

Terms Of Trade

1. DEFINITIONS

- 1.1 "CoverCorp" shall mean CoverCorp Limited, or any agents or employees thereof.
- 1.2 "Client" shall mean the Client, any person acting on behalf of and with the authority of the Client, or any person purchasing products and services from CoverCorp.
- 1.3 "Products" shall mean:
 - 1.3.1 all Products of the general description specified on the front of this agreement and supplied by CoverCorp to the Client; and
 - 1.3.2 all Products supplied by CoverCorp to the Client; and
 - 1.3.3 all inventory of the Client that is supplied by CoverCorp; and
 - 1.3.4 all Products supplied by CoverCorp and further identified in any invoice issued by CoverCorp to the Client, 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 CoverCorp or that are stored by the Client in a manner that enables them to be identified as having been supplied by CoverCorp; and
 - 1.3.6 all of the Client's present and after-acquired Products that CoverCorp has performed work on or to or in which goods or materials supplied or financed by CoverCorp 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, goods, services and advice provided by CoverCorp to the Client and shall include without limitation the manufacture, supply, installation, repair and hire of specialist covers, awnings, canopies, tarpaulins, truck side covers, fixed frame and retractable awning systems and portable awning systems and all associated products and services and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Products and Services by CoverCorp to the Client.
- 1.5 "Price" shall mean the cost of the Products and Services as agreed between CoverCorp and the Client and includes all disbursements eg charges CoverCorp pay to others on the Client's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1 Any instructions received by CoverCorp from the Client 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 Client authorises CoverCorp to collect, retain and use any information about the Client, for the purpose of assessing the Client's credit worthiness, enforcing any rights under this contract, or marketing any Products and Services provided by CoverCorp to any other party.
- 3.2 The Client authorises CoverCorp to disclose any information obtained to any person for the purposes set out in clause 3.1
- 3.3 Where the Client 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.

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 CoverCorp 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 CoverCorp 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 20th day of the month following the date of the invoice ("the due date").
- 5.2 Where stipulated by CoverCorp payment shall be made in full on or before the 7th day following the date of the invoice ("the due date").
- 5.3 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.4 Any expenses, disbursements and legal costs incurred by CoverCorp in the enforcement of any rights contained in this contract shall be paid by the Client, including any reasonable solicitor's fees or debt collection agency fees.
- 5.5 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.6 A deposit may be required.

6. QUOTATION

- 6.1 Where a quotation is given by CoverCorp 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 CoverCorp 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 Client agrees to pay for the additional cost of such Products and Services.

7. RISK

- 7.1 The Products and Services remain at CoverCorp's risk until delivery to the Client.
- 7.2 Delivery of Products and Services shall be deemed complete when CoverCorp gives possession of the Products and Services directly to the Client or possession of the Products and Services is given to a carrier, courier, or other bailee for purposes of transmission to the Client.
- 7.3 The time agreed for delivery shall not be an essential term of this contract unless the Client gives written notice to CoverCorp making time of the essence.
- 7.4 Where CoverCorp delivers Products and Services to the Client by instalments and CoverCorp fails to deliver or supply one or more instalments the Client shall not have the right to cancel the contract but shall have the right to claim compensation as a severable breach.

8. AGENCY

- 8.1 The Client authorises CoverCorp to contract either as principal or agent for the provision of Products and Services that are the matter of this contract.
- 8.2 Where CoverCorp enters into a contract of the type referred to in clause 8.1 it shall be read with and form part of this agreement and the Client agrees to pay any amounts due under that contract.

9. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 9.1 Title in any Products and Services supplied by CoverCorp passes to the Client only when the Client has made payment in full for all Products and Services provided by CoverCorp and of all other sums due to CoverCorp by the Client on any account whatsoever. Until all sums due to CoverCorp by the Client have been paid in full, CoverCorp has a security interest in all Products and Services.
- 9.2 If the Products and Services are attached, fixed, or incorporated into any property of the Client, by way of any manufacturing or assembly process by the Client or any

third party, title in the Products and Services shall remain with CoverCorp until the Client 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 assigned to CoverCorp as security for the full satisfaction by the Client of the full amount owing between CoverCorp and Client.

- 9.3 The Client gives irrevocable authority to CoverCorp to enter any premises occupied by the Client or on which Products and Services are situated at any reasonable time after default by the Client or before default if CoverCorp 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. CoverCorp shall not be liable for any costs, damages, expenses or losses incurred by the Client 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. CoverCorp may either resell any repossessed Products and Services and credit the Client'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 Client's account with the invoice value thereof less such sum as CoverCorp reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 9.4 Where Products and Services are retained by CoverCorp pursuant to clause 9.3 the Client waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
- 9.5 The following shall constitute defaults by the Client:
 - 9.5.1 Non payment of any sum by the due date.
 - 9.5.2 The Client intimates that it will not pay any sum by the due date.
 - 9.5.3 Any Products and Services are seized by any other creditor of the Client or any other creditor intimates that it intends to seize Products and Services.
 - 9.5.4 Any Products and Services in the possession of the Client are materially damaged while any sum due from the Client to CoverCorp remains unpaid.
 - 9.5.5 The Client is bankrupted or put into liquidation or a receiver is appointed to any of the Client's assets or a landlord distains against any of the Client's assets.
 - 9.5.6 A Court judgment is entered against the Client and remains unsatisfied for seven (7) days.
 - 9.5.7 Any material adverse change in the financial position of the Client.
- 9.6 If the Credit Repossession Act applies to any transaction between the Client and CoverCorp, the Client has the rights provided in that Act despite anything contained in these terms and conditions of trade.

10. PAYMENT ALLOCATION

- 10.1 CoverCorp may in its discretion allocate any payment received from the Client towards any invoice that CoverCorp determines and may do so at the time of receipt or at any time afterwards and on default by the Client may reallocate any payments previously received and allocated. In the absence of any payment allocation by CoverCorp, payment shall be deemed to be allocated in such manner as preserves the maximum value of CoverCorp's purchase money security interest in the Products and Services.

11. DISPUTES AND RETURN OF GOODS

- 11.1 No claim relating to the Products and Services will be considered unless made within seven (7) days of delivery.
- 11.2 No Products will be considered for return unless faulty. If any Products are faulty then CoverCorp must be immediately notified. CoverCorp will accept for return or repair at its own discretion.

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 CoverCorp 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 CoverCorp, CoverCorp's 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 CoverCorp shall not be liable for:
 - 12.2.1 Any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the Client 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 CoverCorp to the Client; and
 - 12.2.2 The Client shall indemnify CoverCorp 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 CoverCorp or otherwise, brought by any person in connection with any matter, act, omission, or error by CoverCorp its agents or employees in connection with the Products and Services.

13. WARRANTY

- 13.1 Manufacturer's warranty applies where applicable.
- 13.2 Any written warranty that CoverCorp provide to the Client will also form part of these terms and conditions of trade.
- 13.3 No representation, condition, warranty or promise expressed or implied by law or otherwise applies to the Products and Services except where goods are supplied or services provided pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this contract.
- 13.4 CoverCorp does not provide any warranty that the Products and Services are fit and suitable for the purpose for which they are required by the Client and shall not be liable if they are not.

14. CONSUMER GUARANTEES ACT

- 14.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Client acquires Products and Services from CoverCorp for the purposes of a business in terms of section 2 and 43 of that Act.

15. HIRE OF EQUIPMENT

- 15.1 Where equipment is hired from CoverCorp:
 - 15.1.1 The Client shall not part with the possession of the equipment and shall not sublet, or sell, or attempt to alienate the equipment in any way, or deal with the equipment in any way that may be prejudicial to CoverCorp.
 - 15.1.2 The Client shall be liable for any damage to or loss of the equipment hired however caused and in the event of any equipment being damaged, lost or stolen the Client shall pay to CoverCorp the cost of making good the repair to the equipment or the cost of replacing the equipment whichever is the lesser.
 - 15.1.3 The Client shall on request by CoverCorp advise of the whereabouts of any hired equipment and gives CoverCorp irrevocable licence to enter any premises within its control for the purposes of inspecting, repairing, testing or removing the hired equipment and further if the Client fails to pay any monies owing after the due date CoverCorp may enter any premises and take possession and remove the hired equipment.

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16. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 16.1 If the Client is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for CoverCorp agreeing to supply Products and Services and grant credit to the Client at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to CoverCorp the payment of any and all monies now or hereafter owed by the Client to CoverCorp and indemnify CoverCorp against non-payment by the Client. Any personal liability of a signatory hereto shall not exclude the Client in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Client 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 CoverCorp 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 CoverCorp 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 CoverCorp 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 client shall not assign all or any of its rights or obligations under this contract without the written consent of CoverCorp