

**PREMIER HEATING LIMITED  
TERMS OF TRADE**

**1. GENERAL**

- 1.1 These Terms of Trade, as amended or replaced from time to time, govern the supply and installation of goods and the supply of services by Premier Heating Limited ("the Company") to any company, organisation or individual ("the Customer").
- 1.2 Any Work Order Form provided by the Company to the Customer or any quotation given by the Company and accepted by the Customer, constitutes the Customer's agreement to be bound by these terms. Any additional or different terms the Customer stipulates or states in any communication with the Company are hereby negated and will not bind the Company unless the Company agrees in writing.

**2. QUOTATION AND PRICE**

- 2.1 The Customer shall pay the price stated on the Work Order Form or quotation issued by the Company.
- 2.2 The prices payable under clause 2.1 shall include Goods and Services Tax unless otherwise stated.
- 2.3 The price may be increased by the amount of any increase in the costs of any such items or other factors affecting the cost of supply, production, delivery and/or installation of the goods due to circumstances beyond the reasonable control of the Company.
- 2.4 Where a quotation is given by the Company for the supply and installation of goods or the supply of services, the quotation shall be valid for 30 days from the date of issue.

**3. PAYMENT**

- 3.1 The deposit as specified shall be paid on acceptance of the quotation or on acceptance of the Work Order by the Customer. At the request of the Company, the Customer shall pre-pay to the Company the price for the goods to be installed prior to installation by the Company. The remainder of the purchase price shall be paid to the Company by the Customer no later than 7 days after the invoice date, unless otherwise agreed in writing by the Company. Payment shall be made by cash or cheque.
- 3.2 Interest at 12% per annum calculated on a daily basis is payable on any late payment from the date payment was due until the date payment is received in full by the Company.
- 3.3 The Customer shall make all payments due to the Company in full without any deductions, whether by way of set off, counterclaim or any other equitable or legal claim.
- 3.4 The remedy provided in clause 3.2 is without prejudice to the Company's other rights in respect of non-payment or late payment.
- 3.5 The Customer shall pay on demand all costs and expenses incurred by the Company in connection with the enforcement or attempted enforcement of these Terms of Trade including but without limitation, losses, costs and expenses including legal expenses at the rate charged between solicitor and own client (and any GST or similar tax payable thereon) sustained as a result of any default by the Customer in the performance of any of the Customer's obligations under these Terms of Trade.

**4. INSTALLATION OF GOODS AND SUPPLY OF SERVICES**

- 4.1 The Company shall install the goods by such means as the Company reasonably considers appropriate.
- 4.2 Although care will be taken during the installation of the goods and supply of services, the Company is not responsible for any damage that may occur to the Customer's property during the installation of the goods or supply of services except where such damage is caused by the negligence of the Company in carrying out such installation work in which event such damage is the responsibility of the Company.
- 4.3 The Company is not liable for any loss or damage whatsoever due to the Company's failure to install the goods promptly or at all.
- 4.4 Installation of the goods and the supply of services will be carried out on the basis that it is the Customer's responsibility:
  - to provide suitable access to the premises;
  - to provide all necessary services and amenities to enable the Company to carry out such installation or supply such services;
  - to ensure that the premises and foundations are structurally sound and in a proper condition for the installation or the supply of services to proceed;
  - to provide all plant, materials and services required to be provided by the Customer at such times and in such a manner as to cause the Company no delay in carrying out such installation or supply such services.

4.5 Risk in goods will pass at the time of installation of the goods from the Company to the Customer. Whilst the Customer is indebted to the Company, the Customer must ensure that the Customer's property is fully insured.

## **5 RETENTION OF TITLE**

- 5.1 Title to and ownership of goods installed by the Company shall remain with the Company until all indebtedness of the Customer to the Company has been paid in full and the Customer has met all other obligations due by the Customer to the Company in respect of all contracts between the Company and the Customer.
- 5.2 If the Customer defaults in the payment of any amount due, the Company will be entitled to enter the property of the Customer where the goods are installed and remove them. The Company shall not be liable for any loss or damage caused or liability incurred in exercising its rights pursuant to this clause.
- 5.3 The Customer indemnifies the Company for any costs of or incidental to, or any claim made against the Company as a result of removing the goods.

## **6 PERSONAL PROPERTIES SECURITIES ACT 1999 ("PPSA")**

- 6.1 For the purpose of this clause, words and phrases starting with a capital letter shall have the respective meaning given to them under, or in the context of, the PPSA.
- 6.2 The Customer grants to the Company a Security Interest in the goods (as detailed in each Work Order Form/quotation supplied to the Customer) to secure the Customer's obligation to pay the purchase price of the goods and any other outstanding amount the Customer owes to the Company.
- 6.3 Upon the Company's written request, the Customer shall, at its own expense, provide all reasonable assistance and relevant information to enable the Company to register a Financing Statement or Financing Change Statement and generally to obtain, maintain, register and enforce the Company's Security Interest in respect of the goods, in accordance with the PPSA.
- 6.4 The Customer shall not change its name without first notifying the Company of the new name not less than 7 days before the change takes effect. Notwithstanding any reference to a particular invoice/quotation, where any money remains outstanding by the Customer on more than one invoice/quotation, the Company reserves the right to apply any payments received from the Customer to each unpaid invoice/quotation in varying amounts in the Company's sole discretion.
- 6.5 The Customer waives its right to receive a Verification Statement in respect of any Financing Statement or Financing Change Statement registered in respect of the Security Interest created by these Terms of Trade.
- 6.6 To the extent permitted by law and in respect of this document and the Security Interest created pursuant to these Terms of Trade:
- the Company and the Customer contract out of sections 114(1)(A), 133 and 134 of the PPSA; and
  - the Company and the Customer contract out of the Customer's rights to (and the Customer waives its rights to):
    - receive notice of the Company's proposal to retain the Goods under section 120(2) of the PPSA;
    - object to the Company's proposal to retain any of the Goods under section 121 of the PPSA;
    - not have goods damaged in the event that the Company (or any person on its behalf) removes an accession under section 125 of the PPSA;
    - receive notice of the removal of an accession under section 129 of the PPSA;
    - apply to the Court for an order concerning the removal of an accession under section 131 of the PPSA;
    - redeem the Goods under section 132 of the PPSA; and
    - reinstate the contract under section 133 of the PPSA.
- 6.7 When the Company has rights in addition to, or existing separately from, those in Part 9 of the PPSA, those rights will continue to apply and are not limited or excluded (or otherwise adversely affected) by any right provided by these Terms of Trade or by law and, in particular, will not be limited by section 109 of the PPSA.

## **7 WARRANTY**

- 7.1 The Company warrants that it will repair or make good any defect in workmanship in relation to any goods installed by the Company for a period of 12 months following installation of the goods. No claim will be accepted under such warranty unless written notice of the claim is received by the Company as soon as reasonably possible after the defect is discovered. Nor will any claim be accepted where any attempt to repair the defective goods has been made by any person not authorised by the Company or if the defective goods have been modified (otherwise than by the Company).
- 7.2 No warranty is given by the Company to the Customer in respect of goods or services not supplied by it or in respect of goods supplied but not manufactured by the Company. In the case of such goods, where the manufacturer supplies a warranty, the Company will (to the extent that it is able to) make such warranty available to the Customer.

## **8 CONSUMER GUARANTEES ACT**

- 8.1 Where the Customer acquires the goods or services for business purposes, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 are excluded. Otherwise, all warranties implied by statute shall apply to the supply of these goods and services.

## **9 AVAILABILITY OF GOODS AND SERVICES**

9.1 The Company's obligation to install the goods and supply the services is subject at all times to the availability of the goods and services.

## **10 PRIVACY LAW**

10.1 The Customer authorises the Company to collect, retain and use personal information about the Customer (including information collected in this document) for the following purposes only:

10.1.1 Disclosing to a third-party details of the supply and installation of goods and/or supply of services and any subsequent dealing the Customer may have with the Company for the purpose of recovering amounts payable by the Customer and for the purposes of checking credit references.

10.1.2 Marketing the supply and installation of goods and/or the supply of services provided by the Company to the Customer.

10.2 The Customer, if an individual, has a right of access to information about the Customer held by the Company. The Customer may request correction of that information and may require that the request be stored with that information. The Company may charge reasonable costs for providing access to that information.

## **11 DISPUTES**

11.1 Any difference arising as to the interpretation of these Terms of Trade or as to any matter arising hereunder should be submitted to and settled by arbitration in accordance with the Arbitration Act 1996 or its replacement(s).