

HYGIENE TECHNOLOGIES LTD 'TERMS & CONDITIONS'

THE CUSTOMER:

- a) Confirms that the information provided is true and correct and acknowledges that HYGIENE TECHNOLOGIES may terminate the Agreement and close the Credit Account if the information is incorrect.
- b) Agrees to be bound by the Agreement.
- c) Confirms that no information has been withheld which HYGIENE TECHNOLOGIES should be aware of in considering the Application.
- d) Accepts that the Application and the Agreement is the basis on which HYGIENE TECHNOLOGIES agrees to open a Credit Account.
- e) Accepts that ownership of the Goods is subject to the "Ownership and Risk" section in the Agreement.
- f) Accepts that HYGIENE TECHNOLOGIES may obtain, use and disclose information for credit assessment, debt collection and marketing information in the "Information Use" section in the Agreement.
- g) Confirms that the Agreement has been read and that the Goods are supplied subject to it.
- h) Acknowledges (where necessary) that the signatory has authority of the Customer to sign the Application.

Note: Where the Applicant is a Company or a Partnership or a Trust, all Directors/Partners/Trustees are required to sign the Application.

THE CREDIT AND SECURITY AGREEMENT:

Please read the following Terms and Conditions carefully. They apply to the Goods supplied by HYGIENE TECHNOLOGIES at the request of the Customer.

DEFINITIONS:

"Address for Service"	means the Postal address or Fax number last notified by the Customer.
"Agreement"	means the Terms and Conditions relating to the operation of the Credit Account.
"Application"	means the Application for Credit Account made by the Customer.
"Credit Account"	means the Credit Account provided by HYGIENE TECHNOLOGIES at the request of and for the Customer to enable receipt of the Goods prior to payment.
"Customer"	means the person or legal entity described in the Application or buying the Goods from HYGIENE TECHNOLOGIES.
"Default Event"	means an event where – <ol style="list-style-type: none">a. the Customer fails or in HYGIENE TECHNOLOGIES' opinion is likely to fail to comply with the terms of the Agreement or any other contract with HYGIENE TECHNOLOGIES; orb. the Customer commits an act of bankruptcy; orc. the Customer enters into any composition or arrangement with creditors; ord. if the Customer is a company:<ol style="list-style-type: none">i. the Customer does anything which would make it liable to put into liquidation; orii. fails to provide a certificate of solvency within 10 days of receiving a written demand from HYGIENE TECHNOLOGIES; oriii. a receiver or statutory or official manager is appointed over all or any of the Customers assets; oriv. a resolution is passed or an application is made for the liquidation of the Customer; orv. the ownership or effective control of the Customer or the Customers business is transferred or the nature of the Customers businesses materially altered.
"Due Date"	means the date notified by HYGIENE TECHNOLOGIES to the Customer by which payment must be made and if no date is specified the 20th day of the month following the date of the invoice.
"Goods"	means chemical products equipment any other products and business services supplied by HYGIENE TECHNOLOGIES pursuant to orders placed by the Customer.
"PPSA"	means the Personal Property Security Act 1999.
"Price"	means the Purchase Price of the Goods and any other costs payable by the Customer under the Agreement.
"Sum Owing"	means the Price charged by HYGIENE TECHNOLOGIES for the Goods and any other amounts which HYGIENE TECHNOLOGIES is entitled to charge under the Agreement.
"HYGIENE TECHNOLOGIES"	means HYGIENE TECHNOLOGIES LIMITED and any duly authorised agent.

PRICE

1. The Customer shall pay the Price stated on the invoice issued by HYGIENE TECHNOLOGIES.
2. The Price shall include Goods and Services Tax and any other taxes, duties and levies payable in respect of the Goods at the date of the invoice.
3. HYGIENE TECHNOLOGIES may impose a credit limit at its discretion, and alter the credit limit without notice. Where the credit limit is exceeded, HYGIENE TECHNOLOGIES reserves the right to refuse supply of Goods to the Customer.
4. The Customer shall pay the Sum Owing to HYGIENE TECHNOLOGIES in full without any deductions, whether by way of set off, counter claim, or any other equitable legal claims.

PAYMENT

5. The Customer shall pay all amounts due to HYGIENE TECHNOLOGIES on the Due Date.
6. HYGIENE TECHNOLOGIES may apply any payment received from or on behalf of the Customer (including payment due by HYGIENE TECHNOLOGIES to the Customer) in reduction of the Sum Owing as HYGIENE TECHNOLOGIES thinks fit.
7. The Customer accepts:
 - 7.1 that HYGIENE TECHNOLOGIES continues to supply the Goods on condition that all payments received by HYGIENE TECHNOLOGIES from Customer are valid and made in the ordinary course of the Customer business.
 - 7.2 HYGIENE TECHNOLOGIES receives all payments in the ordinary course of the Customer business and good faith and in the reasonably held belief as to the validity of those payments unless and until the Customer gives notice in writing to HYGIENE TECHNOLOGIES:
 - 7.2.1 of the Customers inability to pay its due debts; and
 - 7.2.2 that the Customers purpose in making such payment is to enable HYGIENE TECHNOLOGIES to receive more towards satisfaction of the Sum Owing than it would otherwise have received or have been likely to have received in any liquidation/insolvency of the Customer and until receipt of such notice HYGIENE TECHNOLOGIES shall be entitled to assume that all payments received from the Customer are made in the ordinary course of the Customers business.

DELIVERY

8. Delivery shall be completed upon the transfer of possession of the Goods to the Customer or the Customers agent.
9. HYGIENE TECHNOLOGIES shall not be liable for failure to deliver, refusal to deliver or defective delivery.
10. When HYGIENE TECHNOLOGIES is to deliver the Goods on the date specified by the order of the Customer but the Customer does not take delivery when requested by HYGIENE TECHNOLOGIES to do so, HYGIENE TECHNOLOGIES shall be entitled to invoice the Customer the Price in accordance with Clause 1.

OWNERSHIP, RISK AND SECURITY AGREEMENT

11. Risk of any loss, damage or deterioration of or to the goods passes to the Customer on delivery.
12. Ownership of the Goods remains with HYGIENE TECHNOLOGIES and does not pass to the Customer until the Customer:
 - 12.1 Pays the Sum Owing to HYGIENE TECHNOLOGIES; or
 - 12.2 Re-sells the Goods pursuant to the Agreement.
13. While ownership of the Goods remains with HYGIENE TECHNOLOGIES:
 - 13.1 The Customer must store them separately, not mix them and identify them as belonging to HYGIENE TECHNOLOGIES.
 - 13.2 The Customer shall keep the Goods free from any Security Interest, Lien or other encumbrance apart from any Security Interest created by this Agreement.
 - 13.3 As the Customers Agent (and pursuant to an irrevocable License granted by the Customer), HYGIENE TECHNOLOGIES may enter the premises where the Goods are stored and remove them, without being responsible for any damage caused and the Customer shall indemnify HYGIENE TECHNOLOGIES against any claim or costs arising from such action.
 - 13.4 HYGIENE TECHNOLOGIES may re-sell any of the Goods and apply the proceeds of sale in reduction of the Sum Owing.
14. In the event that the Customer re-sells or uses the Goods before ownership of them has passed to the Customer, and in the absence of a perfected Security Interest in favour of HYGIENE TECHNOLOGIES under the Personal Property Securities Act 1999 (PPSA) then the proceeds of such sale or use shall be received and held by the Customer (in whatever form) UPON TRUST for both the Customer and HYGIENE TECHNOLOGIES. HYGIENE TECHNOLOGIES' interest as beneficiary under that trust shall be that portion of the proceeds which does not exceed the Sum Owing. The balance of the proceeds (if any) shall be the Customers beneficial interest under that trust.
 - 14.1 Notwithstanding any other provision of this Agreement, the Customer HEREBY AGREES and grants to HYGIENE TECHNOLOGIES: -
 - 14.1.1 A Purchase Money Security Interest in the Inventory and/or Goods supplied as security for payment for the inventory and/or Goods and for any other amounts owing by the Customer to HYGIENE TECHNOLOGIES from time to time; and
 - 14.1.2 A Security Interest in all of the Customers present and after acquired property pursuant to s36 (1) (b) (iii) of the PPSA (except any personal property which has not been supplied by HYGIENE TECHNOLOGIES to the Customer in which a buyer has rights at law).
 - 14.2 The Customer must advise HYGIENE TECHNOLOGIES immediately of the happening or likely happening of a Default Event, or any action or intended action of which it may become aware by any third party affecting HYGIENE TECHNOLOGIES' Security Interest as set out in Clause 14.2 hereof.
 - 14.3 The Customer undertakes to comply with any request by HYGIENE TECHNOLOGIES to enable HYGIENE TECHNOLOGIES to obtain a perfected Security Interest in all of the Inventory and/or Goods and after acquired property and a Purchase Money Security Interest under the PPSA in each part thereof to the extent of the purchase price.
 - 14.4 The Customer waives the right to receive a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement as defined under the PPSA relating to the Security Interest created by Clause 14.2 hereof.
 - 14.5 The Customer agrees: -
 - 14.5.1 If HYGIENE TECHNOLOGIES does not at any time have priority over all other secured parties in respect of any part of the Inventory of Goods supplied then as provided by s107 PPSA the Customer and HYGIENE TECHNOLOGIES hereby contract out of the operation of s109 PPSA and agree that for that part of the Inventory or Goods, this Agreement and the HYGIENE TECHNOLOGIES Security Interest hereunder shall be construed to provide HYGIENE TECHNOLOGIES with the same rights and powers as are set out in s109 PPSA but as if that section were amended by the deletion of the words "with priority over all other secured parties"; and
 - 14.5.2 That nothing in s114, s133 and s134 PPSA shall apply to this Agreement or the Security Interest under this Agreement and that it waives the Customers rights under s121, s125, s129, s131 and s132 PPSA.
15. HYGIENE TECHNOLOGIES may commence an action for the Price of the Goods sold even where ownership of the Goods may not have passed to the Customer.

CLAIMS AND LIABILITY LIMITATION

16. HYGIENE TECHNOLOGIES expressly:
 - 16.1 excludes all warranties, descriptions, representations or conditions whether implied by law, trade, custom or otherwise and whether relating to fitness, merchant ability, suitability for purpose, or otherwise and all specific conditions even though such conditions may be known to HYGIENE TECHNOLOGIES;
 - 16.2 excludes liability in any way to the Customer or any third party, whether in tort (including negligence), contract, or otherwise, for any loss or damage whatsoever, whether direct, or indirect, special, or consequential;
 - 16.3 states that any liability in respect of any order of the Goods shall be limited to the Price of the Goods.
17. HYGIENE TECHNOLOGIES may at its complete discretion, replace or give credit for the Goods supplied and established to be defective provided that:
 - 17.1 any claim must be notified to HYGIENE TECHNOLOGIES within seven days of delivery of the Goods together with all supporting documentation;
 - 17.2 all claims must specifically identify the defect and, where possible in relation to Goods be accompanied by the defective Goods or a sample and;
 - 17.3 the Customer shall take all steps to ensure that HYGIENE TECHNOLOGIES has every opportunity to investigate the claim.
18. If at any time the Customer expressly or by implication holds itself out as acquiring from HYGIENE TECHNOLOGIES the Goods for resale or the Goods for the purpose of a business, all supplies of the Goods to the Customer by HYGIENE TECHNOLOGIES shall be deemed to be for the purpose of the Customers business (as that latter term is defined in the Consumer Guarantees Act 1993). In such event as between HYGIENE TECHNOLOGIES and the Customer the Guarantee provisions of the Consumer Guarantees Act 1993 are expressly excluded and shall not apply to any supplies of the Goods by HYGIENE TECHNOLOGIES to the Customer.

DEFAULT

19. Should a Default Event occur HYGIENE TECHNOLOGIES may suspend or terminate the Agreement and the Credit Account, and the Sum Owing shall immediately become due and payable notwithstanding that the Due Date has not arisen.
20. If the Customer does not pay the Sum Owing by the Due Date:
 - 20.1 HYGIENE TECHNOLOGIES may charge a default penalty at the default rate of 24% per annum in respect of the Sum Owing. Such interest shall accrue on a daily basis from the Due Date until payment is full and is charged by way of damages for failure to pay and does not imply the granting of, or extension of, credit by HYGIENE TECHNOLOGIES to the Customer.
 - 20.2 HYGIENE TECHNOLOGIES may disallow any discounts.
 - 20.3 the Customer shall be liable to pay all collection expenses, and legal costs as between solicitor and client, of HYGIENE TECHNOLOGIES as a consequence of a Default Event. INFORMATION USE
21. The customer agrees that:

- 21.1 the personal information provided, obtained and retained by HYGIENE TECHNOLOGIES about the Customer will be held and used for any or all of the following purposes including determining eligibility for credit, the supply of the Goods, the marketing of goods and services including market research, enforcing debt and legal obligations under the Agreement.
- 21.2 the Agreement is the Customers irrevocable authority to HYGIENE TECHNOLOGIES to use the personal information for the purpose in clause 21.1 and to provide any personal information (along with details of any dealing between the Customer and HYGIENE TECHNOLOGIES) to any third party and to obtain any information concerning the Customer from any other source.
- 21.3 the Customer must notify HYGIENE TECHNOLOGIES of any changes in circumstances that may affect the accuracy of the information provided by the Customer to HYGIENE TECHNOLOGIES. If the Customer is a natural person the Customer has rights of access to, and correction of any personal information held by HYGIENE TECHNOLOGIES.

ASSIGNMENT/CANCELLATION

- 22 HYGIENE TECHNOLOGIES shall be entitled to assign to any other person or company all or any part of the Sum Owing and the assignee shall be entitled to claim all or any part of the Sum Owing and shall have the same rights of recovery as HYGIENE TECHNOLOGIES.
- 23 HYGIENE TECHNOLOGIES shall be entitled to cancel all or any part of any contract or contracts with the Customer and at any time with or without prior notice. Any such cancellation shall be without prejudice to HYGIENE TECHNOLOGIES other rights and remedies including, but not limited to, those which may arise from any breach or non-compliance by the customer.

OTHER AGREEMENTS

- 24 If there is any inconsistency between the Agreement and any order submitted by the Customer, or any other arrangement between the parties, the Agreement shall prevail unless agreed in writing by the parties.

WAIVER

- 25 If at any time HYGIENE TECHNOLOGIES does not enforce the Agreement, or grants the Customer time or other indulgence, HYGIENE TECHNOLOGIES shall not be construed as having waived the Agreement or its right to later enforce the Agreement.

TERMS SEPARATELY BINDING

- 26 Each term of the Agreement is separately binding. Where any provision is void, unenforceable or otherwise ineffective by operation of law the enforceability or effectiveness of the remaining provisions shall not be affected.

CHANGING THE AGREEMENT

- 27 HYGIENE TECHNOLOGIES may add, change or remove terms. Changes may include a new form of the Agreement: HYGIENE TECHNOLOGIES can do this at any time without obtaining the consent of the Customer. HYGIENE TECHNOLOGIES will advise when changes are to take effect by notification to the Customers Address for Service. A copy of the Agreement can be obtained free from HYGIENE TECHNOLOGIES.

SENDING BILLS AND NOTICES

- 28 HYGIENE TECHNOLOGIES will send invoices and other notices to the Address for Service. HYGIENE TECHNOLOGIES can assume any:
- 28.1 invoice or notice has been delivered five days after it has been sent, or 28.2 fax has been received upon confirmation of transmission.
- 29 The Customer:
- 29.1 must inform HYGIENE TECHNOLOGIES in writing if the Address for Service changes or the Credit Account is to be closed.
- 29.2 remains liable for all bills debited to the Credit Account where HYGIENE TECHNOLOGIES has not acknowledged in writing receipt of the Customers instructions to close the Credit Account.

USE OF GOODS

- 30 The customer accepts the advice and information provided by HYGIENE TECHNOLOGIES to the Customer relating to the Goods is given in good faith and based on the information provided by the Customer. The decision to order and use the Goods is that of the Customer.

RETURNS

- 31 Where HYGIENE TECHNOLOGIES at its discretion allows the Customer to return the Goods which are not defective or non complying, HYGIENE TECHNOLOGIES reserves the right to charge in addition to any delivery costs a return fee equal to 10% of the price.

CIRCUMSTANCES BEYOND CONTROL

- 32 HYGIENE TECHNOLOGIES shall not be liable for any failure to supply the Goods or meet any other obligations owed to the Customer where such failure results from circumstances beyond the control of HYGIENE TECHNOLOGIES.

LEGAL FORUM

- 33 The Customer acknowledges that any dispute or legal proceedings between the Customer and HYGIENE TECHNOLOGIES shall be filed in and be heard either at the Disputes Tribunal or the District Court at Hastings or the High Court at Napier. The parties to this Agreement expressly acknowledge that the cause of action or a material part thereof arises within the jurisdiction of the District Court at Hastings or the High Court at Napier.