

1. What is the purpose of this agreement?

1.1 This agreement sets out the terms that apply to the relationship between you (and "your") and HomePlus ("we", "us" and "our").

2. What information about you can we collect?

2.1 You agree to provide us with and allow us to use information necessary to give effect to this agreement and provide you with products and services ("your information"). We will not hold your information longer than required for the purposes of its collection.

2.2 Unless your consent is withdrawn in writing, you agree to us disclosing any of your information:

- to give effect to or enforce our obligations under this agreement or a finance agreement;
- when authorised by you or required by law;
- to assess your credit worthiness; and
- to market any of our products to another person or entity (including photographs).

2.3 We will not use your information unless we have reasonably ensured it is accurate, complete, relevant and not misleading. If we give your information to another entity we will do everything reasonably within our power to prevent unauthorised use or disclosure of your information.

2.4 You may access any of your information and ask us to correct any mistakes in it.

3. What are our products and services?

3.1 "Products and services" and "product(s)" means and includes, without limitation, all goods and inventory (whether separate, attached to something or performed work on), services and out of pocket expenses provided to you by us and identified:

- in any account, financial agreement, application, order form, packing slip, email, supply request, estimate, invoice, statement, payment claim or other document issued by us to you, which are deemed to be incorporated into and form part of our agreement with you; or
- as ours by marking or a manner of storage enabling them to be identified as ours.

4. What is the price?

4.1 The price is the cost of the products and services as agreed between you and us from time to time including all out of pocket expenses. You agree to reasonable changes in the price at any time.

4.2 If no price is stated in writing or orally agreed, the products and services will be deemed to be provided at the cost that we provide those products and services at the time of the transaction.

5. What happens when we give you an estimate?

5.1 When we give you an estimate for products and services:

- unless otherwise agreed or withdrawn in writing, the estimate will be valid for thirty (30) days from the date of issue;
- unless stated otherwise, the estimate will be exclusive of GST and other taxes;
- the estimate is subject to change and we have the right to alter the estimate because of circumstances beyond our control, incorrect or inaccurate information or errors; and
- you agree to pay for extra costs incurred where other products and services are required in addition to the estimate or you request alterations.

6. When and how do you pay us?

6.1 You agree to pay us:

- if you are in trade, a deposit if required and on or before the 20th day of the month following the date of our invoice ("the due date") unless otherwise agreed in writing;
- if you are not in trade, a 50% deposit before work commences and the balance of the invoice within seven (7) days of completion of our services;
- interest on any amount you owe after the due date at a rate of 2% per month;
- any expenses, including debt collection and legal costs, that we incur as a result of enforcing any of our rights contained in this agreement; and
- without set-off, deduction or counterclaim.

6.2 We may require progress payments and invoice by payment claims under the Construction Contracts Act 2002.

6.3 If you have a credit account with us, we reserve the right to limit the amount of credit and to withdraw monthly credit facilities on reasonable grounds.

6.4 We may require a credit card retention for services, the value of which you agree will be deducted from your credit card. All payments by credit card will incur an extra charge of 2.5% of the value of the invoice.

6.5 You agree to us allocating or reallocating any payment received from you towards any invoice. If no allocation is made then it is deemed to be in such a way that preserves the maximum value of our purchase money security interest in the products.

7. What warranties apply?

7.1 Manufacturers' warranties and guarantees where applicable.

7.2 If you are in trade and/or are a business, you agree that you and we contract out of the Fair Trading Act 1986 and Consumer Guarantees Act 1993 to the extent permissible by law.

7.3 We are not liable for delay or failure to perform our obligations if the cause is beyond our control.

7.4 Subject to 7.1-7.3, if we are deemed liable to you for any loss or damage of any kind, arising from the provision of goods and services to you, including consequential loss, whether suffered or incurred by you

- or another person or entity and whether in contract tort or otherwise, then you agree that our total liability is limited to the value of the goods and services provided to you.
- 7.5 You fully and completely indemnify us against any and all claims, actions, suits, proceedings, costs expenses, damages and liability including legal fees arising out of or connected with or resulting from a breach by you of your obligations under this agreement or as a result of injury to any person or property caused by or in connected with the your of the products including, without limitation; the manufacture, selection, delivery, possession, use, operation or return of the products whether arising under law.
- 7.6 Samples and illustrations of products shown to you may vary from products provided to you.
- 8. How do I make or vary an order?**
- 8.1 All orders are subject to these terms. An order from you will only be accepted when made in writing or verbally followed by written confirmation within seventy two (72) hours. Variations will be accepted subject to reasonable notice. We reserve the right to change product specifications without notice.
- 8.2 If you wish to cancel or vary an order, you must provide written notice to us within seven (7) days of the date of the order. We may refuse to cancel or vary any order if we have reasonably relied on your original instructions for that order. Additional costs may apply.
- 9. What if you want to return a product?**
- 9.1 A no returns policy applies to all products, unless the return is due to:
- fault, and you have notified us within seven (7) days of delivery; or
 - incorrect supply, and you have notified us within seven (7) days of delivery; or
 - transit damage or loss, and you have notified us within three (3) days of delivery; or
 - incorrect pricing, and you have notified us within seven (7) days of receiving the invoice.
- 9.2 Where 9.1 applies, we may repair or replace the product or credit your account (subject to our Customer Credit Notes Policy) at our discretion. You will not be charged for the cost of the replacement product. We do not reimburse any other costs of return such as freight and labour.
- 9.3 Any product the subject of a return must not be destroyed or removed from the delivery address until we have inspected the product or waived such right.
- 10. What ownership and security rights do we have?**
- 10.1 Until you have paid us in full for all products and services provided by us we retain ownership of and hold a security interest in all products.
- 10.2 You agree that we hold security interest in all of your present and after acquired property and:
- authorise us to register a financing statement and charge on the Personal Property Securities Register, and provide all information and signatures necessary to effect the same;
 - you will not register a financing charge or statement or charge demand in respect of products without our prior written consent;
 - waive your entitlement under s 148 of the Personal Property Securities Act 1999 (PPSA) to receive a copy of a verification statement where we have registered our interest;
 - that ss 114(1)(a), 133 and 134 of the PPSA do not apply; and
 - waive your rights as listed under ss 107(2) and 132 of the PPSA.
- 10.3 You agree that we may exercise a general lien against any products subject to services in our possession for any default.
- 10.4 We own all existing and new intellectual property rights connected to the products and services including where the products have been modified by any party. You fully indemnify us for any intellectual property infringements we may make when acting in accordance with your instructions.
- 10.5 If you fail to pay us for products and services, then you agree that such failure gives rise to a legal or equitable estate or interest ("the interest") in your land on which the products and services were carried out and affixed and that the interest entitles us to register a caveat against your land pursuant to the Land Transfer Act 1952 and any amendments or act in its substitution. A caveat is a notice registered against the title of your land informing anyone who searches the title that we have a right to or interest in that land.
- 10.6 If you are a director of a company or the trustee of a trust:
- in exchange for us agreeing to supply products and services and grant credit to the company or the trust, you also sign this agreement in your personal capacity, and jointly and severally personally undertake as principal debtors, to pay everything that the company or trust owes us, and to indemnify us against non-payment and/or default; and
 - any personal liability of you as director or trustee will not exclude the company or trust from the liabilities and obligations contained in this agreement.
- 11. When are we responsible for the products?**
- 11.1 Until the products are delivered to you. Delivery is complete when we give the products directly to you or another person who will give the products to you or leave them on your premises. We may make partial deliveries of products listed in one order or invoice.
- 11.2 The time and date stated for delivery is and an estimate only and is not an essential term of our agreement, though we will use our best endeavours to meet

delivery requirements. We will not be responsible for any losses or cost incurred due to delayed delivery.

11.3 Where the products are due for delivery and you do not accept delivery, a storage fee may apply.

11.4 All risk and the responsibility in relation to the products will shift to you after the products are delivered in accordance with clause 11.1.

12. When may we cancel our agreement with you?

12.1 Subject to 8.1 and 12.2-12.4, either party may cancel this agreement at any time by giving fourteen (14) days prior written notice.

12.2 We have the right by notice to suspend or cancel any part of any agreement for the provision of products and services to you if you default by:

- failing to pay or indicating you will not pay any sum owing by the due date;
- any of your creditors seizing or indicating they will seize any products provided to you;
- products in your possession becoming materially damaged while any amount owed to us remains unpaid;
- being bankrupted, insolvent, under statutory management or put into liquidation;
- a receiver being appointed over or a landlord possessing any of your assets;
- a court judgment entered against you remaining unsatisfied for seven (7) days;
- breaching the terms of this agreement; and
- an adverse material change in your financial position.

12.3 Cancellation or suspension will not affect our claims for any amount due at the time of cancellation or suspension, damages for any breach of your obligations under this agreement and any other legal rights we may have.

12.4 You agree that if you default and the default is not remedied within seven (7) days of occurrence, we may enter any premises occupied by you to inspect or retrieve any products. We may store and/or sell any products and credit the net sale proceeds to your account.

13. What else are you agreeing to?

13.1 On occasions we may outsource (contract out) part of work required to produce the products and services. You agree to pay for all amounts due in connection with the outsourcing.

13.2 If required by us, you will store a product in such a way that it can be identified as provided by us.

13.3 If we fail to enforce any of the terms of this agreement it will not be deemed to be a waiver of any of the rights or obligations we have under this agreement.

13.4 If any of these terms are determined to be invalid, void, illegal or unenforceable, the validity, existence, legality

and enforceability of the remaining terms will not be affected.

13.5 This is the entire agreement superseding all prior agreements, representations and warranties. Any instructions we receive from you will be subject to this agreement.

13.6 If any dispute arises between you and us we must be notified in writing within seven (7) days of delivery. If the dispute relates to delivery then we must be notified in writing within three (3) days.

13.7 You agree that all documentation related to this agreement may be served on you by email.

13.8 Any general changes to these terms will be published on our website. All other variations to this agreement must be by mutual agreement in writing.