



Steelspan Limited – Standard Terms and Conditions

Definitions

“Seller” shall mean Steelspan limited and its successors and assigns.

“Buyer” shall mean the buyer or any person (or persons) acting on behalf of and with the authority of the Buyer.

“Goods” shall have the meaning as in section 2 of the Sale of Goods act 1908 and are any goods supplied by the Seller to the Buyer (and where the context permits shall include supply of Services as defined below).

“Services” shall mean all services supplied by the Seller to the Buyer and includes any advice or recommendations. (and where the context so permits shall include supply of Goods as defined above).

“Price” shall mean the price of the Goods, Services, and Works; as agreed between the Seller and the Buyer subject however to paragraph **Pricing** of these terms.

“Party” means the Buyer or the Seller. Reference to the singular or to a person includes respectively reference to the plural or a company and vice versa.

“Works” means the building, and construction of the building to be carried out under this contract, and all related Goods and Services to be provided by the Seller to the Buyer under this contract.

“Section” means the property on which the Works are to be carried out.

“Site” means the portion of the Section in which the Works are to be carried out, including access for construction machinery and storage area for materials, as reasonably required by the Seller.

“Completion of the Works” means the date on which the Seller, upon practical completion of the Works described by this contract, gives notification to the Buyer that the Works have been practically completed. An invoice issued by the Seller for the balance of the Price shall be deemed such a notification. For the avoidance of doubt, a Code of Compliance Certificate is not a condition or requirement of practical completion.

Acceptance

Any instructions received by the Seller from the Buyer for supply of Goods or for the carrying out of the Works shall constitute Acceptance of these terms and conditions by the Buyer.

Where more than one Buyer has entered into this agreement, the Buyers shall be jointly and severally liable for all payments of the Price and for compliance with these terms and conditions. Upon acceptance of these terms and conditions by the Buyer, these terms and conditions shall become irrevocable and can only be rescinded or amended in accordance with these terms and conditions or by written agreement between the Buyer and the Seller’s manager.

Upon Acceptance as defined in clause 2.1 the signed quotation which includes these terms and conditions, shall constitute the entire agreement between the Buyer and the Seller and shall completely supersede any prior representations, statements, conditions, or agreements made by the Seller or its agents or representatives.

Pricing

“Price” relates to the supply of any Goods, Services or Works as stated in the quotation by the Seller. The Buyer must check the quotation supplied by the Seller thoroughly as anything previously advised or discussed that is not specifically noted or listed within the quotation is not allowed for and will not be supplied.

The Price shall be subject to variation only as provided for in these terms and conditions.

Engineering standards and local Council requirements may require changes and vary the specification and price of the Goods, Services or Works offered in the quotation. The Seller reserves the right to make engineering and design changes, where necessary, prior to manufacture commencing. If these changes result in extra materials and or services, this will become payable by the Buyer and any additional costs will be discussed and agreed to by both the Seller and the Buyer prior to the commencement of manufacturing.

The Pricing listed in the quotation will be subject to any price rises that the Buyer’s suppliers may announce from time to time. Price rises shall apply, where the Seller is unable to commence the supply of the Goods, Services or Works by the price rise date. Price rises will be discussed and communicated in writing to the Buyer as soon as the Seller receives such notice from its suppliers. When the Seller notifies the Buyer of a price rise that will increase the cost of the supply the Buyer will be given opportunity to take delivery of kitset materials early to mitigate the cost increase if this is possible.

Unless specifically stated GST is not included in any prices. GST is charged at the going rate as listed by the Inland Revenue Department of New Zealand. Should the rate of GST alter, GST will then be calculated based on the going and published rate applicable at the date of invoicing.

Should the Buyer require a GST exempt invoice for purposes of export – proof of shipping documentation will be required prior to invoicing and release of materials.

Payments

A 1st Progress claim is payable when the Buyer signs up with the Seller to go ahead – this covers the Seller drawing up the applicable structural plans and details, supplying engineering calculations and PS1 if included as per the quotation. It further includes the Seller’s time spent quantity surveying and supplying of any applicable cast in base brackets for Buyer’s building.

In the case of a contract being cancelled or terminated by the Buyer, the amount of any Deposit paid by the Buyer shall be non-refundable up to ten percent (10%) of the value of the total contract.

Further Progress claims are payable as listed in the quotation. Some payments may be required prior to the Seller placing orders for materials. This is needed as all materials are ordered specifically and cut or punched exactly for Buyer’s site and building only. Typically, the materials will be supplied 20 working days after date of payment.

When supplying some larger structures, the frame may be supplied earlier than the cladding, flashings and doors. In this case the Seller may elect to breakdown the progress claim into smaller payment amounts, to suit timing required. This will be on a mutually agreed basis only between the Seller and the Buyer.

Payment shall be made by cash, cheque, or direct credit; or as otherwise agreed to between the parties; however receipt by the Seller of any form of payment other than cash shall not be deemed to be payment until that payment has been honored, cleared or recognized.

Engineering

All Building structures supplied by the Seller shall be designed and engineered specifically to suit the Buyer’s site location as stated in the quotation to appropriate New Zealand (or Pacific Island) Standards. The Seller shall instruct independent structural engineers to provide structure design in accordance with the following standards, AS/ NZS 1170 for loadings, AS/NZS 4600 for cold formed sections, AS 4100 for steel components, AS 3600 for concrete components, NZ 3604 / NZ 3603 for timber framing and poles and provide a site-specific producer statement (PS1) together with supporting engineering calculations.

The Seller uses various steel framing systems that best suit the Buyer’s site location and structure application.

The Seller’s pricing in the quotation does not include a PS2 engineering peer review or PS4 on-site engineering inspection certificates if required by Local Council requirements. The Seller can instruct it’s independent engineers to provide this at an extra cost for the Buyer if required.

Geotechnical reports, fire reports, drainage reports or reports of any other nature which may be requested by Local council requirements are not included unless specifically listed in the quotation. Site plan, drainage plan or any other additional plan detail that may be required by Local council requirements, other than the Seller’s standard framing and details set of plans provided are not included unless specifically listed in the quotation.

Consent fees as charged by your local district council or authority are not included unless specifically listed in the quotation.

Foundation designs supplied by Seller assume ‘Good Ground’ as defined in NZS3604, with at least 300kpa Ultimate Bearing Capacity. If in the event the local council or report recommends alternative design parameters outside of the Seller’s specified design, the cost of any extra Geotechnical design and foundation works if required, is not included unless specifically listed in the quotation.

Wind zone used in design will be as stated in the quotation.

All Pacific Island locations will require specific engineering design and the use of 0.55mmBMT roofing and cladding materials. No building can be assumed to comply within Pacific Island conditions unless expressly stated in the quotation. Any building purchased in New Zealand and then subsequently shipped offshore without the Seller’s knowledge or approval will be deemed to be substandard and any no Liability the Seller will exist.

Design Criteria

The Seller makes use of Region and Zone maps relating to New Zealand available at <http://branz.maps.arcgis.com/apps/webappviewer>.

Wind Regions – Building designs are not engineered for locations in a Lee Zone (refer map BRANZ site – or please request a copy from the Seller’s office), unless specifically stated in the quotation.

Snow Zones – Building designs are engineered to a maximum altitude of 850m for Zone N1, 850m for Zone N2, 850m for Zone N3, 350m for Zone N4 and 400m for Zone N5 (refer map BRANZ site – or please request a copy from the Seller’s office) this is specifically stated in the quotation.

Earthquake Zones – Engineering is based on site location (refer map BRANZ site – or please request a copy from the Seller’s office).

Specific engineering design for cyclonic wind speeds applies to the Pacific Islands.

Importance Levels – (refer NZ Building Code Clause A3 Building Importance Levels – or please request a copy from the Seller’s office) The Seller will specify in the quotation what the building importance level that the structure supplied will be designed for. It is the Buyer’s responsibility to ensure that the intended use of the building structure will be suited to the Buyers’ ultimate use.

Maintenance

The Buyer must ensure that regular maintenance, even once construction is complete, is carried out.

Guidance on suitable environmental conditions, regularity of maintenance requirements and warranties can be sourced at the New Zealand Steel website, www.nzsteel.co.nz. Guides are also available on request from the Seller.

Specific material warranties, based on building location and environmental conditions take precedence over the any of the Seller’s advice on materials. If directly exposed to the weather, warranties on framing become null and void.

Manufacture

Standard manufacturing lead-time for materials is 20 working days but this can vary. The Buyer must confirm with the Seller for confirmation.

Self-Assembly

The Seller will provide, detailed engineering plans and support to ensure the Buyer is able to erect the building with minimal complications.

Some cutting, and drilling may be required on site, so the Buyer must follow guidance as noted on the plans.

If required, the Seller will provide friendly and clear assembly advice by phone, text, email, or video conferencing to assist.

Dimensions

All building plan dimensions noted are nominal sizes only.

Length and width dimensions are to inside of wall sheeting. Knee (wall) and apex heights are to underside of roof sheeting.

If exact dimensions are crucial to the Buyer’s project, the Buyer must discuss the building dimensions with the Seller to get clarifications made prior to the works proceeding.

If an exact opening or clearance size is required, then this must be specifically nominated as “exact size” in the quotation.

Dimensions noted for Roller doors, Roller Shutter doors, PA doors, Ranch sliders and Windows are framing trim sizes – not clear opening sizes.

Plan positioning of windows may be for illustration purposes only during the sales process as bracing requirements arrived during structural engineering design may necessitate a minor positional change.

Materials

If any materials, arrangement, or process becomes practically or uneconomically available, the Seller may substitute another reasonably equivalent material, arrangement, or process.

Roof and Wall sheeting

All roof and wall sheeting will be typically, 0.40mm BMT 5-rib or corrugated, NZ Steel Zinalume or Coloursteel or equivalent or as stated in this quotation.

Note: the following minimum roof slope pitch apply to the supply of

Corrugate - 8 degrees

5 Rib - 3 Degrees

If a roof pitch lower than 3 degrees is desired the Seller can supply trapezoidal profiles to suit at additional cost.

0.55mm BMT 5-rib or corrugated roof or wall sheeting is available as a heavier option and is not included unless stated in the quotation. Please note that warranties are not increased by ordering thicker gauge steel, as it is typically only used to minimize damage from heavier or more frequent foot maintenance traffic, eg: to regularly service larger commercial air conditioning units mounted on the roof.

Frames

Galvanised steel members, gauges 0.75mm – 3.00mm BMT.

Purlins and girts are typically Galvanised Top hat or box sections, thicknesses vary from 0.75mm to 1.15mmBMT, unless otherwise stated in the quotation.

Timber poles supplied shall be H5 treated of high-density grade.

Timber purlin / girt and wind post framing supplied will be SG8 H3 treated.

Connection plates

The Seller uses various steel bracket systems that best suit your site location and structure application. Apex and Knee plates are typically 3.00mm or 2.00mm BMT Galvanised.

Foundation to Framing Connection Method

Connection of the structure's main frame to the concrete floor or foundations is determined by the building design.

Where primary structure is steel either cast in concrete fixing or mechanical anchor fixing system will be used.

Where primary design is timber pole, the poles will be set into concrete in a pier or pile type foundation.

Fasteners

Fastenings supplied are a combination of Tek screws and structural bolts.

All steel components of the building are designed to be suitable for conditions generally described as 'Non-Aggressive'.

Bracing

Where nominated for use in the engineering plans, steel strap bracing is provided to wall and or roof areas.

If nominated for use in the engineering plans, apex and or knee braces will be provided. Please note that the existence of apex braces and knee braces will reduce the internal clearance height of the building. Apex Knee braces do typically create a more cost-effective building. If the Buyer specifically does not want Apex or Knee braces, the Buyer must communicate this to the Seller and obtain confirmation of price and specification in the quotation.

Guttering and Downpipes

White PVC downpipes will be supplied as per sizes specified in the quotation.

Downpipes will be supplied to take water from gutter to ground level only.

Downpipe droppers are included but silicon is not provided as part of a building kitset materials supply only. Joining to underground services or connecting to water storage tanks or other holding vessel not included unless specifically stated in the quotation.

Gutters are supplied as Zinalume, or Colorsteel folded steel box gutters complete with internal, or external (heavy Duty) brackets as specifically listed in the quotation.

Flashings

Flashings shall be supplier manufactured from 0.55mm BMT Zinalume or Coloursteel or equivalent unless otherwise stated in this quotation.

Insulation Membranes

Supplied to roof and or walls area only.

Type and extent of insulation membranes will only be supplied as specified in the quotation. Please note that Insulation membranes are essential for protection against the effects of condensation.

Support netting is not included unless specifically noted in the quotation. Safety netting may be required by the Buyer's building contractor for OSH purposes during construction, and it may be advisable to check this prior to commencing construction.

Roof or Wall clear lite sheets

Translucent Fibreglass sheeting having the same profile as roofing or cladding are not included in the quotation unless specifically stated.

Industrial grade weight of 1800 grams per square metre (GSM) will be supplied unless specifically nominated in the quotation. Safety netting is recommended to be laid under Roof lite sheets to mitigate risk of falling through when performing maintenance. Safety netting is not included unless specifically nominated in the quotation. As an alternative to laying of safety mesh under Skylights, a "trafficable" fiberglass sheeting is available at a grade weight of 3600 GSM – this can be bear the weight of a person for safety purposes. This is not included unless specifically stated in the quotation.

Dividing or internal walls

Where dividing or internal walls are included in the quotation, steel profile sheeting will be provided to one side of wall only unless specifically stated.

If internal studs only are required and the Buyer is providing the lining material this will be specifically stated in the quotation.

Mezzanine Floors

The Seller typically supplies only mezzanine framing consisting of bearers and joists where a mezzanine floor is included in the quotation.

No flooring, linings to underside, stairs, balustrades, or handrails are provided unless specifically stated in the quotation.

Combined loading for mezzanine floors can be designed and supplied ranging from 1.5 – 5.0kPa (approx. 150 – 500kg per square meter). Heavier loadings increase cost of mezzanine and building structure. This can extend to structural engineering design and foundation costs. Specific loading will be if stated in the quotation.

Vermin Deterrents

Vermin flashings applied to the wall and concrete floor slab intersection, suitable for fully enclosed building areas only with a concrete floor are not included unless specifically noted in the quotation. Bird brush above roller doors is not included unless specifically noted in the quotation.

Roller Doors

Unless specified, roller doors are not wind rated.

Some roller door types have a limited colour range. The finish, Colorsteel or powder-coated, is dependent on roller door type.

Wind lock guides are available where extreme wind situations exist, and these will not be included unless specifically stated in the quotation.

Roller Shutter Doors are available on request and represent a heavier duty option than roller doors. Typically, these doors are used in heavy industrial situations and will cost more than the roller door equivalent. Roller Shutter Doors will not be included unless specifically stated in the quotation.

All roller or roller shutter doors are wrapped (but not crated) to protect them during transport. Crating can be added up until dispatch from supplier but will represent an additional cost to that shown in the quotation. Extreme care is required on unloading of any doors as this is when damage to doors is most likely to happen. The Seller will not accept responsibility for damage incurred whilst unloading of any roller or roller shutter doors shutter doors for kitset only supply.

Personnel Access Doors

Personnel Access doors will be supplied as Zinalume or Coloursteel sheathed doors complete with framing, flashings with a standard keyed lockset. Personnel Access Doors of any type are not included unless specifically stated in the quotation.

Personnel Access doors shall be supplied as opening outwards unless otherwise stated in the quotation.

Aluminum Joinery

Aluminum joinery is not included unless specifically stated in the quotation.

Unless stated otherwise, all joinery is single glazed. Sizing is framing trim size not clear opening size – please confirm with the Seller if confirmation is required.

Opening Flashings

Flashings supplied are for that of a shed classification only.

Flashings are supplied as applicable to door and window openings only if specifically stated in the quotation.

For other classifications requiring more detailed flashings, these are not provided unless specifically stated in the quotation.

Plasterboard lining

Unless specifically stated – the building listed in the quotation is not suitable for plasterboard lining with a stopped finish.

If the Buyer requires this, The Seller will confirm price for engineering and extra materials to achieve the desired outcome and this will be stated clearly in the quotation. This typically is the case where a portion of the building is being used for an office or a wall is being lined using plaster board as a fire rated material.

Kitset Delivery

Delivery does not apply to any Chatham Islands, Hauraki Gulf Islands, Stewart Island or Pacific Island locations.

Delivery to site means that the Seller will arrange delivery and applies to all materials as noted in this quotation.

The Buyer must ensure the building site has suitable, all-weather access for large truck deliveries.

The cost of delivery to site is based on the customer's site being located on, or close to, a normal delivery run. Additional fees may apply where the Buyer's site is situated in a remote location, or off the normal delivery run.

Delivery is by a standard flat deck truck and does not include unloading. Suitable methods of unloading are by forklift, hiab, crane, back-hoe, front end loader or by hand if the Buyer has enough labour available.

Note any unreasonable delays in unloading will be on-charged to the Buyer.

If a Hiab delivery is required, this will be quoted as additional to the quotation and will be charged to the Buyer.

Should the delivery driver determine that the site is not accessible then the kitset materials, at the delivery driver's discretion, may be returned to the depot for the Buyer to collect whereby the quoted delivery fee will still apply.

The Seller will not be liable for any expenses, loss or damage resulting from a delay in delivery – any kitset delivery dates shown are an estimate only.

The Sellers Insurance for the materials ceases once the materials are delivered to site or collected from a third-party supplier depot.

Kitset Collection

Should the Buyer wish to make collection of the materials, collection will be made from the various suppliers manufacturing and transport depots.

Collection dates, third party addresses and contact details will be advised. Prior to collection the Buyer must ensure that the goods are ready for collection on the nominated dates, and upon collection must ensure that all items on the dockets are supplied and not damaged.

Should the collection by the customer be delayed then, at the Seller's discretion, storage fees may apply equal to 1.0% of the contract price per week and payable prior to collection.

Acceptance of Goods

Where the Sellers is providing kitset materials only, it is the responsibility of the Buyer to ensure that all materials noted on the delivery dockets are supplied and that they are in satisfactory condition when taking possession of the kitset items.

In the event of material damage or under supply, this must be written on the delivery dockets and signed by the driver and Buyer.

Any claim by the Buyer must be made by written notice to the Seller within three (3) days and subsequently the Buyer must be given reasonable opportunity to inspect materials following any such notice – otherwise it will be deemed that all materials have been accepted by the Seller.

Ownership, Returns & Default

Ownership of the kitset materials remains vested with the Seller and shall not pass from the Seller until all monies due and owing by the Buyer are paid.

Kitset building materials cannot be accepted for return under any circumstances as they are manufactured to specific Buyer requirements in relation to size, colour or specification.

If the Buyer defaults in making any payment due then the Seller may at its sole discretion charge for any material price increases, storage fees and default interest at 1.5% a month from the date at which the default arose and also be liable for all recovery costs, including legal expenses incurred by the Seller, associated with any reimbursement for late payment.

Code of Compliance Certificate (CCC)

Where the quotation does not include construction by the Seller, it shall be the Buyer's responsibility to obtain a Code of Compliance (CCC) and advise the Local Council of the completion of construction.

Risk and Insurance

Where the Works are to be fully or partially constructed by the Seller, then the Seller will provide Contract Works (CW) Insurance up to \$150,000 (One hundred and fifty thousand dollars) and up to \$10,000,000 (Ten Million dollars) Public Liability (PL) Insurance while under construction by the Seller. All risk will pass to the Buyer on Completion of the Works, even where title remains with the Seller. Where the Works do not include constructions services, all risk in any Goods shall pass to the Buyer upon delivery of those Goods to the Buyer, the Buyer's agent, or the Buyer's address; even where title remains with the Seller.

Defects

Upon Completion of the Works, the Buyer shall inspect the Works and within thirty (30) days of Completion of the Works notify the Seller of any alleged defect, shortage, damage or failure to comply with description.

The Buyer shall give the Seller an opportunity to inspect and/or remedy the Works within a reasonable time following notification.

Warranty

The Seller warrants to undertake the works shown in the acceptance documents, specifications, and plans, in a proper and tradesman like manner; and where a Building Consent has been issued, in conformity with the Building Consent, The Building Act 2004, and relevant regulations.

For goods manufactured by the Seller and work performed by the Seller, the Seller warrants freedom from defects and will make good any defects that become apparent within One Year from Completion of the Works. This warranty does not cover deterioration arising from wear and tear, natural weathering of materials, misuse, or lack of maintenance or care. This warranty is in addition to any statutory obligations of the Seller.

For any Goods not manufactured by the Seller, the sole warranty shall be the current warranty (if any) provided by the original manufacturer of the Goods. The Seller shall not be bound by, or responsible for any term, condition, representation or warranty given by the original manufacturer of the Goods. The Buyer undertakes to perform all maintenance procedures prescribed by the manufacturer(s) of the Goods.

Default & Consequences of Default

Interest on overdue invoices shall accrue daily from the due date until the date of payment at a rate of 1.5% compounding per calendar month and shall accrue at such a rate after as well as before any judgement.

If the Buyer defaults in payment of any invoice when due, the Buyer shall indemnify the Seller from and against the Seller's costs and disbursements including on a solicitor and own client basis, and all costs of collection.

In the event that: Any money payable to the Seller becomes overdue by more than 7 days or the Buyer is in breach of any of its obligations under this agreement; or the Buyer becomes insolvent or 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 a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer; - then in addition to and without prejudice to the Seller's other rights or remedies:

(i) The Seller may suspend the Works until such time as it sees fit; and/or

(ii) The Seller shall be entitled to terminate the agreement and all or any part of the Works; and

(iii) All amounts owing to the Seller shall immediately become due and payable.

The Seller will not be liable to the Buyer for any loss or damage the Buyer suffers because the Seller exercised its rights under this clause.

Title

It is agreed between the parties that property in the Goods or Works shall not pass to the Buyer until the Buyer has paid all amounts owing for the Goods or Works; and that the Goods, or proceeds of any sale of the Goods or Works, shall be kept separate until the Seller shall have received payment and all other obligations of the Buyer are met.

It is further agreed that until ownership of the Goods passes from the Seller to the Buyer the Seller or the Seller's agent may enter upon and into land and premises where the Goods are situated and take possession of the Goods, without being responsible for any damage thereby caused.

Intellectual property

Where the Seller has produced designs or drawings for the Contract, then the copyright in those designs and drawings shall remain vested in the Seller and shall only be used by the Buyer at the Seller's discretion.

Termination

(a) If the Seller is prevented from completing the contract by circumstances beyond its control, including where a Building or Resource Consent is refused by the Territorial Authority; then the Seller may terminate the Contract by giving written notice to the Buyer without being liable for any direct or indirect or consequential loss or damage arising from such termination.

(b) In any event whatsoever where the contract is terminated, the Buyer shall be liable to the Seller for the proportion of the Price (including profit) relating to work carried out or expenses incurred by the Seller prior to termination.

Privacy Act 1993

The Buyer authorizes the Seller to:

- (a) Collect, retain, and use any information about the Buyer for the purpose of assessing the Buyer's creditworthiness or marketing products and services; and to
 - (b) Disclose any information about the Buyer, whether collected by the Seller from the Buyer directly or obtained from any other source, to any other credit provider or reporting agency for the purpose of providing or obtaining a credit reference, debt collection or notifying a default by the Buyer.
- Where the Buyer is a natural person the authorities under clause 15.1 are authorities or consents for the purposes of the Privacy Act 1993.

Buyer's Disclaimer

Any building design or advice supplied by the Seller has been supplied to suit their interpretation of the Buyers requirements. However, the Buyer accepts full and final responsibility to ensure the layout, design, and form of construction are fit and suitable for its intended purpose in all respects; and the Buyer acknowledges that it has entered into the contract relying solely upon its own skill and judgement and disclaims any right to sue for damages or to claim restitution in regards of any matter arising out of the layout, design, or form of construction of the building.

Communication

The Buyer shall communicate with the Seller or its appointed representative directly.

The Buyer shall not give directions to the Seller's other employees or subcontractors and shall not be entitled to rely on statements or representations made by them.

Unpaid Seller's Rights to Dispose of Goods

In the event that the Seller retains possession or control of the Goods and payment of the Price to the Seller is due; and the Seller has made demand in writing of the Buyer for payment of the Price in terms of this contract; but the Seller has not received full payment for the Goods, then, whether the title in the Goods has passed to the Buyer or remained with the Seller, the Seller may dispose of the Goods and claim from the Buyer any loss incurred.

Consumer Guarantees Act 1993

This agreement is subject, in all cases except where the Buyer is contracting within the terms of a trade or business (which cases are specifically excluded), to the provisions of the Consumer Guarantees Act 1993.

General

If any provision of these terms and conditions shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

All Goods and Services supplied by the Seller are supplied subject to the laws of New Zealand and the Seller takes no responsibility for changes in the law that affect the Goods or Services supplied.

In the event of any breach of this contract by the Seller the remedies of the Buyer shall be limited to damages and the Seller shall be under no liability whatsoever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer. Under no circumstances shall the liability of the Seller exceed the Price of the Goods.

Neither party shall be liable for any default due to any act of God, terrorism, war, strike, lock-out, industrial action, flood, storm, or other event beyond the reasonable control of that party. The Seller may sub-contract all or any part of its rights or obligations under this contract without the Buyer's consent.

All disputes and differences between the parties shall be referred to arbitration in accordance with Arbitration Act 1996. The arbitration shall be commenced by either party giving to the other notice in writing, stating the subject matter and details of the dispute or difference and that party's desire to have the matter referred to arbitration. The arbitration shall be by one arbitrator to be agreed upon by the parties and, failing agreement, to be nominated by the then President of the Auckland District Law Society. The award in the arbitration shall be final and binding on the parties.

Variations

The Buyer may authorize variations to the Works. The Buyer may request confirmation of the amount of any resulting adjustment to the Price before authorizing a variation.

The contract Price shall be adjusted for all variations carried out, by the amount previously confirmed by the Seller, or where no amount was confirmed, by a reasonable amount subsequently determined by the Seller.

The Seller shall not be obliged to make any unreasonable variation; or any variation which increases the contract price unless the Seller is satisfied that the Buyer is able to pay such increased price.

Entry, Use or Occupation by Buyer; applying only to Contracts which include Construction services

If any part of the site is enclosed or locked-up by the Seller prior to Completion of the Works, the Buyer shall not enter such part except by prior arrangement with the Seller, who is entitled to be present.

The Buyer shall only be entitled to use or occupy the site or any part thereof if the Buyer has fulfilled all of its obligations under this contract, including final payment.

If the Buyer uses or occupies the site otherwise than in accordance with clauses **above**, all amounts that would become payable to the Seller upon Completion of the Works, shall become immediately due and payable.

Miscellaneous Provisions applying only to Contracts which include Construction services

It is the Buyer's responsibility to locate the boundaries of the Section. If the Seller requires the boundaries of the Section or the Site to be pegged or verified, then upon the Seller's written request the Buyer shall, at the Buyer's expense, engage a registered surveyor to perform this work.

The Buyer shall ensure that the Seller has unimpeded access to the Site, and availability of power and water on site, for carrying out the Works at all reasonable times. If power or water is not available, additional charges will apply.

If on opening up the ground or excavation of any footings or foundations the Seller discovers unforeseen adverse conditions, or at any time the site conditions do not provide a firm and stable substrate for construction machinery to operate on, the Seller shall be entitled to: increase the price for any additional costs attributable to those conditions, and extend any agreed date for Completion of the Works to allow for delays arising out of those conditions.

The Buyer shall point out to the Seller the location of all underground services such as gas, telephone, power cables and pipes. The Seller accepts no responsibility for damage to underground services during construction due to failure by the Buyer to accurately advise the location of any underground service.

If the Seller discovers after signing this agreement that the ground is irretrievably unsuitable for the Works the Seller shall immediately inform the Buyer in writing. At any time after discovering that the ground is irretrievably unsuitable for the works, either party may terminate the contract, subject however to **Termination(b)** clause

Any site preparation or fill required to level the building platform, or removal of excavated soil, or reinstatement of terrain affected by construction activities; is not included in the Price unless expressly stated otherwise. The Buyer shall provide a clear and level building platform prior to construction commencing. The Seller will level and compact the top 20mm only of sand or fines beneath concrete floors; any sand or fines required will be an extra charge. Site works such as power supply, telecommunications, water supply, storm water drainage, and soak holes, are not included unless stated in quotation.

Upon Completion of the Works and receipt by the Seller of full payment, the Seller will lodge an application for a Code of Compliance Certificate (CCC) on the Buyer's behalf; providing however that if there is work by any other party required to obtain a CCC which is incomplete, the Seller will instead forward to the Buyer only those documents required for obtaining a CCC which relate to the Works. The Seller will remedy any defects in the Works required to obtain a CCC.

The Seller shall comply with the Provisions of the Health & Safety in Employment Act 1992 in respect of all works carried out under this contract.