

NZ Drafting Limited – Terms & Conditions of Trade

1. **Definitions**
- 1.1 "NZ Drafting" means NZ Drafting Limited, its successors and assigns or any person acting on behalf of and with the authority of NZ Drafting Limited.
- 1.2 "Client" means the persons or any person acting on behalf of and with the authority of the Client requesting professional drafting services as specified in any proposal, quotation, 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 part of a Trust, shall be bound in their capacity as a trustee; and
 - (c) includes the Client's representatives, agents, employees, contractors, subcontractors, and
- 1.3 "Documentation" means any goods, documents, designs, drawings or materials supplied, consumed, created or deposited incidentally by NZ Drafting in the course of it conducting, or supplying to the Client, the Services, and
- 1.4 "Services" means all Services supplied by NZ Drafting to the Client at the Client's request from time to time.
- 1.5 "Price" means the price payable (plus any Goods and Services Tax ("GST") where applicable) for the Services as agreed between NZ Drafting and the Client in accordance with clause 6 of this Agreement.
- 1.6 "Agreement" means this Agreement including any proposal, schedule and any other agreement expressed to be supplemental to this Agreement and all other amendments to such a document.
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 Services provided by NZ Drafting.
- 2.2 These terms and conditions may only be amended with the consent of both parties in writing and shall prevail to the extent of any inconsistency with any other document or Agreement between the Client and NZ Drafting.
- 2.3 Electronic signatures shall be deemed to be accepted by either party providing that the parties have consented to the use of electronic signatures in accordance with section 207 or any other applicable provisions of that Act or any Regulations referred to in that Act.
3. **Errors and Omissions**
- 3.1 The Client acknowledges and accepts that NZ Drafting shall, without prejudice, accept no liability in respect of any alleged or actual errors and/or omissions:
 - (a) resulting from the negligence or variations made by NZ Drafting in the formation and/or administration of this Agreement; and/or
 - (b) contained in omitted from any literature (hard copy and/or electronic) supplied by NZ Drafting in respect of the Services.
- 3.2 In the event such errors or omissions occur in accordance with clause 3.1, and is not attributable to the negligence and/or willful misconduct of NZ Drafting, the Client shall not be entitled to treat this Agreement as repudiated nor render it invalid.
4. **Change in Control**
- 4.1 The Client shall give NZ Drafting 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 phone or fax number/s, change of trustees or business practice). The Client shall be liable for any loss incurred by NZ Drafting as a result of the Client's failure to comply with this clause.
5. **Authorised Representatives**
- 5.1 Unless otherwise limited as per clause 5.2 the Client agrees that should the Client introduce any third party to NZ Drafting as the Client's duly authorised representative, that once introduced that person shall have the full authority of the Client to order any Services on behalf of the Client's behalf and/or to request any variation to the Services on the Client's behalf (such authority to continue until all requested Services have been completed or the Client otherwise notifies NZ Drafting in writing that said person is no longer the Client's duly authorised representative).
- 5.2 In the event that the Client's duly authorised representative as per clause 5.1 is to have only limited authority to act on the Client's behalf then the Client must specifically and clearly advise NZ Drafting in writing of the parameters of the limited authority granted to that representative.
- 5.3 The Client specifically acknowledges and accepts that they will be solely liable to NZ Drafting for any additional costs incurred by NZ Drafting (including NZ Drafting's profit margin) in providing any Services or variations requested by the Client's duly authorised representative (subject always to the limitations imposed under clause 5.2 (if any)).
6. **Price and Payment**
- 6.1 At NZ Drafting's sole discretion the Price shall be either:
 - (a) as indicated on any invoice provided by NZ Drafting to the Client in respect of Services provided; or
 - (b) NZ Drafting's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 6.2 NZ Drafting reserves the right to change the Price:
 - (a) in the event the Client requests changes and/or courses delays or stoppages after commencement of the Services then NZ Drafting (at its sole discretion) shall be entitled not only to vary the Price but the term of the Agreement. All variations shall be in writing, detailing the reasons for the variation, the impact on the Price, term and/or the scope of the Agreement and shall be signed by both parties; or
 - (b) where additional costs are incurred by NZ Drafting due to unexpected delays, or receipt of approvals or certificates, etc.
- 6.3 Variations to the Price shall be on the basis of NZ Drafting's quotation, and will be detailed in writing, and shown as variations on NZ Drafting's invoice. The Client shall be required to respond to any variation submitted by NZ Drafting within ten (10) working days. Failure to do so will entitle NZ Drafting to set off against the Price. Payment for all variations must be made in full at the time of their completion.
- 6.4 At NZ Drafting's sole discretion a 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 dates specified in NZ Drafting, which may be:
 - (a) on completion of the Services;
 - (b) by way of instalments/progress payments in accordance with NZ Drafting's payment schedule;
 - (c) payment for approved Clients shall be due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices;
 - (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 NZ Drafting.
- 6.6 Payment may be made by cheque, bank cheque, electronic/on-line banking, or by any other method as agreed to between the Client and NZ Drafting.
- 6.7 The Client shall be entitled to set off against the Price, any sums owed or claimed to be owed to the Client by NZ Drafting not to withhold payment of any invoice because part of that invoice is in dispute.
- 6.8 Unless otherwise stated this clause does not include GST. In addition to the Price, the Client must pay to NZ Drafting an amount equal to any GST NZ Drafting must pay for any supply by NZ Drafting under this or any other Agreement for providing NZ Drafting's Services. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same day 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 Services**
- 7.1 Any time specified by NZ Drafting for provision of the Services is an estimate only and NZ Drafting will not be liable for any loss or damage incurred by the Client as a result of any delay. However both parties shall agree that they shall make every endeavour to enable the Services to be provided at the time and place as was arranged between both parties. In the event that NZ Drafting is unable to provide the Services as agreed solely due to any action taken for reasons of force majeure, NZ Drafting shall be entitled to charge a reasonable fee for re-providing the Services at a later time and date and the Client shall be liable for those costs.
8. **Nominated Sub-Contractors**
- 8.1 NZ Drafting shall engage Sub-Contractors, as required, acting solely as agent on behalf of the Client and the following shall apply:
 - (a) NZ Drafting shall be entitled to enter into Agreements with such Sub-Contractors in the name of the Client; and
 - (b) the Client shall be responsible for all payments to such Sub-Contractors; and
 - (c) where NZ Drafting pays the Sub-Contractors account on behalf of the Client, the Client shall reimburse NZ Drafting for the payment of the Sub-Contractors account together with an account-handling fee within 7 days from the date of submission of the account by NZ Drafting to the Client; and
 - (d) if the Client does not reimburse NZ Drafting within 7 days from the date of submission of the account in accordance with sub-clause (c) above, NZ Drafting shall be entitled to:
 - (i) charge interest as per clause 19 from the date of payment of the Sub-Contractors account by NZ Drafting to the date of reimbursement to NZ Drafting by the Client; and/or
 - (ii) charge an administration fee as allowed by this Agreement.
- 8.2 NZ Drafting does not warrant the accuracy or quality of the Sub-Contractors work or warrant that the recommendations of the Sub-Contractors are appropriate or adequate or are fit for their purpose or that the Client shall make every endeavour to enable the Services to be provided at the time and place as was arranged between both parties. In the event that NZ Drafting is unable to provide the Services as agreed solely due to any action taken for reasons of force majeure, NZ Drafting shall be entitled to charge a reasonable fee for re-providing the Services at a later time and date and the Client shall be liable for those costs.
9. **NZ Drafting's Obligations**
- 9.1 NZ Drafting warrants that it has the necessary skills, competence, and experience to undertake and complete the Services and shall at all times apply such skills, competence and experience in performance of the Services.
- 9.2 NZ Drafting represents that NZ Drafting will maintain current professional indemnity insurance.
- 9.3 The Client shall instruct NZ Drafting to change the scope of the Services. NZ Drafting shall promptly notify the Client in writing of any variation in Price pursuant to clause 6.2 of this Agreement. The Client agrees that additional fees may be payable.
- 9.4 NZ Drafting shall keep the Client advised of the progress of the Services in the manner determined by NZ Drafting, and shall provide to the Client with updates with respect of the Services at the time and in the manner determined by NZ Drafting in NZ Drafting's absolute discretion.
10. **Client's Responsibilities**
- 10.1 The Client acknowledges and accepts that the documentation, drawings, specifications (including CAD drawings) and other information provided by the Client to NZ Drafting are accurate and that the Client shall be responsible for the Services is dependent upon the Client complying with this clause.
- 10.2 In the event that any documentation, drawings, specifications (including CAD drawings) or information provided by the Client is inaccurate:
 - (a) NZ Drafting accepts no responsibility or liability for any loss, damages, or costs however resulting from these inaccurate documentation, drawings, specifications or other information;
- (b) NZ Drafting is entitled to suspend or terminate the supply of the Services to the Client if there is a material change to the scope of Services as a result of inaccurate documentation, drawings, specifications or other information;
- (c) NZ Drafting will not be liable to the Client for any loss or damage the Client suffers because NZ Drafting has exercised its rights under this clause.
11. **Compliance with Laws**
- 11.1 The Client and NZ Drafting agree that both parties shall comply with the provisions of all State and Federal Acts and bylaws of terms and conditions of any insurance in the event that may be applicable to the provision of Services by NZ Drafting, including any WorkSafe guidelines and any other relevant safety standards or legislation.
- 11.2 The Client shall ensure that the Client's all licences, approvals and/or certificates that may be required to enable NZ Drafting to provide the Services.
- 11.3 NZ Drafting has not and will not at any time assume any obligation as the Client's agent or otherwise which may be imposed upon the Client from time to time pursuant to the Health & Safety Act 2002 or any other WorkSafe guidelines. The parties agree that for the purposes of the HSW Act, NZ Drafting shall not be the person who controls the place of work in terms of the HSW Act.
12. **Title**
- 12.1 NZ Drafting and the Client agree that where it is intended that the ownership of Documentation is to pass to the Client that such ownership shall not pass until:
 - (a) the Client has paid NZ Drafting all amounts owing for the Services; and
 - (b) the Client has met all other obligations due by the Client to NZ Drafting in respect of all Agreements between NZ Drafting and the Client.
- 12.2 Receipt by NZ Drafting 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 and until then NZ Drafting's ownership or rights in respect of the Documentation shall continue.
- 12.3 If it further agreed that a bailee of the Documentation must return the Documentation to:
 - (a) NZ Drafting immediately upon request by NZ Drafting;
 - (b) the Client holds the benefit of the Client's insurance of the Documentation on trust for NZ Drafting and may sue to NZ Drafting the benefit of any insurance in the event of the Documentation being lost, damaged or destroyed;
 - (c) the Client must not sell, dispose, or otherwise part with possession of the Documentation, if the Client does so then the Client holds the resulting product on trust for the benefit of NZ Drafting and must dispose of or return the resulting product to NZ Drafting as NZ Drafting so directs;
 - (d) the Client shall not charge or grant an encumbrance over the Documentation nor grant nor otherwise give away any interest in the Documentation while they remain the property of NZ Drafting;
 - (e) the Client irrevocably authorises NZ Drafting to enter any premises where NZ Drafting believes the Documentation are kept and recover possession of the Documentation.
13. **Personal Property Securities Act 1999 ("PPSA")**
- 13.1 In agreeing 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 Documentation and/or collateral (account) – being a monetary obligation of the Client to NZ Drafting for Services – that have previously been supplied and that will be supplied in the future by NZ Drafting to the Client.
- 13.2 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 NZ Drafting may reasonably require to register a financing statement or financing charge statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, NZ Drafting for all expenses incurred in registering a financing statement or financing charge statement on the Personal Property Securities Register; and
 - (c) not register, or permit to be registered, a financing statement or a financing charge statement in relation to the Documentation and/or collateral (account) in favour of a third party without the prior written consent of NZ Drafting.
- 13.3 NZ Drafting agrees that indemnities in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 13.4 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 130 and 132 of the PPSA.
- 13.5 Unless otherwise agreed to in writing by NZ Drafting, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 13.6 The Client shall unconditionally ratify any actions taken by NZ Drafting under clauses 13.1 to 13.5.
14. **Security and Charge**
- 14.1 In considering NZ Drafting agreeing to supply 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 Services and/or Documentation) registered.
- 14.2 The Client irrevocably appoints NZ Drafting from and against all NZ Drafting's costs and disbursements including legal costs of a solicitor and other legal costs incurred in exercising the Client's rights under this clause.
- 14.3 The Client irrevocably appoints NZ Drafting and each director of NZ Drafting as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Client's behalf.
15. **Defective Services**
- 15.1 The Client acknowledges and accepts that where a claim of design failure is made against NZ Drafting:
 - (a) an impartial suitably qualified inspector will be employed to establish the fault; and
 - (b) should it be deemed that the cause of the design failure is of no fault of NZ Drafting, NZ Drafting's total costs to be borne by the Client.
- 15.2 The Client shall inspect the Services on completion and shall within seven (7) days of such time notify NZ Drafting in writing of any alleged defect in the Services provided (including NZ Drafting's workmanship), any error or omission, or of any other failure by NZ Drafting to comply with the description of, or the purpose of, the Services which NZ Drafting was to provide. The Client must notify any other alleged defect in NZ Drafting's Services as soon as is reasonably possible after any such defect becomes evident. Upon such notification the Client shall allow NZ Drafting to re-inspect the Services and give written notification to review the Services that were provided. If the Client fails to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.
16. **Consumer Guarantees Act 1993**
- 16.1 If the Client is acquiring Services for the purposes of a trade or business, the Client acknowledges and accepts that where a claim of design failure is made against the supply of Services by NZ Drafting to the Client:
 - (a) an impartial suitably qualified inspector will be employed to establish the fault; and
 - (b) should it be deemed that the cause of the design failure is of no fault of NZ Drafting, NZ Drafting's total costs to be borne by the Client.
- 16.2 The Client shall inspect the Services on completion and shall within seven (7) days of such time notify NZ Drafting in writing of any alleged defect in the Services provided (including NZ Drafting's workmanship), any error or omission, or of any other failure by NZ Drafting to comply with the description of, or the purpose of, the Services which NZ Drafting was to provide. The Client must notify any other alleged defect in NZ Drafting's Services as soon as is reasonably possible after any such defect becomes evident. Upon such notification the Client shall allow NZ Drafting to re-inspect the Services and give written notification to review the Services that were provided. If the Client fails to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.
17. **Intellectual Property**
- 17.1 If NZ Drafting has supplied Documentation to the Client, then the copyright in the Documentation (either in whole or in part) shall remain vested in NZ Drafting, and shall only be used by the Client at NZ Drafting's discretion. However, NZ Drafting grants the Client a licence to use the Documentation, copyright or any other property interest of a third party, in relation to the Documentation, upon completion of the Client's project, for which they were intended, conditional upon all of the following:
 - (a) the licence applies only to the individual project (or part thereof) to which the Documentation relates;
 - (b) the Price properly due to NZ Drafting has been paid;
 - (c) the Client acknowledges that if they wish to reproduce the project, then a further Price will be due and payable to NZ Drafting. Upon payment of that Price NZ Drafting shall grant a further licence to use the Documentation to complete the reproduced project but this shall only be applicable to that reproduction.
- 17.2 Where the Client provides NZ Drafting any materials including sketches, photographs, drawings, plans or concepts upon which NZ Drafting is to base the Services, the Client shall indemnify and keep indemnified NZ Drafting at all times against all actions, proceedings, claims, demands, liabilities, either express or implied, and all costs, losses of profit, damages and expenses whatsoever which may be taken against NZ Drafting or incurred or become payable by NZ Drafting resulting or arising from any claim or infringement of any patent, registered design, copyright or any other property interest of a third party which may result out of the use by NZ Drafting of the materials.
- 17.3 NZ Drafting shall retain the original Documentation, including but not limited to, any CAD files and all designs.
- 17.4 The Client acknowledges that they may only supply the Documentation (including softcopy) to any third party with the express approval of NZ Drafting in writing.
- 17.5 NZ Drafting may photograph, video, record, copy and all means the project for the duration, retention, and upon completion, for NZ Drafting's own use and for use in exhibitions, or award competitions, or publication in journals.
- 17.6 If the Client publishes or permits the publication of the project, NZ Drafting must be given written notice in order that NZ Drafting details shall be included on any all project signboards. If there is no such signboard, then the Client agrees that NZ Drafting may erect a signboard in an agreed location for the duration of the project and up to 30 days after completion thereof.
18. **Confidentiality**
- 18.1 Each party agrees to treat all Documentation, information and ideas communicated by the other party as confidential and each agrees not to divulge it to any third party, without the other party's written consent.
19. **Default and Consequences of Default**
- 19.1 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 NZ Drafting's sole discretion such interest shall compound monthly at such a rate).
- 19.2 If the Client owes NZ Drafting any money the Client shall indemnify NZ Drafting from and against all costs and disbursements incurred by NZ Drafting in recovering the debt or costs, but not limited to, the amount of the debt or costs, together with a solicitor and own legal fees, NZ Drafting's collection agency costs, and bank dishonour fees).
- 19.3 Further to any other rights or remedies NZ Drafting may have under this Agreement, if a Client has made payment to NZ Drafting, and the transaction is subsequently reversed, the Client shall be liable for the amount of the payment or transaction in addition to any further costs incurred by NZ Drafting under this clause 19, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Agreement.
- 19.4 Without prejudice to NZ Drafting's other remedies at law NZ Drafting shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to NZ Drafting shall, whether or not due for payment, become immediately payable if:
 - (a) any money payable to NZ Drafting becomes overdue, or in NZ Drafting's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client has exceeded any applicable credit limit provided by NZ Drafting;
 - (c) the Client becomes insolvent, 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 is made bankrupt, or is placed in liquidation, or is appointed as a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
20. **Cancellation**
- 20.1 Without prejudice to any other remedies NZ Drafting may have, if at any time the Client is in breach of any obligation (including those relating to payment), under these terms and conditions NZ Drafting may suspend or terminate the supply of Services to the Client. NZ Drafting will not be liable to the Client for any loss or damage the Client suffers because NZ Drafting has exercised its rights under this clause.
- 20.2 NZ Drafting may cancel any Agreement to which these terms and conditions apply or cancel delivery of Services at any time before the Services are commenced by giving written notice to the Client. On giving such notice NZ Drafting shall repay to the Client any money paid by the Client for the Services. NZ Drafting shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 20.3 In the event that the Client cancels delivery of the Services the Client shall be liable for any and all loss incurred (whether direct or indirect) by NZ Drafting as a direct result of the cancellation (including, but not limited to, any loss of profits).
21. **Privacy Act 1993**
- 21.1 The Client authorises NZ Drafting or NZ Drafting's agent to:
 - (a) access, collect, retain and use any information about the Client;
 - (i) (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Client;
 - (b) disclose information about the Client, whether collected by NZ Drafting from the Client directly or obtained by NZ Drafting from any other source, to any other credit provider or any other person for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.
- 21.2 Where the Client is an individual the authorities under clause 21.1 are authorities or consents for the purposes of the Privacy Act 1993.
- 21.3 The Client shall have the right to request NZ Drafting for a copy of the information about the Client retained by NZ Drafting and the right to request NZ Drafting to correct any incorrect information about the Client held by NZ Drafting.
22. **Service of Notices**
- 22.1 Any written notice given under this Agreement shall be deemed to have been given and received:
 - (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Agreement;
 - (c) by sending it by registered post to the address of the other party as stated in this Agreement; or
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Agreement (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 22.2 If the Client fails to provide complete and correct information as stated in this Agreement is shown, at the time when by the ordinary course of post, the notice would have been delivered.
23. **Trusts**
- 23.1 If the Client at any time upon or subsequent to entering into the Agreement is acting in the capacity of trustee of any Trust ("Trust") then whether or not NZ Drafting may have notice of the Trust, the Client shall be deemed to be acting as trustee of the Trust as follows:
 - (a) the Agreement extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
 - (b) the Client shall complete and sign any authority under the Trust to enter into the Agreement 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 such release;
 - (c) the Client will not without consent in writing of NZ Drafting (NZ Drafting will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following:
 - (i) the removal, replacement or retirement of the Client as trustee of the Trust;
 - (ii) any alteration or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.
24. **Liability Limitations**
- 24.1 NZ Drafting shall be liable to the Client in anyway arising out of, or in connection with, this Agreement and the Services (including in contract, tort, under statute or in equity) shall be limited to damages which under no circumstances shall exceed the amount of Professional Indemnity Insurance cover carried by NZ Drafting.
- 24.2 The Client shall be liable to NZ Drafting for all claims (including any cost, expense, loss, damage, claim, liability, action or proceeding, whether or not presently ascertained, immediate, future or contingent, and includes legal costs on a full indemnity basis) suffered or incurred by the Client (or any person claiming through or on behalf of the Client) other than to the extent caused or contributed to by:
 - (a) a negligent act or omission of NZ Drafting; or
 - (b) a breach of, or default under, this Agreement by NZ Drafting.
- 24.3 The Client shall be liable to NZ Drafting for the extent of the claim, to the extent that an act, default or omission of NZ Drafting has caused or contributed to the claim.
- 24.4 Notwithstanding clauses 24.2 to 24.3, NZ Drafting shall not be liable for any loss or damage sustained by the Client in relation to:
 - (a) errors occurring in plans, designs or specifications not created or prepared by NZ Drafting; or
 - (b) errors occurring during the course of any services which are not provided by, nor the responsibility of NZ Drafting; or
 - (c) the use of any Documentation or other information of advice without the approval of NZ Drafting.
25. **Construction Contracts Act 2002**
- 25.1 The Client hereby expressly acknowledges that:
 - (a) NZ Drafting has the right to suspend the Services 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 and no payment schedule has been given by the Client; or
 - (ii) the schedule of payment 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 NZ Drafting by a certain date;
 - (iv) NZ Drafting has given written notice to the Client of its intention to suspend the Services under this Agreement.
 - (b) if NZ Drafting suspends the Services, it:
 - (i) 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
 - (ii) is not liable to use the Documentation, copyright or any other property interest of a third party, in relation to the Documentation, upon completion of the Client's project, for which they were intended, conditional upon all of the following:
 - (a) the licence applies only to the individual project (or part thereof) to which the Documentation relates;
 - (b) the Price properly due to NZ Drafting has been paid;
 - (c) the Client acknowledges that if they wish to reproduce the project, then a further Price will be due and payable to NZ Drafting. Upon payment of that Price NZ Drafting shall grant a further licence to use the Documentation to complete the reproduced project but this shall only be applicable to that reproduction.
 - (c) if NZ Drafting exercises the right to suspend the Services, the exercise of that right does not:
 - (i) affect any rights that would otherwise have been available to NZ Drafting 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 NZ Drafting suspending the Services under this provision.
26. **General**
- 26.1 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, arbitration in accordance with the Arbitration Act 1996 or its replacement(s).
- 26.2 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 any provision of these terms and conditions. Any provision of these terms and conditions which is unenforceable, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 26.3 These terms and conditions, and any agreement which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Tauranga Courts of New Zealand.
- 26.4 Neither party may licence and/or assign all or any part of its rights and/or obligations under this Agreement without the Client's consent.
- 26.5 The Client cannot licence or assign without the written approval of NZ Drafting.
- 26.6 NZ Drafting may elect to subcontract any part of the Services but shall not be relieved from any liability or obligation under this Agreement by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of NZ Drafting's sub-contractors without the authority of NZ Drafting.
- 26.7 NZ Drafting may amend these terms and conditions by notifying the Client of such changes, or otherwise at such time as the Client makes a further request for NZ Drafting to provide Goods to the Client.
- 26.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 26.9 The Client warrants that they have the power to enter into this Agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Agreement creates binding and valid legal obligations on them.
- 26.10 This Agreement constitutes the entire Agreement between the parties with respect of the subject matter hereof and shall supersede all previous representations, undertakings, warranties, covenants and agreements of the parties. This Agreement supercedes all prior negotiations, contracts, arrangements, understandings and agreements with respect to such subject matter. There are no representations, warranties, covenants or agreements between the parties express or implied except as contained in this Agreement.