

STANDARD TERMS AND CONDITIONS

- 1) THE WORDS and phrases contained in this clause shall have the following meaning given to them wherever they appear in this Contract.
 - a. "Contract" - All documents relating to the agreement between the Contractor and Customer containing the contract reference number and/or a bona fide quotation from the Contractor to the Customer detailing the particulars of the Project.
 - b. "Contract Price" -The amount specified in the Contract as being "Total Contract Price including GST"
 - c. "Contractor" - PrimeScope Projects Limited.
 - d. "Customer" - The Customer named and specified in the Contract
 - e. "Project" - The scope of work, materials, services and other items specified in the Contract.
- 2) IN CONSIDERATION of the Contract Price being paid in accordance with the terms of the payment detailed in the Contract, the Contractor agrees to supply and/or perform the Project in a good and workmanlike manner for the Customer in accordance with the terms and conditions set out in the Contract.
- 3) ANY EXCAVATION allowed for in the Contract Price does not allow for any additional excavation or work necessitated by the encountering of pipelines of any nature, power or telephone lines, natural or artificial spring water, underground cavity, loose sand, rock formation or any other site problem. In the event of any such problem being encountered the Contractor will immediately cease work and provide the Customer with an estimate of the extra cost of overcoming such problems. The Customer will have the option at that time either to accept liability for the extra cost and to proceed with the Contract, or to terminate the Contract. In the event of such termination the Customer will be liable to pay the Contractor the cost of all the work carried out to that point which may be deducted from any deposit paid. If the deposit paid is insufficient to cover the cost of such work, then the balance shall be payable by the Customer within 7 days. Should the deposit paid exceed the cost of such work then the balance will be refunded to the Customer. The Customer shall have no right to require the Contractor to restore the property to its original condition.
- 4) THE CUSTOMER warrants that the Customer is the owner of the property referred to in the site description contained in the Contract and that access to the site is available to the Contractor together with the Contractor's employees and agents until such time as the Project is completed and the total Contract price paid. The Customer will provide a Certificate of Title or other sufficient evidence of ownership if required.
- 5) WHERE the supply or performance of the Project makes it necessary for the Contractor to enter upon or operate in a manner which may affect or does affect any adjoining property the Customer shall at the Customer's own cost obtain all necessary permission and shall provide the Contractor with evidence of such permission if required.
- 6) THE CONTRACTOR will not be liable for any damage caused to any adjoining property during or subsequent to the Project, unless such damage shall have been due directly to the Contractor's wilful negligence or default.
- 7) THE CONTRACTOR will take all reasonable care to preserve the natural surroundings of the Customer's property but shall not be liable for damage caused to gardens, trees, lawn or ornamental shrubs or developments, fences, structures, paths or driveways of any nature on the property that are not part of the Project, which may be caused by the ordinary operation of workmen, trucks, machinery, vehicles or equipment.
- 8) THE CUSTOMER shall be responsible for correctly describing to the Contractor the property on which the Project works are to be completed and if required to locate and define the exact boundaries of the property and all survey pegs prior to the commencement of the Project. The Customer indemnifies the Contractor against all costs, claims, expenses and damage which may arise from incorrect description or indication of the property upon which the Project is supplied and/or performed.
- 9) THE CUSTOMER will ensure that the Contractor is sufficiently informed of the scope for work for the Project and the Contractor will not be liable for any claim arising from insufficient, incomplete, inaccurate or misleading information supplied by the Customer.
- 10) THE CONTRACTOR will, if required by the Customer, obtain necessary Building Consent and will conform with all conditions specified therein and with all bylaws and regulations.
- 11) IF A Resource Consent is required the costs of obtaining such are in addition to the Contract Price.
- 12) FOOTPATH deposits, if required by the Council, are the responsibility of the Customer.
- 13) THE CONTRACTOR shall proceed with all due expedition with the Project but shall not be liable for damages or loss on account of delay for any reason.
- 14) UNTIL all monies payable in terms of this Contract, and including any amendments or variations, are paid in full, ownership of the Project and all other items supplied by the Contractor to the Customer whether fixed to the land or not and whether forming part of any other structure or not remains with the Contractor in all circumstances. The Customer grants the Contractor irrevocable authority to enter onto any land or buildings at any time up until ownership passes to the Customer to recover possession of or demolish or otherwise deal with the Project or such other items.
- 15) THE CUSTOMER hereby grants to the Contractor, a security interest in all the items supplied by the Contractor to the Customer pursuant to the Project. The Customer will do all that is necessary to enable the Contractor's registration of such interest under the Personal Property Securities Act 1999 (PPSA).
- 16) IF THE CUSTOMER defaults on payment of any monies payable under this Contract then, without prejudice to any other rights the Contractor may have, the following provisions shall apply:
 - a. The Contractor may immediately suspend work until such time as all monies payable under this Contract have been paid, and the Contractor shall not, by doing so, be in breach of this Contract.
 - b. The Contractor may recover possession of or demolish or otherwise deal with the Project or such other items in accordance with clause 14.
 - c. The Contractor may elect to terminate the Contract and recover from the Customer the cost of all work carried out to that point, which may be deducted from any deposit paid.
 - d. The Contractor may commence proceedings to recover any monies payable by the Customer, and in such case the costs of recovery or attempted recovery (including legal costs on a solicitor/client basis) shall be payable by the Customer.
 - e. Interest shall be payable by the Customer at the rate of 2% above the Contractor's bank's commercial overdraft rate.
 - f. The Customer agrees to grant a mortgage to the Contractor to secure payment of all monies payable under this contract, and agrees to the Contractor lodging a caveat against the title to the property referred to in the site description contained in the Contract to protect the Contractor's interest as mortgagee under this clause.
- 17) FOLLOWING completion and hand over of the Project to the Customer, the care, maintenance and cleanliness of the Project shall be the responsibility of the Customer.
- 18) THE CUSTOMER may cancel this Contract only with the Contractor's written agreement and upon payment of a cancellation fee of 10% of the Contract Price. The Contract shall not be cancelled by the Customer however after commencement of the Project, except as provided for in Clause 3.
- 19) THE CONTRACTOR reserves the right to review the Contract Price if work has not commenced within thirty (30) days of the signing of the Contract.
- 20) ANCILLARY equipment or accessories are subject to the respective suppliers' warranty/guarantee.
- 21) IF any difference or dispute shall at any time arise between the Customer and the Contractor concerning this Contract or any act or thing to be done, suffered or omitted, such difference or dispute shall be forthwith referred to arbitration as provided by the Arbitration Act' 1996, provided that nothing in this provision shall prevent the Contractor commencing proceedings in any Court or Tribunal to recover any monies due or owing under this Contract by the Customer.
- 22) WHERE the Customer is acquiring the Project for the purposes of a business, the Customer agrees that the provisions of the Consumers Guarantees Act 1993 shall not apply.
- 23) IN the event that the Project suffers any defect, the Contractor's obligation to the Customer shall be limited to performing the required remedial work. To the maximum extent permitted by law, the Customer acknowledges that the Contractor shall not be liable in any way to the Customer, except as expressly stated in this Contract. Without limiting the generality of the foregoing, the Contractor shall not be liable for:
 - a. Any loss or damage suffered by the Customer as a result of any subsidence, ground movement, or defects in any structure supporting any part of the Project, or as a result in any delay in the construction of the Project or periods during which the Project cannot be used due to remedial works.
 - b. Any damage done to the Project during the course of its supply and/or performance by any cause not directly attributable to the Contractor's actions.
 - c. Any liquidated damages claimed or payable by the Customer as a consequence of any delay in completion of the Project.
 - d. Consequential loss of any nature.