

TERMS OF TRADE

Longburn Shingle Company Limited

What is the purpose of these Terms?

1. These Terms govern the relationship between Longburn Shingle Company Limited ("Longburn Shingle") as supplier and you as the customer ("Customer"). By placing an order for the Products and Services with Longburn Shingle you are deemed to have accepted these Terms.

Definitions

2. In these Terms the following definitions apply:
 - 2.1 "CGA" means the Consumer Guarantees Act 1986.
 - 2.2 "Customer" means the person or entity purchasing the Products and Services from Longburn Shingle.
 - 2.3 "Longburn Shingle" means Longburn Shingle Company Limited 2292656, being a duly registered company under the laws of New Zealand, their directors, shareholders, employees and sub-contractors.
 - 2.4 "Longburn Shingle' Premises" means Longburn Shingle's premises on Walkers Road, Longburn 4475, or any other premises used by Longburn Shingle from time to time.
 - 2.5 "Proceeds" means the proceeds of the on sale of the Products by the Customer to any third party.
 - 2.6 "Products" means the products supplied by Longburn Shingle to the Customer from time to time in accordance with these Terms.
 - 2.7 "PPSA" means the Personal Property Securities Act 1999.
 - 2.8 "Services" means the services supplied by Longburn Shingle to the Customer from time to time in accordance with these Terms.

What is the price?

3. The price is the cost of the Products and Services as agreed between Longburn Shingle and the Customer from time to time plus GST and disbursements. Where no price has been agreed between the parties, the price will be the standard price being charged by Longburn Shingle at the time that the Customer places the order. Longburn Shingle reserves the right to pass on any reasonable increases in cost of the Products or the Services to the Customer.
4. Any quotations given by Longburn Shingle are exclusive of GST and disbursements and will remain valid for thirty (30) days. Longburn Shingle reserves the right to withdraw or amend any quotation prior to its acceptance by the Customer.
5. The Customer will be responsible for any increased costs resulting from any subsequent changes to a quote due to incorrect or inadequate information supplied by the Customer or any request by the Customer for additional Products and/or Services.

How does the Customer place an order?

6. The Customer must place an order by either accepting in writing any quotation provided by Longburn Shingle or placing an order in writing directly with Longburn Shingle for the Products and Services which the Customer requires from time to time.
7. Longburn Shingle reserves the right to reject any order or advise the Customer that the Products and Services may not be available within the timeframe required.
8. Any variation to an order by the Customer must be notified as soon as possible to Longburn Shingle. Longburn Shingle reserves the right to charge the Customer for any Products and Services which

Longburn Shingle has already paid for on behalf of the Customer prior to receiving such variation.

9. Longburn Shingle may vary any Products and Services ordered by the Customer in the event that the Products and Services are not available. Longburn Shingle will make all reasonable endeavours to ensure that any replacement is of equal or similar nature and value to any Products and Services which are unavailable.

How and when does the Customer pay?

10. The Customer shall make all payments to Longburn Shingle as directed without set off or deduction unless otherwise agreed in writing by Longburn Shingle:
 - 10.1 on or before delivery of the Products and Services; or
 - 10.2 where Longburn Shingle has agreed in writing to provide credit to the Customer, on or before the 20th of the month following the date of invoice. Where Longburn Shingle is providing credit to the Customer, Longburn Shingle may at its discretion require the payment of a deposit at the time the Customer places the order.
11. The Customer agrees that each order it places with Longburn Shingle shall be deemed to include a representation that it is solvent and able to pay all of its debts as and when they fall due.
12. The grant of any credit facility or nomination of any credit limit is an indication only of Longburn Shingle' intention at the time. Longburn Shingle may vary and/or withdraw any credit facility at any time at its discretion and without any liability to the Customer or any other party.

Delivery of the Products and Transfer of Risk

13. The Customer warrants that Longburn Shingle will have a proper means of access to the Customer's site to deliver the Products and provide the Services.
14. The Customer will be responsible for all delivery and related costs in respect of the Products.
15. Longburn Shingle will use its best endeavours to deliver the Products and Services to the Customer at the time agreed between the parties. However, Longburn Shingle will not be liable to the Customer for any delay, failure or inability to deliver the Products and Services.
16. In the event of a frustrated delivery, Longburn Shingle may charge the Customer for any of Longburn Shingle' reasonable expenses.
17. All transport of the Products to the Customer is at the Customer's own risk. The Customer is responsible for insuring the Products during delivery. Any loss occurring in transit which exceeds the transporter's insurance cover is at the Customer's risk and the Customer must ensure that it has sufficient insurance cover for any excess payable. Where Longburn Shingle arranges for delivery on behalf of the Customer the Customer is solely responsible for any transportation charge unless otherwise specifically agreed in writing.

What are the Customer's responsibilities?

18. The Customer warrants that it will provide (and will continue to provide on an ongoing basis) to Longburn Shingle, accurate, full and correct information and assistance to allow Longburn Shingle to provide the Products and Services.
19. The Customer is responsible for and must insure against any loss or damage caused to the Customer in respect of the provision of the Services at the Customer's site.
20. The Customer warrants that it will do all things necessary to ensure that its obligations under the Health and Safety at Work Act 2015 and any other relevant legislation are met with respect to the

provision of the Services by Longburn Shingle at the Customer's nominated site.

21. The Customer shall rely on its own knowledge and expertise in selecting Products for any purpose and any advice or assistance given by or on behalf of Longburn Shingle shall be accepted at the Customer's risk and shall not be deemed to have been given as expert or advisor nor to have been relied upon.

When can the parties cancel?

22. Subject to clause 23, either party may cancel an order at any time by giving 21 days prior written notice to the other party.
23. Longburn Shingle reserves the right to immediately suspend or cancel the provision of any Products, Services or credit, in the event that:
- 23.1 The Customer fails to pay or indicates that it will not pay any amount owing to Longburn Shingle by the due date;
- 23.2 Any of the Customer's creditors seize or indicate that they will seize any Products provided to the Customer;
- 23.3 Products in the Customer's possession become materially damaged while any amount remains outstanding to Longburn Shingle;
- 23.4 The Customer suffers an insolvency event or is put under statutory management;
- 23.5 A receiver is appointed over the Customer's assets;
- 23.6 A court judgment is entered against the Customer and remains unsatisfied for seven (7) days;
- 23.7 The Customer breaches these Terms; or
- 23.8 There is an adverse material change in the Customer's financial position.
24. Longburn Shingle reserves the right to pass on to the Customer any costs incurred prior to the date of cancellation.

What guarantees and warranties are in place in respect of the Products and Services?

25. If the Customer is in trade, the Customer acknowledges and agrees that the Products and Services are supplied and acquired in trade, the parties agree to contract out of the provisions of the CGA, and that it is fair and reasonable that the parties are bound by this provision. To the extent permitted by law the parties agree that the Sale of Goods Act 1908 does not apply. **Nothing in these Terms is intended to limit or replace any rights of "consumers" under the CGA.**
26. Save and except as required by law:
- 26.1 No warranty in relation to the Products is given where Longburn Shingle is not the manufacturer of Products other than any warranty offered by the manufacturer (the benefit of which Longburn Shingle will, to the extent possible, extend to the Customer) and to the fullest extent legally permissible Longburn Shingle' liability shall in all cases be strictly limited in accordance with clauses 32 and 33.
- 26.2 Where Longburn Shingle is the manufacturer of the Products then the manufacturer's warranty applies for the period applicable to the relevant Products.
- 26.3 Any warranty will be deemed null and void where the Customer does not adhere to the instructions, specifications and datasheets relating to the Longburn Shingle' Products or misuses the Products in any way.

How does the Customer make a claim in respect of a Product or Service?

27. If no written notice from the Customer is received by Longburn Shingle within 72 hours of provision the Products and Services will be deemed to be in good condition and the quantities of Product shall be deemed to be correct and the Services provided will be deemed to be acceptable.
28. Any claims for faulty or defective Products must be notified by the Customer to Longburn Shingle within the applicable warranty period. For any other claims the Customer must notify Longburn Shingle within 72 hours of delivery of the Products or the provision of the Services.
29. After due investigation, Longburn Shingle may at its discretion repair or replace defective Products or remedy defective Services provided.
30. Longburn Shingle may require the defective Products to be returned to them at their discretion.

Indemnity

31. The Customer indemnifies Longburn Shingle from and against all actions, claims, costs, demands, expenses, liabilities, losses, payments and proceedings whatsoever incurred or suffered by Longburn Shingle which arise from or by virtue of the Customer breaching these Terms.

Limitation of Liability

32. The Customer agrees that to the fullest extent legally possible and except as set out in these Terms, Longburn Shingle will not have any liability to the Customer in any manner whatsoever whether in tort, contract or otherwise.
33. Notwithstanding clause 32 above, in the event that Longburn Shingle is found to be liable to the Customer by law, the Customer agrees that any liability will be limited to the cost of replacement of the Products or the Services supplied.

What interest does Longburn Shingle keep in the Products and the Proceeds?

34. PPSR:
- 34.1 The Terms constitute a security interest in the Products supplied by Longburn Shingle to the Customer and the Proceeds made by the Customer for the purposes of the PPSA as security for payment by the Customer of all amounts due under the Contract, including any future amounts.
- 34.2 The Customer agrees to promptly execute and deliver to Longburn Shingle all assignments, transfers and other agreements and documents and do anything else which Longburn Shingle may deem appropriate to perfect Longburn Shingle' security interest over the Customer, or obtain the priority required by Longburn Shingle or register (and renew registration) a financing statement for a security interest in favour of Longburn Shingle.
- 34.3 To the extent that Part 9 of the PPSA applies, the Customer agrees that the provisions of sections 114(1)(a), 120, 122, 133 and 134 of the PPSA which are for the Customer's benefit, or place any obligations on Longburn Shingle in the Customer's favour, will not apply; and where Longburn Shingle has rights in addition to those in Part 9 of the PPSA, those rights will continue to apply and will not be limited by section 109 of the PPSA.
- 34.4 To the extent that Part 9 of the PPSA applies, without limiting anything in the previous paragraph, the Customer hereby waives its rights under sections 116, 120(2), 121, 125,

126, 127, 129 and 131 of the PPSA, and its rights to receive a copy of a verification statement under section 148 of the PPSA in respect of any financing statement or financing change statement registered by Longburn Shingle.

- 34.5 The Customer agrees to treat the security interest in the goods as a continuing and subsisting security with priority over a registered general security interest and any unsecured creditors, regardless of whether the goods have become fixtures at any time before payment has been made for them.
- 34.6 The Customer agrees that it will indemnify Longburn Shingle for any cost Longburn Shingle incurs in registering, maintaining, discharging and/or enforcing the security interest created by these Terms.
- 34.7 The Customer agrees that it will immediately notify Longburn Shingle of any change in its name.

What happens if the Customer doesn't pay or is otherwise in default under these Terms?

35. Interest: Without limiting any other provision in these Terms, interest will be charged on overdue accounts on a daily basis from the due date until payment in full at 18% and will compound monthly on the 20th day of each month.
36. Without prejudice to any other rights or remedies available to Longburn Shingle under these Terms or otherwise, if the Customer breaches these Terms or if the Products are "at risk" within the meaning of the PPSA, then Longburn Shingle will be entitled to enter any premises where Products supplied by it and unpaid for are located, repossess and sell such Products (subject to these Terms and in accordance with the PPSA). The Customer indemnifies Longburn Shingle in respect of any claims, actions or costs that may arise against Longburn Shingle in relation to the removal, repossession and sale of Products pursuant to this clause.
37. Without limiting clause 36 above and without prejudice to any other rights or remedies available to Longburn Shingle under these Terms or otherwise, if the Customer breaches these Terms Longburn Shingle may, without being liable to any person do all or any of the following:
- 37.1 retain all monies paid;
- 37.2 require that all amounts invoiced to the Customer become immediately due and payable;
- 37.3 suspend further provision of Products and Services to the Customer until the default is remedied;
- 37.4 revoke any credit accommodation provided to the Customer and require that all further deliveries be on a cash on or before delivery basis; and
- 37.5 recover from the Customer any loss of profits arising from such default.
38. Recovery Costs: The Customer shall pay all costs and expenses incurred by Longburn Shingle and/or its agents (including debt collection and legal expenses) in connection with the enforcement or attempted enforcement of these Terms.

Does a personal guarantee apply?

39. If you are the director of a Customer which is a company or the trustee of a Customer which is a trust, you agree that in consideration for Longburn Shingle supplying the Products and Services to the Customer Longburn Shingle may require you to personally undertake to pay all amounts that become due and payable by the Customer to Longburn Shingle and to

indemnify Longburn Shingle against any breach of these Terms by the Customer.

What other general terms apply?

40. Goods and Services Tax (GST): The price for Products supplied shall unless Longburn Shingle otherwise specifies in writing be exclusive of GST and/or any other applicable taxes, government charges, levies and/or imposts of any kind whatsoever, any and all of which must be paid by the Customer to Longburn Shingle as and when and in such manner as Longburn Shingle reasonably requires.
41. Fair Trading Act 1986: The parties agree that where the Products and/or Services are supplied and acquired in trade, that the parties are in trade and that they agree to contract out of sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986, and that it is fair and reasonable that the parties are bound by this provision.
42. Customer Restructure: The Customer shall notify Longburn Shingle immediately in writing of any change in its structure and/or management, including any change in director, shareholder and/or management and any change in partnership or trusteeship.
43. Subcontractors: Longburn Shingle may contract out part of the work required to perform the Services.
44. Force Majeure: Longburn Shingle shall not be or be deemed to be in default or breach of these Terms if the default or breach is as a result of any cause beyond its reasonable control including, by way of illustration not limitation, strikes and lockouts.
45. Disputes: Any dispute will be notified by the disputing party to the other party within 7 days of such dispute arising. The parties shall use their best endeavours to resolve any dispute. If the dispute has not been resolved within 7 days of the date upon which notice is served by the disputing party, the parties agree dispute will be resolved by arbitration under the Arbitration Act 1996 by a single arbitrator agreed on by the parties (or if unable to agree, by the President of the Auckland District Law Society).
46. Privacy Act 1993: Longburn Shingle will comply with its obligations under the Privacy Act 1993. The Customer acknowledges and agrees that Longburn Shingle shall collect information from the Customer to allow for Longburn Shingle to check the creditworthiness of the Customer (including undertaking a credit check), to allow for the provision of the Products and Services and the administration and enforcement of the Terms, and to market the Products and Services. Please contact Longburn Shingle at info@longburnshingle.co.nz if you wish to access or correct your Customer information.
47. Notices: Notices may be served:
- 47.1 in person;
- 47.2 by mail to Longburn Shingle at its registered office as recorded at the Companies Office and updated from time to time; and
- 47.3 by email to info@longburnshingle.co.nz or any updated address made known at Longburn Shingle or the last email address of the Customer made known to Longburn Shingle by the Customer.
- Notices will be deemed to have been served immediately when served in person, upon the expiration of two (2) working days from the date of posting when served by mail, and upon receipt of a read receipt when served by email.
48. Severability: If any term or part of a term is held to be illegal, invalid or otherwise unenforceable then that term (or part thereof) will be severed without affecting any other part of these Terms, which shall remain in full force and effect.

49. Entire agreement: These Terms, along with any estimate or quotation provided by Longburn Shingle, constitute the entire agreement between the parties.
50. Changes to Terms: Longburn Shingle may amend these Terms from time to time and the amended Terms will apply to all orders and supplies of Products and Services after such amendments are made. No other changes may be made to these Terms without both party's prior written consent.
51. Waiver: A party's failure to enforce any of these Terms will not be deemed to be a waiver of any these Terms unless agreed in writing by that party.
52. Assignment: The Customer may not assign their obligations under these Terms without the prior written consent of Longburn Shingle (at the sole discretion of Longburn Shingle).
53. Jurisdiction: These terms are governed by the laws of New Zealand.