

## CARTER HOLT HARVEY LIMITED TERMS OF PURCHASE

- 1. Parties:** In this agreement, "Buyer" means Carter Holt Harvey Limited and "Seller" means the person whose name appears on the face of a contract or order issued by and/or agreed to by the Buyer (an "Order") as the person from whom the goods or services (as applicable) are ordered.
- 2. Acceptance:** Any acceptance of an Order or any delivery made or service performed pursuant to an Order shall constitute acceptance of the terms of purchase contained in the Order, including these Terms of Purchase and any additional terms specified in writing by the Buyer on the face of the Order. The Order, together with all such terms and specifications and any terms implied by law, shall constitute the entire agreement between the Buyer and the Seller in respect of the Order (the "Agreement"). This Agreement may not be added to or varied except with the prior written consent of the Buyer.
- 3. Price:** The prices specified in the Order, or applying at the time of the Order, will apply without change unless authorised by the Buyer in writing.
- 4. Payment:** The Buyer shall pay the purchase price of the goods or services (as applicable) on the 20th of the month following the date of the invoice.
- 5. Charges:** There will be no charges other than those specified on the face of the Order. Unless otherwise specified in the Order, all packing, cartage and other costs of delivery and all taxes and other duties shall be at the cost of the Seller.
- 6. Confidential Information:** All specifications or other information provided by the Buyer to the Seller in connection with the Order is confidential to the Buyer and shall be used by the Seller solely for the purposes of performing its obligations under Agreement and shall remain the property of the Buyer and be returned to the Buyer on demand.
- 7. Inspection:** The Buyer may, in the case of goods manufactured by the Seller, inspect, at the Seller's premises, all materials and goods used in the course of manufacture and prior to delivery to the Buyer. No such inspection shall constitute an acceptance or approval of the goods or their compliance with the terms of the Order or affect the Buyer's right to reject any goods at any time thereafter for any failure to comply with any terms or specifications of the Order.
- 8. Delivery:** Delivery shall be made by the dates and to the places specified in the Order. Time shall be of the essence in relation to any time for delivery of goods or performance of a service specified in the Order.
- 9. Risk or property:** Risk of loss or damage to the goods from any cause whatsoever shall remain with the Seller and shall not pass to the Buyer until delivery of the goods to the place of delivery. Property in all goods shall pass from the Seller to the Buyer upon delivery except where payment is due and made prior to delivery. In that event property in such goods shall pass to the Buyer as soon as payment is made and the Buyer shall be entitled to a security interest in those goods which the Buyer may register on the Personal Property Securities Register.
- 10. Cancellation:** The Buyer may cancel an Order or any part thereof at any time by giving written notice to the Seller to that effect. Except where such cancellation is due to any breach by the Seller of any of the terms of the Order, and subject to clause 11, in the event of cancellation the Buyer will pay to the Seller: (a) if the Seller holds finished goods or services and the time for delivery of those goods or services is not more than 30 days after the date of the cancellation, the full purchase price of such goods or services; (b) if the Seller holds raw materials or has placed orders for raw materials which cannot be cancelled and such raw materials have been purchased or ordered solely for the purpose of the Order and can only be used for such purpose, the cost to the Seller of such raw material; and (c) if the Seller holds goods other than raw materials or finished goods, or services, which have been produced solely for the purpose of the Order, the actual cost to the Seller of such goods or services being a proportion of the agreed purchase price.
- 11. Disposal of goods:** The Seller will take reasonable steps to reduce the payment made by the Buyer pursuant to clause 10 by allowing the Buyer to deduct the fair value of any of the goods or materials which the Seller may be able to re-use, sell or otherwise dispose of but the Seller will not dispose of such goods or materials without the prior written consent of the Buyer.
- 12. Warranties:** The Seller warrants that: (a) all goods supplied and all services performed will comply strictly with all specifications forming part of the Order and with all other terms of this Agreement and if services, be supplied to an appropriate professional standard and that such goods and services will be fit for the use intended by the Buyer; and (b) the sale of the goods or the delivery of services covered by the Order to the Buyer will not infringe any patent, trademark, copyright, registered design or other intellectual property right of any other person.
- 13. Defective goods:** The Buyer may reject any goods failing to comply with the terms of this Agreement. Any rejected goods may be returned by the Buyer at the cost of the Seller, with any moneys paid by the Buyer to be repaid immediately by the Seller. The rejected goods shall upon rejection become the property of the Seller, and, if held by the Buyer, will be held at the Seller's risk. Any rejected goods marked or identified by the Buyer's trademark shall not be sold or otherwise disposed of by the Seller while so marked or identified.
- 14. Site rules:** When entering the Buyer's premises, the Seller shall comply with any on-site regulations imposed by the Buyer.
- 15. Indemnity:** The Seller agrees to indemnify the Buyer for any liability incurred by the Buyer arising out of any breach by the Seller of its obligations under this Agreement (including any Order) and for any other act or omission on the part of the Seller, including breach of any legislation, regulation, by-law, code or standard and any term, condition or warranty implied by any such legislation, regulation, by-law, or standard. This includes liability incurred under the Consumer Guarantees Act 1993 where any goods supplied by the Buyer (whether directly or indirectly) to a consumer fail to comply with the guarantees contained in the Act due to: (a) any defect in goods supplied by the Seller to the Buyer; or (b) any representations (whether written or verbal) made by the Seller or any of its employees or failure by the Seller to provide any product information which should reasonably have been supplied to the Buyer.
- 16. Set-Off:** The Buyer may set-off any sums due to the Seller against the costs and expenses resulting from any breach by the Seller of its obligations under any Order or agreement with the Buyer and any losses sustained as a result.
- 17. Waiver:** A waiver by the Buyer of any specific defaults by the Seller shall not constitute a waiver of any other terms of this Agreement.
- 18. Assignment:** The Buyer may assign or novate this Agreement and its rights and obligations under this Agreement to anyone who acquires that part of its business to which this Agreement relates without consent provided that the assignee or novatee enters into a deed of novation with the Buyer in favour of the Seller agreeing to be bound by and to comply with the obligations of the Buyer under this agreement, which deed of novation the Seller agrees to execute.
- 19. Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

