

Initial Terms and Conditions

1. Rentokil Initial Limited (NZBN 9429040604787) trading as Initial Hygiene (“**Initial**”) agrees to supply the washroom hygiene services and sanitisation services (**Services**), install the equipment specified above (“**Equipment**”) at the servicing address (“**Servicing Address**”) at the frequency specified above, for the fees set out in the schedule (exclusive of paper consumables) and during the period set out below (**Service Agreement**) each as varied in accordance with these terms and conditions.
2. The Customer’s acceptance of these terms and conditions may be confirmed by signing this document, confirming its acceptance by email or by allowing Initial to perform the Services.
3. **Service Agreement:** Customer will accept the Services for an initial minimum term of 12 months commencing from the date of this agreement unless otherwise agreed. This agreement will automatically be extended, if not terminated or varied and will operate until such time as it is terminated by either party giving at least two (2) calendar months written notice of termination. No termination can take effect before the last day of the initial minimum term except in accordance with this agreement. The Customer acknowledges that any failure to provide this notice will result in the Customer being liable for amounts equal to the fees for the two month period.
4. **Fees:** Fees are payable by the Customer to Initial, monthly, quarterly, or annually in advance in respect of the Services, the use of the Equipment and consumables in accordance with this agreement. Where an option to pay the fees monthly in advance has been agreed, the Customer must pay by direct debit. Fees payable under this agreement exclude any amount in respect of GST which shall be payable in addition to the Fees upon Initial providing a tax invoice. The Fees are based on the Services; frequency and Equipment to be provided allowing for set up costs, materials and equipment costs, service support and administration costs (**Service Costs**). If Initial agrees to accept a reduction or cancellation of any part of the Services, any variation to the Fees must take account of these Service Costs so the Fees may not be varied pro rata to the change in the Services. Where in any invoice period, Initial has not completed the required minimum number of Services, the Customer will be entitled to a credit calculated on a pro rata basis after appropriate deductions in respect of the Service Costs and also taking into account the number of non routine visits such as call outs and follow up visits the Customer has received.
If there is a change in law which occurs after the commencement date which was not known and could not reasonably have been known by Initial as at the commencement date and such change reasonably results in Initial incurring additional costs, the Fees will be increased by an amount equal to the additional costs Initial will incur as a direct result of the change in law.
5. **Interest on over dues & No deductions:** Interest is payable by the Customer on overdue amounts payable to Initial from the due date until the date on which the debt is paid at a rate of two per cent (2%) above the rate charged by Initial’s bank on overdrafts for less than one hundred thousand dollars (\$100,000.00). The Customer may not deduct or withhold any amount (whether by way of set off, counterclaim or otherwise) from any money owing to Initial.
6. **Equipment:** Unless Customer purchases the Equipment the Equipment remains the property of Initial at all times. Risk of damage or loss to the Equipment passes to the Customer upon delivery until Initial retakes possession of the Equipment. The Customer is responsible for all reasonable costs of and incidental to the installation and removal of the Equipment.
7. The Customer must:
 - a) follow the instructions of Initial in relation to the use of the Equipment;
 - b) take care of the Equipment and be responsible for its use;
 - c) not attempt to move, alter or modify the Equipment (including removing labels or signs indicating the Equipment belongs to Initial) or request or permit any person other than Initial to do so;
 - d) for sanitisation services, advise Initial of any outbreaks of diseases or viruses at the Servicing Address;
 - e) not sell lease or part with possession or otherwise encumber the Equipment; and
 - f) immediately notify Initial if the Equipment is damaged, defective or removed and notify anyone claiming possession of the Equipment that it belongs to Initial.
8. Initial is entitled to replace any item of Equipment or consumable at any time at its sole discretion provided the replacement item is of an equivalent or better standard and upon replacement the replaced item is subject to these terms and conditions.
9. **Consumables:** The Customer agrees that only consumables supplied by Initial to the Customer may be used with or dispensed through the Equipment.
10. **Insurance:** The Customer must maintain insurance with a reputable insurer for:
 - a) The Equipment for its full replacement value against any loss or damage and it must note the interest of Initial as owner of the Equipment; and
 - b) Liability for loss resulting from any kind of injury or death of any person in connection with a third party’s use of the Equipment.The Customer must provide Initial with evidence of the insurance upon request.
11. **Pricing Review:** For a Service Agreement, after the initial minimum term, and no more than once annually, Initial may review and increase the Fees by notice to the Customer.
12. **Access and Safety:** The Customer must ensure that Initial’s staff and other authorised personnel (**Personnel**) have full and safe access (free of any health and safety hazards and risks unless the Customer has notified Initial of such risks prior to accessing the Servicing Address) to the Servicing Address (including all facilities such as water and electricity that Initial may reasonably require to provide the Services) at any time between 4am and 5pm Monday to Friday (or at another time agreed with the Customer). The Customer must also provide Initial with all necessary instructions, documentation and co-operation required by Initial to provide the Services. Initial Personnel will comply with all reasonable security and safety instructions of the Customer while present at the Servicing Address.
13. The Customer must comply with all advice and instructions provided by Initial to the Customer including in relation to the health and safety of persons using the premises at the Servicing Address during and following the completion of the Services.
14. **Service Confirmation:** The Customer acknowledges that any of the following constitute proof of satisfactory performance of the Services by Initial:
 - a) a customer service docket signed by the Customer;
 - b) an electronic record of the Customer’s signature recorded by Initial on a portable electronic; or
 - c) for services undertaken at a specific Customer site, an electronic scan record recorded by Initial when Initial Personnel scans the bar code located at the site.
15. **Indemnity:** To the extent permitted by law, the Customer will indemnify Initial and its Personnel against all actions, claims, proceedings or costs (including legal costs on a full indemnity basis) which Initial may incur as a result of:
 - a) any person alleging loss or injury due to the Equipment not being used by the Customer or its staff or invitees in the manner recommended by Initial;
 - b) for any loss, liability, damage or injury arising from damaged or defective Equipment in the possession or control of the Customer which was not brought immediately to the attention of Initial by the Customer;
 - c) any willful or negligent act or omission of the Customer or any of its officers, employees, agents or contractors; or
 - d) any breach or non-performance of this agreement by the Customer; and
 - e) the loss or damage to the Equipmentexcept to the extent any loss or damage is caused by Initial or its Personnel.
16. **Subcontractors:** Initial may engage or employ any person, sub-contractor or agent to provide any of the Services under this agreement.
17. **Force Majeure:** Initial shall not be liable to the Customer for any failure to provide the Services on a particular date due to any other cause beyond Initial’s control.
18. **No Bribery:** The Customer and Initial agree:

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- a) that they will not (nor allow anyone acting on their behalf) to offer, give, request or accept any undue financial or other advantage of any kind in any way connected with entry into this agreement; and
 - b) they will each comply with all applicable laws related to bribery and corruption in connection with this agreement. Any failure to comply with this clause, entitles the other party to terminate this agreement upon notice to the other party.
19. **Termination:** Initial may suspend the Services or terminate this agreement on immediate notice to the Customer if:
- a) The Customer is in breach of a material obligation and does not remedy that breach within seven (7) business days of notice from Initial;
 - b) The Customer breaches any other provisions and fails to remedy that breach (if capable of remedy) within 10 business days of notice from Initial: or
 - c) The Customer becomes insolvent or is deemed insolvent, bankrupt, ceases or threatens to cease to carry on business, a receiver, manager, or administrator are appointed or anything having a similar effect occurs in relation to the Customer.
- It is agreed that non payment, any modification or removal of any Equipment without the approval of Initial, refusal to allow access to the Servicing Address or failure by the Customer to notify of damaged or defective Equipment are material breaches of this Agreement.
20. **Removal of Equipment:** On termination of this agreement, howsoever that arises, unless Customer has purchased the Equipment, Initial may remove all of its Equipment in the Customer's possession or control, and for that purpose may enter the Servicing Address and remove the Equipment. Initial shall use all reasonable care in removing the Equipment but shall not be responsible for restoring that part of the premises to the original state. If Initial is unable to remove the Equipment the Customer shall be liable for the replacement value of the Equipment that has not been recovered.
21. **Debt Collection:** The Customer indemnifies Initial for all expenses incurred in relation to the recovery of debts owed by the Customer.
22. **Privacy and Credit Reporting:** The Customer authorizes Initial, its employees and related entities, subject to compliance with applicable privacy legislation to use and disclose the personal information of the Customer for any purposes connected with this Agreement or otherwise in accordance with Rentokil Initial Privacy Policy which can be accessed at www.initial.co.nz. This use includes communicating offers to the Customer about products and services from Rentokil Initial. The Customer has the option to opt out of receiving the information at any time. Where the Customer is provided with credit, the Customer authorises Initial to: (a) obtain credit reports in respect of the Customer and its related entities from credit reporting agencies and other bodies permitted by law; (b) seek and or/disclose information about the Customer and its related entities (including information about their credit worthiness, credit history, standing or capacity) which credit providers or other parties are permitted to supply obtain or receive under applicable privacy legislation (c) disclose information about the application for credit under this agreement and if successful, about the credit account and credit provided to a credit reporting agency or other permitted body in order to obtain information or credit reports; (d) disclose information including identity particulars, the fact the Customer had applied for credit and details of payments that are more than 60 days overdue to credit reporting agencies, other credit providers or other permitted bodies; and (e) disclose information about the Customer and its related entities to any person considering acting as a guarantor of the Customer..
23. **Entire Agreement:** This agreement supersedes and replaces all previous agreements between the parties in relation to hygiene services, consumables and equipment and contains the entire agreement between them as to its subject matter. To the extent permitted by law, Initial expressly excludes all warranties, guarantees, representations and conditions except as may be made by Initial to the Customer in writing.
24. **Acknowledgement:** For the purposes of Section 5D of the Fair Trading Act 1986 (FTA) and section 43 of the Consumer Guarantee Act 1993 (CGA), the parties acknowledge that:
- a) to the extent permitted by law, they are contracting out of the CGA (to the extent that the CGA would otherwise apply to any matter covered by this agreement) and sections 9,12 and 13 of the FTA in respect of this agreement;
 - b) it is fair and reasonable for the parties to be bound by this clause; and
 - c) they have received legal advice or had the opportunity to seek legal advice in relation to this agreement.
25. **Liability:** To the extent permitted by law:-
- a) Initial will not be liable for any loss of profits or revenue, loss of business, wasted expenditure or any form of indirect or consequential loss arising out of or in connection with this agreement, the supply of the Services, the Equipment or the sale of any goods.
 - b) Where a claim relates to a guarantee or warranty under consumer law, Initial's total aggregate liability to the Customer under or in relation to this agreement (including in contract, negligence, tort or any common law or statutory right) is limited at Initial's option to:
 - (i) in relation to claims relating to services, the resupply of the Services, or the costs of resupply of the Service: or
 - i. (ii) in relation to claims relating to goods, the resupply of the goods, or the cost of re supply of the goods.
 - c) In relation to sanitisation services, Initial will not be liable for loss of damage to the Customer's property arising out of delivery of the Services;
 - d) In all other circumstances, the liability of Initial to the Customer (including in contract, negligence, tort or any common law or statutory right) under this agreement will not exceed the fees received by Initial from the Customer pursuant to this agreement.
26. **General:**
- (a) This agreement may only be amended in writing signed by both parties.
 - (b) A reference to 'writing' or 'written' includes electronic mail.
 - (c) If any provision of this agreement is unlawful, invalid or unenforceable it may be severed without affecting the enforceability of the other provisions.
 - (d) The Customer may not assign its rights under this agreement without the prior approval of Initial;
 - (e) Each indemnity in this agreement is a continuing obligation separate and independent from the other obligations of the party giving the indemnity and survives termination or expiry of this agreement.
 - (f) This agreement is governed by the laws of New Zealand and the parties submit to the jurisdiction of the courts of New Zealand.