

1. Definitions

- 1.1 "Terms" means the terms and conditions contained herein applied in respect of the acquisition of PTL Services.
- 1.2 "PTL" means PTL Group Limited including all companies owned within the Group, (such as Pete's Takeaways Limited), and extends to any companies to which PTL chooses to sublet or assign PTL activities including Services provision subcontractors and debt recovery agencies.
- 1.3 "Client" means the Entity and Person(s) acting on behalf of and with the authority of the Entity requesting PTL to provide Services.
- 1.4 "Services" means all Services and Materials supplied by PTL to the Client.
- 1.5 "Service Agreement" means a Contractual Agreement for a designated timeframe for the supply of specific Services as agreed between the Client and PTL, which may be a supplementary document to the standard Terms of Trade.
- 1.6 "Site" means the address(es) nominated by the Client to which the Services are to be supplied by PTL.
- 1.7 "Confidential Information" means information of a confidential nature whether oral, written or in electronic form.
- 1.8 "Price" means the Price payable (excluding Goods and Services Tax ("GST") for the Services.

2. Acceptance of Terms

- 2.1 The Client is deemed to have accepted these Terms if the Client places an order for, or accepts provision of any Services from PTL.
- 2.2 In the event of any inconsistency between these Terms and any other prior document or schedule that the parties have entered into, this document shall prevail.
- 2.3 Any amendment to these Terms may only be amended in writing with the consent of both parties.
- 2.4 The Client and PTL are bound to these Terms from the point of the Client first procuring PTL Services, and these Terms are effective until terminated by mutual agreement.
- 2.5 Recurrence of service requests by the Client may be on an irregular or regular basis, or captured in a Service Agreement. These Terms apply to all current and future Service requests unless superseded by an updated version of these Terms.

3. Provision of the Services

- 3.1 PTL will provide the Services requested at a mutually agreed day with the Client.
- 3.2 The Services will be provided by PTL employees or subcontractors that have the expertise to complete the Services to a high standard, following best practice guidelines, health and safety requirements and protocols associated to the industry. Services will be provided in accordance with any current New Zealand Standards applicable.
- 3.3 Any time specified by PTL for delivery of the Services is an estimate only and PTL will not be liable for any loss or damage incurred by the Client as a result of Service completion taking longer than anticipated.
- 3.4 In the event that PTL is unable to supply the Services as agreed solely due to any action or inaction of the Client, then PTL shall be entitled to charge a reasonable fee for re-supplying the Services at a later time and date, and/or for storage of the Materials.
- 3.5 Where the Client authorises PTL to uncover the waste tank opening, the Client acknowledges and accepts that signs of the excavation will be evident after the reinstatement of the cover.
- 3.6 In the event that the Client requests PTL to use drain/pipe unblocking equipment, and PTL does not recommend the use of such equipment due to the risk of the equipment becoming lodged or stuck, the Client shall be responsible for the cost of repair, replacement and/or retrieval of said equipment.
- 3.7 The Client acknowledges and agrees that where PTL has performed temporary repairs that:
 - (a) PTL offers no guarantee against the reoccurrence of the initial fault, or any further damage caused; and
 - (b) PTL will advise the Client of the fault and shall provide the Client with an estimate for the full repair required.
- 3.8 The Client acknowledges and accepts that PTL is only responsible for components that are replaced by PTL and does not at any stage accept any liability in respect of previous goods and/or services supplied by any other third party that subsequently fail and found to be the source of the failure.
- 3.9 PTL accepts no responsibility for any damage or performance related problems with any Materials where they have not been used and/or maintained in accordance with PTL' and/or the manufacturers' recommendations.

3.10 In the event that PTL is required to provide the Services urgently, such that this may require PTL's staff to work outside normal business hours (including but not limited to working through lunch breaks, weekends and/or Public Holidays) then PTL reserves the right to charge the Client additional labour costs (penalty rates may apply), unless otherwise agreed between PTL and the Client.

4. Warranties

4.1 PTL warrants that if any defect in any workmanship of PTL becomes apparent and is reported to PTL within twenty-four (24) hours of the date of Service then PTL will reassess the defect and remedy the workmanship if warranted.

5. Client Obligations

5.1 The Client will provide clear unobstructed access to the Servicing Site and ensure that access is stable to accept the weight of PTL's tankers, trucks and other heavy equipment as PTL may deem necessary; Any ensuing damage to trees, plants, buildings or landscaping including but not limited to garden beds, fencing, driveways or pathways, concreted or paved or grassed areas caused by creating access for service provision is the responsibility of the Client; the Client indemnifies PTL against any liability or claims for damages of this nature during the Service engagement.

5.2 The Client will provide stable entry and exit points and a stable work platform for PTL Vehicles and Equipment to operate; should any PTL vehicle or equipment require salvage or recovery due to instability of the ground at the Client site, these salvage costs shall be borne by the Client, including additional fees for lost productivity of vehicles, staff and equipment while incapacitated.

5.3 Prior to PTL commencing any work the Client must advise PTL of the precise location of all underground services on the Site and clearly mark the same. The underground mains and services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on the Site. Whilst PTL will take all care to avoid damage to any underground services the Client agrees to indemnify PTL in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located.

5.4 The Client shall ensure that all biological waste is stored and/or contained as per legislative requirements and that PTL are advised of all hazardous waste. If for any reason that PTL, or PTL's employees, reasonably form the opinion that the Client's premises are not safe for the Services to proceed, then PTL shall be entitled to delay the provision of the Services until PTL is satisfied that it is safe for the Services to proceed.

5.5 The Client will ensure that there is a safe work environment at all times on Site, with any potential hazards or risks clearly identified to the PTL employees and mitigation practices in place to reduce unnecessary risk to PTL employees and equipment.

5.6 To the extent permitted by law, the Client shall indemnify PTL in respect of any expenses, losses or claims that PTL (including any of its directors or employees) may incur or suffer as a result of a breach of these Terms by the Client.

6. Health and Safety

6.1 The health and safety of PTL's employees, its customers and the public is of paramount importance to PTL. Both parties must consult, cooperate and coordinate, in respect to the provision of the Services so as to ensure that the nature of the Services, the risks arising from the Services, and the controls to be implemented to mitigate those risks are understood and to enable the parties to verify that the risks are being controlled and the Services are being performed safely.

6.2 The Client will immediately notify PTL of any Notifiable Event (as that term is defined in the Health & Safety at Work Act 2015), or other event that causes or has the potential to cause injury to any PTL employee at the Servicing Site.

6.3 The Client will assist PTL in relation to any investigation into a Notifiable Event or other incident.

6.4 Where required, the Client will provide PTL with all relevant information or documentation in relation to health and safety, including but not limited to, the Client's health and safety management plan and incident register, as they relate to the Services.

7. Price and Payment

7.1 The Price shall be either:

- (a) as indicated on invoices provided by PTL to the Client in respect of Services performed; or
- (b) PTLs' quoted Price which shall be binding.

7.2 PTL reserves the right to change the Price:

- (a) if a variation to the Services which are to be supplied is requested; or
- (b) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited

to, poor weather, limitations to accessing the Site, safety considerations, hidden pipes and wiring, etc.) which are only discovered on commencement of the Services; or

(c) in the event of increases to PTL in the cost of disposal, materials or labour which are beyond PTLs' control.

- 7.3 Payment terms and due dates are specified on the invoice(s) provided to the Client. Progress payments and or deposits may be required and this will be outlined in the quotation/estimate/contract supplied by PTL.
- 7.4 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by PTL nor to withhold payment of any invoice because part of that invoice is in dispute.

8. Compliance with Laws

- 8.1 These Terms and any Service Agreement or Contract to which they apply shall be governed by the laws of New Zealand.
- 8.2 The Client and PTL shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services, including any WorkSafe health and safety laws or any other relevant safety standards or legislation pertaining to the Services and /or disposal of contaminated waste.
- 8.3 Subject to Clause 8.4, nothing in these Terms will affect any rights you may have as a 'consumer' as defined in the Consumer Guarantees Act 1993 (CGA) under the CGA.
- 8.4 For the purposes of Section 2 and Part 5, section 43(2) of the CGA, the parties acknowledge and agree that if the Client is acquiring, or holding itself out as acquiring the Services in trade:
- (a) to the extent permitted by law, the Client is contracting out of the CGA (to the extent that the CGA would otherwise apply to any matters covered by these Terms), and
 - (b) it is fair and reasonable to be bound by Clause 8.4.
- 8.5 For the purposes of Section 5D of the Fair Trading Act 1986 (FTA) CGA, the parties acknowledge and agree that if the Client is acquiring, or holding itself out as acquiring the Services in trade:
- (a) to the extent permitted by law, the Client is contracting out of sections 9, 12A and 13 of the FTA, and
 - (b) it is fair and reasonable to be bound by Clause 8.5
- 8.6 The Client will indemnify PTL against any expenses or losses incurred by PTL due to the Client's breach of Clause 8.

9. Default and Consequences of Default

- 9.1 If full payment is not made by the Client to PTL in accordance with clause 7, then the Client will be in default under the Terms and PTL may exercise all of the rights and remedies set out in these Terms or otherwise available within the law; and
- 9.2 The Client will pay an administration fee on overdue accounts of \$25.00 per calendar month as well as interest at PTL's discretion. This will be at 2% above PTL's bank's current overdraft interest rate.
- 9.3 The Client will be liable for all expenses incurred by PTL in recovering the debt including but not limited to collection agency fee, legal fees and court costs inclusive of the Disputes Tribunal.
- 9.4 Further to any other rights or remedies PTL may have under these Terms, if a Client has made payment to PTL, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by PTL under this clause 9, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under these Terms.
- 9.5 Without prejudice to any other rights or remedies PTL may have, if at any time the Client is in breach of any obligation (including those relating to payment and/or failure to remedy any breach in respect of these Terms for a period in excess of ten (10) working days of receipt by the Client of such notice/s) then PTL may suspend or terminate the supply of the Services. PTL will not be liable to the Client for any loss or damage the Client suffers because PTL has exercised its rights under this clause.
- 9.6 Without prejudice to PTL' other remedies at law PTL shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to PTL shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to PTL becomes overdue, or in PTL's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client has exceeded any applicable credit limit provided by PTL;
 - (c) the Client becomes insolvent or bankrupt, 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
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

10. Confidentiality

- 10.1 Each party agrees to not to divulge any confidential information communicated by the other party, to any third party, without the other party's written consent.

11. Cancellation

- 11.1 If there is no Service Agreement, or no End Date specified within a Service Agreement either party may cancel the provision of further Services at any time by giving thirty (30) days' written notice to the other party;
- 11.2 Accepting Early Cancellation of a Service Agreement at the Client's request is entirely at the discretion of PTL. Any associated charges or Service fees falling within the Service Agreement term, or any costs incurred due to early termination can be passed onto the Client by PTL.

12. Privacy Act 2020

- 12.1 The Client authorises PTL (and PTL's agents) to collect, use, retain and disclose personal information (as defined in Part 7 of the Privacy Act 2020) about the Client that the Client or its personnel may provide to PTL for the following purposes:
- (a) Exercising PTL's rights or performing PTL's obligations under these Terms;
 - (b) Using the services of credit reporting and debt collection agencies, and the Client consents to PTL disclosing personal information (including any information about an event of default or repayment history) to a credit reporter, who may hold that information and use it to provide its credit reporting service.

13. General

- 13.1 Any dispute or difference arising as to the interpretation of these Terms or as to any matter arising herein, shall be submitted to, and settled by, mediation before resorting to any external dispute resolution mechanisms (including arbitration or court proceedings) by notifying the other party in writing setting out the reason for the dispute. The parties shall share equally the mediator's fees. Should mediation fail to resolve the dispute, the parties shall be free to pursue other dispute resolution avenues.
- 13.2 The failure by either party to enforce any provision of these Terms shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these Terms shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 13.3 To the extent permitted by law PTL shall be under no liability whatsoever to the Client for any direct or indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by PTL of these Terms.
- 13.4 If, notwithstanding Clause 13.3, PTL has any liability under or in connection with these Terms, to the maximum extent permitted by law, PTL's total aggregate liability to the Client for any loss, damage, or liability arising out of or in connection with these Terms, will be limited to the lesser of:
- (a) The Price paid by the Client to PTL for the applicable Services, or
 - (b) The actual loss or damage suffered by the Client.
- 13.5 PTL may licence and/or assign all or any part of its rights and/or obligations under these Terms without the Client's consent.
- 13.6 The Client cannot licence or assign without the written approval of PTL.
- 13.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc, ("Force Majeure") or other event beyond the reasonable control of either party.
- 13.8 Both parties warrant that they have the power to enter into an agreement for services and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Terms of Trade creates binding and valid legal obligations on them.
- 13.9 If the Client places an order for or accepts any Services from PTL, the Client is taken to accept these Terms and is bound jointly and severally (including if the Client is part of a trust, in which case the Client shall be bound in the Client's capacity as trustee). The Client does not need to sign any formal documentation to indicate the Client's acceptance. It will be assumed from the Client continuing to order any Services.
- 13.10 Electronic signatures shall be deemed to be accepted by either party providing that the parties has complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.