debts and obligations of the Customer in respect of products and services supplied. This guarantee shall remain in force until all moneys hereby secured are paid. This guarantee shall continue to be binding and at all times enforceable by NZ Manufacturing Ltd notwithstanding the liquidation or insolvency of the Customer.
4. Although the relationship between the Customer and me/us will be principal debtor and surety, the relationship between me/us and NZ Manufacturing Ltd will be that of principal debtor and creditor.
5. 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 NZ Manufacturing Ltd.

EXECUTED as a Deed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

|                             |                   |
|-----------------------------|-------------------|
| <b>GUARANTOR-1</b>          |                   |
| SIGNED: _____               |                   |
| FULL NAME: _____            |                   |
| ADDRESS: _____              |                   |
| SIGNATURE OF WITNESS: _____ |                   |
| NAME OF WITNESS: _____      | OCCUPATION: _____ |
| ADDRESS: _____              |                   |

|                             |                   |
|-----------------------------|-------------------|
| <b>GUARANTOR-2</b>          |                   |
| SIGNED: _____               |                   |
| FULL NAME: _____            |                   |
| ADDRESS: _____              |                   |
| SIGNATURE OF WITNESS: _____ |                   |
| NAME OF WITNESS: _____      | OCCUPATION: _____ |
| ADDRESS: _____              |                   |

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

1. **Price:** The price for products and services supplied is the price set out in our written quotations (which remain valid for a period of 30 days from the date of the quotation, unless earlier withdrawn by us) or as indicated on our invoices. To accept a quotation, you must sign and return the quotation to us, together with payment of the required deposit (if any). Once you have accepted a quotation, you may not alter or cancel that order without our prior written consent. Where prices are quoted as exclusive of GST you must pay GST in addition to the price.
2. **Products Supplied:** Only products and services that are itemised in our quotation are included in the price. Any other services or items that are on the plans, schedules or specifications and that are not itemised in the quotation are not included in the price and will not be supplied.
3. **Deposit:** Unless we have agreed otherwise in writing, you must pay a deposit of 30% of the value of the order. If you make an order or accept our quotation and then fail to honour or complete that order, we may retain any deposit paid by you. You also agree to indemnify us for any losses or costs incurred by us as a result of you failing to honour or complete an order. Our certificate showing the amount of any loss suffered will be sufficient evidence for the purposes of this clause.
4. **Payment:** Unless we have agreed credit terms with you in writing, the balance of the purchase price is payable in full prior to the date of delivery or collection of the products. Where we have agreed with you a specific date for delivery or collection of the products ("Delivery Date") and you are unable or unwilling to take delivery of the products or to collect the products from us on the Delivery Date, you must nonetheless pay us the full balance of the purchase price on the Delivery Date. If we have agreed credit terms with you, the purchase price is payable by you no later than the 20<sup>th</sup> day of the month following the date of the invoice. Notwithstanding any payment or credit terms that we may have previously agreed with you, we may in our discretion require that the price for products and services be paid wholly or partly in advance. We may also cancel any credit and require you to pay all outstanding amounts in full at any time. We may elect not to sell or deliver products or provide services to you if payment is not received in accordance with our payment terms.
5. **Title/recovery of products:** Prior to receiving payment in full for all products supplied to you, title in any products supplied by us will remain with us and we have a security interest over the proceeds of the products if such products are sold or disposed of by you. If you fail to pay on the due date, or if you are in breach of these terms, you authorise us to enter any premises to recover products supplied by us or in respect of which we have title or a security interest. If the premises are the premises of a third party, we will enter and recover the products as your agent. You will be responsible for any damage we cause in recovering the products and you indemnify us for any losses or costs that we incur. We will be entitled to sell any products and apply the proceeds towards moneys owed by you. Where the products have diminished in value, including as a result of wear and tear, damage or the passage of time, in addition to recovering the products, we will also be entitled to recover from you the difference between the value of the products at the time we recover them and the full amount you owe us for the products.
6. **Security interest:** You agree that, under clause 5 above, we have a security interest for the purposes of the Personal Property Securities Act 1999 ("PPSA"). You agree that we may take all steps required to perfect our security interest under the PPSA and you agree to execute any documents and provide us with all necessary information in order to enable us to do this. To the maximum extent permitted under the PPSA, you agree to waive your rights as debtor. In particular, you agree to waive your right to receive a verification statement when we register a financing statement or a financing change statement.
7. **Risk:** Risk in all products we supply to you passes to you upon delivery or collection of the products. If any of the products supplied to you are damaged or destroyed following delivery but prior to ownership passing to you, we are entitled to receive all insurance proceeds payable for the products.
8. **Timing/delivery:** Unless we have agreed a Delivery Date, we will do our best to meet any estimated timeframes that we give you for supplying services and delivering products. However, these timeframes are not guaranteed and we will not be liable for any claims in respect of delays. We will deliver products to the address set out in the quotation, or if no address is specified, then the products shall be made available for collection at our premises. We may deliver any order of products in one or more instalments. If we determine (in our sole discretion) that due to health and safety considerations we are unable to deliver products to the specified delivery address or to install products at the specified address, we may charge you additional fees to cover our costs of storing the products and/or delivering the products to you at a later date. If we have agreed that we will deliver products to you on an agreed Delivery Date and you are unable or unwilling to take delivery of the products on the Delivery Date, we may charge you additional fees to cover our costs of storing the products and/or delivering the products to you at a later date.

9. **Claims process:** Any claim in respect of defects in the products or non-conformity with your order must be submitted in writing setting out the alleged problem with the products/order within 7 days of the date of delivery. We will investigate your claim and confirm whether or not your claim is accepted within 20 days of us receiving your written claim. If you do not make the claim within the 7 day period (time being of the essence) you are deemed to have accepted the products supplied/conformity of the order and to have waived any right to reject the products or claim compensation or any other remedy.
10. **Return of products:** The return of products will only be accepted if you have followed the process in clause 9 and we agree in writing to your request to return the products. If we agree to the products being returned you must (a) at your cost, deliver the products in original condition together with their brochures and instruction material to us (or to any other place that we nominate); (b) provide us with the original invoice number; (c) pay us a handling charge of 10% of the original invoice value; and (d) comply with any other reasonable conditions that we advise you of.
11. **Cancellation:** We may cancel any contract to which these terms and conditions apply or cancel delivery of products at any time before the products are delivered by giving written notice to you. On giving such notice we will repay you any sums paid in respect of the price. We will not be liable for any loss or damage whatsoever arising from such cancellation. In the event that you cancel delivery of the products you will be liable for any loss incurred by us (including, but not limited to, any loss of profits) up to the time of cancellation. Cancellation of orders for products made to your specifications or non-stocklist items will definitely not be accepted, once production has commenced.
12. **Default interest/costs:** We may charge you interest at 2.5% per month (or part month) on any amounts due and unpaid. Payment of default interest is without prejudice to our other rights and remedies. If we take action to protect our interests in relation to products over which we hold security or to recover any moneys due from you, or to otherwise protect our interests, you agree to pay our costs (including solicitor/client costs and debt collection costs). If any account remains overdue after 30 days then an administration fee of \$20,00 or 10% of the amount overdue (up to a maximum of \$200), whichever is the greater, will become due and payable to us.
13. **Warranty:** For products not manufactured by us, the warranty for those products will be the current warranty provided by the manufacturer of the products. We will not be by or responsible for any term, condition, representation or warranty given by the manufacturer of the products.
14. **Liability:** To the maximum extent permitted by law, warranties implied by customary practice, statute or at law are excluded. Our liability for any defective products or services or for any cost, loss, damage or claim arising directly or indirectly in relation to any products or services supplied by us, whether arising from contract, tort (including negligence) or otherwise, will be limited to (at our option): (a) repairing the products; (b) providing you with a refund of the purchase price paid for the affected products or services or a credit for the invoice value of the affected products or services (as the case may be); or (c) replacing the affected products or resupplying the services. To the maximum extent permitted by law, we will not be liable for any removal or reinstallation costs, travel costs or other costs in respect of any defective products supplied. We are not responsible for any defect in products or services that results partly or wholly from: (a) the act or omission of you or any third party (including as a result of incorrect installation or maintenance of the products); or (b) a cause beyond our reasonable control. We are not liable for any inability to perform our obligations, or any delay in performing our obligations, which is caused in whole or in part by circumstances beyond our reasonable control including, but not limited to, adverse weather conditions, fire, war, terrorism, riots, industrial action and acts or restraints of governments or regulatory authorities. We are not responsible in any circumstances for any indirect, consequential or special loss, loss of profits or economic loss.
15. **Intellectual Property:** Where we have designed, drawn or written products for you, then the copyright in those designs and drawings and documents shall remain vested in us, and shall only be used by you at our discretion. You warrant that all designs or instructions you provide to us will not cause us to infringe any patent, registered design or trademark in the execution of your order and you indemnify us against any action taken by a third party against us in respect of any such infringement. You may use any documents, designs, drawings or products created by us and provided to you for the purposes of advertising, marketing, or entry into any competition.
16. **Provisions applying to commercial/trade customers:** Where you are in trade and acquire products or services from us in trade both parties agree to contract out of the provisions of the Consumer Guarantees Act 1993 (“CGA”). Where you resell or supply the products to other persons in trade who are not consumers under the CGA, you agree to similarly contract out of the CGA in terms of those sales.
17. **Consumer Guarantees Act:** If the terms of paragraph 16 do not apply to you and you are a consumer (as defined in the CGA), nothing in these terms limits or excludes any rights that you have under the CGA.

18. **Privacy Act:** You authorise us to contact the referees named in your credit application and to use any information provided in your credit application for the purpose of assessing your credit worthiness, for the purposes of recovering any moneys due to us and for the purposes of administering or enforcing these terms and conditions of trade. The Privacy Act 1993 may entitle you to have access to, and if necessary to request the correction of, any personal information that we hold about you.
19. **Customer details:** You will give us at least 14 days notice of any change in your name, address and any other details provided on your credit application form.
20. **Supplier:** We may licence or sub-contract all or any part of our rights and obligations under this contract without your consent.
21. **General:** You will not be entitled to set off against or deduct from the price invoiced by us any sums owed or claimed to be owed to you. In the event of any breach of this contract by us, your remedies are limited to damages which under no circumstances shall exceed the price of the products and services.
22. **Miscellaneous:** These terms prevail over the terms of any purchase order or terms or contracts submitted by you. No variation to these terms will be effective unless it is in writing and signed by us. 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. No delay or failure by us to act or insist on any right will be regarded as a waiver and every right remains enforceable and may be exercised by us at any time.
23. **Definitions:** In these conditions the terms “we”, “us” and “our” are references to NZ Manufacturing Limited. A reference to “you” is a reference to the Customer. The term “products”, as used in these terms and conditions, means all goods and products supplied by us to you from time to time and described on the invoices, quotation, work authorisation or other forms as provided by us to you. The term “services”, as used in these terms and conditions, means the services supplied by us to you from time to time and includes any advice or recommendations provided by us to you.