

1. AGREEMENT

1.1 An agreement is made between Miele and the customer for the purchase of Miele Professional product/s (“**Product/s**”) specified in an order.

1.2 The agreement comprises the order, these Terms and Conditions and any Additional Terms as specified.

2. PRICE

2.1 The price payable by the customer to Miele for the product/s is the price specified in the order confirmation.

3. PAYMENT

Non-Account Customer

3.1 50% of the price is payable as a Security Payment upon submission of the order by the customer.

3.2 Full payment of the price is required prior to the delivery of the product/s.

3.3 If the agreement relates to two or more product/s and they are delivered on different dates, that part of the price (or the balance of it) which relates to the product/s delivered on a particular date is payable on that date and by the time of delivery.

Account customer

3.4 The customer must pay Miele the applicable price for each product/s it acquires from Miele.

3.5 25% of the price is payable as a Security Payment upon submission of the order by the customer

3.6 Miele will invoice the customer for the product/s it acquires and any incidental charges relating to the sale of the products upon delivery.

3.7 The customer must pay Miele each invoice issued under clause 3.6, by the 20th day of the month following the monthly statement issued by Miele.

3.8 Miele may require that the customer provide security (such as a directors' or bank guarantee) or Miele may complete a credit reference check prior to executing a transaction on behalf of the customer.

4. DEFAULT IN PAYMENT

4.1 If the customer fails to make any payment when due, the customer must, without prejudice to any other right or remedy of Miele:

- i. pay interest on the amount outstanding calculated daily at a rate equal to The Reserve Bank of New Zealand's base rate plus 5%;
- ii. reimburse Miele for all reasonable costs and expenses incurred in relation to the outstanding debt and chasing payment of it; and
- iii. upon reasonable notice by Miele, return the product/s to Miele or permit a representative of Miele reasonable access to the location of the product/s to repossess the product/s.

5. DELIVERY

5.1 Subject to clause 5.2, Miele will deliver the product/s to the location specified in the order. Where no location is specified, Miele will deliver the product/s to the customer's address as set out in the order.

5.2 Miele is not required to deliver the product/s in accordance with clause 5.1 if the location to which the product/s are to be delivered is outside of metropolitan regions. Miele may instead notify the customer of the location at which the product/s are available for collection – at its sole discretion; Miele may elect to deliver the product/s to areas beyond metropolitan regions.

5.3 Subject to clause 5.4, the delivery date will be the date specified in the order or, if no date is specified, such alternative date as the customer and Miele later agree on. (“**Delivery Date**”).

5.4 Miele will use reasonable commercial endeavours to deliver the product/s on or about the delivery date. If Miele is unable to deliver the product/s (by reason of inventory shortage, transportation difficulties or otherwise), it will use reasonable commercial endeavours to do so within a reasonable period after the delivery date.

5.5 If Miele does not deliver the product/s within 30 days of the delivery date, by reason of a cause within Miele's reasonable control, the customer may give 5 business days notice of termination of this agreement. If the product/s are not delivered in the notice period, this agreement is terminated on expiry of that period.

5.6 If the model of the product/s is discontinued or superseded and not available for delivery on the delivery date, Miele will notify the customer prior to the delivery date that:

- i. Miele is prepared to instead supply a model of equivalent or superior standard, and specify that model and any addition to the price for the model change; or
- ii. There is no equivalent model available and this agreement is therefore terminated with immediate effect.

5.7 If the customer accepts Miele's offer of an alternative model in accordance with clause 5.6(i), the product/s and the price will be taken to be varied as per Miele's offer. If the variation is rejected, this agreement is thereby terminated with immediate effect.

5.8 Miele will deliver the product/s at a time arranged by Miele and the customer for such delivery (“**Delivery Time**”). In the event that the customer is not present to accept delivery at the nominated delivery time, the customer will be liable to pay Miele a fee to have the product/s re-delivered at a new delivery time/date, as arranged by Miele and the customer. This re-delivery fee is payable by the customer prior to Miele re-delivering the product/s at the new nominated delivery time/date.

5.9 Subject to clause 8 and applicable consumer protection legislation, if the customer accepts delivery of the product/s (or collects the product/s in accordance with clause 5.1) and subsequently changes their mind about the product/s (including where the customer orders the incorrect product), Miele may, in its discretion, agree to:

- i. accept return of the relevant product/s from the customer; and
- ii. provide replacement product/s to the customer.

In these circumstances, the customer must pay:

- i. any difference between the price of the product/s being returned and the replacement product/s selected; and
- ii. a re-stocking fee of 20% of the price of the product/s returned.

The customer acknowledges that this re-stocking fee represents the costs incurred by Miele in accepting the returned product/s. Miele will not impose the re-stocking fee where the customer is not at fault.

5.10 If the customer:

- i. fails to accept delivery of the product/s, or
- ii. fails to accept delivery of the product/s by Miele within 30 days of being notified by Miele that they are ready for delivery; or
- iii. fails to collect the product/s in accordance with clause 5.1 within 30 days of being notified by Miele that they are available for collection.

Miele may give the customer 5 days notice of termination of this agreement.

5.11 If Miele is unable to contact the customer after making reasonable attempts to arrange delivery or collections, Miele may give the customer 30 days notice of termination of this agreement. If the customer fails to make arrangement for delivery within the notice period, this agreement (including any order) is terminated upon expiry of that period.

6. PRODUCT INSTALLATION

6.1 All Miele products must be installed in accordance with the installation instructions that accompany each product. If a Miele product is not installed in accordance with the instruction manual, Miele may not be liable for any warranty claims or demands made. A request to verify or rectify the installation of a Miele product/s installed by a party other than Miele or a Miele Service Agent will incur a service fee.

7. OWNERSHIP AND RISK

7.1 Miele remains the owner of the product/s until the price is paid in full to Miele and the product/s have been delivered to the customer.

7.2 The customer must not sell or otherwise deal with the product/s until the price is paid in full to Miele. If the customer purports to do so, the customer will be deemed to hold the proceeds of sale or other realisation (or the amount equal to the outstanding) on trust for Miele.

7.3 Notwithstanding clauses 7.1 and 7.2, the risk of loss of or damage to the product/s passes to the customer upon delivery.

8. WARRANTY

8.1 Miele products are subjected to rigorous testing and assessment as to their quality and fitness. Warranties as to the merchantability and fitness for purpose of Miele products are implied under consumer protection legislation.

8.2 In addition, Miele warrants that the product/s will be free from defects in materials and workmanship for a period of 12 months from:

- i. The date of delivery, or
- ii. Settlement of the development (evidentiary documentation required), or
- iii. Six months following the practical completion of any development.

Miele does not make any further representation or warranties as to the merchantability of its product range whether expressly or implied.

8.3 To the extent permitted by law, Miele's liability for the product/s, any defect in materials or workmanship, any breach of this agreement or any negligence is limited to:

- i. repair or replacement of the product/s;
- ii. payment of the cost of repairing or replacing the product/s;
- iii. payment of the cost of acquiring equivalent product/s.

8.4 To the extent permitted by law, Miele's liability is limited in accordance with clause 8.3 and Miele is not liable for any indirect, special or consequential loss or damage arising in any way in relation to, or use of, the product/s.

8.5 Miele reserves the right to inspect and test the products for the purpose of determining the extent of any defect and the validity of any claim made under this warranty. All defective parts/products replaced by Miele under this warranty will be deemed to be the property of Miele.

8.6 This Miele warranty will not apply if the part or product the subject of the service is rendered faulty by a factor other than a defect in materials and workmanship or a defect caused by the service, or are used or installed (where applicable) other than as recommended or in accordance with any instructions.

Such factors include but are not limited to:

- i. damage through misuse (including failure to maintain, service or use with proper care), neglect, accident or ordinary wear and tear (including deterioration and glass breakage);
- ii. use or operation after a defect has occurred or been discovered;
- iii. damage through freight, transportation or handling in transit (other than when Miele is responsible);
- iv. damage through exposure to chemicals, dusts, residues, excessive voltage, heat, atmospheric conditions or other forces or environmental factors howsoever outside Miele's control;
- v. repair, modification or tampering with by the purchaser or any person other than an authorised Miele Service Agent; or
- vi. use of parts, components or accessories which have not been supplied by or specifically approved by Miele.

This warranty does not apply to consumables such as batteries, filters or globes.

8.7 Customers must retain proof of purchase (receipt) in order to be eligible to make a warranty claim. A Miele product/s warranty is a non transferable right, a warranty is deemed void upon the transfer of ownership of the product/s (exclusions apply).

9. SERVICE & SPARE PARTS

9.1 While Miele will use reasonable commercial endeavours to have all necessary spare parts available for the purpose of warranty repair or service, Miele is not liable for delays due to sourcing of unusual parts which are required, or due to circumstances beyond the control of Miele.

9.2 Miele has a policy of assuring availability of spare parts and service for all Miele appliance products for a period of not less than five (5) years after production of the applicable product has ceased. After this period, availability of spare parts and service will depend upon the particular Miele product.

9.3 Customers should ensure prior to purchase that adequate Miele Service coverage is available in the region to which the product will be located. Product/s situated outside of Miele's service region may incur additional fees such as travel and transportation.

10. PRIVACY

10.1 Miele will collect and deal with the customer's personal information (including name, address, telephone contact or personal details) only in accordance with Miele's Privacy Charter and the Privacy Act 1993 (New Zealand). A copy of the Privacy Charter is available from Miele or www.miele.co.nz.

10.2 Miele may disclose personal information to its related companies and to organisations which provide services (including delivery services) to Miele or which assist Miele in providing services (including repair and warranty services) to its customers.

11. GOVERNING LAW

11.1 This agreement is subject to the laws of New Zealand, and the parties submit to the exclusive jurisdiction of the Courts of New Zealand.

12. DEFINITIONS

'Additional Terms' means any other terms and conditions as recorded in any project or commercial quotation.

'Customer' means the person or entity whose name and address appears on the order as the purchaser of the product/s.

'Miele' means Miele New Zealand Ltd.

'Order' means the order provided by the customer to Miele for the purchase of the product/s and includes an order by way of acceptance by the customer or a tender, quotation or offer made by Miele.

'Price' means the price payable by the customer to Miele for the product/s as specified in the order confirmation.

'Product/s' means the Miele Professional products referred to in the order.

'Security Payment' means the amount paid by the customer to Miele with the order.