



# CREDIT ACCOUNT APPLICATION FORM

Please attach a current Company Extract from the Companies Office.

**Document Preview**

[Company Extract for INFRAPIPE LIMITED](#)  
 Email the Company Extract  
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Name (applicants full legal name –i.e. not Trading name)

Status  Individual  Limited Company

Other (please specify)

Trading As

Postal Address

Physical Address

Nature of Business  Years in Business

Contact person (Primary Contact)

Telephone  Mobile

Accounts Payable Email  Accounts Payable Phone

Accountant

Solicitor

Bank  Branch



## TRADE REFERENCES

Company	Contact	Phone	Account Opened since

I warrant that the attached Company Extract from the NZ Companies Office is a true and correct record of the applicant company as detailed above.

I have read and agree to be bound by the terms and conditions of trade as attached, and any further terms and conditions which accompany any subsequent quotes, including but not limited to INFRAPIPE's projects terms and conditions.

I warrant to INFRAPIPE Ltd that the above information is to the best of my knowledge, information and belief true and correct and that I am duly authorised to enter into the application and future contracts on behalf of the customer.

Signed

Print Name

Designation

Date

**Please also read and initial the Terms of Trade pages and return to INFRAPIPE Ltd.**



## GUARANTEE AND INDEMNITY

**IN CONSIDERATION** of \_\_\_\_\_ (“the seller”) supplying and continuing to supply goods and/or services to \_\_\_\_\_ (“the customer”).

### **I/WE JOINTLY AND SEVERALLY:**

1. **GUARANTEE** the payment on demand to the seller of all moneys now owing to the seller by the Customer and all further sums of money from time to time owing to the seller by the Customer in respect of goods and services supplied or to be supplied by the seller to the Customer or any other liability of the Customer to the seller.
2. **HOLD HARMLESS AND INDEMNIFY** the seller on demand, as a separate obligation, against any liability (including but not limited to damages, costs, losses, and legal fees) incurred by or assessed against the seller in connection with:
  - the supply of goods or services to the Customer; or
  - the recovery of moneys owing to the seller by the Customer including the enforcement of this guarantee; or
  - moneys paid by the seller with the Customer's consent in settlement of a dispute that arises or results from a dispute between, the seller, the Customer, and a third party, or any combination thereof, over the supply of goods or services by the seller to the Customer.
3. **ACKNOWLEDGE** this Guarantee and Indemnity shall constitute an unconditional and continuing guarantee and indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of moneys owing to the seller by the Customer and all obligations herein have been fully paid, satisfied, and performed.
4. **FURTHER ACKNOWLEDGE** that no granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the seller's part (whether in respect of the Customer or any one or more of any other guarantor(s) or otherwise) and no failure by any named guarantor to properly execute this deed shall impair or limit the liability under this Guarantee and Indemnity of any guarantor. Without affecting the Customer's obligations to the seller, each guarantor shall be a principal debtor and liable to the seller accordingly.
5. I/We irrevocably authorise the seller to obtain from any person or company any information which the seller may require for credit reference purposes. I/We further irrevocably authorise the seller to provide to any third party, in response to credit reference and enquires about me/us or by way of information exchange with credit reference agencies, details of this guarantee and any subsequent dealings that I/We may have with the seller as a result of this guarantee being actioned by the seller.
6. I/We further acknowledge that the above information is to be used by the seller for all purposes in connection with the seller considering this guarantee and the subsequent enforcement of the same.



**GUARANTOR - 1**

SIGNED:

Full Name:

Present Address:

SIGNATURE OF WITNESS:

Name of Witness:

Occupation:

Present Address:

**EXECUTED** as a deed this

day of

202

**GUARANTOR - 2**

SIGNED:

Full Name:

Present Address:

SIGNATURE OF WITNESS:

Name of Witness:

Occupation:

Present Address:

**EXECUTED** as a deed this

day of

202

1. If the Customer is a sole trader or partnership the guarantor(s) should be some other suitable person(s).
- Note:** 2. If the Customer is a company the guarantor(s) should be a director and/or shareholder.
3. If the Customer is a club or incorporated society the guarantors should be the president and secretary or other committee member.



# TERMS AND CONDITIONS OF TRADE

## 1. APPLICABILITY

- 1.1 Unless otherwise agreed in writing by INFRAPIPE, all quotes given by INFRAPIPE, and supply of goods by INFRAPIPE to the customer are governed by these terms and conditions (Terms) to the exclusion of all other terms and conditions or representations (including anything that may be stated to the contrary in the customer's enquiries or on the customer's orders). By making an order with INFRAPIPE for the supply of goods, the customer shall be deemed to accept these terms. These terms will not be deemed to be modified, cancelled or waived in whole or in part except by written amendment of INFRAPIPE.

INFRAPIPE may amend these terms at any time. The amended terms will apply in respect of any goods that are provided by INFRAPIPE following the date that amended terms are notified to the customer.

If there is any inconsistency between a provision and these terms and any provision in any other written agreement between the customer and INFRAPIPE (being a written agreement signed by a duly authorised senior representative of INFRAPIPE) the provisions will apply in the following descending order of priority:

- (a) Any provisions in INFRAPIPE's "Project Terms and Conditions"
- (b) The provisions in any written agreement between the customer and INFRAPIPE; and
- (c) These terms, provided that these terms will prevail over any other terms and conditions stipulated by the customer or included as part of any of the customer's documentation (including orders for goods).

- 1.2 In these terms; INFRAPIPE means Infrapipe Limited which supplies goods to the customer; "INFRAPIPE" means Infrapipe Limited and its subsidiary companies including any business division; "Customer" means any company, person or other body which orders or requests, either itself or through an agent, the supply of goods from INFRAPIPE or makes an application for credit from INFRAPIPE in relation to any such supply; "Goods" means all products manufactured and distributed by INFRAPIPE including for drainage, watermain, environmental and rural applications, including, without limitation, pipes, fabricated products, streetwear and associated systems, water, stormwater and wastewater management products and systems, pumps, fittings, valves and hydrants, plastic and all associated services and hireage; "GST" means goods and services tax pursuant to the Goods and Services Tax Act 1985; "Guarantor" means any person or entity that at any time provides a guarantee to INFRAPIPE in respect of the customer's obligations; "Insolvency Event" includes, in respect of any person, when that person commits an act of bankruptcy, makes an arrangement with any or all of its creditors for rescheduling of any indebtedness, has a receiver, liquidator or voluntary administrator appointed or is otherwise insolvent or deemed to be insolvent; "PPSA" means the Personal Property Securities Act 1999; "Security Interest" means a security interest as defined in the PPSA and "Signatory" means any person signing an order or credit application for on behalf of the customer.

## 2. QUOTATION

- 2.1 Where a quotation is given by INFRAPIPE it:
- 2.2 Unless the quote states otherwise
- 2.3 Is valid for 30 days from the date of issue; and
- 2.4 Shall be exclusive of Goods and Services Tax unless specifically stated to the contrary:



- 2.5 Is based on the rates and costs at the date of quotation of materials, transport, labour, customs duty, insurance and other rates and charges and shall be increased or decreased by the amount of any increase or decrease in any such items or any other factors affecting the cost of production and/or delivery and/or installation due to circumstances beyond our control after date of quotation;
- 2.6 Is upon the basis that reasonable access to the property or premises is available where it includes the cost of delivery to the property or premises. If such access is not available an extra charge for handling will be added;
- 2.7 Unless we have measured the structure at your request for the purposes of this quotation the sizes in the quotation are based upon the specifications supplied by you and additional costs arising from any inaccuracy of such specification shall be payable by you
- 2.8 Where goods are required in addition to the quotation the customer agrees to pay for the additional cost of such goods.

### 3. ACCEPTANCE

- 3.1 Any instructions received by INFRAPIPE from the customer for the supply of goods shall constitute acceptance of the terms and conditions contained herein.
- 3.2 These terms and conditions constitute the entire agreement between INFRAPIPE and the customer and prevail over other communications between INFRAPIPE and the customer be they oral or written, previous or contemporaneous unless INFRAPIPE's quote refers to its Project Terms and Conditions (in which case they shall prevail) and/or otherwise expressly agreed in writing and signed by or on behalf of INFRAPIPE ("This Contract").

### 4. COLLECTION AND USE OF INFORMATION

- 4.1 The customer authorizes INFRAPIPE to collect, retain and use of any information about the customer, or for the purpose of assessing the customers credit worthiness, enforcing any rights under this contract, or marketing any goods and services provided by INFRAPIPE.
- 4.2 The customer authorizes INFRAPIPE to disclose any information obtained to any person for the purposes set out in 4.1.
- 4.3 Where the customer is a natural person the authorities under clause 4.1 and 4.2 are authorities or consents for the purposes of the Privacy Act 1993.

### 5. PRICE

- 5.1 At the suppliers sole discretion, the price shall be either:
  - (a) As indicated on any invoice provided by the supplier to the customer; or
  - (b) The price as at the date of delivery of the goods/equipment according to the supplier's current price list; or
  - (c) The supplier's quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 5.2 The supplier reserves the right to change the price:
  - (a) If a variation to the goods which are to supplied or requested;
  - (b) If during the course of the services, the goods cease to be available from the supplier's third party supplier, then the supplier reserves the right to provide alternative goods, subject to prior confirmation and agreement of both parties; or
  - (c) In the event of increases to the supplier in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates or exchange and/or international freight and insurance charges) which are beyond the supplier's control.
- 5.3 Variations will be charged for on the basis of the supplier's quotation, and will be detailed in writing, and show as variations on the supplier's invoice. The customer shall be required to respond to any variation submitted by the supplier within ten (10) working days. Failure to do so will entitle the



- supplier to add the cost of the variation to the price. Payment for all variations must be made in full at the time of their completion.
- 5.4 At the supplier's sole discretion, a reasonable deposit may be required.
  - 5.5 Time for payment for the Goods/Equipment being the essence, the price will be payable by the customer on the date/s determined by the supplier, which may be;
    - (a) On or before delivery of the Goods/Equipment;
    - (b) For certain approved customer's, due twenty (20) days following the end of the month in which a statement is posted to the customer's address or address for notices;
    - (c) The date specified on any invoice or other form as being the date for payment; or
    - (d) Failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the customer by supplier.
  - 5.6 The supplier may in its discretion allocate any payment received from the customer towards any invoice that the supplier determines and may do so at the time of receipt or at any time afterwards. On any default by the customer the supplier may reallocate any payments previously received and allocated. In the absence of any payment allocation by the supplier, payment will be deemed to be allocated in such manner as preserves the maximum value of the supplier's purchase money security interest (as defined in the PPSA) in the Goods/Equipment.
  - 5.7 Payment may be made by electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the customer and supplier.
  - 5.8 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 the supplier nor to withhold payment of any invoice because part of that invoice is in dispute.
  - 5.9 Unless otherwise stated the price does not include GST. In addition to the price, the customer must pay to the supplier an amount equal to any GST the supplier must pay for any supply by the supplier under this or any other agreement for the sale of the Goods. The customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the customer pays the price. In addition, the customer must pay any other taxes and duties that may be applicable in addition to the price except where they are expressly included in the price.

## 6. CONSTRUCTION CONTRACTS ACT 2002

- 6.1 Each invoice tendered by INFRAPIPE to the customer is a payment claim ("Payment Claim") issued under the construction contracts Act 2002 ("CCA").
- 6.2 INFRAPIPE reserves the right to take legal action against the customer for failure to pay the payment claim in full under the CCA.

## 7. DEFAULT

- 7.1 The customer is in default, in the event that:
- 7.2 Any money payable to INFRAPIPE becomes overdue, or in INFRAPIPE's opinion the customer will be unable to meet its payment as they fall due: or
- 7.3 The customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with the creditors, or makes an assignment for the benefit of its creditors, or has judgement entered against it or the guarantor(s); or
- 7.4 A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the customer or any asset of the customer; then without prejudice to INFRAPIPE other remedies at law;
- 7.5 INFRAPIPE shall be entitled to cancel all or any part of any order of the customer which remains unperformed in addition to, and without prejudice to any other remedies; and all amounts owing to INFRAPIPE shall, whether or not due for payment, immediately become payable.
- 7.6 INFRAPIPE may in its discretion allocate any payment received from the customer towards any invoice that INFRAPIPE determines and may do so at the time of receipt or at any time afterwards and on default by the customer may reallocate any payments previously received and allocated.





## 8. CUSTOMERS OBLIGATION PRIOR TO INSOLVENCY OR INABILITY TO PAY IN FULL

- 8.1 The customer agrees to notify INFRAPIPE immediately on any and all financial issues or events including but not limited to being served with a statutory demand, notice of claim, statement of claim or default notice or demand letter or any other legal document or proceeding that may affect the customer's ability to make payment for the goods or work in progress or work performed by INFRAPIPE ("Notification").
- 8.2 On notification, INFRAPIPE may then exercise its rights under clause 7.5 and 7.6.
- 8.3 The customer and its directors and/or guarantor(s) acknowledge that they will be (personally) liable to INFRAPIPE for any unpaid amount owing if the customer is in default under clause 7 and fails to fulfil its obligations under clause 8.1 to INFRAPIPE.

## 9. RISK

- 9.1 The goods remain at INFRAPIPE's risk until the delivery to the customer, but when title passes to the customer pursuant to clause 8.1 of this contract the goods are at the customer's risk whether the delivery has been made or not.
- 9.2 Delivery of goods shall be deemed complete when INFRAPIPE gives possession of the goods for delivery to the customer, or possession of the goods is given to a common carrier, or other bailee for the purposes of transmission to the customer.
- 9.3 The time agreed for delivery shall not be an essential term of this contract unless the customer gives written notice to INFRAPIPE making the time essential.
- 9.4 Where INFRAPIPE delivers goods to the customer by instalments and INFRAPIPE fails to deliver one or more instalments the customers shall not have the right to repudiate the contract but shall have the right to claim compensation as a severable breach.
- 9.5 Where we deliver goods to your premises or the place directed by you for the purpose of erection or installation all losses arising from destruction or theft or damage from whatever cause including weather, fire, water, earthquake and accident and whether they are wholly or partly installed of left on the side shall be borne of you.

## 10. AGENCY

- 10.1 The customer authorizes INFRAPIPE to contract either as principal or agent for the provision of goods that are the matter of this contract.
- 10.2 Where INFRAPIPE enters into a contract of the type referred to in clause 10.1 it shall be read with and form part of this contract and the customer agrees to pay any amounts due under the contract.

## 11. TITLE TO GOODS

- 11.1 The supplier and the customer agree that ownership of the goods shall not pass until: (a) the customer has paid the supplier all amounts owing to the supplier; and (b) the customer has met all of its other obligations to the supplier.
- 11.2 Receipt by the supplier 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 recognized.
- 11.3 It is further agreed that:
- (a) Until ownership of the goods passes to the customer in accordance with the clause 11.1 that the customer is only a bailee of the goods and must return the goods to the supplier on request;
  - (b) The customer holds the benefit of the customers insurance of the goods on trust for the supplier and must pay to the supplier the proceeds of any insurance in the event of the goods being lost, damaged or destroyed;
  - (c) The customer must not sell, dispose, or otherwise part with possession of the goods other than in the ordinary course of business and for market value. If the customer sells, disposes or parts with possession of the goods then the customer must hold the proceeds of any such act on trust for the supplier and must pay or deliver the proceeds to the supplier on demand;





- (d) The customer should not convert or process the goods or intermix them with other goods but if the customer does so then the customer holds the resulting product on trust for the benefit of the supplier and must sell, dispose of or return the resulting product to the supplier as it directs;
- (e) The customer irrevocably authorises the supplier to enter any premises where the supplier believes the goods are kept and recover possession of the goods;
- (f) The supplier may recover possession of any goods in transit whether or not delivery has occurred;
- (g) The customer shall not charge or grant an encumbrance over the goods nor grant nor otherwise give away any interest in the goods while they remain the property of the supplier; and
- (h) The supplier may commence proceedings to recover the price of the goods sold notwithstanding that ownership of the goods has not passed to the customer.

## 12. RETURN OF GOODS

- 12.1 The customer shall be deemed to have accepted the goods unless the customer notifies INFRAPIPE otherwise within 24 hours of delivery of the goods to the customer. The customer must first obtain the written consent of INFRAPIPE before return of any goods is accepted and INFRAPIPE reserves the right to decline any request for return by the customer.
- 12.2 If the goods are not accepted in accordance with clause 12.1 of this contract the customer shall pay for the delivery of the returned goods to INFRAPIPE whereby the customer shall be entitled to a credit for the purchase price of any such goods provided that they are in the same clean, original and un-used condition as they were at the time of sale and suitable in all respects for resale and the customer shall be liable to incur a 20% re-stocking fee and freight costs.

## 13. LIABILITY

- 13.1 INFRAPIPE shall not be liable in respect of any claim for defective goods unless such claim is notified to INFRAPIPE in writing within seven (7) days of delivery of the goods;
  - (a) Where the goods have been installed such a claim must be accompanied by evidence that the goods were installed in accordance with INFRAPIPE's installation and handling guide.
- 13.2 INFRAPIPE shall only accept a claim after it has inspected the goods and are satisfied that the goods are defective in its opinion and where applicable INFRAPIPE is satisfied that the goods were installed in the accordance with its installation and handling guide.
- 13.3 Where INFRAPIPE determine that the goods are defective subject to the exclusion and limitations of INFRAPIPE's liability in this clause INFRAPIPE shall at its option repair or replace the goods or provide the customer with a refund.
- 13.4 The liability of INFRAPIPE for defective goods shall be limited to an amount not exceeding the purchase price of the defective goods.
- 13.5 INFRAPIPE will not otherwise be liable for any loss or damage (including indirect or consequential loss, or loss of profits) incurred by the customer or any third party as a consequence of the goods being defective.
- 13.6 INFRAPIPE will not in any circumstances be liable for any loss or damage caused by the customer's omissions, wilful or accidental damage, negligent or improper use, maintenance, or storage of any other circumstances whether or not within or beyond INFRAPIPE control.
- 13.7 INFRAPIPE will further not be liable to the customer in respect of, the fair wear and tear of the goods, any alterations to the goods undertaken by the customer, and any failure by the customer to follow INFRAPIPE's instructions on installation and handling of goods.

## 14. CONSUMER GUARANTEES ACT

- 14.1 The guarantees contained in the Consumer Guarantees Act 1993 ("CGA") are excluded where the customer acquires goods or services from INFRAPIPE for the purpose of a business in terms of section 2 and 43 of the Consumer Guarantees Act 1993 ("CGA")



- 14.2 The customer shall indemnify INFRAPIPE against all claims of any kind whatsoever however caused or arising as a result of any alteration to or modification of the pipes and fittings or installation carried out by or at the request or direction of the customer and in respect of which INFRAPIPE has not given its prior written approval.

## 15. WARRANTY

- 15.1 No representation, condition, warranty or premise expressed or implied by law or otherwise applies to goods except where goods are supplied pursuant to the CGA or except where expressly stated in this contract.

## 16. CANCELLATION

- 16.1 INFRAPIPE shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of goods to the consumer if the customer fails to pay any money owing after the due date or the customer commits an act of bankruptcy as defined under sections 17 to 28 of the Insolvency Act 2006 or is in default, see clause 7.
- 16.2 Any cancellation or suspension under clause 16.1 of this agreement shall not affect INFRAPIPE's claims for money due at the time of the cancellation or suspension or for damages for any breach of terms of this contract or the customer's obligation to INFRAPIPE under this contract.

## 17. MISCELLANEOUS

- 17.1 The customer shall not assign all or any of its rights or obligations under this contract without the written consent of INFRAPIPE.
- 17.2 INFRAPIPE shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 17.3 Failure by INFRAPIPE to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations INFRAPIPE has under this contract.
- 17.4 The law of New Zealand shall apply to this contract except to the extent expressly negative or varied by this contract.
- 17.5 Where terms of this contract are at a variance with the order of instruction from the customer, this contract shall prevail.
- 17.6 If the customer is a company or trust, the director(s) or trustee(s) signing this contract jointly and severally guarantee to INFRAPIPE the payments of the balance of the customers credit facility from time to time, and the payment of any and all other monies now or hereafter owed by the customer to INFRAPIPE. Any personal guarantee made by any party shall not exclude the customer in any way whatsoever from the liabilities and obligations contained in this contract. The guarantor(s) and customer shall be jointly and severally liable under the terms and conditions of this contract.
- 17.7 If any provision of this contract shall be invalid, void or illegal or unenforceable, the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 17.8 The customer expressly acknowledges that any contract or agreement entered into between it and INFRAPIPE, or any agreement incorporating any part of any contract or tender document of INFRAPIPE (including but not limited to any schedule of prices and daywork rates) shall be deemed to have incorporated these terms and conditions of Trade as if they were fully set out in such contract or agreement.

## 18. DISPUTES

- 18.1 If any dispute arises between INFRAPIPE and the customer as to the interpretation or operation of any provision of, or the rights or obligations of either party, under terms and conditions, the parties shall use their best endeavours in a spirit of good faith to resolve such dispute, but, if such resolution is not achieved within a reasonable period of time, INFRAPIPE reserves the right to refer the matter in dispute to mediation/arbitration. The mediator or arbitrator is to be appointed by the parties on



agreement, or if they are unable to agree on the appointment, to be selected and appointed by INFRAPIPE. Costs of the mediation/arbitration shall be shared equally by INFRAPIPE and the customer.

## 19. FORCE MAJEURE

- 19.1 INFRAPIPE shall not be liable for failure or delay to perform any term of this contract, occasioned directly or indirectly, by any act of God, force of nature, natural or man-made event, labour restrictions or other causes whatsoever (whether similar or not to the forgoing) beyond INFRAPIPE.

## 20. CONFIDENTIALITY

- 20.1 All drawings, designs, specifications, technical data, and other information which INFRAPIPE supplies in connection with a quotation, or order are confidential. All such information remains INFRAPIPE's property and must not be disclosed to any third party without written permission from INFRAPIPE and shall be returned immediately upon INFRAPIPE's request.

## 21. TESTING

- 21.1 If the customer requires any goods or material samples to be specially tested prior to delivery, arrangements may be made with INFRAPIPE, in writing, for the carrying out of such tests at the customer's cost.

## 22. FARM GRADE/SECOND GRADE GOODS/SECONDS

- 22.1 Farm grade/second grade goods and seconds are sold as such and marked accordingly. Under no circumstances should farm grade, second grade and/or seconds be used as a substitute for first grade goods.
- 22.2 INFRAPIPE shall not be liable to any loss or damage caused by such substitutions or attempted substitutions.

## 23. HEALTH AND SAFETY

- 23.1 The customer must comply with all health and safety legislative requirements, including the Health and Safety Work Act 2015 and all related legislative instruments, guidance and codes of practice (Health and Safety Legislation).
- 23.2 In the event that any employee, agent, contractor and subcontractors engaged or employed by the customer is required to attend an INFRAPIPE site, they must comply with INFRAPIPE's Health and Safety policies and procedures at all times. To the extent that they have overlapping duties, the customer agrees to consult, co-operate and co-ordinate its activities so far as is reasonably practicable with INFRAPIPE.
- 23.3 The customer will, and will ensure that its employees, agents, contractors and subcontractors (if any), comply at all times with all reasonable directions of INFRAPIPE and will notify INFRAPIPE of any identifiable hazards which come to its attention in relation to the supply of goods.
- 23.4 The customer will provide all reasonable assistance to INFRAPIPE in relation to any investigation (whether conducted by the customer, INFRAPIPE or a regulatory agency) into a notifiable event at no cost to INFRAPIPE.
- 23.5 The customer will notify INFRAPIPE of any improvement or prohibition notice, enforcement proceedings or prosecution under Health and Safety Legislation against the customer in relation to work done under these terms.
- 23.6 The customer will, to the extent permitted by law, indemnify INFRAPIPE in respect of any claims brought against INFRAPIPE resulting from any breach by the customer of its obligations under any Health and Safety Legislation, and/or any failure by the customer to comply with its obligations under this clause.



## 24. TRUSTS

- 24.1 If the customer at any time upon or subsequent to entering into the contract is acting in the capacity of trustee or any trust or as an agent for a trust ("Trust") then whether or not the supplier may have notice of the trust, the customer covenants with the supplier as follows:
- (a) The contract extends to all rights of the indemnity which the customer now or subsequently may have against the trust, trustee and the trust fund;
  - (b) The customer has full and complete power and authority under the trust or from the Trustees of the trust as the case maybe to enter into the contract and the provisions of the trust do not purport to exclude or take away the right of indemnity of the customer against the trust, the trustees and the trust fund. The customer will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
  - (c) The customer will not during the term of the contract without consent in writing of the supplier (the supplier will not unreasonably withhold consent), cause, permit or suffer to happen any of the following events: (i) the removal, replacement or retirement of the customer as trustee of the trust; (ii) any alteration to or variation of the terms of the trust; (iii) any advancement or distribution of capital of the trust; or (iv) any resettlement of the trust fund or trust property.

## 25. CHANGE IN CONTROL

- 25.1 The customer shall give the supplier not less than fourteen (14) days prior written notice of any proposed change of ownership of the customer and/or any other change in the customer's details (including but not limited to, changes in the customer's name, address, contact phone or fax number/s, change of trustee, or business practice). The customer shall be liable for any loss incurred by the supplier as a result of the customer's failure to comply with this clause.

## 26. DEFECTS

- 26.1 The customer shall inspect the goods/equipment on delivery and shall within 24 hours of delivery (time being of the essence) notify the supplier of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The customer shall afford the supplier an opportunity to inspect the goods/equipment within a reasonable time following delivery if the customer believes the goods are defective in any way. If the customer shall fail to comply with these provisions the goods/equipment shall be presumed to be free from any defect or damage. For defective goods/equipment, which the supplier has agreed in writing via a RRF form (Return Request Form) that the customer is entitled to reject, the suppliers liability is limited to either (at the supplier's discretion) replacing the goods/equipment or repairing the goods/equipment.
- 26.2 Equipment will not be accepted for return for any reason other than those specified in clause 26.1 above (or in the case of equipment hire, normal termination of equipment hire in accordance with the full terms and conditions herein)
- 26.3 The customer is responsible for shifting, unloading, moving, storing, laying and installing the product in accordance with the guidance provided by INFRAPIPE. In the event of customer failure to follow any guidance provided by INFRAPIPE, either specifically for an order or generally as displayed on the INFRAPIPE website then INFRAPIPE shall not be responsible for any defects and the warranty for all the products supplied for that order on project will have been voided by the actions of the customer.

## 27. DELIVERY

- 27.1 INFRAPIPE will use reasonable endeavours to deliver goods ordered within a reasonable time. Delivery dates are estimates only and INFRAPIPE shall not be liable for any damage or loss arising out of delay in delivery.
- 27.2 All risk in respect of the goods will pass to the customer on collection of the goods at INFRAPIPE's premises or following delivery to the customer or its nominee.



- 27.3 If INFRAPIPE is requested to store the goods or if INFRAPIPE is required to store the goods because of the fault of the customer after the goods are ready for dispatch, the customer shall pay all charges of and incidental to such storage. Such storage will be at the customer's risk and will not entitle the customer to postpone payment of any sums due to INFRAPIPE.
- 27.4 A receipted consignment note, bill of lading weigh bill or dispatch advice shall be conclusive proof of delivery (POD).
- 27.5 Any deliveries necessitating delivery outside the hours of 7:30am-2:30pm on weekdays must be made by special arrangement, goods will not be delivered on weekends or public holidays.
- 27.6 Where the goods are delivered by INFRAPIPE direct to the customer or nominee, the customer shall provide at its expense, safe hard roading suitable for use by usual road transport to deliver materials to the site specified by the customer or to an area alongside such site, with sufficient clear hard space at all times for unloading and stacking and unless otherwise specified, shall supply all necessary cranes and other unloading facilities.

## 28. GOVERNING LAW

- 28.1 These terms are governed by the laws of New Zealand. The customer and INFRAPIPE submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to these terms.

## 29. SERVICE OF NOTICES

- 29.1 Any written notice given under this contract shall be deemed to have been given and received;
- (a) By handing the notice to the other party, in person;
  - (b) By leaving it at the address of the other party as stated in this contract;
  - (c) By sending it by registered post to the address of the other party as stated in this contract;
  - (d) If sent by email to the other party's last known email address.
- 29.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

### CONTACT OUR TEAM

 09 869 3030

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