

TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1 "A1 Kiwi Cutters & Drillers" shall mean A1 Kiwi Cutters & Drillers Limited, or any agents or employees thereof.
- 1.2 "Customer" shall mean the customer, any person acting on behalf of and with the authority of the customer, or any person purchasing services from A1 Kiwi Cutters & Drillers.
- 1.3 "Services" shall mean all services and advice provided by A1 Kiwi Cutters & Drillers to the customer, and shall include without limitation concrete cutting, drilling, sawing, removal and associated activities and all charges for labour and work, hire charges, insurance charges, or any fee or charge associated with the supply of services by A1 Kiwi Cutters & Drillers to the customer.
- 1.4 "Price" shall mean the cost of the services as agreed between A1 Kiwi Cutters & Drillers and the customer subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1 Any instructions received by A1 Kiwi Cutters & Drillers from the customer for the supply of services shall constitute acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The customer authorises A1 Kiwi Cutters & Drillers to collect, retain and use any information about the customer, or for the purpose of assessing the customer's credit worthiness, enforcing any rights under this contract, or marketing any services provided by A1 Kiwi Cutters & Drillers to any other party.
- 3.2 The customer authorises A1 Kiwi Cutters & Drillers to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1 All charges are based on A1 Kiwi Cutters & Drillers current price list unless quoted.
- 4.2 Where no price is stated in writing or agreed to orally the services shall be deemed to be provided at the current amount as such services are sold by A1 Kiwi Cutters & Drillers at the time of the contract.
- 4.3 The price may be increased by the amount of any reasonable increase in the cost of supply of the services that is beyond the control of A1 Kiwi Cutters & Drillers between the date of the contract and delivery of the services.
- 4.4 Any variations required by the customer will incur additional cost.

5. PAYMENT

- 5.1 Unless otherwise arranged payment for services shall be made in full on or before the 20th day of the month following the date of the invoice ("the due date").
- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part thereof.
- 5.3 Any expenses, disbursements and legal costs incurred by A1 Kiwi Cutters & Drillers in the enforcement of any rights contained in this contract shall be paid by the customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.

6. QUOTATION

- 6.1 Where a quotation is given by A1 Kiwi Cutters & Drillers for services:
 - 6.1.1 The quotation shall be valid for thirty (30) days from the date of issue; and
 - 6.1.2 The quotation shall be exclusive of Goods and Services Tax unless specifically stated to the contrary.
- 6.2 Where services are required in addition to the quotation the customer agrees to pay for the additional cost of such services.

7. AGENCY

- 7.1 The customer authorises A1 Kiwi Cutters & Drillers to contract either as principal or agent for the provision of services that are the matter of this contract.

- 7.2 Where A1 Kiwi Cutters & Drillers enters into a contract of the type referred to in clause 7.1 it shall be read with and form part of this agreement and the customer agrees to pay any amounts due under that contract.

8. OCCUPATION HEALTH AND SAFETY

- 8.1 The customer undertakes to provide a working environment which complies with Occupation, Health and Safety Regulations.

9. DISPUTES

- 9.1 No claim relating to the supply of services shall be considered unless made in writing within fourteen (14) days of completion.

10. LIABILITY

- 10.1 The Consumer Guarantees Act 1993, the Commerce Act 1986, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon A1 Kiwi Cutters & Drillers which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on A1 Kiwi Cutters & Drillers, A1 Kiwi Cutters & Drillers liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 10.2 Except as otherwise provided by clause 10.1 above A1 Kiwi Cutters & Drillers shall not be liable for:
 - 10.2.1 Any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the customer or another person and whether in contract, or tort, or otherwise and whether such loss or damage arises directly or indirectly from services provided by A1 Kiwi Cutters & Drillers to the customer; and
 - 10.2.3 The customer shall indemnify A1 Kiwi Cutters & Drillers against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of A1 Kiwi Cutters & Drillers or otherwise, brought by any person in connection with any matter, act, omission, or error by A1 Kiwi Cutters & Drillers its agents or employees in connection with the services.

11. CONSUMER GUARANTEES ACT

- 11.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the customer acquires services from A1 Kiwi Cutters & Drillers for the purposes of a business in terms of section 2 and 43 of that Act.

12. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 12.1 If the customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for A1 Kiwi Cutters & Drillers agreeing to supply services and grant credit to the customer, also sign in their personal capacity and jointly and severally personally guarantee and undertake to A1 Kiwi Cutters & Drillers the payment of any and all other monies now or hereafter owed by the customer to A1 Kiwi Cutters & Drillers. Any personal guarantee made by any party shall not exclude the customer in any way whatsoever from the liabilities and obligations contained in this contract. The guarantors and customer shall be jointly and severally liable under the terms and conditions of this contract.

13. CANCELLATION

- 13.1 A1 Kiwi Cutters & Drillers shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of services to the customer if the customer fails to pay any money owing after the due date or the customer commits an act of bankruptcy as defined in section 19 of the Insolvency Act 1967.
- 13.2 Any cancellation or suspension under clause 13.1 of this agreement shall not affect A1 Kiwi Cutters & Drillers claim for money due at the time of cancellation or suspension or for damages for any breach of any terms of this contract or the customer's obligations to A1 Kiwi Cutters & Drillers under this contract.

14. MISCELLANEOUS

- 14.1 The customer shall not assign all or any of its rights or obligations under this contract without the written consent of A1 Kiwi Cutters & Drillers.
- 14.2 A1 Kiwi Cutters & Drillers shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.