



HARTNELL COOLHEAT LTD

TERMS AND CONDITIONS OF SALE AND CREDIT DOMESTIC

1 *General*

1.1 The acceptance of Hartnell Coolheat Limited's quote includes the acceptance of the following terms and conditions.

1.2 *Definitions*

1.2.1 PPSA means the Personal Property Securities Act 1999

1.2.2 Hartnell Coolheat means Hartnell Coolheat Limited, Hartnell Coolheat North Canterbury Limited and Hartnell Coolheat Sheetmetals Limited.

1.2.3 Goods means all goods supplied from the time by Hartnell Coolheat and includes all proceeds of such goods provided that:

1.2.4 Client means the client to whom the goods are supplied pursuant to the quotation provided by Hartnell Coolheat.

2 *Prices*

2.1 Prices quoted are based upon costs current at the date of quotation and are valid for 30 days. All prices quoted are inclusive of G.S.T., unless otherwise stated. The G.S.T. component will be chargeable at the rate applicable at time of invoicing.

3 *Terms of Payment*

3.1 Unless otherwise agreed in writing, payment for **goods** must be made no later than the twentieth day of the month following issue of invoice. Payment will be accepted by cash, company cheque, personal cheque, bank cheque, direct credit or credit card.

3.2 Where other payment terms are agreed, payment must be made in accordance with those terms.

3.3 Any deposit requested by Hartnell Coolheat shall be payable upon acceptance of the quotation.

3.4 Should payment in full not be made on the due date, then without prejudice to any other remedies available to Hartnell Coolheat it may:

3.4.1 Cancel the contract withhold the supply of further goods

3.4.2 Charge and recover interest charged on a daily basis at a rate of 2% per month during the period of default until the date of payment; and

3.4.3 The client shall be responsible for all costs (including costs on a solicitor/client basis) and debt collection charges incurred by Hartnell Coolheat in recovering all outstanding amounts.

4 ***Dimensions of Other Descriptive Details***

4.1 Photographs, illustrations, weights, dimensions and any other particulars given in or accompanying quotation or descriptive literature, represent generally the goods offered but are subject to alteration without notice by the manufacturer and Hartnell Coolheat shall not be bound as to the details thereof.

5 ***Credit***

5.1 There is no obligation for Hartnell Coolheat to continue to provide credit and it may at any time withdraw the credit facility granted and require immediate payment of the total amount due and outstanding by the client including the purchase price of the goods, and all interest and expenses.

6 ***Insurance***

6.1 The goods become the responsibility of the purchaser upon delivery to the purchaser and all risk (including loss, damage or deterioration) passes to the purchaser. Hartnell Coolheat is not required to insure the goods from delivery.

7 ***Delivery and non-availability***

7.1 Any delivery dates quoted by Hartnell Coolheat are estimates only. Hartnell Coolheat will use reasonable endeavours to see that deliveries are made according to schedule but shall not be responsible for delivery delays due to causes beyond Hartnell Coolheat 's control and the client agrees to accept delivery as soon as the goods are able to be delivered.

7.2 All goods ordered by the client are subject to such goods being available for delivery and Hartnell Coolheat accepts no responsibility for non-availability of goods and shall not be liable for any act of God or force majeure event, including, but not limited to, industrial disputes, war or delays or defaults of manufacturers, which delays or frustrates the performance of this agreement.

8 ***Consumer Guarantees Act 1993 (CGA)***

8.1 The terms and conditions shall be read subject to the clients rights under the CGA.

8.2 If goods are purchased for business use then Hartnell Coolheat shall not be liable for any consequential or special damages under any circumstances whatsoever.

9 ***Cancellation or Return of Goods***

- 9.1 Hartnell Coolheat will accept the return of goods or cancellation of a contract for credit provided that the goods are returned within fourteen (14) days of sale and are in the same condition as at time of despatch. A ten (10) per cent handling fee on all returned goods will be charged.
- 9.2 Custom made goods will be subject to a cancellation fee based upon expenses sustained as a result of design, overhead and production labour hours and materials costs incurred up until the date of cancellation.
- 9.3 If the goods have already been installed then the cost of removal will be at the client's expense as will any making good that may be necessary.

10 ***Personal Property Securities Act 1999 (PPSA)***

- 10.1 To secure payment of all amounts owing by the client to Hartnell Coolheat from time to time, the client as debtor irrevocably grants a security interest in all goods owned by the client including those goods purchased and supplied by Hartnell Coolheat to the client and all present and after acquired goods the client. The client agrees that the goods are collateral securing payment of all outstanding indebtedness owing by the client to Hartnell Coolheat.
- 10.2 The client acknowledges and agrees that the security interest given to Hartnell Coolheat includes a security interest in all proceeds of collateral.

11 ***Installation Charges***

- 11.1 Installation will be performed during normal business hours. Any work performed outside normal business hours will be subject to an additional charge which includes overtime rates.
- 11.2 Hartnell Coolheat shall not be charged any penalty whatsoever as a result of late completion of the contract caused by delay by a Head Contractor and nothing said to the contrary of this provision shall be binding on Hartnell Coolheat.

12 ***Ownership***

- 12.1 Property in goods sold by Hartnell Coolheat shall not pass until the client has made payment in full of the purchase price for those goods to Hartnell Coolheat. Until such payment is made the client will hold the goods as bailee for Hartnell Coolheat and Hartnell Coolheat shall have the right to enter the premises occupied by the client and take possession of any of those goods subject to the client's right under the credit (Repossessions) Act 1997
- 12.2 If the goods or any of them are resold before payment is made, the client shall hold the sale proceeds for and on trust for Hartnell Coolheat. The proceeds of any such sale will reduce the debt to Hartnell Coolheat and

Hartnell Coolheat may take such legal remedies as are available to it to recover any balance outstanding. The client agrees that any collection costs incurred by Hartnell Coolheat in collection of all or any part of any overdue debt on this account will be payable by it.

13 *Privacy Act*

13.1 The client expressly authorises **Hartnell Coolheat** to make any enquiries it considers necessary for confirmation of any information set out on this application. The client understands that it has rights under the Privacy Act 1993 to access and correct any information held by **Hartnell Coolheat** about the client.

14 *Authority*

14.1 The persons signing the application confirm(s) having the authority to make and sign this application on behalf of the client.

15 *Dispute Resolution*

15.1 The parties will endeavour to resolve any dispute arising under this contract reasonably and fairly and if agreement can not be reached the dispute shall be referred to a mediator in first instance and if a mediation is unsuccessful then the dispute shall be submitted to arbitration within the meaning of the Arbitration Act 1996 and adjudged by an arbitrator appointed by the Canterbury Manufacturers Association.

16 *Terms of Contract*

16.1 Any goods supplied by Hartnell Coolheat shall be subject to these terms unless agreed otherwise in writing. The client's acceptance of goods from Hartnell Coolheat is deemed to be an acceptance of these terms notwithstanding anything that may be stated to the contrary in or contained in the client's purchase order and whether the client has signed these conditions or not.

16.2 Waivers of or changes to these terms are effective only if made in writing and signed on Hartnell Coolheat's behalf. Hartnell Coolheat reserves the right to modify these terms at any time.

17 *Agreement to Mortgage*

17.1 The client will at anytime before repayment of the debt, if required by Hartnell Coolheat, execute in favour of Hartnell Coolheat a registrable memorandum of mortgage in terms of the current Auckland District Law Society mortgage (all obligations) of the land upon which the goods supplied by Hartnell Coolheat have been installed or any other land owned by the client.

The client charges the land with repayment of the debt and authorise Hartnell Coolheat to register and maintain a caveat against the title to the said land to protect this agreement.