



COMPLETE HEAT & COOLING

AUCKLAND'S PREFERRED CENTRAL HEATING & COOLING SPECIALIST

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Terms and Condition of Trade for Complete Heat & Cooling Ltd

1. DEFINITIONS

- 1.1 "Complete Heat & Cooling Ltd" shall mean Complete Heat & Cooling Ltd, or any agents or employees thereof.
- 1.2 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Complete Heat & Cooling Ltd.
- 1.3 "Products" shall mean:
- 1.3.1 all Products of the general description specified on the front of this agreement and supplied by Complete Heat & Cooling Ltd to the Customer; and
- 1.3.2 all Products supplied by Complete Heat & Cooling Ltd to the Customer; and
- 1.3.3 all inventory of the Customer that is supplied by Complete Heat & Cooling Ltd; and
- 1.3.4 all Products supplied by Complete Heat & Cooling Ltd and further identified in any invoice issued by Complete Heat & Cooling Ltd to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
- 1.3.5 all Products that are marked as having been supplied by Complete Heat & Cooling Ltd or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Complete Heat & Cooling Ltd; and
- 1.3.6 all of the Customer's present and after-acquired Products that Complete Heat & Cooling Ltd has performed work on or to or in which goods or materials supplied or financed by Complete Heat & Cooling Ltd have been attached or incorporated.
- 1.3.7 The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4 "Products and Services" shall mean all products, services, goods and advice provided by Complete Heat & Cooling Ltd to the Customer and shall include without limitation all gas services and the supply of associated products and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Products and Services by Complete Heat & Cooling Ltd to the Customer.
- 1.5 "Price" shall mean the cost of the Products and Services as agreed between Complete Heat & Cooling Ltd and the Customer and includes all disbursements e.g. charges Complete Heat & Cooling Ltd pay to others on the Customer's behalf subject to clause 4 of this contract.
- #### 2. ACCEPTANCE
- 2.1 Any instructions received by Complete Heat & Cooling Ltd from the Customer for the supply of Products and Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.
- #### 3. COLLECTION AND USE OF INFORMATION
- 3.1 The Customer authorises Complete Heat & Cooling Ltd to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract or marketing any Products and Services provided by Complete Heat & Cooling Ltd to any other party.
- 3.2 The Customer authorises Complete Heat & Cooling Ltd to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.
- 3.4 Complete Heat & Cooling Ltd will comply with all requirements under the Privacy Act 2020.
- #### 4. PRICE
- 4.1 Where no price is stated in writing or agreed to orally the Products and Services shall be deemed to be sold at the current amount as such Products and Services are sold by Complete Heat & Cooling Ltd at the time of the contract.
- 4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Products and Services that is beyond the control of Complete Heat & Cooling Ltd between the date of the contract and delivery of the Products and Services.
- #### 5. PAYMENT
- 5.1 Payment for Products and Services shall be made in full on or before the due date noted on the invoice ("the due date").

- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by Complete Heat & Cooling Ltd in the enforcement of any rights contained in this contract shall be paid by the Customer, including solicitor's fees or debt collection agency fees.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5 A deposit may be required.
- #### 6. QUOTATION
- 6.1 Where a quotation is given by Complete Heat & Cooling Ltd for Products and Services:
- 6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
- 6.1.2 The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
- 6.1.3 Complete Heat & Cooling Ltd reserve the right to alter the quotation because of circumstances beyond its control.
- 6.2 Where Products and Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such Products and Services.
- #### 7. AGENCY
- 7.1 The Customer authorises Complete Heat & Cooling Ltd to contract either as principal or agent for the provision of Products and Services that are the matter of this contract.
- 7.2 Where Complete Heat & Cooling Ltd enters into a contract of the type referred to in clause 7.1 it shall be read with and form part of this agreement and the Customer agrees to pay any amounts due under that contract.
- #### 8. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)
- 8.1 Title in any Products and Services supplied by Complete Heat & Cooling Ltd passes to the Customer only when the Customer has made payment in full for all Products and Services provided by Complete Heat & Cooling Ltd and of all other sums due to Complete Heat & Cooling Ltd by the Customer on any account whatsoever. Until all sums due to Complete Heat & Cooling Ltd by the Customer have been paid in full, Complete Heat & Cooling Ltd has a security interest in all Products and Services.
- 8.2 If the Products and Services are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Products and Services shall remain with Complete Heat & Cooling Ltd until the Customer has made payment for all Products and Services, and where those Products and Services are mixed with other property so as to be part of or a constituent of any new Products and Services, title to these new Products and Services shall be deemed to be assigned to Complete Heat & Cooling Ltd as security for the full satisfaction by the Customer of the full amount owing between Complete Heat & Cooling Ltd and Customer.
- 8.3 The Customer gives irrevocable authority to Complete Heat & Cooling Ltd to enter any premises occupied by The Customer or on which Products and Services are situated at any reasonable time after default by the Customer or before default if Complete Heat & Cooling Ltd believes a default is likely and to remove and repossess any Products and Services and any other property to which Products and Services are attached or in which Products and Services are incorporated. Complete Heat & Cooling Ltd shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Complete Heat & Cooling Ltd may either resell any repossessed Products and Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and Services and credit the Customer's account with the invoice value thereof less such sum as Complete Heat & Cooling Ltd reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 8.4 Where Products and Services are retained by Complete Heat & Cooling Ltd pursuant to

- clause 8.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act.
- 8.5 1999 ("PPSA") and to object under s.121 of the PPSA 8.5 The following shall constitute defaults by the Customer:
- 8.5.1 Non payment of any sum by the due date.
- 8.5.2 The Customer intimates that it will not pay any sum by the due date.
- 8.5.3 Any Products and Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products and Service.
- 8.5.4 Any Products and Services In the possession of the Customer are materially damaged while any sum due from the Customer to Complete Heat & Cooling Ltd remains unpaid.
- 8.5.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distains against any of the Customer's assets.
- 8.5.6 Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
- 8.5.7 Any material adverse change in the financial position of the Customer.
- 8.6 If the Credit Repossession Act applies to any transaction between the Customer and Complete Heat & Cooling Ltd, the Customer has the rights provided in that Act despite anything contained in these terms and conditions of trade.
- #### 9. SECURITY INTEREST FOR SERVICE PROVIDERS
- 9.1 The Customer gives Complete Heat & Cooling Ltd a security interest in all of the Customer's present and after-acquired property that Complete Heat & Cooling Ltd has performed services on or to or in which goods or materials supplied or financed by Complete Heat & Cooling Ltd have been attached or incorporated.
- #### 10. GENERAL LIEN
- 10.1 The Customer agrees that Complete Heat & Cooling Ltd may exercise a general lien against any Products and Services or property belonging to the Customer that is in the possession of Complete Heat & Cooling Ltd for all sums outstanding under this contract and any other contract to which the Customer and Complete Heat & Cooling Ltd are parties.
- 10.2 If the lien is not satisfied within seven (7) days of the due date Complete Heat & Cooling Ltd may, having given notice of the lien at its option either
- 10.2.1 Remove such Products and Services and store them in such a place and in such a manner as Complete Heat & Cooling Ltd shall think fit and proper and at the risk and expense of the Customer or
- 10.2.2 Sell such Products and Services, or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.
- #### 11. DISPUTES
- 11.1 No claim relating to Products and Services will be considered unless made in writing within seven (7) days of service.
- #### 12. LIABILITY
- 12.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Complete Heat & Cooling Ltd which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Complete Heat & Cooling Ltd, liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 12.2 Except as otherwise provided by clause 12.1 Complete Heat & Cooling Ltd shall not be liable for:
- 12.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Products and Services by Complete Heat & Cooling Ltd to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products and Services provided by Complete Heat & Cooling Ltd to The Customer; and
- 12.2.2 The Customer shall indemnify Complete Heat & Cooling Ltd against all claims and loss of any

- kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Complete Heat & Cooling Ltd or otherwise, brought by any person in connection with any matter, act, omission, or error by Complete Heat & Cooling Ltd its agents or employees in connection with the Products and Services.
- 12.3 If, contrary to the disclaimer of liability contained in these terms and conditions of trade, Complete Heat & Cooling Ltd is deemed to be liable to the Customer, following and arising from the supply of Services by it to the Customer, then it is agreed between Complete Heat & Cooling Ltd and the Customer that such liability is limited in its aggregate to \$500.00.
- #### 13. WARRANTY
- 13.1 Manufacturer's warranty applies where applicable.
14. Seeley 7-year warranty to be completed by the owner within 6 months from the date of installation www.seeleyinternational.com
- #### 15. CONSUMER GUARANTEES ACT
- 15.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where The Customer acquires Products and Services from Complete Heat & Cooling Ltd for the purposes of a business in terms of section 2 and 43 of that Act.
- #### 16. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES
- 16.1 If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for Complete Heat & Cooling Ltd agreeing to supply Products and Services and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Complete Heat & Cooling Ltd the payment of any and all monies now or hereafter owed by the Customer to Complete Heat & Cooling Ltd and indemnify Complete Heat & Cooling Ltd against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.
- #### 17. MISCELLANEOUS
- 17.1 Complete Heat & Cooling Ltd shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 17.2 Failure by Complete Heat & Cooling Ltd to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Complete Heat & Cooling Ltd has under this contract.
- 17.3 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 17.4 The Construction Contracts Act 2002 applies where applicable.
- #### 18. STANDARD CHARGES
- 18.1 \$209.00 Minimum Service fee (Includes the first 30 minutes on site), \$50.00 return service fee, \$20 consumables, \$35.00 per quarter hour per technician plus parts and GST or as quoted. (30-minute minimum onsite charge applies)
- 18.2 Gas Safety Certificate \$30, Gas Safety & Compliance Certificate \$150, Gas Verification Certificate \$150; all prices are excluding labour and GST.
- 18.3 Specialist Braemar service costs are not included in our standard gas fitting charges and are charged accordingly:
- 18.3.1 Standard Braemar service \$340 plus GST;
- 18.3.2 Deluxe Braemar service \$440 plus GST.
- 18.4 Additional work over and above a Braemar service will be charged at \$40.00 per quarter hour per technician plus parts and GST or as quoted.
- #### 19. HEALTH AND SAFETY
- 19.1 Complete Heat & Cooling Ltd will be responsible for their own safety and health. Complete Heat & Cooling Ltd must comply with the Health and Safety at Work Act 2015, any regulations made under the Act, and any health and safety policies, directives or procedures of the business.



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Complete Heat & Cooling Ltd
Auckland

**CONSTRUCTION CONTRACTS REGULATIONS 2003
FORM 1**

Information that must accompany Payment Claim served on Residential Occupier

Under the Construction Contracts Act 2002 you are a Residential Occupier if you occupy, or intend to occupy, the building that is subject of this Construction Contract, wholly or mainly as a dwelling house.

If you are a residential occupier, please read the following notice.

You have been served with a payment claim under section 20 of the Construction Contracts Act 2002 (the Act). Under the Act, the person who has served the payment claim is called the payee. If you do not respond to the payment claim promptly, you may lose the right to object to the payment claim. You may choose to respond to the payment claim in either of the following two ways:

1. You may pay the payee the amount claimed in the payment claim in full on or before the due date; or
2. If you object to the payment claim you may provide a written payment schedule to the payee, which must identify the payment claim to which it relates and indicate what you are prepared to pay (which can be nothing). The amount you so indicate is called the scheduled amount. If the scheduled amount is less than the claimed amount, the payment schedule must indicate:

(a) How you calculated the scheduled amount; and

(b) Your reason or reasons for the difference between the scheduled amount and the claimed amount; and

(c) In a case where the difference is because you are withholding payment on any basis, your reason, or reasons for withholding payment. You must provide the payment schedule to the payee within the time required by the construction contract or, if the construction contract does not set out a time for responding to the payment claim, then within 20 working days after the payment claim is served on you. If you provide a payment schedule in this way, then you must pay the scheduled amount in full on or before the due date for the progress payment to which the payment claim relates.

Consequences of not responding to payment claim

If you do not respond to the payment claim by paying the claimed amount in full or providing a payment schedule that sets out the amount you are prepared to pay, then you will become liable to pay the claimed amount and the payee may recover from you, as a debt due, in the appropriate court, the unpaid portion of the claimed amount and the actual and reasonable costs of recovery awarded against you by the court.

Consequences of indicating that you will pay nothing or less than the claimed amount

If you do not respond to the payment claim by providing a payment schedule but indicate in the schedule that you are prepared to pay nothing or an amount less than the claimed amount, the payee may take issue with you for doing so. The payee may bring court proceedings against you and refer the matter as a dispute for adjudication under the Act.

Consequences of not paying scheduled amount in manner indicated by payment schedule

If you do respond to the payment claim by providing a payment schedule but do not pay the scheduled amount on or before the due date for the progress payment to which the payment claim relates, the payee may recover from you, as a debt due, the unpaid portion of the scheduled amount and the actual and reasonable costs of recovery awarded against you by the court.

Advice to residential occupier

Important: If you do not understand this information or if you want advice about how best to respond to the payment claim, you should consider getting legal advice immediately.

The due date for a progress payment is the date agreed for payment of the progress payment between you and the payee as parties to the construction contract. The due date should be set out in the payment claim.

Working day does not include Saturdays, Sundays, any day during 24 December to 5 January inclusive, national holidays or the anniversary of the relevant province. If the last day for making payment or providing a payment schedule fall on a day that is not a working day, you may do so on the next working day after that day.