

General Terms and Conditions

1. DEFINITIONS

- 1.1. "C4 Contracting Services" means C4 Contracting Services – MPA Limited or any subsidiaries, related companies, agents, employees, or sub-contractors of C4 Contracting – MPA Limited, as appropriate.
- 1.2. "Customer" means the Recipient and, where the Goods and/or Services are provided as a result of an insurance claim, the Insurer.
- 1.3. "Due Date" means in respect of each invoice issued to the Customer by C4 Contracting Services, the date that is 7 days after the invoice date or such other date agreed in writing by a director of C4 Contracting - MPA Limited.
- 1.4. "Event of Default" means an event specified in clause 6.1.
- 1.5. "Goods" means goods and/or materials provided to the Customer by C4 Contracting Services including but not limited to:
 - 1.5.1. all goods and products supplied by C4 Contracting Services;
 - 1.5.2. all goods identified in any Invoice provided to the Customer by C4 Contracting Services;
 - 1.5.3. all goods marked as having been supplied by C4 Contracting Services; and all of the Customer's present and after acquired property that C4 Contracting Services has performed work on or to or in which goods or materials supplied or financed by C4 Contracting Services have been attached or incorporated.
- 1.6. "Insurer" means an insurance company that provides an insurance policy to the Customer under which Goods and/or Services may be paid for in whole or in part by the insurance company.
- 1.7. "Invoice" means an invoice issued by C4 Contracting Services to the Customer.
- 1.8. "Property" means the land owned by the Customer (either legally or beneficially) where C4 Contracting Services provides Goods and/or Services.
- 1.9. "Estimate" means the Estimate relating to provision of services undertaken by C4 Contracting Services, and includes all references to fixed quotations.
- 1.10. "Estimate Total" means the total sum payable excluding GST for delivery of the Goods and/or Services as set out on the Estimate.
- 1.11. "Recipient" means the party or parties receiving Goods and/or Services from C4 Contracting Services.
- 1.12. "Services" means services provided to the Customer by C4 Contracting Services and include, without limitation, charges for labour, hire charges, insurance charges or any other fee or charge associated with the supply of Goods or Services by C4 Contracting Services to the Customer.
- 1.13. "Terms and Conditions" means these terms and conditions.

2. ACCEPTANCE OF TERMS AND CONDITIONS

- 2.1. Any of the following done by or on behalf of the Customer shall constitute a binding contract and acceptance of these Terms and Conditions:
 - 2.1.1. acceptance of any Estimate;
 - 2.1.2. acceptance of any Fixed Quote;
 - 2.1.3. the giving of any instructions to C4 Contracting Services that are acted upon; or
 - 2.1.4. any express or implied authority given to C4 Contracting Services to provide Goods or Services to the Customer.

3. CUSTOMER INFORMATION

- 3.1. The Customer authorises C4 Contracting Services to collect such commercial, financial and personal information about the Customer as is necessary for assessing the credit worthiness of the Customer or enforcing C4 Contracting Services' rights under these Terms and Conditions and further authorises C4 Contracting Services to disclose such information to other parties for those purposes.

4. RESERVATION OF TITLE AND LIABILITY FOR PAYMENT

- 4.1. Payment for Goods and Services supplied by C4 Contracting Services is due on the Due Date.
- 4.2. If payment for Goods is required on delivery, no Goods will be unloaded in advance of payment and until payment is received by C4 Contracting Services all costs related to delivery of Goods is to be borne by the Customer. All payments for Goods or Services in any circumstances made by cheque shall not be taken to be effective in payment until the bank clearance of funds for the cheque.
- 4.3. Property and ownership in any Goods will not pass to the Customer but will remain with C4 Contracting Services until payment in full of the purchase price of the Goods and all other amounts owing to C4 Contracting Services by the Customer.
- 4.4. Where the provision of Goods and/or Services is not completed within 7 days of the commencement of the job, C4 Contracting Services shall be entitled to issue invoices for progress payments at weekly intervals.
- 4.5. Risk in the Goods shall pass at the time of delivery.
- 4.6. In addition to other amounts payable to C4 Contracting Services the Customer will be liable to pay to C4 Contracting Services as and when lawfully demanded any Goods and Services or similar taxes (GST) that are incurred by C4 Contracting Services as a result of making a supply to the Customer that is a taxable supply under any GST law applicable in New Zealand.
- 4.7. If payment for any Goods or Services is not made by the Customer to C4 Contracting Services in full by the Due Date, the following provisions shall apply:
 - 4.7.1. The Customer shall deliver the Goods to C4 Contracting Services on demand. In the event that the Customer does not comply with a demand immediately upon receipt or deemed receipt of the demand, C4 Contracting Services shall be entitled to enter upon the

Customer's premises at any time and do all things necessary to take possession of the Goods. The Customer hereby grants permission and an irrevocable licence to C4 Contracting Services to enter upon the premises where the Goods shall be for the purpose of doing anything necessary to take possession of the Goods;

- 4.7.2. The Customer will pay interest on all amounts owing to C4 Contracting Services from the Due Date to the date or dates of payment at the rate of C4 Contracting Services' then current bank credit card rate plus 5% or such lesser rate as C4 Contracting Services may accept in lieu thereof; and
- 4.7.3. The Customer will be responsible for all costs incurred by C4 Contracting Services in exercising its rights under the Terms and Conditions including, but not limited to, debt collection costs and legal fees properly incurred by C4 Contracting Services in seeking or obtaining recovery of amounts owing by the Customer to C4 Contracting Services and including all such expenses as are actually incurred by C4 Contracting Services – MPA Ltd.
- 4.7.4. Notwithstanding any request or stipulation to the contrary made by or on behalf of the Customer, any payment received by C4 Contracting Services from the Customer may be appropriated by C4 Contracting Services to discharge such liability or other obligation of the Customer to C4 Contracting Services as C4 Contracting Services sees fit.

5. Acceptance of Estimate and No Cancellation

- 5.1. By signing an Estimate the Customer accepts full liability for all Estimate Totals and any other sums payable pursuant to those Contracts. The Customer acknowledges that the Estimate sets out the entire agreement between the parties and it has not relied on any oral or written representations made to it by C4 Contracting Services, by any employee or any agent. Terms which could be implied from past transactions, correspondence or conduct between the parties are expressly excluded.
- 5.2. Once an Estimate has been signed and any deposit paid in full, the Customer acknowledges that this Contract may not be cancelled. If the Customer purports to cancel this Contract subsequently in writing or by conduct, the Customer agrees that C4 Contracting Services may immediately retain the deposit.
- 5.3. C4 Contracting Services reserves the right to suspend delivery of the Services at any time if the Customer is in breach of any of its obligations pursuant to this Contract or if C4 Contracting Services has any doubts whatsoever as to the Customer's credit worthiness or its ability to meet its obligations under this Contract.

6. Customer Responsibility and Modifications to Services

- 6.1. Following completion of the Contract, there is a 5 day inspection period during which it is the responsibility of the Customer to check the work carried out and to notify C4 Contracting Services in writing of any changes or additional work required being part of the Contract.
- 6.2. Any changes notified to C4 Contracting Services after the inspection period are not included in the Estimate and C4 Contracting Services shall be entitled to charge at their standard rates for such additional work.
- 6.3. Any changes or additions to the Contract requested by the Customer which were not described by the original Estimate shall be treated as variations to the Estimate and shall be charged for accordingly.
- 6.4. The acceptance or non-acceptance of changes or additions by C4 Contracting Services does not entitle the Customer to withhold payment of any account balances. The Customer agrees that C4 Contracting Services shall not be obliged to carry out any such changes or additions until the balance of the Estimate is paid in full.
- 6.5. C4 Contracting Services reserves the right, by notice to the Customer, to alter or amend any Estimate at any time prior to the supply of Goods and/or Services where the alteration or amendment is due to an increase in the cost to C4 Contracting Services of any Goods or Services being the subject of the Estimate that is beyond the control of C4 Contracting Services.
- 6.6. Where the Customer requests Goods or Services to be provided that are not included in the Quote, the Customer agrees to pay the additional cost of such Goods and/or Services and the provision of the additional Goods and/or Services shall be pursuant to these Terms and Conditions. All Estimates are issued under the assumption that existing structures comply with relevant building codes and standards, including NZ3604. Non-compliant structures may result in additional costs.
- 6.7. If any materials specified in any Estimate are not available when required by C4 Contracting Services, C4 Contracting Services may, with the consent of the Customer, supply a substitute material of a similar nature and quality and the Customer shall not unreasonably withhold consent. Any variation in cost arising from the use of substitute materials shall be allowed for or paid as an extra by the Customer
- 6.8. The Customer shall be liable for the cost of any site visit where less than 2 working days notice of cancellation is given to C4 Contracting Services or where additional site visits are required as a result of delays caused by the Customer or where the Customer has not accurately provided all required information to C4 Contracting Services.

7. DEFAULT

- 7.1. The following events shall constitute an Event of Default by the Customer:
 - 7.1.1. The failure of the Customer to make payment for the Goods by the Due Date or the intimation by the Customer that it will not pay any sum by the Due Date;

- 7.1.2. The Customer enters into an agreement for the sale or proposed sale of its business, place where work is being carried out or assets;
- 7.1.3. The Customer commits a breach of any of the Terms and Conditions and in the event that such breach is capable of remedy, the Customer fails to remedy the breach upon receiving notice from C4 Contracting Services specifying the breach and requiring that it be remedied within 7 days of such notice; and
- 7.1.4. The Customer is adjudicated bankrupt, or a receiver, liquidator or official assignee, administrator or statutory manager is appointed to the Customer or its business or assets, or any part of its assets, or the Customer is unable to pay its debts when due within the meaning of the Companies Act 1993, or C4 Contracting Services, acting reasonably, believes the Customer is likely to become unable to pay its debts when due, or execution of judgments for amounts over the sum of \$10,000 is levied against it and not discharged within thirty (30) days or within the terms of any arrangement made with the judgment creditor, whichever is the later.
- 7.2. Upon the occurrence of an Event of Default:
- 7.2.1. Any amounts currently outstanding shall become immediately due and the Due Date for all amounts shall be deemed to the earlier of the actual Due Date or the date that the Event of Default occurs; and
- 7.2.2. C4 Contracting Services may in its sole discretion cancel or suspend the provision of Goods and/or Services to the Customer.

8. CANCELLATION AND WITHDRAWAL OF ORDERS

- 8.1. The Customer may not defer or cancel an order once accepted by C4 Contracting Services or once a Quote has been accepted without C4 Contracting Services' consent in writing and with any request for an amendment, deferment or cancellation, the Customer must provide C4 Contracting Services with 7 days notification in advance.
- 8.2. The Customer shall be responsible for and agrees to indemnify C4 Contracting Services for all costs incurred by C4 Contracting Services as a result of the Customer cancelling an order or the suspension of the provision of Goods or Services as a result of the occurrence of an Event of Default.
- 8.3. In the event that the provision of Goods and/or Services to the Customer is cancelled, suspended or terminated for any reason C4 Contracting Services shall have no responsibility whatsoever for any loss or damage of any kind which may result directly or indirectly from such cancellation or suspension or from any recovery of Goods pursuant to the provisions of these Terms and Conditions.

9. LIMITATIONS ON LIABILITY

9.1. Description

- 9.1.1. Any description of the Goods and/or Services is given by way of identification and shall not constitute the contract a sale by description. The Customer shall take the Goods at the Customer's own risk as to their quality, conditions or suitability for any purpose.

10. Liability

- 10.1. C4 Contracting Services' liability for damages arising out of or in connection with any contract for the sale of Goods or the supply of Services to the Customer will be limited to claims in relation to faulty Goods as set out and all conditions and warranties expressed or implied by statute the common law, equity, trade custom or usage or otherwise howsoever are hereby expressly excluded to the maximum extent permitted by law.

11. Faulty Goods

- 11.1. Any claims for faulty Goods must be fully documented and referred to the C4 Contracting Services representative with whom the Customer has customary contact. Acceptance of any items will not constitute acceptance of claims. All items will be subject to inspection by C4 Contracting Services before credit will be considered.
- 11.2. To the extent permitted by law, C4 Contracting Services shall have sole right to decide whether Goods are capable of repair and C4 Contracting Services' liability (if any) in respect of claims under any contract arising hereunder shall be limited as follows:
- 11.2.1. Where the Goods are capable of repair, to the repair of the Goods or the payment of the cost of having the Goods repaired, or
- 11.2.2. Where the Goods are incapable of repair to the replacement of the Goods or the supply of equivalent Goods or the payment of the cost of replacing the Goods or of acquiring equivalent Goods.
- 11.3. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods and/or Services from C4 Contracting Services for business purposes in terms of sections 2 and 43 of that act.

12. Indirect Loss

- 12.1. So far as the law permits, C4 Contracting Services shall not be liable in any way whatsoever for any indirect or consequential loss or loss of profit arising from contract or otherwise including in particular, but not limited to, any loss by reason of delay, defective or faulty materials or workmanship, negligence or any act or matter or thing done, permitted or omitted by C4 Contracting Services and the Customer shall have no rights to off-set claims against the invoiced prices for Goods under any circumstances.
- 12.2. The Customer shall indemnify C4 Contracting Services against all claims and loss of any kind whatsoever however caused or arising and without

limiting the generality of the foregoing whether caused or arising as a result of the negligence of C4 Contracting Services or otherwise, brought by any person in connection with any matter, act, omission, or error by C4 Contracting Services in connection with the Goods and/or Services. If, contrary to the disclaimer of liability contained in these Terms and Conditions C4 Contracting Services is forced or deemed to be liable, following or arising from the supply of Goods or Services to the Customer, then such liability is limited in aggregate to \$100.00.

12.3.

13. WARRANTY AS TO INFORMATION

- 13.1. The Customer and any other signatories to a form that incorporates these Terms and Conditions on behalf of the Customer hereby warrant to C4 Contracting Services jointly and severally that all the information provided to C4 Contracting Services in or in connection with any Goods or Services to be provided by C4 Contracting Services or otherwise are true and correct and hereby jointly and severally indemnify C4 Contracting Services from and against all loss, claims, demands and costs occasioned as a result of such information not being correct in any particular. The Customer further undertakes to notify C4 Contracting Services of any change in its circumstances, which renders any information provided to C4 Contracting Services likely to be inaccurate, misleading or obsolete.
- 13.2. The Customer acknowledges that it has received, read and understood a copy of these Terms and Conditions.
- 13.3. In the event that at any time due to any circumstance including, but not limited to, pressures of trading, adverse marketing conditions, financial pressure from lenders, failure to pay rent, the failure to pay taxation, internal conflicts or any other cause, there is reason for the Customer or any of its officers or others being signatories to a form incorporates these Terms and Conditions, to suspect that the Customer may be or may become unable to pay its debts when due within the meaning of the Companies Act 1993, or may be adjudicated bankrupt or have a receiver, a liquidator or official assignee, administrator or statutory manager appointed to the Customer then the Customer will notify C4 Contracting Services immediately.

14. EXCLUSIONS AND VARIATIONS

- 14.1. C4 Contracting Services shall have the right to vary or amend any of the provisions of these Terms and Conditions at any time. The most current version of the Terms and Conditions are located on C4 Contracting Services website at www.c4contractingservices.co.nz. Any Goods or Services provided by C4 Contracting Services to the Customer after the date of a variation shall be deemed to be provided subject to the Terms and Conditions as varied.

15. CONSENTS

- 15.1. The Customer acknowledges that the Customer is responsible for obtaining any required building or resource consents in respect of the Services.

16. MISCELLANEOUS

16.1. Notices

- 16.1.1. All notices authorised or required to be made under these Terms and Conditions shall be sent by email or sent by prepaid mail and in each case addressed to the party at the address provided herein or at such other address as each party may from time to time notify to the other parties.
- 16.1.2. All notices shall be deemed to have been received the day they are sent except where sent by post that shall be deemed to have been received two (2) days after the date of posting.

17. Entire Agreement And Waiver

- 17.1. Save as specifically and expressly contemplated in these Terms and Conditions no provision hereof shall be changed, waived or modified without the express written agreement of C4 Contracting Services.
- 17.2. These Terms and Conditions embody the entire agreement of the Customer and C4 Contracting Services in respect of the ordering, supply, delivery of and payment for Goods or Services, and any order received by C4 Contracting Services from the Customer shall be deemed to incorporate these Terms and Conditions notwithstanding any purported change to the Terms and Conditions specified by the Customer.
- 17.3. Any waiver or failure to execute any rights by C4 Contracting Services shall not be deemed a waiver of any further or other right of C4 Contracting Services in respect of the Customer.
- 17.4. The Customer shall not be entitled to rely upon any statement of any kind made by a person including a representative or agent of C4 Contracting Services, which include a representation of any kind, which contradicts or is contrary to these Terms and Conditions.

18. Severance

- 18.1. C4 Contracting Services and the Customer agree that:
- 18.1.1. All the provisions of these Terms and Conditions are reasonable in all the circumstances and each provision is and will be deemed to be severable and independent; and
- 18.1.2. If any provision hereof is found by any Court of competent jurisdiction to be invalid, illegal or unenforceable in any respect the validity, legality and enforceability of the remaining provisions will not be affected and the invalid, illegal or unenforceable provision shall be severed from this document it being the intention of the parties that had they known that any such provision would be invalid, illegal or unenforceable in any respect they would have agreed upon and accepted the remaining Terms and Conditions hereof.