

STACKIT STORAGE SOLUTIONS LIMITED

TERMS AND CONDITIONS FOR SUPPLY OF GOODS

1. Definitions and Interpretation

- 1.1 In these terms and conditions and in any Contract to which these terms and conditions apply, unless the context otherwise requires:
- Company** means Stackit Storage Solutions Limited, with company number 1018757, at Rangiora and includes its successors or assigns;
- CGA** means the Consumer Guarantees Act 1993, as amended from time to time;
- Contract** means a contract for the supply of Goods by the Company to the Customer, comprised of these Terms and an Order accepted by the Company;
- Customer** means the customer, or any person acting on behalf and with the authority of the Customer, to purchase the Goods;
- Goods** means the goods sold or to be sold by the Company to the Customer under a Contract;
- Order** means an order for the Goods placed by the Customer by any of the following methods:
- 1.1.1 by ordering online through the Company's website directly; or
- 1.1.2 where the Company provides a Proposal, by accepting (in writing or verbally) that Proposal;
- Proposal** means a written proposal provided by the Company to the Customer for the Company to supply Goods to the Customer;
- Specifications** means any specifications and/or installation instructions relating to the Goods, which are provided by the Company to the Customer and/or are available at www.stack-it.co.nz;
- Terms** means these terms and conditions, to be read and construed with each Order accepted by the Company; and
- Working Day** means a day which is not a Saturday, Sunday or a Public Holiday and on which registered banks are open for general banking business in Christchurch, New Zealand.
- 1.2 Unless the Company and the Customer otherwise expressly agree in writing, these Terms and the terms as set out in any applicable Order will apply to all sales of Goods and no other terms or conditions will apply.
- 1.3 These Terms supersede any previous terms agreed to by the parties, and the Customer's terms of trade.

2. Supply of Goods

- 2.1 The Company will supply and the Customer will purchase the Goods described in the Order in accordance with these Terms.
- 2.2 The Company may provide a Proposal to the Customer in respect of the Goods, and the Proposal and any terms contained in it will form a part of the Contract. Any Proposal is only valid for a period of 30 days from the date of the Proposal, or such other date as set out in the Proposal.
- 2.3 Notwithstanding clause 2.2, any Proposal is valid only while stocks last.

3. Orders

- 3.1 Each Order is a separate offer by the Customer to purchase the Goods, which the Company may accept or decline at its absolute discretion. An Order will only be binding on the Company once it gives notice to the Customer that it accepts the Order or otherwise dispatches the Goods for delivery. By the Company receiving an Order from the Customer, the parties agree that these Terms will bind both parties and will, together with the Order or other acceptance document, constitute a Contract.
- 3.2 Without limiting clause 17.5, no other terms and conditions whether oral or written, including, without limitation the Customer's terms and conditions, whether precedent or subsequent in time will have any force or effect unless specifically agreed to in writing by both parties.

- 3.3 The Company reserves the right to correct any typographical or clerical errors contained in the prices or specifications in any Proposal or Order.
- 3.4 Any price contained in a Proposal or Order does not include any subsequent variations or changes requested by the Customer.
- 3.5 The Goods offered for ordering are subject to availability and while stocks last. If the Company cannot supply the Goods ordered to fulfil a Contract, the Company may without penalty, cancel the Contract.

4. Delivery and Risk

- 4.1 The Company will deliver the Goods to the Customer, at the Customer's cost, unless otherwise agreed.
- 4.2 Any period of time provided for the delivery of Goods by the Company is an estimate only, and the Company will not be liable in any way in respect of any costs or expenses incurred for the late delivery of the Goods.
- 4.3 Unless otherwise agreed in writing by the parties, risk in the Goods will pass from the Company to the Customer when the Goods are delivered to the Customer.
- 4.4 Delivery will be deemed to have occurred upon the Company being notified by its carrier that the Goods have been delivered to the Customer.
- 4.5 If the Customer fails to accept delivery, the Goods will be deemed to have been delivered when the Company was willing to deliver them. The Company may charge storage, transportation costs and all related expenses if the Customer refuses to accept delivery.
- 4.6 If the Goods are held by the Company on behalf of the Customer, risk is deemed to have passed to the Customer when the Goods would otherwise have been able to be delivered.

5. Ownership

- 5.1 Until the Company has been paid in full for the Goods::
- 5.1.1 title in the Goods remains with the Company;
- 5.1.2 if the Goods or any part of them are sold or disposed of by the Customer, the Customer will be deemed to have done so as agent for the Company and the proceeds of such sale will be held on trust for the Company; and
- 5.1.3 if required by the Company, the Customer will store the Goods separately to enable them to be identified.
- 5.2 If the Customer fails to pay for the Goods by the due date for payment, the Company or its agents may, upon giving reasonable notice, enter premises occupied by the Customer to search for and remove any of the Goods supplied by it, without in any way being liable to the Customer or any person claiming through the Customer.
- 5.3 If the Company takes possession of Goods in accordance with this clause, the Company may sell or dispose of Goods in such manner and generally on such terms and conditions as it sees fit. The Customer will indemnify the Company for any costs incurred by the Company in reclaiming the Goods, including any shortfall incurred by the Company in realising the Goods.

6. Payment

- 6.1 For Orders made online, the Customer must pay for the Goods on checkout.
- 6.2 For other Orders:
- 6.2.1 the Company may invoice the Customer in advance of delivery, or at such other times as the parties may agree;
- 6.2.2 unless otherwise agreed between the parties in writing, payment will be made to the Company by direct payment into the Company's notified bank account;

- 6.2.3 if the Customer does not hold a credit account with the Company, payment will be made to the Company by the Customer on invoice;
- 6.2.4 if the Customer holds a credit account with the Company, payment will be made to the Company by the Customer on or before the 20th of the month following the month of the date of the invoice; and
- 6.2.5 payment will be made in full on the due date (including Goods, freight and any GST), without set-off and free of any deductions.
- 6.3 Unless otherwise specified, all prices in the invoice are in New Zealand Dollars, excluding GST and freight (if any).
- 6.4 If full payment for the Goods is not made on the due date, then without prejudice to any other remedies available:
 - 6.4.1 the Company may cancel or withhold supply of the Goods;
 - 6.4.2 the Company may charge interest on monies overdue, accruing on a daily basis and to be calculated at the rate of 10% per annum during such default; and
 - 6.4.3 the Customer will be responsible for all costs incurred by the Company in recovering such monies.
- 6.5 The Company may require that the Customer pay to the Company a deposit of up to 50% of the total purchase price of the Goods to be provided under the Order. Any deposit required by the Company may be on refundable or non-refundable terms.
- 6.6 The Customer acknowledges that any amounts payable to the Company in respect of the Goods does not include any amounts payable to local or territorial authorities, or the cost of obtaining any relevant producer statements, in respect of the Goods, unless otherwise expressly specified in the Contract.

7. Suitability and Compliance of Goods

- 7.1 The Customer is responsible for inspecting the Goods on delivery and satisfying itself that the Goods are undamaged.
- 7.2 The Customer acknowledges that any weight loading capacity of the Goods advised by the Company are indications only. An engineer's assessment of the Customer's ground conditions (including seismic location) and the Customer's configuration of the Goods is required to provide an accurate weight loading capacity. This service is not provided unless specifically requested by the Customer and agreed to in writing with the Company and will be at an additional cost.
- 7.3 It is the sole responsibility of the Customer to:
 - 7.3.1 satisfy itself as to the condition and quality of the Goods for the Customer's purposes including performance of the Goods in their ultimate application and working environment and the Customer accepts the Goods on this basis;
 - 7.3.2 ensure that the Goods comply with any safety, fire, health or other regulations applicable to the use of the Customer's equipment and/or services in its actual working environment and jurisdiction; and
 - 7.3.3 ensure compliance with all relevant local and territorial laws and regulations, including obtaining any consents, approvals or permits required in respect of the Goods and/or use of the Goods, and obtaining appropriate advice in relation to such consents, approvals and permits,
 and the Company has no responsibility for, or liability whatsoever in respect of, these matters.

8. Defects and Returns

- 8.1 The Customer may, within seven Working Days following delivery of Goods pursuant to a Contract (**Notification Period**), advise the Company of any defects or faults in the Goods.
- 8.2 Where the Customer provides the Company with a notice within the Notification Period in accordance with clause 8.1,

the Company will be afforded a reasonable opportunity to inspect any allegedly faulty Goods.

- 8.3 For the purposes of assisting the Company in its inspection and assessment under clause 8.2, the Company may require that any allegedly faulty Goods be returned to the Company for inspection, provided that no Goods may be returned to the Company without the prior written approval of the Company.
- 8.4 The Customer must comply with any reasonable request of the Company in assessing any notification provided by the Customer under clause 8.1, including but not limited to a provision of the description of the circumstances relating to the alleged defect in the Goods.
- 8.5 Where the Company has reasonably determined the Goods are faulty, the Company will, at its sole option and subject to clause 9.8:
 - 8.5.1 repair or replace those Goods free of charge; or
 - 8.5.2 refund the Customer for the price of the Goods.
- 8.6 If the Notification Period expires and the Customer has not notified the Company of any defects, then the Goods are deemed to be accepted by the Customer, and the Company accepts no liability for claims made after the expiry of the Notification Period.
- 8.7 Provided the provisions of clauses 8.1 to 8.6 do not apply, Goods may only otherwise be returned to the Company if:
 - 8.7.1 they are returned within 15 Working Days of delivery;
 - 8.7.2 they are not custom-made or procured for the Customer and form part of the Company's usual stock-in trade;
 - 8.7.3 they were supplied to the Customer in packaged and sealed form and are returned to the Company in that original unopened packaging, and include all accessories;
 - 8.7.4 the Company is satisfied that the condition of the Goods has not deteriorated and the Customer pays for their return; and
 - 8.7.5 the Customer provides evidence to the Company of purchase from the Company, to the Company's satisfaction.
- 8.8 The Company may require a 20% restocking fee to be paid by the Customer in the event that any of the Goods are returned to the Company in accordance with clause 8.7.

9. Warranties and Liability

- 9.1 The Customer warrants to the Company that it is solvent and able to pay its debts as they become due and is properly authorised to enter into this document and each Contract.
- 9.2 The Customer will ensure the Goods are used in accordance with the Specifications and any other instructions concerning use, handling, assembly and storage provided by the Company to the Customer.
- 9.3 The Company warrants the Goods to be free from defects in workmanship and materials (under typical use conditions) for a period of 24 months from delivery.
- 9.4 Except where required by law (including the CGA, as applicable) and as otherwise provided in these Terms, the Company provides no warranty or representation in respect of the Goods, including as to the condition or quality of the Goods or as to their suitability or fitness for their ordinary or special use or purpose.
- 9.5 Unless requested by the Customer, the Company is not responsible for obtaining an engineer's producer statement for the Goods.
- 9.6 If the Customer requests a producer statement, such producer statement shall be:
 - 9.6.1 issued at the sole cost of the Customer (including costs for any on-site visits required); and
 - 9.6.2 the Company has no liability whatsoever in respect of the producer statement.

- 9.7 Notwithstanding any other provision of these Terms, the Company shall not be liable:
- 9.7.1 where the Customer has altered or modified the Goods or have subjected them to any unusual or non-recommended use, assembly, loading, storage, or handling or use other than in accordance with the Company's Specifications;
 - 9.7.2 for loss caused by any factors beyond the reasonable control of the Company, including environmental damage or external causes, including accident, abuse or misuse;
 - 9.7.3 normal wear and tear, an act of God, fire, flood, earthquake, war, act or violence or any similar occurrence;
 - 9.7.4 for any indirect or consequential loss of any kind or for any loss of profit or opportunity;
 - 9.7.5 where any required consent, approval or permit has not been previously or properly obtained by the Customer or the terms of any such consent, approval, permit or other requirement have not been complied with; or
 - 9.7.6 where the terms of any written warranty have not been complied with, or any Company instructions (including as to assembly, loading, use or handling) not complied with.
- 9.8 Notwithstanding any provision of these Terms, the maximum aggregate liability of the Company to the Customer in any case will be limited to the purchase price of the Goods supplied pursuant to the relevant Contract.

10. Cancellation

- 10.1 The Customer may not cancel any Order for Goods or part of it without the Company's prior written consent. The Customer will be liable for any costs incurred by the Company up to the time of cancellation.
- 10.2 The Company may, without incurring liability, cancel a Contract if:
- 10.2.1 the Customer becomes insolvent, enters into a scheme of arrangement with creditors (other than with the Company's prior consent) or ceases or threatens to cease to carry on all or a material part of its business, or has a receiver or administrator appointed in respect of any or all of its assets or other steps are taken for its dissolution;
 - 10.2.2 the Customer fails to obtain a building consent (as set out in clause 18);
 - 10.2.3 either party is refused any licences, consents or permits in respect of the Goods;
 - 10.2.4 an extraordinary event occurs or a material change affecting the affairs or the financial condition of the Customer occurs, which gives the Company reasonable grounds to conclude that the Customer may not, or may be unable to, perform or observe its obligations under a Contract; or
 - 10.2.5 the Customer breaches any of these Terms and fails to remedy such breach within five Working Days of receiving written notice of such breach.
- 10.3 The Customer's liability to pay for Goods under these Terms or a Contract will not be affected or negated by the occurrence of an event set out in clause 10.2, even where a Contract has only been partially fulfilled by the Company at the time the event occurs.

11. Indemnity

- 11.1 To the fullest extent permitted by law, the Customer indemnifies the Company against all costs, claims, demands, expenses and liabilities of whatsoever nature, including without prejudice to the generality of the foregoing damage to property and consequential loss (including loss of profits or intellectual property), which may be made against the Company or which the Company may sustain, pay or incur as a result of or in connection with the supply of Goods, unless

such cost, claim, demand, expense or liability shall be directly and solely attributable to the negligence of the Company or the negligence of a duly authorised employee or agent of the Company.

- 11.2 In the event the Company is held to be liable to the Customer, clause 9.8 will apply.

12. Intellectual Property and Confidentiality

- 12.1 The Customer acknowledges that all goodwill, rights, title and interest in all figures, images, drawings, specifications and any other intellectual property of the Company provided to the Customer is at all times owned by the Company.
- 12.2 Any intellectual property created in connection with a Contract or the provision of Goods will vest with, and will be owned solely by, the Company.
- 12.3 Any confidential information received by the Company from the Customer shall be used solely for the supply of Goods under a Contract.
- 12.4 The Customer warrants not to use or forward to any other person any of the Company's intellectual property or confidential information, including all figures, images, drawings and specifications, other than with the prior written consent of the Company.

13. Consumer Guarantees Act 1993

- 13.1 Where the Customer:
- 13.1.1 is a "consumer" (as that term is defined in the CGA) the parties agree that these Terms will be subject to the provisions of the CGA; and
 - 13.1.2 is a "business" (as that term is defined in the CGA) the parties agree that the provisions of the CGA will not apply.

14. Personal Property Securities Act 1999

- 14.1 The Contract constitutes a security interest in all the Customer's present and after acquired personal property including the Goods supplied by the Company to the Customer for the purposes of the Personal Properties Securities Act 1999 as amended or replaced from time to time (PPSA). The Customer agrees that the security interest does not terminate upon the Customer's credit account reducing to zero, and any subsequent credit granted to the Customer after the account has returned to zero shall be covered by the original security interest and shall retain the original priority.
- 14.2 The Company can register or perfect the security interest recognised under clause 14.1 in any means possible in the jurisdiction of the Customer (and any other jurisdiction the Company deems necessary or desires) to ensure that the Company has an enforceable security interest against the Customer in the Goods and all amounts due under the Contract, including any future amounts.
- 14.3 The Customer agrees to promptly execute and deliver to the Company all assignments, transfers and other agreements and documents and do anything else which the Company may deem appropriate to ensure that the Company's security interest over the Customer is enforceable, perfected and otherwise effective, or give any notification in connection with the security interest to obtain the priority required by the Company and enable the Company to exercise its related rights, or register (and renew registration) a financing statement for a security interest in favour of the Company.
- 14.4 Everything the Company is required to do under clause 14.3 above is at the Customer's expense. The Customer agrees to pay or reimburse the Company for any or all of those costs.
- 14.5 To the extent that Part 9 of the PPSA applies:
- 14.5.1 the Customer agrees that the provisions of sections 114(1)(a), 120(1), 122, 133 and 134 of the PPSA which are for the Customers benefit, or place any

obligations on the Company in the Customers favour, shall not apply; and

- 14.5.2 the Customer 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 the Company.

- 14.6 The Customer indemnifies the Company from and against all costs and disbursements (including solicitor client costs) incurred by the Company in exercising or enforcing its rights under this clause.

15. Privacy

- 15.1 The Customer agrees that the Company may collect, hold, use and disclose personal information in respect of the Customer, its directors, shareholders, staff or clients, for the purpose of enforcing its rights and carrying out its obligations under these Terms in accordance with the Company's privacy policy at stackit.co.nz.
- 15.2 The Company may also collect, hold, use and disclose personal information for the purpose of keeping the Customer up to date with its services (i.e. marketing), any purpose advised to the Customer at the time of collection, or as otherwise permitted under the Privacy Act 2020. Where the Customer provides information relating to any individual, the Customer will ensure it has all relevant consents required for such purposes.
- 15.3 Where personal information is held by the Company, the individual shall have the right to request access to, and correction of, such personal information. Refer to the privacy policy at the Company's website for further details.

16. Disputes

- 16.1 If a dispute arises (**Dispute**) between the parties in relation to the supply of Goods then the parties will endeavour to settle the Dispute by way of good faith negotiation. If the parties are unable to resolve the dispute within five Working Days, the Dispute shall be resolved in accordance with clause 16.2.
- 16.2 In the event that the Dispute is not resolved by negotiation, the matter may be referred to mediation by any party by written notice. In the event that the matter is referred to mediation, the parties shall agree within five Working Days of the matter being referred to mediation on a mediator.
- 16.3 In the event the Dispute is not resolved by a completed mediation within a further 20 Working Days, each of the Company and the Customer may take any action relating to the Dispute as it sees fit, including in a Court of competent jurisdiction.
- 16.4 The parties agree that all Disputes will be resolved in accordance with the procedures set out in this clause 16, however this clause 16 does not prevent any party from seeking urgent interlocutory or declaratory relief from a competent jurisdiction where, in that party's reasonable opinion, that action is necessary to protect that party's rights.

17. General

- 17.1 If any part of these Terms is held to be unenforceable, the part concerned will be deleted or modified to the minimum possible extent necessary the remainder of the Terms enforceable will remain in force.
- 17.2 No delay or failure by the Company to exercise its rights under the Contract operates as a waiver of those rights.
- 17.3 The Customer may not assign or transfer any of its rights or obligations under or in connection with the Contract to any third party without the prior written consent of the Company.
- 17.4 The Company reserves the right to assign, transfer or sub-contract the performance of the Contract or any part of the Contract to any other party or person.
- 17.5 Subject to clause 17.6, any variations to the Contract must be agreed in writing between the parties.

- 17.6 The Company may amend these Terms from time to time by giving the Customer 10 Working Days' notice in writing of such amendments. Amendments to these Terms will be effective and binding as between the parties in respect of any Order placed after the time the updated Terms are notified to the Customer.

- 17.7 The Customer agrees that the Company may obtain information about the Customer from any source including credit assessment and debt collecting and the Customer consents to any person providing the Company with such information. If reasonably required by the Company, the Customer will procure any director, shareholder, partner or guarantor of the Customer to consent to a credit check being performed on that person and the Customer will procure such person to sign any necessary consent form reasonably required by the Company for such purpose.

- 17.8 The Customer will pay all costs and expenses (including legal fees) incurred by the Company in exercising any of its rights under the Contract.

- 17.9 Any notice given by one party to the other will be deemed to have been delivered 48 hours after posting to the recipient's registered office or last known address and immediately, if provided by email (provided no transmission failure message is received within 24 hours).

- 17.10 The Contract will be governed by and construed in accordance with the laws of New Zealand and the Customer agrees to submit to the non-exclusive jurisdiction of the New Zealand Courts.

18. Building Act 2004

- 18.1 Where the Order for Goods constitutes Building Work for the purposes of the Building Act 2004 (**Act**), the Customer is responsible for obtaining any necessary building consent, approval and certificate in order to ensure compliance with the Act and Building Code prior to the supply of the Goods.
- 18.2 Where the Customer fails to obtain any necessary consent within a reasonable period of time and prior to installation of the Goods, the Company may terminate the Contract.
- 18.3 Except when due to the fault of the Company, the Customer shall indemnify the Company for all costs, losses and expenses incurred as a result of the failure to obtain any required consent.

19. Local Authority Compliance

- 19.1 The Customer acknowledges that it is responsible for obtaining any local authority consent in accordance with regulations or bylaws in respect of the Goods (unless otherwise provided for by the Company in the Proposal).
- 19.2 Where the Company has been engaged to obtain local authority consent, this shall be at the sole cost of the Customer.
- 19.3 The Customer indemnifies the Company for all and any costs incurred by the Company (including legal fees on a solicitor client basis) arising as a result of the Customers non-compliance with local authority rules or regulations including any action taken by any local authority against the Company in respect of the Act or any regulations or code under the Act.