

SWITCHED ON BUILDING SOLUTIONS LIMITED
TERMS OF TRADE

1. Definitions and Interpretation

- 1.1. In these Terms:
"Customer" means the person or entity engaging or requesting the Services, and in the event the customer is a company, any person acting on behalf of and with authority of the Customer.
"Goods" means goods and materials supplied and used by us to carry out the Services;
"PPSA" means the Personal Property Securities Act 1999;
"Quote" means a quote for the supply of the Services on the terms set out on the quote and these Terms;
"Services" means all services supplied and to be supplied by us to the Customer at any time;
"Terms" means these terms of trade (as amended from time to time); and
"we", "our", "us" means Switched On Group Limited and any of its related companies (as defined in the Companies Act 1993) from time to time.
- 1.2. Headings used in these Terms are for convenience and do not affect the meanings of these Terms.
- 1.3. These are the Terms on which we operate our business. The Quote (if applicable) and these Terms comprise our contract with the Customer and shall be read as one document.
- 1.4. These Terms may be amended from time to time without notice to the Customer.
- 1.5. The Quote shall prevail in the event of any conflict between the Quote and these Terms. The Customer shall be deemed to have read and accepted these Terms and the Quote (if applicable) when engaging our Services.

2. Supply of Services

- 2.1. We will endeavour to supply the Services in accordance with the time or timeframe set out in the Quote. We shall not be liable to the Customer for any failure to supply the Services within that time or timeframe, however that failure was caused.
- 2.2. The Services shall be supplied during our normal business hours, unless otherwise agreed with the Customer.

3. Variation and Cancellation

- 3.1. Any variation to the Services must be agreed by the Customer and us in writing.
- 3.2. The Customer shall not cancel all or any part of the Services without our written consent. If we consent, all charges due up to the date of consent will be deemed payable immediately by the Customer.
- 3.3. We may at any time, in our sole and absolute discretion, cancel or suspend all or any part of the Services without any liability to the Customer.

4. Price

- 4.1. Subject to this clause 4, the price for the Services, and any Goods used in supplying the Services, are set out in the Quote.
- 4.2. We may vary our Quote (including the price for the Services) at any time:
(a) in the circumstances (if any) set out in the Quote;
(b) if our costs, or the costs of any Goods, increase between the date of the Quote and our supply of the Services;
(c) if our supply of the Services is delayed by any default, act or omission by the Customer;
(d) if we supply the Services for any reason outside our normal business hours; or
(e) (for the avoidance of doubt) if we agree to any variation to the Services.
- 4.3. We may withdraw a Quote at any time before it is accepted.
- 4.4. Any Quote will lapse without notice thirty (30) days after the date it is given.
- 4.5. All prices are based on New Zealand currency, and unless stated otherwise are exclusive of GST.

5. Terms of Payment

- 5.1. Unless otherwise specified in writing by us, payment shall be made in full, without deduction or set off, within 20 working days following the date of the invoice.
- 5.2. We may, in our sole and absolute discretion, require payment of a deposit prior to carrying out, or completion of, the Services.
- 5.3. If full payment is not made by the due date, then without prejudice to any other rights or remedies available to us:
(a) we may cancel or suspend all or any part of the Services;
(b) we may charge interest on overdue monies on a daily basis at 5% per annum above the current overdraft rate charged by our bankers at that time;
(c) we may charge an administration fee on all overdue amounts in addition to any other charges; and
(d) the Customer shall be responsible for any and all costs (including legal costs on a solicitor/client basis) incurred by us in recovering such monies.
- 5.4. We may, in our sole and absolute discretion, accept and apply any payments received from the Customer in respect of any

indebtedness, and we will not be bound by any conditions or qualifications attaching to those payments.

6. Security

- 6.1. In supplying the Services to the Customer, we may use Goods to be supplied by us and paid for by the Customer in accordance with the Quote.
- 6.2. Risk in respect of the Goods shall pass to the Customer on delivery to the Customer. Ownership in the Goods shall not pass to the Customer until we have received full payment of all monies owing by the Customer for the Services.
- 6.3. As security for the Customer's obligations to us from time to time (including monies owing to us now and in the future), the Customer acknowledges that these Terms create a security interest in respect of all rights, title and interest in all of the Customer's present and after acquired property. Any property that comes into existence after the date of these Terms will come into existence subject to this security interest.
- 6.4. The Customer undertakes to:
(a) do all acts and provide us on request all information required to register a financing statement or financing change statement on the Personal Property Securities Register; and
(b) advise us immediately in writing of any proposed change in name or other details on the Personal Property Securities Register.
- 6.5. The Customer:
(a) waives any right to receive a verification statement in respect of any financing statement or financing change statement relating to the security interests created under these Terms;
(b) agrees that nothing in sections 114(1)(a), 133 and 144 of the PPSA shall apply to these Terms and, with our agreement, contract out of such sections; and
(c) waives any rights and, with our agreement, contract out of any rights under sections 116, 120(2), 121, 125, 129 and 131 of the PPSA.
- 6.6. The terms and expressions used in this clause 6 shall have the meaning given to them in, or by virtue of, the PPSA.

7. Warranty and Liability

- 7.1. Except as otherwise provided in these Terms, our liability under the Quote and these Terms excludes and replaces all other warranties, conditions or obligations imposed or implied by common or statute law, usage or otherwise.
- 7.2. We are not liable for any indirect or consequential loss or damage that the Customer may suffer at any time.
- 7.3. Our total liability in respect of all claims that any Customer may have against us shall not exceed the amount for the Services of the respective Customer.
- 7.4. In the event a Customer has a claim against us for which we may be liable under these Terms, the Customer must provide full written details of the claim to us, within two months of the date on which the claim arises. If this is not received within that time, we will not be liable in respect of that claim.
- 7.5. We will, where we are able to do so, pass on the benefit of any manufacturers guarantee for Goods.

8. Force Majeure

- 8.1. We shall not be liable for any delay in carrying out, or failure to carry out, the Services in accordance with the Quote or these Terms if that delay or failure results from anything beyond our reasonable control.
- 8.2. Any such delay or failure pursuant to this clause 8 shall not be a breach of the Quote or these Terms.

9. General Terms

- 9.1. For the purposes of the Privacy Act 1993, we may use any personal information the Customer gives us for credit, administration, service and marketing purposes. If the Customer does not give this information to us, we may not be able to provide the Services. The Customer is deemed to have authorised us to disclose personal information held by us for these purposes to any other person. The Customer acknowledges that the Customer has a right of access to, and may request correction of, the personal information.
- 9.2. For the purposes of the Consumer Guarantees Act 1993 ("CGA"), in the event the CGA applies, these Terms and the Quote (if applicable) shall be read subject to the rights under the CGA. The Customer acknowledges that the CGA does not apply when acquiring the Services for the purposes of a business.
- 9.3. No delay or failure by us to exercise our rights under these Terms operates as a waiver of those rights. A partial exercise of those rights does not prevent their further exercise in the future.
- 9.4. If a court decides that part of these Terms is unenforceable, the part concerned shall be deleted from the rest of these Terms, which will then continue in force.
- 9.5. These Terms will be interpreted in accordance with and governed by the laws of New Zealand, and the New Zealand courts will have exclusive jurisdiction in respect of all matters between us.