

Alpha Drain Unblocking Limited

Terms and Conditions of Trade

DEFINITIONS

1. In these terms and conditions:
 - a) "Alpha Drain" means Alpha Drain Unblocking Limited and (if applicable) its related companies, successors, assigns and authorised agents;
 - b) "Customer" means the person, firm, company or entity purchasing services from Alpha Drain;
 - c) "invoice" includes any written quotation and other contractual document issued by Alpha Drain;
 - d) "services" means all services provided by Alpha Drain to the Customer or at the Customer's request including labour, technical information, and advice; and
 - e) "materials" means materials used in connection with provided the services.

TERMS AND CONDITIONS PARAMOUNT

2. Except as expressly agreed in writing these terms and conditions shall apply to and govern all contracts and other dealings between Alpha Drain and the Customer notwithstanding any statement to the contrary in any order or other document of the Customer.
3. The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the goods/services.
4. No Customer order shall bind Alpha Drain unless accepted by Alpha Drain. Alpha Drain reserves the right to accept or decline any Customer Order.
5. The Customer shall be responsible for ensuring the accuracy of any written or verbal order, any application specifications, and any service agreements.
6. In the event of any inconsistency between the terms and conditions of trade and any other prior document that the parties have entered into, the terms shall prevail. Any amendment to the terms and conditions may only be amended in writing by the consent of both parties.

PERFORMANCE OF SERVICES

7. Alpha Drain will endeavour to provide services within any timeframes requested by the Customer, but Alpha Drain shall not be liable for any loss to the Customer caused by any delay. Alpha Drain reserves the right to provide services by instalments and failure by Alpha Drain to complete performance of the services in any one or more instalment(s) shall not entitle the Customer to cancel the contract as a whole.

PRICE

8. The Customer shall pay the price stated on Alpha Drain's invoice, which Alpha Drain reserves the right to correct (if required).
9. Any published prices for services and materials are indications only. Prices are therefore subject to alteration without prior notice and any prices at the time of performance of the services applies.
10. Services provided by Alpha Drain shall be charged on the basis of time charged at Alpha Drain's rates in force from time-to-time or as per the service agreement price agreed to. The Customer shall pay for all materials used and all other out-of-pocket expenses incurred by Alpha Drain in connection with the provision of services, including (but not limited to) equipment hireage costs, travelling expenses and disposal fees where applicable.
11. If a deposit or any component of the purchase price has been recorded as non-refundable on Alpha Drain's invoice, then the Customer shall not be entitled to a refund of any amount so paid in the event of cancellation or termination of this contract any reason whatsoever.

PAYMENT

12. Unless prior agreement has been obtained from Alpha Drain, payment is required seven (7) days from date of invoice. The Customer shall pay in full all accounts and amounts owed to Alpha Drain by the payment date.
13. Time for payment shall be of the essence. In the event that payment is not received by the due date default interest may be charged by Alpha Drain at a rate equivalent to 2.5% per month calculated on a

monthly basis on all monies outstanding for the period during which the payment has been overdue until all monies including default interest have been paid in full. All payments received applied first in payment of default interest (if any).

14. The Customer authorises Alpha Drain to obtain at any time from any person or entity any information that Alpha Drain may require for the purpose of assessing the Customer's creditworthiness and the Customer irrevocably authorises and requests all such person and entitles to releases to Alpha Drain any personal information held concerning the Customer. The Customer agrees that in the event of its default Alpha Drain may provide details of that default and personal information relating to the Customer to any credit agency so that such credit agency can maintain effective records.

DEFAULT

15. If the Customer fails to pay any amount owed to Alpha Drain by the due date, or fails to comply with any other obligation owed to Alpha Drain, then without prejudice to any of its other rights, remedies and powers Alpha Drain may:
 - a) Cancel any contract and/or suspend further provision of services to the Customer
 - b) Enter the Customer's premises or any other premises that the Customer is authorised to enter and retake possession of materials and sell them without being liable in any way to the Customer. Furthermore, the Customer shall indemnify Alpha Drain for all costs (including legal costs on a solicitor and own client basis), claims by third parties or whatsoever in retaking possession and selling goods.
 - c) Appoint a receiver pursuant to the Receiverships Act 1993 in respect of the Property (including their proceeds) and any such receiver may take possession of the materials and sell them and otherwise exercise all rights and powers conferred on a receiver by law.
16. Notwithstanding any other provision of these terms and conditions, Alpha Drain may at any time by notice in writing suspend or terminate the Customer's credit Account or any other agreed trading terms and require immediate payment by the Customer of all amounts owed to Alpha Drain and Alpha Drain shall be entitled to exercise the powers set out in the preceding paragraphs 15(a), (b) and (c).
17. No representation, warranty or undertaking in relation to the services has been or is made or given by or on behalf of Alpha Drain in relation thereto as to the suitability of the service.
18. All claims for defective services must be in writing to Alpha Drain within seven days of the provision of the services. Any claims not made within seven days will be deemed waived by the Customer.
19. Alpha Drain shall have no liability in respect of any defect arising from misuse, wilful damage, negligence, failure to follow instructions, unauthorised alteration or modification, abnormal working conditions or fair wear and tear.
20. Alpha Drain shall have sole right to decide whether services are capable of repair and Alpha Drain's liability (if any) in respect of services shall be limited as follows:
 - a) Where services are capable of repair, the payment of the cost of having the services re-provided; or
 - b) Where services cannot be re-provided, the payment of the original cost of providing the services
21. No guarantee or warranty is given, and no obligation incurred, by Alpha Drain in respect of materials or components not manufactured by Alpha Drain, in respect of which the Customer shall only be benefit of any guarantee or warranty given to Alpha Drain by the manufacturer or supplier provided that Alpha Drain shall not be required to pay or incur any cost in relation thereto.
22. All services provided by Alpha Drain are provided in good faith on the basis of the information provided by the Customer. If the Customer alleges defects in Alpha Drain's workmanship then the Customer shall immediately notify in Alpha Drain in writing. Failure to notify Alpha Drain in writing shall constitute a waiver by the Customer of its rights against Alpha Drain in respect of any such alleged defect. Alpha Drain shall only be liable to rectify defects in its workmanship arising during the period of seven days after completion of provision of services. Alpha Drain shall have no liability where any services performed or materials supplied have been re-installed, modified, not maintained, or improperly maintained or improperly used. Any rectification work required to be carried out by Alpha Drain shall be carried out at a time stipulated by Alpha Drain.
23. No guarantee, warranty, representation, or statement shall be binding on Alpha Drain unless made in writing by a director or senior officer of Alpha Drain. Except as expressly defined in these terms and conditions all warranties and conditions, whether implied by law or otherwise, are excluded and Alpha Drain shall have no liability whatsoever to the Customer. Alpha Drain shall not be liable to the

Customer for any indirect, loss or damage even if such loss were reasonably foreseeable or Alpha Drain had been advised of the possibility of the Customer incurring same. If it is held that Alpha Drain has any liability to the Customer then, except as expressly defined in these terms and conditions, the liability of Alpha Drain to the Customer shall not exceed the lesser of:

- a) The value of the services provided or materials, the subject of any claim; or
- b) The contract price

- 24. Alpha Drain shall have no liability arising from, and may correct at any time, any typographical, clerical or other error or omission in any document or information issued by it.
- 25. Nothing in these terms and conditions shall affect the rights of the Customer under the Consumer Guarantees Act 1993 provided that if the Customer is, or holds itself out to be, acquiring the services for the purposes of a business then the guarantees under the Consumer Guarantees Act 1993 are excluded.

GUARANTEE AND INDEMNITY

- 26. If the Customer is a director of a Company or a trustee of a Trust:
 - In exchange for Alpha Drain agreeing to supply goods and services and/or grant credit to the Company or the Trust, the Customer also sign this agreement in their personal capacity, and jointly and severally personally undertake as principal debtors, to pay everything that the Company or Trust owes Alpha drain, and to indemnify Alpha Drain against non-payment and/or default; and
 - Any personal liability of the Customer as director or trustee will not exclude the Company or Trust from the liabilities and obligations contained in this agreement.
- 27. A guarantee provided under 26 will continue to apply notwithstanding changes to these terms of trade.

WAIVER

- 28. These terms and conditions remain in force notwithstanding any neglect, forbearance, or delay in enforcement. Alpha Drain shall not be deemed to have waived any term or condition unless such waiver shall be in writing and signed by a director or senior officer of Alpha Drain and any such waiver shall apply only to be the particular transaction to which it refers.

SEVERABILITY

- 29. If any clause or provision of these terms and conditions shall be held unenforceable by any authority having competent jurisdiction, such judgement shall not affect the remaining provisions shall remain in full force and effect as if such clause or provision held to be unenforceable had not been included.

PERSONAL PROPERTY SECURITIES ACT 1999 (PPSA)

- 30. The Customer grants in favour of Alpha Drain a charge overall services supplied by Alpha Drain where such services have been delivered or supplied but the Customer has not paid all moneys owed to Alpha Drain and over all the Customer's present and after-acquired property supplied by Alpha Drain, and such charge shall be a "security interest" for the purposes of the PPSA and shall secure payment of all moneys owed by the Customer to Alpha Drain including interest and other amounts payable under these terms and conditions and the costs of registering such security interest.
- 31. Where a charge granted over any services is a register-able security interest under the PPSA the following shall apply:
 - a) The Customer irrevocably appoints Alpha Drain as the Customer's attorney to do anything required to register the security interest on the Personal Property Securities Register including the authority to make such inquiries and obtain such information from third parties as is necessary or desirable to register the security interest.
 - b) The customer consents to the collection from any third party of any information necessary or desirable to register the security interest
 - c) The Customer will provide such information and do such acts and execute such further documents as in the opinion of Alpha Drain may be necessary or desirable to enable Alpha Drain to register under the PPSA the security interest as a first priority interest or with such other priority as Alpha Drain may agree in writing
- 32. The Customer shall not challenge in any way Alpha Drain's right to register the security interest

33. The Customer shall not seek to obtain or register a discharge of the security interest without the prior written consent of Alpha Drain
34. The Customer agrees that sections 114(1)(a), 116, 117(1)(c), 119, 120(2), 121, 125 to 127, 129 and 131 to 133 of the PPSA shall not apply to these terms and conditions or the security created.
35. The Customer waives the right to receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to the security interest created by these terms and conditions
36. The Customer must not change its name without first notifying Alpha Drain of the new name not less than seven days before the change takes effect
37. The Customer must not allow or permit the creation of a lien over any goods prior to the payment in full to Alpha Drain of all moneys owed by the Customer to Alpha Drain
38. The Customer will upon demand pay all Alpha Drain's expenses and legal costs in connection with the registration of a financing statement or financing change statement relating to the security interest created by these terms and conditions or of obtaining an order under section 167 of the PPSA
39. If all moneys owed by the Customer have been paid to Alpha Drain in full, including all moneys payable under these terms and conditions, Alpha Drain shall at the request of the Customer and at the Customer's cost, register a discharge of the security interest.

GOVERNING LAW

40. The contract shall be governed by the law of NZ and the parties subject to the non-exclusive jurisdiction of the Courts of NZ