ACME PLATING (2020) LTD TERMS & CONDITIONS OF TRADE

1 - DEFINITIONS
1.1 "Seller" shall mean ACME PLATING (2020) LTD and any company, which is directly or indirectly a subsidiary of ACME PLATING (2020) LTD and any duly authorised agent.
1.2 "Customer" shall mean the person, authorized agent or legal entity described in the application, or stated on the invoice or order form, buying goods and/or services from ACME PLATING (2020) LTD.
1.3 "Goods" has the same meaning as section 2 of the Sale of Goods Act 1908 and is any goods provided by the seller to the customer.
1.4 "Services" shall mean all services supplied by the seller to the customer and includes any recommendations or advice.
1.5 "Price" shall mean the purchase price of the goods, services, and any other costs.

2 - ACCEPTANCE
2.1 Any instructions received by the seller from the customer for the supply of goods shall constitute acceptance of the terms and conditions contained herein.
2.2 No agent or representative of the seller is permitted to make any such agreements, representations, conditions, or warranties not expressly confirmed by the seller in writing.

3 - PRIVACY ACT 1993
3.1 The customer permits the seller to collect, use and retain any information concerning the customer, for the purpose of assessing the customers credit worthiness, to enforce any rights under this contract, or the marketing of any goods and services provided by the seller to any other party.
3.2 The customer permits the seller to disclose information obtained to any person for the purposes set out in clause 3.1.

4 - PAYMENT TERMS
4.1 Once goods or services are ordered payment shall be made according to the terms and conditions stated herein whether the goods or services have been delivered and this contract cannot be cancelled except where allowed at law.
4.2 Payment for goods shall be made in full on or before the 20th day of the month.
4.3 Interest at the rate of 2.5% per month above the seller's current overdraft rate, with their principal registered bank or part thereof may be charged on any amount owing after the due date.
4.4 Any disbursements, expenses and legal costs incurred by the seller for default in payment shall be paid by the customer, including any debt collection agency fees, court costs or solicitor's fees.
4.5 An administration fee of the greater amount of $25.00 or 10% of the amount overdue will be payable 30 days after due date and the seller reserves the right to terminate future supply.
4.6 Payment will be accepted by cash, cheque, electronic banking or by any other method as agreed in writing by the seller.

5 - PRICE
5.1 Prices unless otherwise stated, do not include goods and services tax, other taxes, levies or tariffs, exchange rate fluctuations, freight, or insurance charges, which if applicable, will be an extra charge to the customer.
5.2 Price will be specified on the invoice or quotation and will be the current price at time of delivery.

6 - RISK AND DELIVERY
6.1 The goods remain at the seller's risk until the delivery to the customer, but when title passes to the customer the goods are at the customers risk no matter if delivery has been made or not.
6.2 Delivery of goods shall be deemed complete when the seller gives possession of the goods for delivery to the customer, or possession of the goods is given to a general carrier, for delivery to the customer.
6.3 The seller shall not be liable to the customer for damage or loss due to failure by the seller to deliver the goods promptly or at all.

7 – RETENTION OF TITLE
7.1 Title in the goods passes to the customer when the customer has made payment in full for all goods supplied by the seller.
7.2 The customer gives necessary authority to the seller to enter any premises occupied by the customer, at any reasonable time, to remove any goods not paid for in full by the customer. The seller shall not be liable for damages, costs or expenses or any other losses suffered by the customer as a result of this action.

8 - LIMITATION OF LIABILITY
8.1 The seller shall not be liable for any loss of profits, or any consequential indirect loss, or damage of any kind arising directly or indirectly from any breach of the seller's obligation under this contract or in tort.

8.2 Where the seller is liable to the customer, the maximum cost of any liability shall not exceed the value of the goods or services provided by the seller.

9 – NON-WAIVER
9.1 Failure by the seller to enforce any of the terms & conditions contained in this contract shall not be deemed to be a waiver of any of the rights the seller has in this contract and is not liable for any indirect loss or expense to the customer.

10 - FORCE MAJEURE
10.1 The seller shall not be liable for failure or delay to perform its obligations if the delay or failure is beyond its control.

11 - CONSUMER GUARANTEES ACT 1993
11.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded if the customer acquires goods or services from the seller for the purposes of a business.
11.2 If the customer on sells the goods to a third party, the customer shall indemnify the seller for any losses incurred due to third party claims against the seller.

12 - JURISDICTION
12.1 The contract shall in all respects be deemed to be a contract made in New Zealand and New Zealand law shall govern the validity, construction, and performance of the contract.

13 – DEFECTIVE GOODS
13.1 At the seller's discretion defective goods will be replaced or refunded by the seller if the customer has notified the seller within 10 days of delivery.

14 - PERSONAL PROPERTY SECURITIES ACT 1999
14.1 The customer agrees that the provisions herein constitute a Security Interest in Personal Property (as those terms are defined in the Personal Property Securities Act 1999 ("PPSA")) in respect of which the seller may register a financing statement on the Personal Property Securities Register.
14.2 The customer hereby waives its rights contained in sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131, and 132 of the PPSA.

15 - ASSIGNMENT
15.1 The customer shall not assign all or any of its rights or obligations under this contract without the written consent of the seller.

16 - CANCELLATION
16.1 The seller may cancel these terms and conditions or cancel delivery of goods and services at any time before the goods are delivered by giving written notice. The seller shall not be liable for any loss or damage arising from such cancellation.
16.2 The customer may cancel delivery of goods at the seller's sole discretion and will be liable for any costs incurred by the seller.

17 - – PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES
18.1 If the customer is a company or trust, the director(s) or trustee(s) agree, in consideration for the seller agreeing to supply goods and credit to the customer at their request, that in their personal capacity and jointly and severally personally undertake as principal debtors to the seller, the payment of any and all monies now or hereafter owed by the customer to the seller and indemnify the seller against non-payment by the customer. Any personal liability hereto shall not exclude the customer in any way whatsoever from the liabilities and obligations contained in this contract. The individual and customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

19 - MISCELLANEOUS
21.1 If anything in this agreement is unenforceable, illegal, or void it is severed, and the rest of this agreement remains in force.
21.2 The customer may not claim any counter claim or set-off against any payments due by it to the seller.
21.3 Under no circumstances shall the liability of the seller exceed the price of the goods in the event of a breach of this contract.
21.4 The seller may license or sub-contract all or any part of its rights and obligations without the customer's consent.
21.5 The seller reserves the right to review and change these terms and conditions at any time and will notify the customer of this in writing at which time the changes will take effect.