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TERMS AND CONDITIONS

1.0 INTERPRETATION

1.1 These conditions of sale are entered into on behalf of the Contractor and Client and are intended to bind and be for the benefit of the Contractor and the Contractor's successors and assigns.

1.2 In the conditions:

"Contractor" means Paveco Ashburton Ltd.

"Client" means the person, firm or company requesting the work from the Contractor.

"contract" means the agreement between the Contractor and the Client for the work to be performed at the contract price as set out in the quotation and subject to these terms and conditions.

"contract price" means the price of the work as set out in the quotation, subject to variation in accordance with Clause 3.

"completion date" means the date the work is estimated to be completed.

"person" includes a corporation, association, firm, Contractor, partnership or individual.

"quotation" means the document marked "Quote".

"work" means the goods and materials supplied and services provided by the Contractor under the contract.

2.0 CONTRACT

2.1 Your signature below is an acceptance of the contract price and work to be performed as set out in the quotation and subject to these terms and conditions.

2.2 These terms and conditions together with the quotation form the contract in its entirety.

2.3 Where more than one client has entered into a contract with the Contractor, the clients shall be jointly and severally liable for payments required.

3.0 VARIATION

- 3.1 This contract may be varied by agreement between the parties subject to written confirmation of such variation by the Contractor and Client.

4.0 PRICE

- 4.1 The price contained in the contract is a fixed price contract and any variation to this fixed price must be agreed to by the Contractor and the Client in writing.

5.0 QUOTATION

- 5.1 Notwithstanding condition 4, all quotations are valid for a maximum of 60 days after the date of the quotations, after which time they are automatically withdrawn and not available for acceptance but a new quotation may be given by the Contractor to the Client on request.
- 5.2 The Contractor reserves the right to render the quotation null and void at any time before acceptance.
- 5.3 The quotation is made on the assumption that normal ground bearing conditions are present. Any additional requirements of the Local Authority not shown on the plan or mentioned in the specification, which result in further costs to the Contractor, shall give the Contractor the right to charge the Client for further costs. The Contractor shall not be liable to perform any instructions of the Client that may conflict with the requirements of the Local Authority.
- 5.4 The client will be responsible for any Council fees.
- 5.5 When site excavation by hand or machine has been allowed for in the quotation it has been assumed that the excavated material shall be of a soft or loose nature. No allowance has been made for excavating rock. Where rock is required to be excavated and disposed of then the additional cost of such will be charged directly to the Client.

6.0 TAXES AND DUTIES

- 6.1 Unless otherwise stated in writing quoted prices are the NZ dollar price exclusive of GST.
- 6.2 The client must pay Goods and Services Tax and any other Government duties, levies or taxes in respect of the Goods or Services.

7.0 PAYMENT

- 7.1 Payment for work performed is due (without deduction) within 7 days of the date the Contractor invoices the Client for the work completed.
- 7.2 Any unpaid account after 14 days will incur a finance charge of 2% per calendar month. If the account is not paid within 30 days after the due date the Contractor may advise a debt collection agent of the Client's details. Any debt collection agent used by the Contractor is entitled to recover any additional costs involved in the collection of the amount owing from the Client. This clause is intended to be for the benefit of and enforceable by any debt collection agency used by the Contractor under the Contracts (Privity) Act 1982.

- 7.3 The Contractor may charge costs (including collection costs and legal costs on a solicitor/client basis) and suspend delivery of further goods or performance of further services until the client's account is paid in full.

8.0 SITE AND ACCESS

- 8.1 The client must provide complete, free and easy access into the site at which the work is to be performed for the tools, machinery and materials required to complete the work and for the Contractor and the Contractor's employees.
- 8.2 Please note that the Contractor is willing to assist with moving certain items on the site to prepare the site for the work, however, the Contractor reserves the right to charge for this service. While the Contractor will take all care in such removal, the parties agree that the Contractor shall not be liable for any damage, breakage, or loss caused in moving the Client's property. The Client shall be responsible for disconnecting, removing and reinstalling all electrical, water and sewage services as appropriate and the Contractor shall not be liable for any damage caused to the same in completing the work or for upgrading or relocating any of the services which become necessary.

9.0 COMPLETION

- 9.1 The Contractor will use its best endeavours to complete the work on or before the estimated completion date but time of completion shall not be of the essence.
- 9.2 The Contractor shall not be liable for failure or delay in completing the work whether wholly or in part if the failure is caused either wholly or in part by circumstances outside the Contractor's control including (but not limited to) any difficulty in obtaining suitable material, shortage of suitable materials, stocks, delays in transit, restrictions, weather conditions or any other causes beyond the Contractor's control.

10.0 INSPECTION

- 10.1 The Client must inspect the work within 5 days of completion and inform the Contractor of any defects, otherwise the Client will be deemed to have accepted the work as complying to the contract and the Contractor will be under no further liability to the Client.

11.0 LIQUIDATED DAMAGE CLAUSE

- 11.1 In respect of any defect, the Contractor's liability to the Client is limited to repairing that defect.
- 11.2 In respect of any damage to the work done under this contract, the Contractor's liability to the Client is limited to either replacing the damaged work or, (at its discretion and if the completed work is capable of repair), repair.
- 11.3 In the event of the works covered by this quotation being damaged or destroyed by any cause not the direct fault of the Contractor then any additional cost and expense incurred as a result of such damage or destruction shall be chargeable to the Client and shall be recoverable as moneys due under the contract.
- 11.4 Except as provided in Clause 11 the Contractor accepts no liability for any such fault, defect, loss or damage arising directly or indirectly from any breach by the Contractor of the terms of the Contract or of the general law and in particular (but without limitation) the Contractor shall not be liable for other faults or defects in quality which shall therefore not

be grounds for the cancellation of the Contract of for non-payment of the balance of the contract price by the Client.

- 11.5 The Contractor shall not be liable in any circumstances whatsoever, whether in contract, tort or otherwise, for delay, loss of production, loss of anticipated profits revenue or contracts, loss of or damage to other property or for any other indirect or consequential loss or damage arising from any cause whatsoever.
- 11.6 The Substrate is prone to movement and the Contractor cannot guarantee that the concrete will not crack and accepts no responsibility for any such cracking or the repair or replacement thereof. Expansion cuts will be provided that will minimise the possibility of cracking but cracking shall therefore not be grounds for the cancellation of the Contract or for the non-payment of the balance of the contract price by the Client.
- 11.7 The Contractor cannot guarantee the colour match of concrete that may be adjacent and/or laid on different days, and failure of colour match shall therefore not be grounds for the cancellation of the Contract or for the non-payment of the balance of the contract price by the Client.

12.0 RETENTION OF TITLE

- 12.1 The legal and equitable ownership of any goods, materials and equipment used in undertaking the work and which form an integral part of the contract and of the finished product will remain the property of the Contractor and shall be in the exclusive possession of the Contractor until payment has been made in full of the contract price and of all moneys for the time being due and owing to the Contractor.
- 12.2 If default is made in the payment of the contract price or of the other money referred to, the Contractor may repossess the materials and dispose of them as it sees fit, may stop any further deliveries, and may cancel any contract with the Client. For the purposes of repossession the Contractor and its agents are irrevocably authorised to enter any premises of the Client and any third party without further notice to repossess the materials and the Client agrees to indemnify the Contractor and its agents for any liability arising from any act or trespass committed by such entry.
- 12.3 The Client indemnifies the Contractor against all costs and claims in respect of the exercise of rights under this Clause 12.0.

13.0 OWNERSHIP AND RISK

- 13.1 All property supplied to the Contractor by or on behalf of the Client shall while it is in the possession of the Contractor or in transit to or from the Client be deemed to be at the Client's risk unless otherwise agreed in writing and the Client should insure accordingly.
- 13.2 The risk in the work shall pass to the Client on delivery but ownership shall not pass to the Client until the Client has discharged all outstanding indebtedness to the Contractor.

14.0 EXCLUSION OF WARRANTY AND LIABILITY

- 14.1 Except as expressly set out in this document, all representations, conditions and warranties (express or implied) applying between the Contractor and the Client, whether statutory or otherwise are excluded as far as the law allows. The entire liability of the Contractor to the Client, or any other person, whether statutory, contractual, tortious or otherwise, is limited to the contract price.

- 14.2 The Contractor shall not at any time be liable for any instructions given by the Client to the Contractor that may contravene the requirements of the Local Authority.

15.0 INTELLECTUAL PROPERTY

- 15.1 Copyright in all designs, drawings, specifications, customer lists, data, price-list, catalogues, sales and technical bulletins and all other technical information and patents provided or supplied by the Contractor in connection with the contract is vested in the Contractor and is confidential and must not be copied, lent or used without the Contractor's written consent.
- 15.2 If any work is to be undertaken to the Client's design, the Client hereby warrants that the supply of such products by the Contractor will not infringe any patent, copyright, design or other rights of any other person and the Client agrees to indemnify the Contractor against any liability, incurred by the Contractor including any costs and expenses incurred in the event of any claim being made that the supply of such products by the Contractor infringes any patent, copyright, design or other rights of any other person.
- 15.3 The Client agrees to indemnify the Contractor against any liability for any errors to the design or quantities estimated and the Contractor will bear no responsibility for any work done in accordance with such plans, provided by the Client.

16.0 WAIVER

- 16.1 All the original rights, powers, exemptions and remedies of the Contractor remain in full force notwithstanding any neglect, forbearance or delay in their enforcement.
- 16.2 The Contractor is not deemed to have waived any condition unless such waiver is in writing under signature of the Contractor or its authorised officer and any such waiver, unless the contrary is expressly stated, applies to and operates only in a particular transactions, dealing or matter.

17.0 NO ASSIGNMENT

- 17.1 The Client may not assign all or any of the Client's rights or obligations under the contract without the prior written consent of the Contractor.

18.0 LAW AND JURISDICTION

- 18.1 The contract in all respects is deemed to be a contract made in New Zealand and is Governed exclusively by New Zealand law.

19.0 CONSUMER GUARANTEES ACT 1993

- 19.1 If the Client enters into this contract for the purposes of a business the provisions of the Consumer Guarantees Act 1993 will not apply.

20.0 PRIVACY ACT 1993

- 20.1 The Client of guarantor (if any) authorise any person or company to provide the Contractor with information in response to its credit enquiries. The Client and guarantor (if any) further authorize the Contractor to provide to any third party details of the application of which these conditions of sale form and any subsequent dealings that the Client and/or guarantor may have with the Contractor.

21.0 PERSONAL PROPERTY SECURITIES ACT 1999 (PPSA)

- 21.1 The Client acknowledges that clause 12 of these Terms and Conditions creates a security interest ("Security Interest") (as that term is defined in the PPSA) in the products or work. The Client agrees that the Security Interest is taken in all of the Client's present and after-acquired property as security for all amounts payable by the Client to the Contractor, including but not limited to amounts owed in the respect of personal property supplied and credit facilities provided by the Contractor to the Client from time to time.
- 21.2 The Client acknowledges and agrees (or is deemed to acknowledge and agree) that where title in products or work passes to the Client, for any reason whatsoever, these terms and conditions constitute a security agreement providing for both future advances and a security in favour of the Contractor in all the Client's present and after acquired property, but excluding property not supplied by the Contractor.
- 21.3 The Client agrees that they will do all acts necessary and provide the Contractor with all information that is required to register a Financing Statement over the goods and the proceeds of all clients. The client waives all rights to receive a copy of any verification statement or a Financing Statement.
- 21.4 The Client agrees to immediately advise the Contractor in writing of any changes to information they have provided the Contractor at least seven (7) business days before changing their name, company name or trading name.
- 21.5 The Client authorises the Contractor to search the Personal Properties Securities Register at any time for information about the Client or (if the Client is a company) their parent or associated companies.

22.0 WARRANTIES

- 22.1 Where it is subject to Manufacturer's Warranties the Contractor will pass on the benefit of those warranties to the client without being directly liable to the Client under any warranty. Where the Client requires the Contractor to do anything related to a warranty claim the client must pay the Contractor's service and call out charges. The Contractor may refuse to assist with warranties of any sum that is owed by the Client to the company for any reasons overdue.

23.0 DISPUTES

- 23.1 If a dispute arises between the Contractor and the Client then both parties will endeavour to initially resolve such a dispute between themselves. If the amount in dispute is less than \$15,000.00 then the Client agrees to have the matter heard in the Disputes Tribunal if otherwise not resolved.
- 23.2 Should the Contractor be required to commence legal action to recover outstanding costs then the Client shall be liable to reimburse the Contractor for all legal costs (on a solicitor/client basis) incurred by them in enforcing payment.

24.0 GENERAL CONDITIONS

- 24.1 The Contractor may change these Terms and Conditions from time to time by notice to the Client in writing which it is agreed may be by email.

24.2 If any provision of these Terms and Conditions is held to be invalid or unenforceable for any reason, the remaining provisions shall remain in full force and effect.

25.0 THE CLIENT

25.1 In consideration of Paveco Ashburton Ltd providing services to the Client, I/WE PERSONALLY GUARANTEE jointly and severally payment upon demand of all moneys owed by the Client and any subsidiaries from time to time to Paveco Ashburton Ltd the Contractor herein. I/we agree and acknowledge that between Paveco Ashburton Ltd and ourselves, we are liable as principal Debtors and our liability shall not be lost or removed by the giving of time or any other act that would release our liability only as a surety.

Signed:

Signed:

Name:

Name:

Date:

Date:

Notes

It is recommended that decorative concrete be resealed every three years.

As concrete hardens, excess water evaporates causing the concrete to shrink, and so cracks can occur. This issue is well understood and through the proper use of Construction (expansion) Cuts, proper site preparation, and good concrete placing practice the risk can be significantly reduced. Cracks can still occur even with all precautions taken and so for any surface there is a chance it may happen. The Contractor cannot guarantee that the concrete will not crack and will not be responsible for fixing any cracks that may occur.

I/We acknowledge to have received a copy of these conditions, have read the Information Sheet and acknowledge I/we received these before I/we accepted the quote from Paveco Ashburton Ltd.

I/We hereby accept Paveco Ashburton Ltd quote and instruct them to proceed with our project.

Client Signature:

Dated:

**Driveway Construction, Concrete Placing, Concrete Cutting
Concrete Repair Products, Concrete Pavers**