1. Definitions

1.1 “Contract” means the terms and conditions contained herein, together with any Price, order, invoice or other document or amendments expressed to be supplemental to this Contract.

1.2 “IH” means Ingenio Homes Limited, its successors and assigns or any person acting on behalf of and with the authority of Ingenio Homes Limited.

1.3 “Client” means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting IH to provide the Goods as specified in any proposal, Price, order, invoice, or other documentation, and:

(a) if there is more than one Client, is a reference to each Client jointly and severally; and

(b) if the Client is a partnership, it shall bind each partner jointly and severally; and

(c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and

(d) includes the Client’s executors, administrators, successors and permitted assigns.

1.4 “Goods” means all Goods, Services or Works supplied by IH to the Client (including consultation, materials, manufacturing and/or installation services) supplied by IH to the Client at the Client’s request from time to time (where the context so permits the terms “Goods” or “Services” or “Works” shall be interchangeable for the other).

1.5 “Confidential Information” means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party’s intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, “Personal Information” such as: name, address, D.O.B, occupation, driver’s license details, electronic contact (email, Facebook or Twitter details), insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.

1.6 “Cookies” means small files which are stored on a user’s electronic device. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website and can be accessed either by the web server or the client’s electronic device. If the Client does not wish to allow Cookies to operate in the background when ordering from the website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Goods via the website.

1.7 “Price” means the Price payable (plus any Goods and Services Tax (“GST”) where applicable) for the Goods as agreed between IH and the Client in accordance with clause 6 below.

2. Acceptance

2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of any Goods.

2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.

2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.

2.4 The Client acknowledges that the supply of Goods on credit shall not take effect until the Client has completed a client information form with IH and it has been approved with a credit limit established for the account, if required.

2.5 In the event that the supply of Services request exceeds the Clients credit limit and/or the account exceeds the payment terms, IH reserves the right to refuse delivery.

2.6 In the event that the Goods and/or Services provided by IH are the subject of an insurance claim that the Client has made, then the Client shall be responsible for the payment of any monies payable to the insurance company and agrees to honour their obligation for payment for such transactions invoiced by IH and shall ensure payment is made by the due date irrespective of whether the insurance claim is successful.

2.7 Any advice, recommendation, information, assistance or service provided by IH to the Client or the Client’s agent, in relation to the Goods or Services supplied is given in good faith and is based on IH's own knowledge and experience and shall be accepted without liability on the part of IH.

(a) resulting from an inadvertent mistake made by IH in the formation and/or administration of this Contract; and/or

(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by IH in respect of the Services.

2.8 Where IH gives advice or recommendations to the Client or the Client’s agent, and such advice or recommendations are not acted upon, then IH shall require the Client or their agent to authorise commencement of the Services in writing. IH shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.

2.9 If IH has been requested by the Client to prepare a quotation that involves multiple site visits or third party involvement (including but not limited to engineers, surveyor or local councils), all costs involved will be charged to the Client irrespective of whether or not the Services go ahead.

2.10 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

2.12 In the event that IH is required to provide the Services urgently, that may result in IH to work outside normal business hours (including, but, not limited to working through lunch breaks, weekends and/or Public Holidays), then IH reserves the right to charge the Client additional labour costs (penalty rates will apply),unless otherwise agreed between IH and the Client.

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2.13 IH reserves the right to charge the Client for reasonable travel and accommodation costs incurred as a result of providing the Services.

3. Errors and Omissions

3.1 The Client acknowledges and accepts that IH shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s): In

3.2 the event such an error and/or omission occurs in accordance with clause 3.1 and is not attributable to the negligence and/or wilful misconduct of IH; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Authorised Representatives

4.1 The Client acknowledges that IH shall (for the duration of the Services) liaise directly with one (1) authorised representative, and that once introduced as such to IH, that person shall have the full authority of the Client to order any Goods, and/or to request any variation thereto on the Client's behalf. The Client accepts that they will be solely liable to IH for all additional costs incurred by IH (including IH's profit margin) in providing any Services, or variation/s requested thereto by the Client's duly authorised representative.

5. Change in Control

5.1 The Client shall give IH not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact details, change of directors, change of trustees, or business practice). The Client shall be liable for any loss incurred by IH as a result of the Client's failure to comply with this clause.

6. Price and Payment

6.1 At IH's sole discretion the Price shall be either:

(a) as indicated on invoices provided by IH to the Client in respect of Services performed or Goods supplied; or

(b) IH's quoted Price (subject to clause 6.2) which shall be binding upon IH provided that the Client shall accept IH's Price in writing within thirty (30) days.

6.2 IH reserves the right to change the Price:

(a) if a variation to the Goods which are to be supplied is requested; or

(b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or

(d) in the event of increases to IH in the cost of labour or materials which are beyond IH's control; or

(e) if IH are required by the Client to undertake siteworks, which will not have been included or priced, within the original quotation.

6.3 Variations will be charged for based on IH's Price, and will be detailed in writing, and shown as variations on IH's invoice. The Client shall be required to respond to any variation submitted by IH within ten (10) working days. Failure to do so will entitle IH to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.

6.4 At IH's sole discretion a non-refundable deposit may be required.

6.5 Time for payment for the Services being of the essence, the Price will be payable by the Client on the date/s determined by IH, which may be:

(a) on completion of the Services; or

(b) by way of progress payments in accordance with IH's specified progress payment schedule. Such progress payment claims may include the reasonable value of authorised variations and the value of any Goods delivered to the worksite but not yet installed; or

(c) the date specified on any invoice or other form as being the date for payment; or

(d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by IH. or

(e) immediately payable at the time the Client places an order for any non-stock list item or bespoke Goods that IH must pay to any third-party supplier.

6.6 Payment may be made by electronic/on-line banking, cheque, bank cheque, EFTPOS or credit card (a surcharge per transaction may apply) or by any other method as agreed to between the Client and IH.

6.7 IH may in its discretion allocate any payment received from the Client towards any invoice that IH determines and may do so at the time of receipt or at any time afterwards. On any default by the Client IH may re-allocate any payments previously received and allocated. In the absence of any payment allocation by IH, payment will be deemed to be allocated in such manner as preserves the maximum value of IH's Purchase Money Security Interest (as defined in the PPSA) in the Goods.

6.8 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by IH nor to withhold payment of any invoice because part of that invoice is in dispute, unless the request for payment by IH is a claim made under the Construction Contracts Act 2002.

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6.9 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to IH an amount equal to any GST IH must pay for any supply by IH under this or any other agreement for the sale of the Goods. The Client must pay GST, without deduction or set off any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

7. Provision of the Services

7.1 Subject to clause 7.2 it is IH's responsibility to ensure that the Services start as soon as it is reasonably possible.

7.2 The Services' commencement date will be put back and the completion date extended by whatever time is reasonable in the event that IH claims an extension of time (by giving the Client written notice) where completion is delayed by an event beyond IH's control, including but not limited to:

(a) extreme weather or temperature; or

(b) delays caused by third party contractors engaged by the Client; or

(c) any failure by the Client to:

(i) select; or

(ii) have the site ready for the Services; or

(iii) notify IH that the site is ready.

7.3 Any costs incurred by IH (e.g. standing time incurred), in relation to clause 7.2 will be passed on to the Client.

7.4 The Client acknowledges and accepts that where the Client wishes to postpone the Services, that IH must be notified in writing within twenty-four (24) hours of the proposed commencement date as agreed to between both parties. Where such notice is received outside of this timeframe, IH reserves the right to charge a reasonable fee for the delay in the commencement of the Services.

7.5 IH may deliver the Services by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

7.6 Any time specified by IH for delivery of the Services is an estimate only and IH will not be liable for any loss or damage incurred by the Client as a result of delivery being late. However, both parties agree that they shall make every endeavour to enable the Services to be supplied at the time and place as was arranged between both parties. In the event that IH is unable to supply the Services as agreed solely due to any action or inaction of the Client, then IH shall be entitled to charge a reasonable fee for re-supplying the Services at a later time and date, and/or for storage of the Goods and any agreed delivery deadlines must be extended accordingly.

8. Dimensions, Plans and Specifications

8.1 IH shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client. The Client acknowledges and agrees that if any of this information provided by the Client is inaccurate, IH accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications, or other information.

8.2 Where the Client is to supply IH with any design specifications (including, but not limited to CAD drawings) the Client shall be responsible for providing accurate data. IH shall not be liable whatsoever for any errors in the Services that are caused by incorrect or inaccurate data being supplied by the Client.

8.3 In the event the Client gives information relating to measurements and quantities of Goods required in completing the Services, it is the Client's responsibility to verify the accuracy of the measurements and quantities, before the Client or IH places an order based on these measurements and quantities. IH accepts no responsibility for any loss, damages, or costs however resulting from the Client's failure to comply with this clause.

9. Access

9.1 The Client shall ensure that IH has always clear and free access to the worksite to enable them to undertake the Services and that such access is suitable to accept the weight of laden trucks or other lorry types as deemed necessary by IH shall not be liable for any loss or damage to the worksite (including, without limitation, damage to pathways, trees, plants, shrubs, driveways and concreted or paved or grassed areas) unless due to the negligence of IH or its contractors.

10. Risk

10.1 If IH retains ownership of the Goods under clause 15 then where IH is supplying Goods only, all risk for the Goods shall immediately pass to the Client on delivery and the Client must insure the Goods on or before delivery. Delivery of the Goods shall be deemed to have taken place immediately at the time that the Goods are delivered by IH or IH's nominated carrier to the Client's nominated delivery address (even if the Client is not present at the address).

10.2 If any of the Goods are damaged or destroyed following delivery, but prior to ownership passing to the Client, IH is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by IH is sufficient evidence of IH's rights to receive the insurance proceeds without the need for any person dealing with IH to make further enquiries.

10.3 IH reserves the right to inspect the worksite prior to the commencement of the Services to establish the condition of the worksite where the Services are to be provided will be of sound substructure, that is able to withstand such installation. Where

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consultation with engineers or other appropriate third parties is required, all costs will be borne by the Client.

10.4 The Client warrants that any structures to which the Goods are to be affixed can withstand the installation thereof and are of suitable capacity to handle the Goods once installed. If for any reason (including the discovery of asbestos, defective or unsafe structures or risk) that IH, or IH employees, reasonably form the opinion that the Client's premises is not safe for the Services to proceed then IH shall be entitled to delay the provision of the Services (in accordance with clause 7.2) until IH is satisfied that it is safe for the installation to proceed.

10.5 Where the Client has supplied Goods for IH to complete the Services, the Client acknowledges that it accepts responsibility for the suitability of purpose, quality, and any faults inherent in those Goods. However, if in IH's opinion, it is believed that the Goods supplied will not conform to New Zealand regulations, then IH shall be entitled, without prejudice, to halt the Services until the appropriate conforming Goods are sourced and all costs associated with such a change to the plans will be invoiced in accordance with clause 6.2.

10.8 The Client acknowledges and accepts that any faults with underlying surfaces / structures or where IH has been requested to perform remedial work on damaged structures, evidence of repairs may be apparent and may affect the finish of the completed Services.

10.9 The Client acknowledges that Goods supplied may:

(a) exhibit variations in shade, colour, texture, surface, and finish and may fade or change colour over time; and

(b) expand, contract, or distort as a result of exposure to heat, cold, weather; and

(c) mark or stain if exposed to certain substances; and

(d) be damaged or disfigured by impact or scratching.

10.11 IH shall not be held liable for:

(a) any pre-existing damages discovered by IH prior or during to commencement of the Services. The Client will be notified of any such discovery in writing; or

(d) delays caused by any other third party that impacts on the provision of the Services by IH.

10.13 IH is responsible for the removal of rubbish from or clean-up of the building/construction site/s.

10.14 The Client acknowledges that they shall unless otherwise stated:

(a) provide hoisting or lifting equipment and/or have erected scaffolding to enable the Services to be undertaken (where in IH's opinion it is deemed necessary). Any hoisting or lifting equipment or scaffolding must comply with industry safety standards and any person erecting the scaffolding shall be suitably qualified to ensure its safe and proper erection, and where necessary, shall hold a current certificate of competency and/or be fully licensed; and

(b) supply all the necessary facilities required for the installation of the Goods and / or provision of the Services (including but, not limited to electricity, temporary lighting, unloading, and lifting facilities); and

(d) be wholly responsible for animals and/or children on the worksite.

10.15 The Client warrants that no other tradesmen interfere with any Services and/or Goods supplied under this Contract. IH shall not be liable for any costs, damages or loss however arising from the Client's failure to comply with this clause.

10.16 Timber is a natural product and as such may exhibit variations in texture, colour, surface, shade, finish, markings, veining and contains natural fissures, occlusions, and indentations. Whilst IH will make every effort to match sales samples to the finished Goods, IH accepts no liability whatsoever where such samples differ to the finished Goods supplied.

10.18 Where IH has effected delivery (all risk passes to the Client as per clause 10.1) and the Client claims the Goods have been stolen, it shall be The Client's responsibility to contact the police, and shall not excuse the Client from fulfilling their financial obligations under this Contract.

10.19 IH shall be entitled to rely on the accuracy of any surveyed boundary lines, plans, specifications, and other information supplied by the Client. The Client acknowledges and agrees that if any of this information is inaccurate, IH accepts no responsibility for any loss, damages, or costs resulting from this inaccurate information.

11. Asbestos/Hazardous Materials

11.1 Prior to IH commencing any Services the Client must advise IH of the precise location of all known Asbestos/Hazardous Materials on the site and clearly mark the same. Removal from the site and the disposal of Asbestos/Hazardous Materials shall always be the Client's responsibility unless otherwise agreed in writing.

11.2 In the event that IH discovers Asbestos/Hazardous Materials whilst undertaking any Services IH shall immediately advise the Client of the same and shall be entitled to suspend the Services pending a risk assessment in relation to those materials. The Client shall be liable for all additional costs (howsoever arising) incurred by IH as a result of the discovery of Asbestos/Hazardous Materials and/or any suspension of Services in relation thereto.

11.3 Where IH agrees to remove any Asbestos/Hazardous Materials on the Client's behalf this shall be treated as a variation as per clause 6.2.

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12. Excess Materials

12.1 On agreement between the parties, excess materials will remain the property of IH and shall be removed on completion of the Services, unless the materials have become fixtures. If required, the Client must return the materials to IH on request.

13. Compliance with Laws

13.1 The Client and IH shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services including any other Worksafe health and safety laws relating to worksites and any other safety standards or legislation.

13.3 Notwithstanding clause 13.1 and pursuant to the Health & Safety at Work Act 2015 (the “HSW Act”) IH agrees at all times to comply with sections 28 and 34 of the “HSW Act” with meeting their obligations for health and safety.

14. Underground Locations

14.1 Prior to IH commencing any work the Client must advise IH of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site.

14.2 Whilst IH will take all care to avoid damage to any underground services the Client agrees to indemnify IH in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 14.1.

15. Title

15.1 IH and the Client agree that ownership of the Goods shall not pass until:

(a) the Client has paid IH all amounts owing to IH; and

(b) the Client has met all of its other obligations to IH.

15.2 Receipt by IH of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

15.3 It is further agreed that:

(a) until ownership of the Goods passes to the Client in accordance with clause 15.1 that the Client is only a bailee of the Goods and unless the Goods have become fixtures must return the Goods to IH on request; and

(b) the Client holds the benefit of the Client’s insurance of the Goods on trust for IH and must pay to IH the proceeds of any insurance in the event of the Goods being lost, damaged, or destroyed; and

(c) the production of these terms and conditions by IH shall be enough evidence of IH's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with IH to make further enquiries; and

(d) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes, or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for IH and must pay or deliver the proceeds to IH on demand; and

(e) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of IH and must sell, dispose of or return the resulting product to IH as it so directs; and

(f) unless the Goods have become fixtures the Client irrevocably authorises IH to enter any premises where IH believes the Goods are kept and recover possession of the Goods; and

(g) IH may recover possession of any Goods in transit whether delivery has occurred; and

(h) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of IH; and

(i) IH may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

16. Personal Property Securities Act 1999 (“PPSA”)

16.1 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:

(a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and

(b) a security interest is taken in all Goods and/or collateral (account – being a monetary obligation of the Client to IH) for the Service –that have previously been supplied and that will be supplied in the future by IH to the Client.

16.2 The Client undertakes to:

(a) sign any further documents and/or provide any further information (such information to be complete, accurate and up to date in all respects) which IH may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register; and

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(b) indemnify, and upon demand reimburse, IH for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby; and

(c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of IH; and

(d) immediately advise IH of any material change in its business practices of selling Goods which would result in a change proceeds derived from such sales.

16.3 IH and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.

16.4 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.

16.5 Unless otherwise agreed to in writing by IH, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.

16.6 The Client shall unconditionally ratify any actions taken by IH under clauses 16.1 to 16.5.

16.7 Subject to any express provisions to the contrary (including those contained in this clause 16), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

17. Security and Charge

17.1 In consideration of IH agreeing to supply the Services, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

17.2 The Client indemnifies IH from and against all IH's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising IH's rights under this clause.

17.3 The Client irrevocably appoints IH and each director of IH as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 17 including, but not limited to, signing any document on the Client's behalf.

18. Defects

18.1 The Client shall inspect the Goods on delivery and shall within three (3) days of delivery (time being of the essence) notify IH of any alleged defect, shortage in quantity, damage, or failure to comply with the description or quote. The Client shall afford IH an opportunity to inspect the Goods within a reasonable time following delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which IH has agreed in writing that the Client is entitled to reject, IH's liability is limited to either (at IH's discretion) replacing the Goods or repairing the Goods.

18.2 Goods will not be accepted for return other than in accordance with 18.1 above.

20. Consumer Guarantees Act 1993

20.1 If the Client is acquiring Goods for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by IH to the Client.

21. Intellectual Property

21.1 Where IH has designed, drawn, written plans or a schedule of Services, or created any products for the Client, then the copyright in all such designs, drawings, documents, plans, schedules and products shall remain vested in IH, and shall only be used by the Client at IH's discretion. Under no circumstances may such designs, drawings and documents be used without the express written approval of IH.

21.2 The Client warrants that all designs, specifications or instructions given to IH will not cause IH to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify IH against any action taken by a third party against IH in respect of any such infringement.

21.3 The Client agrees that IH may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, plans or products which IH has created for the Client.

22. Overdue Invoices

22.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at IH's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

22.2 If the Client owes IH any money the Client shall indemnify IH from and against all costs and disbursements incurred by IH in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, IH's collection agency costs, and bank dishonour fees).

22.3 Further to any other rights or remedies IH may have under this Contract, if a Client has made payment to IH, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by IH under this clause 22, where it can be proven that such reversal is found to be illegal, fraudulent or in

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contravention to the Client's obligations under this Contract.

22.4 Without prejudice to IH's other remedies at law IH shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to IH shall, whether due for payment, become immediately payable if:

(a) any money payable to IH becomes overdue, or in IH's opinion the Client will be unable to make a payment when it falls due; or

(b) the Client has exceeded any applicable credit limit provided by IH; or

(c) the Client becomes insolvent or bankrupt, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

23. Cancellation

23.1 Without prejudice to any other rights or remedies IH may have, if at any time the Client is in breach of any obligation (including those relating to payment and/or failure to remedy any breach in respect of this Contract within ten (10) working days of receipt by the Client of such notice/s) then IH may suspend the Services immediately. IH will not be liable to the Client for any loss or damage the Client suffers because IH has exercised its rights under this clause.

23.2 IH may cancel any contract to which these terms and conditions apply or cancel delivery of the Services at any time before the Services are commenced by giving written notice to the Client. On giving such notice IH shall repay to the Client any sums paid in respect of the Price, less any amounts owing by the Client to IH for Services already performed. IH shall not be liable for any loss or damage whatsoever arising from such cancellation.

23.3 In the event that the Client cancels the delivery of Services the Client shall be liable for any and all loss incurred (whether direct or indirect) by IH as a direct result of the cancellation (including, but not limited to, any loss of profits).

23.4 Cancellation of orders for products made to the Client's specifications, or for non-stocklist items, will not be accepted once production has commenced, or an order has been placed.

24. Privacy Policy

24.1 All emails, documents, images, or other recorded information held or used by IH is Personal Information as defined and referred to in clause 24.4 and therefore considered confidential. IH acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines and as set out in Schedule 8 of the Act and any statutory requirements where relevant in a European Economic Area "EEA" then the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). IH acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Clients Personal Information, held by IH that may result in serious harm to the Client, IH will notify the Client in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.

24.2 Notwithstanding clause 24.1, privacy limitations will extend to IH in respect of Cookies where transactions for purchases/orders transpire directly from IH's website. IH agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:

(a) IP address, browser, email client type and other similar details;

(b) tracking website usage and traffic; and

(c) reports are available to IH when IH sends an email to the Client, so IH may collect and review that information (collectively "Personal Information")

24.3 If the Client consents to IH's use of Cookies on IH's website and later wishes to withdraw that consent, the Client may manage and control IH's privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when existing the site.

24.4 The Client authorises IH or IH's agent to:

(a) access, collect, retain, and use any information about the Client:

(i) (including, name, address, D.O.B, occupation, driver's license details, electronic contact (e.g. Email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; and

(ii) for the purpose of marketing products and services to the Client; and

(iii) disclose information about the Client, whether collected by IH from the Client directly or obtained by IH from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.

24.5 Where the Client is an individual the authorities under clause 24.4 are authorities or consents for the purposes of the Privacy Act 2020.

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24.6 The Client shall have the right to request IH for a copy of the personal information about the Client retained by IH and the right to request IH to correct any incorrect personal information about the Client held by IH.

25. Service of Notices

25.1 Any written notice given under this Contract shall be deemed to have been given and received:

(a) by handing the notice to the other party, in person; or

(b) by leaving it at the address of the other party as stated in this Contract; or

(c) by sending it by registered post to the address of the other party as stated in this Contract; or

(d) if sent by email to the other party's last known email address.

25.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

26. Suspension of Works

26.1 Where the Contract is subject to the Construction Contracts Act 2002, the Client hereby expressly acknowledges that:

(a) IH has the right to suspend work within five (5) working days of written notice of its intent to do so if a payment claim is served on the Client, and:

(i) the payment is not paid in full by the due date for payment in accordance with clause 6.5 and/or any subsequent amendments; or new legislation and no payment schedule has been given by the Client; or

(ii) a scheduled amount stated in a payment schedule issued by the Client in relation to the payment claim is not paid in full by the due date for its payment; or

(iii) the Client has not complied with an adjudicator's notice that the Client must pay an amount to IH by a particular date; and

(iv) IH has given written notice to the Client of its intention to suspend the carrying out of construction work under the Construction Contract.

(b) if IH suspends work, it:

(i) is not in breach of Contract; and

(ii) is not liable for any loss or damage whatsoever suffered, or alleged to be suffered, by the Client or by any person claiming through the Client; and

(iii) is entitled to an extension of time to complete the Contract; and

(iv) keeps its rights under the Contract including the right to terminate the Contract; and may at any time lift the suspension, even if the amount has not been paid or an adjudicator's determination has not been complied with.

(c) if IH exercises the right to suspend work, the exercise of that right does not:

(i) affect any rights that would otherwise have been available to IH under the Contract and Commercial Law Act 2017; or

(ii) enable the Client to exercise any rights that may otherwise have been available to the Client under that Act as a direct consequence of IH suspending work under this provision;

(d) due to any act or omission by the Client, the Client effectively precludes IH from continuing the Works or performing or complying with IH's obligations under this Contract, then without prejudice to IH's other rights and remedies, IH may suspend the Works immediately after serving on the Client a written notice specifying the payment default or the act, omission or default upon which the suspension of the Works is based. All costs and expenses incurred by IH as a result of such suspension and recommencement shall be payable by the Client as if they were a variation.

26.2 If pursuant to any right conferred by this Contract, IH suspends the Works and the default that led to that suspension continues un-remedied subject to clause 23.1 for at least ten (10) working days, IH shall be entitled to terminate the Contract, in accordance with clause 23.

27. Insurance

27.1 IH shall have public liability insurance of at least two (2) million dollars. It is the Client's responsibility to ensure that they are similarly insured.

27.2 In the event of any breach of this contract by IH, the remedies of the Client shall be limited to damages. Under no circumstances shall the liability of IH exceed the cost of the Services supplied.

27.3 Without limiting clause 12.1, the Client shall at all times and for 6 months after the termination of this agreement maintain comprehensive insurance in relation to the Goods.

27.4 The Client shall provide IH with evidence of such insurance promptly upon request.

28. Trusts

28.1 If the Client at any time upon or subsequent to entering the Contract is acting in the capacity of trustee of any trust ("Trust") then whether IH may have notice of the Trust, the Client covenants with IH as follows:

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(a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund; and

(b) the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity; and

(c) the Client will not without consent in writing of IH (IH will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:

(i) the removal, replacement, or retirement of the Client as trustee of the Trust; or

(ii) any alteration to or variation of the terms of the Trust; or

(iii) any advancement or distribution of capital of the Trust; or

(iv) any resettlement of the trust property.

29. General

29.1 Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising hereunder, shall be submitted to, and settled by, either adjudication in accordance with the Construction Contracts Act 2002 and/or by arbitration in accordance with the Arbitration Act 1996 or its replacement(s).

29.2 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality, and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

29.3 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Christchurch.

29.4 IH shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by IH of these terms and conditions (alternatively IH's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).

29.5 IH may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.

29.6 The Client cannot licence or assign without the written approval of IH.

29.7 IH may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of IH's sub-contractors without the authority of IH.

29.8 The Client agrees that IH may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for IH to provide Services to the Client.

29.9 Neither party shall be liable for any default due to any act of God, war, terrorism, pandemic, strike, lock-out, industrial action, fire, flood, storm, or other event beyond the reasonable control of either party. (referenced as Force-Majeure).

29.10 Both parties warrant that they have the power to enter this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.

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