

## Quantity Services Ltd Terms and Conditions of Engagement

1. These Terms and Conditions of Engagement form the basis of the agreement between Quantity Services Ltd and the Client.
2. Quantity Services Ltd shall perform the services as outlined. In the absence of a signed acceptance, the Client's instructions to commence work will be taken as acceptance of these Conditions of Engagement.
3. Nothing in this Agreement shall restrict, negate, modify or limit any of the Client's rights under the Consumer Guarantees Act 1993 where the Services acquired are of a kind ordinarily acquired for personal, domestic or household use or consumption and the Client is not acquiring the Services for the purpose of business. Both parties agree that where all or any of the Services are acquired for the purposes of a business, the provisions of the Consumer Guarantees Act are excluded in relation to those Services.
4. Certain information (whether in documentary form or otherwise) may be reasonably required by Quantity Services Ltd so that the Services can be provided. The Client will take all necessary steps to provide such information to Quantity Services Ltd and will bear any associated costs.
5. Quantity Services Ltd will retain ownership of any and all designs, methods, processes, systems, copyright and ideas (the "Intellectual Property"), produced by Quantity Services Ltd in any form in the course of providing the Services.
6. The Client may use or copy documents, information and data prepared in the course of providing the Services, but only for use in connection with this Commission and for no other purpose including providing documents, information and data prepared by Quantity Services Ltd to a third party.
7. Any Intellectual Property supplied to the Client by Quantity Services Ltd that was not produced in the course of providing the Services will remain the property of Quantity Services Ltd.
8. The Client may order changes to the scope of Services in writing or may request Quantity Services Ltd to submit proposals for changes to this Agreement. Where Quantity Services Ltd considers a direction from the Client or any other circumstance is a change to the scope of Services, Quantity Services Ltd shall notify the Client as soon as practicable and seek agreement to the change in writing.
9. The Client shall pay Quantity Services Ltd for the fees, expenses and disbursements at the times and in the manner agreed. Where this Agreement has been entered into by an agent (or a person purporting to act as an agent) on behalf of the Client, the agent and Client shall be jointly and severally liable for payment of all fees, expenses and disbursements due to Quantity Services Ltd under this Agreement.
10. All amounts payable by the Client to Quantity Services Ltd shall be paid within 7 (seven) calendar days following the date of the relevant invoice. Late payment shall constitute a default and the Client shall pay the default interest on overdue amounts from the date payment falls due to the date of payment at the rate of Quantity Services Ltd's overdraft rate plus 2% and, in addition, the Client shall pay any Debt Recovery costs that are incurred and these costs will be added to the amount outstanding from the Client.
11. Quantity Services Ltd may with the written authority of the Client, purchase such incidental goods and/or services as are reasonably required to perform the scope of services. The cost of these expenses shall be payable as disbursements by the Client in addition to the Fees.
12. Where Quantity Services Ltd breaches this Agreement, Quantity Services Ltd is liable to the Client for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by this breach. Quantity Services Ltd shall not be liable to the Client for the Client's indirect, consequential or special loss, or loss of profit, however arising, whether under contract, in tort or otherwise.
13. The maximum aggregate amount payable in relation to claims, damages, liabilities, losses or expenses, shall be five times the value of fees (exclusive of GST and disbursements) with a maximum limit of \$NZ10000 (Ten thousand dollars).
14. If either Party is found liable to the other (whether in contract, tort or otherwise) and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party shall only be liable for the proportional extent of its own contribution.
15. The client may suspend all or part of this Agreement by written notice to Quantity Services Ltd, who shall immediately make arrangements to stop the services and minimise further expenditure. Either party may terminate the Agreement by notice in writing to the other party. Such actions will not prejudice the accrued rights, claims or liabilities of the parties.
16. In the event of any dispute or difference arising out of or in connection with this Agreement, or the subject matter of this agreement, including any question about its existence, validity or termination, the following provisions will apply:
  - 16.1 In the first instance the Parties will use their best endeavours to resolve the dispute by discussion amongst themselves.
  - 16.2 If discussion between the Parties does not resolve the dispute, the Parties must immediately refer the matter to mediation by a mediator agreed by the Parties. Failing Agreement on a mediator, the mediator is to be selected by the President of the New Zealand Law Society. The costs of the mediator are to be borne equally by the Parties.
  - 16.3 If the dispute is not settled by mediation, the dispute shall be referred to and finally resolved by arbitration under the Arbitration Rules of the New Zealand Dispute Resolution Centre which Rules are deemed to be incorporated by reference into this clause.
  - 16.4 The Parties hereby exclude all rights under Clause 5 of the Second Schedule to the Arbitration Act 1996 to appeal to the High Court from any Award made pursuant to this clause.
17. This Agreement is governed by New Zealand Law; the New Zealand Courts have jurisdiction in respect of this agreement and all amounts are payable in New Zealand dollars.