

# Pine New Zealand Group Limited – Terms & Conditions of Trade

1.	<p><b>Definitions</b></p> <p>"Pine NZ" shall mean Pine New Zealand Group Limited, its successors and assigns or any person acting on behalf of and with the authority of Pine NZ.</p> <p>"Customer" shall mean the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any quotation, work authorisation or other form as provided by Pine NZ to the Customer.</p> <p>"Guarantor" shall mean that person (or persons) who agrees to be liable for the debts of the Customer as a principal debtor basis.</p> <p>"Products" and "Products &amp; Services" shall mean all or any products, Products or Products &amp; Services, services and advice provided by Pine NZ to the Customer including the provision of design or consultation services and the supplier of all timber and prefabricated timber and other building construction related products, installation and all associated products and services and all of the Customer's present and after delivered products that Pine NZ has performed work on or two or in which Products supplied by Pine NZ have been attached or incorporated.</p> <p>"Price" shall mean the price payable for the Products or Products &amp; Services as agreed between PINE NZ and the Customer in accordance with clause 4 of this contract.</p>	6.3	<p>Pine NZ's rights to receive the insurance proceeds without the need for any person dealing with Pine NZ to make further enquiries.</p> <p>The dimensions of all Products or Products &amp; Services supplied by Pine NZ have been taken from plans, specifications, measurements and information supplied by the Customer and the Customer warrants that such plans, specifications, measurements and information is correct and accepts sole responsibility for their accuracy. Any statements made by Pine NZ as to weight, length, quantity or other characteristics of Products or Products &amp; Services are approximate, and Pine NZ may supply Products or Products &amp; Services on either an actual or calculated basis, where applicable.</p> <p><b>Timber Classes</b></p> <p>Timber is a hygroscopic material subject to expansion and contraction; therefore Pine NZ will accept no responsibility for timber exposed to the elements after delivery.</p> <p>The Customer acknowledges that Products or Products &amp; Services supplied may:</p> <p>(a) exhibit variations in shade, colour, texture, surface, finish, markings and may contain natural fissures, occlusions, lines, indentations and may fade or change colour over time; and</p> <p>(b) expand, contract or distort as a result of exposure to moisture, heat, cold, weather; and</p> <p>(c) mark or stain if exposed to certain substances; and</p> <p>(d) be damaged or disfigured by impact or scratching.</p>	15.	<p><b>Default and Consequences of Default</b></p> <p>Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Pine NZ's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.</p> <p>In the event that the Customer's payment is dishonoured for any reason the Customer shall be liable for any dishonour fees incurred by Pine NZ.</p> <p>If the Customer defaults in payment of any invoice when due, the Customer shall indemnify Pine NZ from and against all costs and disbursements incurred by Pine NZ in pursuing the debt including legal costs on a solicitor and own client basis and Pine NZ's collection agency costs.</p> <p>Without prejudice to Pine NZ's other remedies Pine NZ may have, if at any time the Customer is in breach of any obligation (including those relating to payment) Pine NZ may suspend or terminate the supply of Products or Products &amp; Services to the Customer and any of its other obligations under the terms and conditions. Pine NZ will not be liable to the Customer for any loss or damage the Customer suffers because Pine NZ has exercised its rights under this clause.</p> <p>Without prejudice to Pine NZ's other remedies at law Pine NZ shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Pine NZ shall, whether or not due for payment, become immediately payable in the event that:</p> <p>(a) any money payable to Pine NZ becomes overdue, or in Pine NZ's opinion the Customer will be unable to meet its payments as they fall due; or</p> <p>(b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or</p> <p>(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.</p>
2.	<p><b>Consumer Guarantees Act 1993</b></p> <p>The Customer is acquiring Products or Products &amp; Services for the purposes of a trade or business. The Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Products or Products &amp; Services by Pine NZ to the Customer.</p>	8.	<p><b>Installation of the Products or Products &amp; Services</b></p> <p>The Customer indemnifies Pine NZ against all claims resulting from installation of the Products or Products &amp; Services where the installation is:</p> <p>(a) defective; or</p> <p>(b) at variance with installation guidelines provided by manufacturers; or</p> <p>(c) at variance with accepted industry standards.</p>	16.	<p><b>Security and Charge</b></p> <p>Despite anything to the contrary contained herein or any other rights which Pine NZ may have however:</p> <p>(a) where the Customer and the Guarantor (if any) is the owner of an interest in land, or any other asset capable of being charged, both the Customer and the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land or any other asset to Pine NZ or Pine NZ's nominee to secure all amounts and other monetary obligations payable under these terms and conditions and for that purpose will, if called upon to execute in favour of Pine NZ, a registered mortgage in such form as Pine NZ may require. The Customer and the Guarantor acknowledge and agree that Pine NZ (or Pine NZ's nominee) shall be entitled to lodge where appropriate a caveat or register a mortgage which will be withdrawn or discharged once all payments and other monetary obligations payable hereunder have been met.</p> <p>(b) and should Pine NZ elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and Guarantor shall indemnify PINE NZ from and against all Pine NZ's costs and disbursements including legal costs on a solicitor and own client basis.</p> <p>(c) the Customer and the Guarantor (if any) agree to irrevocably nominate constitute and appoint Pine NZ or Pine NZ's nominee as the Customer's and Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 16.1.</p>
3.	<p><b>Acceptance</b></p> <p>Any instructions received by Pine NZ from the Customer for the supply of Products or Products &amp; Services and/or the Customer's acceptance of Products or Products &amp; Services supplied by Pine NZ shall constitute acceptance of the terms and conditions contained herein.</p> <p>Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.</p> <p>Upon acceptance of these terms and conditions by the Customer the terms and conditions are binding and can only be amended with the written consent of Pine NZ.</p> <p>The Customer shall give Pine NZ not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer or any change in the Customer's name and/or any other change in the Customer's details (including but not limited to, changes in the Customer's address, facsimile number, or business practice). The Customer shall be liable for any loss incurred by Pine NZ as a result of the Customer's failure to comply with this clause.</p> <p>Products or Products &amp; Services and Services are supplied by Pine NZ only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Customer's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.</p> <p>None of Pine NZ's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of Pine NZ in writing nor is Pine NZ bound by any such unauthorised statements.</p>	8.1	<p><b>Title</b></p> <p>Pine NZ and Customer agree that ownership of the Products or Products &amp; Services shall not pass until:</p> <p>(a) the Customer has paid Pine NZ all amounts owing for the particular Products or Products &amp; Services; and</p> <p>(b) the Customer has met all other obligations due by the Customer to Pine NZ in respect of all contracts between Pine NZ and the Customer.</p> <p>Receipt by Pine NZ of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised until then Pine NZ's ownership or rights in respect of the Products or Products &amp; Services shall continue.</p> <p>It is further agreed that:</p> <p>(a) where practicable the Products or Products &amp; Services shall be kept separate and identifiable until Pine NZ shall have received payment and all other obligations of the Customer are met and</p> <p>(b) until such time as ownership of the Products or Products &amp; Services shall pass from Pine NZ to the Customer Pine NZ may give notice in writing to the Customer to return the Products or Products &amp; Services or any of them to Pine NZ. Upon such notice being given the rights of the Customer to obtain ownership or any other interest in the Products or Products &amp; Services shall cease; and</p> <p>(c) the Customer is only a bailee of the Products or Products &amp; Services and until such time as Pine NZ has received payment in full for the Products or Products &amp; Services then the Customer shall hold any proceeds from the sale or disposal of the Products or Products &amp; Services, up to and including the amount the Customer owes to Pine NZ for the Products or Products &amp; Services, on trust for Pine NZ; and</p> <p>(d) until such time that ownership in the Products or Products &amp; Services passes to the Customer if the Products or Products &amp; Services are converted into other products, the parties agree that Pine NZ will be the owner of the end products; and</p> <p>(e) if the Customer fails to return the Products or Products &amp; Services to Pine NZ then Pine NZ or Pine NZ's agent may (as the invitee of the Customer) enter upon and into land and premises occupied or used by the Customer, or premises where the Products or Products &amp; Services are situated and take possession of the Products or Products &amp; Services, and Pine NZ will not be liable for any reasonable loss or damage suffered as a result of any action by Pine NZ under this clause.</p>	16.1	<p><b>Cancellation</b></p> <p>In the event that the Customer cancels delivery of the Products or Products &amp; Services the Customer shall be liable for any loss incurred by Pine NZ (including, but not limited to, any loss of profits) up to the time of cancellation.</p> <p>Cancellation of orders for Products or Products &amp; Services made to the Customer's specifications or non-stock list items will definitely not be accepted, once production has commenced.</p>
4.	<p><b>Price and Payment</b></p> <p>At Pine NZ's sole discretion the Price shall be either:</p> <p>(a) as indicated on invoices provided by Pine NZ to the Customer in respect of Products or Products &amp; Services supplied; or</p> <p>(b) Pine NZ's Price at the date of delivery of the Products or Products &amp; Services according to Pine NZ's current price list; or</p> <p>(c) Pine NZ's quoted Price (subject to clause 4.2) which shall be binding upon Pine NZ provided that the Customer shall accept Pine NZ's quotation in writing within thirty (30) days.</p> <p>Pine NZ reserves the right to change the Price in the event of a variation to Pine NZ's quotation, and to increase the price of Products or Products &amp; Services or Services if the price increase results from an increase of the price of any inputs which comprise part of the Products or Products &amp; Services or Services, arising after the date of quotation and prior to delivery of the Products or Products &amp; Services or performance of the Services.</p> <p>At Pine NZ's sole discretion:</p> <p>(a) a deposit may be required or progress payments for Products manufactured for the Customer by Pine NZ; and/or</p> <p>(b) payment shall be due on delivery of the Products or Products &amp; Services; or</p> <p>(c) payment shall be due before delivery of the Products or Products &amp; Services; or</p> <p>(d) payment for credit-approved Customers shall be due twenty (20) days following the end of the month in which the invoice is dated; or</p> <p>(e) in the case of partial completion of products manufactured for the Customer by Pine NZ, Pine NZ shall be entitled to a quantum meruit payment in respect of all work done by it without prejudice to its rights should noncompletion be occasioned by acts or defaults of the Customer.</p> <p>Any credit limit approved by Pine NZ may be reviewed by Pine NZ from time to time at its sole discretion. The credit limit may be increased or reduced by Pine NZ following the review without the need to give notice to the customer for the increase or reduction.</p> <p>The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by PINE NZ nor to withhold payment of any invoice or to deduct any part of any invoice in dispute.</p> <p>Time for payment shall be of the essence and will be stated on the invoice, quotation or any other forms. If no time is stated then payment shall be due on delivery of the Products or Products &amp; Services.</p> <p>Payment will be made by direct credit, cash, or by credit card (surcharge applies), or by direct credit, or by any other method as agreed to between the Customer and Pine NZ.</p> <p>Products or Products &amp; Services and Services Tax and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.</p> <p>Pine NZ will keep a record of transactions with the Customer by way of monthly statements. If the Customer disputes any such record of transaction then written notice of the dispute must be given to Pine NZ during the month succeeding that in which the transaction in dispute occurred for any proper objection made by Pine NZ, each monthly statement shall be taken as a complete and correct record.</p>	9.	<p><b>Personal Property Securities Act 1999 ("PPSA")</b></p> <p>Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:</p> <p>(a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and</p> <p>(b) a security interest is taken in all Products or Products &amp; Services previously supplied by Pine NZ to the Customer (if any) and all Products or Products &amp; Services supplied in the future by Pine NZ to the Customer; and</p> <p>(c) in addition the Customer gives Pine NZ a security interest on all other present and after acquired property and the right to appoint a Receiver under the Receivership Act 1993, treating this application as a "general security agreement" signed by the Customer.</p> <p>The Customer undertakes to:</p> <p>(a) sign any further documents and/or provide any further information (such as information to be complete, accurate and up-to-date in all respects) which Pine NZ may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;</p> <p>(b) indemnify, and upon demand reimburse, Pine NZ for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Products or Products &amp; Services charged thereto;</p> <p>(c) not register a financing change statement or a change demand without the prior written consent of Pine NZ; and</p> <p>(d) immediately advise Pine NZ of any material change in its business practices of selling the Products or Products &amp; Services which would result in a change in the nature of proceeds derived from such sales.</p>	17.	<p><b>Privacy Act 2020</b></p> <p>The Customer and the Guarantor/s (if separate to the Customer) authorises PINE NZ to:</p> <p>(a) collect, retain and use any information about the Customer and/or Guarantors, for the purpose of assessing the Customer's and/or Guarantors creditworthiness or marketing products and services to the Customer and/or Guarantors; and</p> <p>(b) disclose information about the Customer and/or Guarantors, whether collected by Pine NZ from the Customer and/or Guarantors directly or obtained by Pine NZ from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer and/or Guarantors.</p>
5.	<p><b>Delivery of the Products or Products &amp; Services</b></p> <p>At Pine NZ's sole discretion delivery of the Products or Products &amp; Services shall take place when the Products or Products &amp; Services are delivered to the Customer's nominated Products or Products &amp; Services carrier. Pine NZ's Products &amp; Services are delivered by Pine NZ or Pine NZ's nominated carrier).</p> <p>At Pine NZ's sole discretion the costs of delivery are in addition to the Price and, where applicable, charged to the Customer's account. Time lost when vehicles are immobilized by being required by the Customer, or the Customer's agent, to deliver off roads will be charged at appropriate hourly rates, plus recovery charges. Pine NZ shall not be liable for damage to property caused upon entering premises to deliver the Products or Products &amp; Services. The Customer will indemnify Pine NZ against any third party claim arising in respect of such damage.</p> <p>The Customer shall make all arrangements necessary to take delivery of the Products or Products &amp; Services whenever they are tendered for delivery and shall ensure that Pine NZ is provided with reasonable access to the delivery address together with adequate parking. In the event that the Customer is unable to take delivery of the Products or Products &amp; Services as arranged then Pine NZ shall be entitled to charge a reasonable fee for redelivery.</p> <p>Delivery of the Products or Products &amp; Services to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.</p> <p>PINE NZ may deliver the Products or Products &amp; Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.</p> <p>The Customer shall take delivery of the Products or Products &amp; Services tendered notwithstanding that the quantity so delivered shall be either greater or lesser than the quantity purchased provided that:</p> <p>(a) such discrepancy in quantity shall not exceed 5%; and</p> <p>(b) the Price shall be adjusted pro rata to the discrepancy.</p> <p>The failure of Pine NZ to deliver shall not entitle either party to treat this contract as repudiated.</p> <p>Pine NZ shall not be liable for any loss or damage whatsoever due to failure by Pine NZ to deliver the Products or Products &amp; Services (or any of them) promptly or at all, where due to circumstances beyond the control of Pine NZ.</p> <p>Pine NZ may choose the carrier and the method of transport unless otherwise agreed by Pine NZ and the Customer.</p> <p>Any delivery date agreed by Pine NZ is approximate only, and no delay in delivery will entitle the Customer to cancel its order for the Products or Products &amp; Services or to claim compensation or damages of any type.</p> <p>On delivery, the Products are at the Customer's sole risk and with effect from the time of delivery the Customer will have in place all risks insurance to cover both its interest as bailee of the Products or Products &amp; Services and Pine NZ's interest as owner of the Products or Products &amp; Services pursuant to clause 9.</p> <p>If Pine NZ believes that the Customer may not make any payment when due then Pine NZ may suspend or cancel any delivery.</p>	10.	<p><b>Defects</b></p> <p>The Customer shall inspect the Products or Products &amp; Services on delivery and shall within fourteen (14) days of delivery (time being of the essence) notify Pine NZ of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford Pine NZ an opportunity to inspect the Products or Products &amp; Services within a reasonable time following delivery, and prior to installation, if the Customer believes the Products or Products &amp; Services are defective in any way. The right to determine whether or not the Products or Products &amp; Services are defective shall be entirely at Pine NZ's sole discretion. If the Customer shall fail to comply with these provisions the Products or Products &amp; Services shall be presumed to be free from any defect or damage. For defective Products or Products &amp; Services, which Pine NZ has agreed in writing that the Customer is entitled to reject, Pine NZ's liability is limited to either (at Pine NZ's discretion) replacing the Products or Products &amp; Services, repairing the Products or Products &amp; Services or a refund of the purchase price of the Products or Products &amp; Services.</p>	18.	<p><b>General</b></p> <p>If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.</p> <p>These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.</p> <p>Pine NZ may license or sub-contract all or any part of its rights and obligations without the Customer's consent.</p> <p>Pine NZ reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which Pine NZ notifies the Customer of such change.</p> <p>The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if section 15(4) were omitted from the Contractual Remedies Act 1979.</p> <p>Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.</p> <p>The failure by Pine NZ to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Pine NZ's right to subsequently enforce that provision.</p>
6.	<p><b>Risk</b></p> <p>If Pine NZ retains ownership of the Products or Products &amp; Services nonetheless, all risk for the Products or Products &amp; Services passes to the Customer on delivery, including any damage or loss arising while Products or Products &amp; Services are unloaded. Where the Customer expressly requests Pine NZ to deliver the Products or Products &amp; Services to an unattended location then such Products or Products &amp; Services shall be left at the Customer's sole risk and it shall be the Customer's responsibility to ensure the Products or Products &amp; Services are insured adequately or at all.</p> <p>If any of the Products or Products &amp; Services are damaged or destroyed following delivery prior to ownership passing to the Customer, Pine NZ is entitled to receive all insurance proceeds payable for the Products or Products &amp; Services. The production of these terms and conditions by Pine NZ is sufficient evidence of</p>	11.	<p><b>Returns</b></p> <p>Products or Products &amp; Services made to the Customer's specifications are under no circumstances acceptable for credit or return.</p>	19.	<p><b>Customer's Disclaimer</b></p> <p>The Customer hereby disclaims any right to rescind, or cancel any contract with Pine NZ or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Customer by Pine NZ and the Customer acknowledges that the Products or Products &amp; Services are bought relying solely upon the Customer's skill and judgment.</p>
7.	<p><b>Intellectual Property</b></p> <p>Where Pine NZ has designed, drawn or written Products or Products &amp; Services for the Customer, then the copyright in those designs and drawings and documents shall remain vested in Pine NZ, and shall only be used by the Customer at Pine NZ's discretion.</p> <p>The Customer warrants that all designs or instructions to Pine NZ will not cause Pine NZ to infringe any patent, registered design or trademark in the execution of the Products or Products &amp; Services and the Customer agrees to indemnify Pine NZ against any action taken by a third party against Pine NZ in respect of any such infringement.</p> <p>The Customer agrees that Pine NZ may use any documents, designs, drawings or Products or Products &amp; Services created by Pine NZ for the purposes of advertising, marketing, or entry into any competition.</p>	12.	<p><b>Warranty and Limitation of Liability</b></p> <p>To the extent permitted by statute, no warranty is given by Pine NZ as to the quality or suitability of the Products or Products &amp; Services for any purpose and any implied warranty, is expressly excluded. Pine NZ shall not be responsible for any loss or damage to the Products or Products &amp; Services, or caused by the Products or Products &amp; Services, or any part thereof however arising.</p> <p>Pine NZ's liability to the Customer (and any party claiming through the Customer against Pine NZ) for any claim for loss or damages made in connection with the supply of Products or Products &amp; Services or Services whether for breach of contract, tort, under statute, in equity or otherwise is strictly limited to:</p> <p>(a) for Products or Products &amp; Services, the cost of replacement of the defective Products or Products &amp; Services or the repair of the defective Products or Products &amp; Services or the repayment (or allowance) of the invoiced price of the defective Products or Products &amp; Services at Pine NZ's option;</p> <p>(b) for Services to the provision of the Services against or payment of the cost of having the relevant Services provided again at Pine NZ's cost.</p> <p>Pine NZ shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Pine NZ of these terms and conditions.</p>	20.	<p><b>Waiver</b></p> <p>The failure by Pine NZ to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Pine NZ's right to subsequently enforce that provision.</p>