



Hi Flo Plumbing (1992) Ltd - Terms of Trade

1. Definitions & Interpretation

Unless the context requires otherwise, the following definitions shall apply to these terms of trade:

- 1.1. **“Hiflo Group”** means **“Hi Flo Plumbing (1992) Ltd”** and any of its related companies who have supplied goods or services. This also includes the successors and assignees of those companies.
- 1.2. **“Customer”** means the customer who opened an account or the person that the account was created for. These terms of trade include the Customer's trustees, executors [if an individual or successors], permitted assigns, and/or administrators.
- 1.3. **“Goods”** means the goods supplied to the Customer by Hiflo Group which are described by item or indicated on the invoice associated with those goods. This also includes any packing or delivery slip supplied by Hiflo Group in respect of the goods.
- 1.4. **“Services”** shall mean all Services supplied by the Hiflo Group to the Client and includes any advice or recommendation (and where the context so permits shall include any supply of Goods as defined above).
- 1.5. **“Price”** shall mean the Price payable for the Good and Services as agreed between the Hiflo Group and the Client in accordance with clause 3 and 4 of this document.
- 1.6. **“PPSA”** means the Personal Property Securities Act 1999 and associated regulations, as amended from time to time.
- 1.7. **“PPSR”** means the Personal Property Securities Register under the PPSA.

2. Payment

- 2.1. Payment is due in full by the 20th month following invoice, unless there has been a previous “special terms of payment “agreed upon, then this “special terms of payment” will replace the standard terms of payment.
- 2.2. Interest may be charged on overdue accounts at the rate of up to 2% per month compounded.
- 2.3. Any queries regarding the goods and/or services supplied must be made within 14 days of the date of the first invoice.
- 2.4. The Customer shall not have any right of set-off or deduction against the required payment or on account of any money which Hiflo Group may owe the Customer. If the Customer fails to pay the full amount due, on or before the due date, Hiflo Group (without prejudice to its other rights and remedies) shall be entitled to charge the Customer interest on the amount outstanding from due date until payment.

3. Estimates

- 3.1. Unless stated otherwise, any price the Hiflo Group gives the Client for Service is an estimate (“the Estimate”) on a plus GST basis of the anticipated cost for the Hiflo Group to complete the Service. The Estimate is subject to clause 4 below.



- 3.2. The Estimate is open for acceptance for the period of time stated in the estimate but otherwise 7 days after it is dated unless withdrawn by the Hiflo Group prior to acceptance.
- 3.3. The Hiflo Group will not be obliged to commence the Service until the Client has accepted the Estimate and agreed of these Terms of Trade in writing.

4. Price

- 4.1. Notwithstanding any Estimate given, unless the Hiflo Group has agreed in writing to be bound by a set price for the Service, the Client shall pay to the Hiflo Group the actual cost of completing the Service ("the Actual Cost") which will be calculated by totaling the following:
 - a. the number of hours of Service multiplied by the hourly rates for the workers involved on the date which the Service is undertaken or if the supply occurs over more than one day, the relevant hourly rates on the last day on which Services are rendered;
 - b. any disbursements (including without limitation delivery costs) incurred by the Hiflo Group on the Clients behalf;
 - c. the retail cost of any Goods supplied by the Hiflo Group as part of the Service.
- 4.2. The Actual Cost and all prices are plus GST and other taxes which are payable by the Client in New Zealand dollars.
- 4.3. Disbursements incurred by the Hiflo Group on the Client behalf may include a reasonable mark-up.

5. Withdrawal of Credit

- 5.1. Hiflo Group may at any time, in its sole discretion, withdraw the provision of credit to the Customer.

6. Delivery and Return

- 6.1. Delivery of goods shall be deemed to be made to the Customer when the goods are first dispatched from Hiflo Group premises or collected by the Customer or the Customer's agent. All carriers of goods are deemed to be agents of the Customer.
- 6.2. Hiflo Group may stop future deliveries until the Customer has paid for all previous supplies of goods or services supplied by Hiflo Group (whether payment is due or not).
- 6.3. If Hiflo Group is unable to deliver the goods or perform a service because of any cause beyond its control (including any force majeure event) Hiflo Group may suspend delivery or cancel the Customer's order without incurring any liability for loss or damage suffered by the Customer.
- 6.4. Goods will only be accepted for return with the prior approval of Hiflo Group. Freight and all other costs associated with the return of goods will be at the Customer's expense unless otherwise agreed in writing by Hiflo Group.



7. Risk

- 7.1.** Goods are at the sole risk of the Customer upon delivery in accordance with clause 6.1 whether received by the Customer or not. This also includes a delay in delivery, even if ownership of the goods has not been passed on to the Customer.
- 7.2.** The Customer shall at all times insure the goods and keep them insured for their full value against all causes including loss or damage by fire and theft. If the goods are lost, damaged or destroyed, the Customer must agree to make a claim against the insurance policy with respect to the lost, damaged or destroyed goods, and to immediately pay the proceeds received to Hiflo Group. The Customer will remain liable to the Hiflo Group for any shortfall in the insurance proceeds.

8. Ownership

- 8.1.** Ownership of the goods shall not pass on to the Customer until the Customer has paid for the goods in full. In addition, any proceeds of the sale of goods that has not paid for shall belong to the Hiflo Group.
- 8.2.** Notwithstanding the provisions of clause 8.1. regarding Hiflo Group ownership of any sale proceeds, until the ownership of the goods has passed on to the Customer, the Customer shall not be entitled to sell or deliver possession of the goods to any other person.

9. Enforcement and PPSA

- 9.1.** All terms in this clause 9 have the meaning given in the PPSA and section references shall be to sections of the PPSA.
- 9.2.** Clause 8.1 creates a security interest in Goods the Hiflo Group supplies to the Client as part of the Service.
- 9.3.** The Client shall not grant any other security interest or any lien over Goods that the Hiflo Group has a security interest in.
- 9.4.** At the request of the Hiflo Group, the Client shall promptly sign any documents and do anything else required by the Hiflo Group to ensure that security interest constitutes a first ranking perfected security interest in the Goods.
- 9.5.** The Customer irrevocably gives Hiflo Group and its agents the right to enter upon the Customer's premises (including leased premises), without giving notice and without being in any way liable to the Customer, if Hiflo Group has cause to exercise any rights it has under section 109 of the PPSA.
- 9.6.** If Goods that the Hiflo Group have a security interest in are processed, included or dealt with in any way causing them to become accessions, processed or commingled goods, security interest will continue in the whole in which they are included. The Client shall not grant any other security interest or any lien in either the Goods or in the whole.
- 9.7.** The Customer indemnifies Hiflo Group for any and all costs associated with the enforcement of these terms of trade, including legal costs on a solicitor/client basis. This includes; but is not limited to, the cost of any debt collection procedures for which the customer may be liable for, on top of the outstanding debt.



- 9.8. The Client waives any rights they may have under sections 114(1) (a), 116, 120(2), 121, 125, 126, 127, 129, 131, 133, and 134 of the PPSA.
- 9.9. The Client waives the right to receive a copy of any verification statement (as that term is defined in the PPSA).
- 9.10. The Client will give the Hiflo Group prior written notice of a proposed change of name or address.

10. Representations, Warranties, Terms and Conditions

- 10.1. To the maximum extent permitted by law, all representations, warranties, terms, and conditions (including any representation, warranty, term or condition expressed or implied by law or otherwise) that are not expressly included in these terms of trade are hereby excluded from the contractual arrangements between Hiflo Group and the Customer. Without limiting the generality of the foregoing, the provisions of the Consumer Guarantees Act shall not apply to the supply of goods or services by Hiflo Group to the Customer where the Customer acquires, or holds himself or herself out as acquiring, the goods or services for the purposes of a business.
- 10.2. If Hiflo Group shall be under any liability whatsoever to the Customer then whether such liability be in contract, tort (including negligence or for personal injury) or otherwise and notwithstanding any relief or remedy to which the Customer may be entitled at law or in equity, such liability shall be limited to the price at which the goods or services are supplied to the Customer. This includes the actual loss or damage suffered by the Customer, whichever shall be the lesser.
- 10.3. Under no circumstances will Hiflo Group be liable for any financial or economic loss or any indirect or consequential loss of any kind whatsoever.

11. Privacy

- 11.1. The Customer agrees that Hiflo Group may obtain information about the Customer from any person, including any credit assessment or debt collection agency, for any purpose being in the course of Hiflo Group business, including credit assessment and debt collecting. The Customer consents to any person providing Hiflo Group with such information.
- 11.2. The Customer agrees that Hiflo Group may use, for lawful purposes, any information it has about the Customer relating to the Customer's creditworthiness.
- 11.3. Without limiting the provisions of clauses 11.1 and 11.2, the Customer understands that:
 - a) Hiflo Group is asking the Customer for personal information about the Customer for the purpose of:
 - i. obtaining a credit report on the Customer to help assess the Customer's creditworthiness for the purpose of Hiflo Group opening or reviewing a trading account for the Customer, and.
 - ii. registering the security interest created by clause 8.1 under the PPSA;
 - b) Hiflo Group will give the Customer's personal information to:



i. a credit checking bureau of Hiflo Group's choice and that bureau will hold that information on their system and use it to provide their credit reporting service, and

ii. the Registrar of Personal Property Securities and the Registrar will hold that information on the PPSR which will be available for searching by the public in accordance with the PPSA;

c) The credit reporting bureau will provide Hiflo Group with information about the Customer for the purposes outlined in clause 11.3(a)(i), and when other customers of the credit checking bureau use the credit reporting service the credit checking bureau may give the information to those customers too.

d) The Hiflo Group may use the credit checking bureau's credit reporting services in the future for purposes related to the provision of credit to the Customer (including personal credit checks against the Customer), and this may include the use of monitoring services to receive updates if any of the information held about the Customer changes.

e) If the Customer defaults in the Customer's payment obligations to Hiflo Group, information about that default may be given to the credit reporting bureau and may be provided to other users of that service other than the Customer.

f) The Customer has a right of access to, and may request correction of, personal information held by Hiflo Group or a third party about the Customer. For those purposes, the Customer understands that he or she may contact Hiflo Group office number 03 433 0011 or email us at info@hiflo.co.nz, for information.

12. Amendment

Hiflo Group may amend these terms of trade from time to time. The Customer shall in respect of the supply of any particular goods or services by Hiflo Group to the Customer be bound by the terms of trade applicable at the time of sale of those goods or services. A copy of the latest version of the terms of trade will be available upon request at the local branch office Hiflo Group.

13. General

13.1. Unless expressly provided otherwise in any written agreement between Hiflo Group and the Customer, these terms of trade constitute the entire agreement between Hiflo Group and the Customer relating to the supply of goods and services by Hiflo Group to the Customer.

13.2. Each provision of these terms of trade is severable in whole or in part and, if any provision is held to be illegal or unenforceable for any reason, only the illegal or unenforceable provision shall be affected and the remainder of these terms of trade shall remain in full force and effect.

13.3. These terms of trade and the application for credit account to which these terms of trade relate shall be construed in accordance with and be governed by the laws of the Country you reside in. Hiflo Group and the Customer shall submit to the non-exclusive jurisdiction of the Courts in your Country.



14. Health and Safety

Where Services are to be carried out at the Customer's premises, the Customer shall:

- 14.1.** ensure its directors, contractors, servants, employees, agents and invitees comply with all reasonable health and safety directions given by Hiflo Group;
- 14.2.** comply with all obligations imposed on the Customer and its workers (as defined in the HS Act) under the HS Act and all regulations made under the HS Act and at law in relation to the health and safety of persons on or in the vicinity of the Customer's premises;
- 14.3.** produce a health and safety plan for the Customer's premises when required by Hiflo Group;
- 14.4.** provide a register of all known hazards in respect of the Customer's premises when required by the Company and immediately advise Hiflo Group should they become aware of any new hazards having arisen; and
- 14.5.** if it considers there is an emergency involving health and safety, allow Hiflo Group to temporarily exclude entry by all persons to the Customer's premises.

15. Force Majeure

- 15.1.** If the Hiflo Group has given a time frame for completion of the Service, unless agreed in writing to the contrary such a time frame is approximate only and is not deemed to be of the essence of the contract.
- 15.2.** The Hiflo Group shall not be liable for delay or failure to perform the Service if the cause of delay or failure is beyond their control.