

GENERAL TERMS AND CONDITIONS – HQ CABINS

1. CLIENT'S ACKNOWLEDGEMENTS

- 1.1. **A legally binding Contract is established between the two parties** (based on these terms and conditions contained herein) and **deemed accepted** by the Client once the Client placing an order for the supply of the Services or if the Client accepts completion of the Services from HQ Cabins. In such events, the Client will immediately be bound, jointly and severally, by these terms and conditions.
- 1.2. **No amendment of this Contract will be of any force or effect, unless in writing signed by an authorised representative of each party.**
- 1.3. Upon signing this Contract both parties declare and confirm, they are lawfully entitled to enter this Contract (including where the Client is to act in the capacity as a trustee of any trust (“Trust”). Furthermore, the Client declares that they are not insolvent and accepts that this Contract creates an enforceable legal agreement for the Client to meet his/her obligations and responsibilities under the Contract (including payment when requested).
- 1.4. If the Client is primarily a Trust entity, the Client declares that the provisions of the Trust do not imply to exclude or remove the right of indemnity of the Client against the Trust. The Client agrees to notify HQ Cabins forthwith, if there are any substantial changes to the Trust that could affect the business relationship and the Client’s obligations under the Contract which includes any variations or resettlements of trust assets or any changes of trustees, that may or could be the basis of any security under any contract with HQ Cabins.
- 1.5. The Client acknowledges and accepts that unless any report, description, order, or deal is **stated** in writing, by **High Quality Limited trading as HQ Cabins** or its duly official representative, HQ Cabins **shall not be bound** by any such unapproved statements.
- 1.6. Where HQ Cabins has been provided with an email address from the Client for e-communications, both parties agree to fully comply with all current requirements by law pertaining to electronic messaging (including but not limited to, Unsolicited Electronic Messages Act 2007).
- 1.7. Where it is agreed between both parties, electronic signatures, or e-signatures shall form part thereof, the acceptance to this Contract and to be deemed compliant, both parties acknowledge and agreed to adhere to all required provisions pertaining to such acceptance covered by the Contract and Commercial Law Act 2017.
- 1.8. HQ Cabins reserves the right to supply alternative Goods, if ordered Goods become unavailable, HQ Cabins will notify the Client and advise any changes in the quoted Price, prior to Delivery. Invoicing such changes will be in accordance with clauses 6 and an EOT will apply under clause 8.2 where required.

2. COOLING-OFF PERIOD

- 2.1. Under the Contract & Commercial law Act 2017, the Client remains entitled to **withdraw from this Contract** within 5 Business Days following the later of:
 - (a) Receipt from HQ Cabins of a signed copy of this Contract; or
 - (b) Receipt from HQ Cabins of a copy of the appropriate disclosure statement (where applicable).
- 2.2. **To terminate this Contract, the Client must serve HQ Cabins with written notice in accordance with clause 21** which clearly states that the Client rescinds the Contact from the time it was signed, and thereby is done so, within the timeframe specified in clause 2.1 above.
- 2.3. **The Client may not withdraw from this Contract where:**
 - (a) There has been a previous contract on similar terms for the same Worksite/cabin; or
 - (b) The Client has received independent legal advice about the Contract; or
 - (c) The Client informs HQ Cabins that they have received independent legal advice about the Contract when or after the Contract is made.

3. ERROR AND OMISSIONS

- 3.1. HQ Cabins shall have no liability, unless attributed to negligence and/or willful misconduct by HQ Cabins, arising from any typographical, clerical, or other error, mistake or omission in any information, communication or other document or information issued by it.

4. QUOTATION

- 4.1. **Unless specifically stated otherwise in the quotation and/or the signed Contract, HQ Cabins shall not be responsible for:**
 - (a) Preparation of Site (including the removal of trees and/or plants);
 - (b) Transportation (if HQ Cabins is to effect delivery/transport of the Goods to the Site, the quote shall only allow for one delivery additional re-delivery of the Goods will be subject to an additional charge);
 - (c) Third party plumbing and electrical works;
 - (d) Smoke alarms and/or fire extinguishers.
- 4.2. **If the Client engages a third party to carry out any of the above, HQ Cabins shall not be liable for any consequential damage or injury caused during or after the delivery of the portable cabin.**

GENERAL TERMS AND CONDITIONS – HQ CABINS

- 4.3. The cabin comes with a standard flush toilet, but a chemical of composting toilet is also possible. The grey water from the cabin's shower and kitchen combined with the toilet waste can be passed through a macerating pump (optional extra) which can then be easily piped directly to the Client's septic/sewer system. If Client chooses to not have a flush toilet the grey water can be a great asset if used correctly for use on the garden for example or simply pipe into the gully trap. **PLEASE NOTE** that a Resource Consent is required if a cabin is to be connecting to the public sewer system.
- 4.4. HQ Cabins recommends for added protection that all cabins should be installed with smoke alarm and fire extinguisher especially if people are to stay in the cabin overnight.

5. PAYMENT TERMS

- 5.1. The Price will be as stated on the invoice supplied to the Client by HQ Cabins.
- 5.2. HQ Cabins Price List (available upon request) is subject to an annual review as detailed in HQ Cabins current **Price List Schedule**. All Prices noted on any advertisement, online or in any printed media are deemed to be current and in accordance with HQ Cabins Price List and thereby current at the date of any publication, unless an end date is noted in any promotion. All charges will remain valid for a period of **20 Business Days** when quoted, outside of this timeframe, HQ Cabins reserves the right to re-quote any job accepted if the 20 Business Days has expired, before HQ Cabins Services commence.
- 5.3. **Deposits** due are at the discretion of HQ Cabins and the deposit amount may vary due to the nature of the Services to be supplied. Any deposit required will be stated at the time of quoting and shall become immediately due and payable to HQ Cabins upon the Client's acceptance. **No supply of Goods or the commencement of the Services will happen** until the deposit agreed is paid by the Client to HQ Cabins.
- 5.4. The Price will be payable by the Client by the due date established by HQ Cabins, as follows:
- (a) Prior to, or at the time of completion of the Services; or
 - (b) **Credit Approved Client's:**
 - (i) As agreed by both parties, by the date as stated in HQ Cabins schedule for payments; or
 - (ii) Upon the issue of a statement to the Client's operating business address, **20 Business Days** following the end of every month; or
 - (c) In all other cases, unless stated otherwise, the date for payment is **7 Business Days** from the date of any invoice/s issued (by email or post) to the Client by HQ Cabins.
- 5.5. Receipt for payment can be made by either direct bank transfer or bank card (Mastercard or Visa, however, bank-imposed charges may apply per transaction) as acceptable payment methods. Outside of these options, HQ Cabins must be contacted first, before the supply of any Goods or commencement of any Services will occur.
- 5.6. If the Client breaches any obligations under this Contract (including those relating to payment), HQ Cabins reserves the right to apply any payment tendered by the Client to HQ Cabins, as follows:
- (a) **Firstly**, as reimbursement for any collection costs (Including, internal administration fees, legal costs on a solicitor and own client basis, bank dishonour fees or any collection fees incurred during the process of debt recovery by a recognised Debt Collection Recovery Agency) incurred by HQ Cabins;
 - (b) **Secondly**, in payment of any interest charges; and
 - (c) **Thirdly**, in satisfaction or part satisfaction of the oldest portion of the Client's outstanding account.
- 5.7. If this Contract is subject to retention monies ("Retention Money") then such funds shall be dealt with in accordance with Subpart 2A – sections 18(a)-18(g) & 18 (i) of the Construction Contracts Act 2002. Retention Money is a set amount or equal to a percentage of the Price and as such, no Retention Money shall be used other than to remedy defects in the performance of HQ Cabins obligations under the Contract. The Client shall hold the Retention Money for the agreed period following completion of the Services during which time all the Services are to be completed and/or defects are to be remedied.
- 5.8. For the avoidance of doubt, it is agreed by both parties that the Client may not **set-off** against any monies due to HQ Cabins by the Client, that the Client considers HQ Cabins owes the Client, **it must not be automatically deducted** from the Price, nor can any payment due be withheld by the Client because part of any invoice is in dispute. Where the Client believes that there has been a mistake made, and monies are due, HQ Cabins requests that the Client contacts HQ Cabins within 7 Business Days of receipt of the invoice/statement, so that HQ Cabins may investigate any alleged error. If a mistake has occurred, the Client's subsequent invoice/statement will be adjusted.
- 5.9. If, after the Contract is entered the Client wishes to cancel any Goods ordered either in error, change of mind or otherwise, then at HQ Cabins sole discretion, a processing fee of twenty percent (20%) of the value of the Goods received back in stock, plus any freight for the non-defective Goods may apply.
- 5.10. Apart from where HQ Cabins states otherwise, GST is **included** in the Price, for all relevant Goods and Services supplied (including but not limited to, all stock, services, costs, duties, fees, and freight charges) except where GST is **explicitly shown as not included** in the Price.

6. VARIATIONS

- 6.1. HQ Cabins Price may be subject to adjustment (upon written notice to the Client):

GENERAL TERMS AND CONDITIONS – HQ CABINS

- (a) If the Client requests a variation to the Services (including plans, dimensions or designs, or any other contractor, the Client directs HQ Cabins to take instructions from); or
 - (b) If upon commencement of the Services, additional Goods (including equipment) are necessary due to unexpected obstacles discovered, such as:
 - (i) Access (including but not limited to, unsuitable ground conditions, blocked entrances and/or overhead obstructions effecting Delivery);
 - (ii) Adverse weather issues;
 - (iii) Any Services to be completed by a third-party contractor (including if any works need to be redone, if HQ Cabins finds what has been completed not to a suitable standard) engaged by the Client;
 - (iv) Confronting hazardous waste (including asbestos, contaminated ground soil, or any other form of dangerous waste).
 - (c) Any increases or decreases with the pricing of the Goods or labour beyond HQ Cabins reasonable control (such as; third-party suppliers' costs, fluctuations with the currency exchange rate or government/industry salary award rates etc.); and
 - (d) Any adjustment to the Price due to variations shall be allowed for at the time of the next payment claim made by HQ Cabins.
- 6.2. The Client will have the opportunity to respond to such additional costs, if no reply is received within 5 Business Days for the revised quote will be deemed to acceptance of additional charges, at HQ Cabins actual cost plus HQ Cabins margin (i.e. an amount to cover HQ Cabins overheads, administrative costs, and profit) being fifteen (15%) percent, failure to comply will permit HQ Cabins to assume that the variation invoice is accepted without dispute. Payment will be due as per the date stated on the said invoice.
- 6.3. Written acceptance by the Client of any variation submitted by HQ Cabins or an EOT as per clause 8.2 must be obtained before any work pertaining to the variation is carried out. The Client must not refuse to accept any variation that is necessary for the Services to meet compliance with legal requirements.
- 6.4. HQ Cabins must allow a reasonable reduction in the building period, if a variation reduces the Price for the Services required to achieve completion.

7. PERFORMANCE OF THE SERVICES

- 7.1. HQ Cabins will endeavour to **commence the Services on the commencement date specified in this Contract**, and to complete the Services within the timeframe stated in this Contract, subject to clause 8.2. HQ Cabins will not be liable for any loss or damage incurred by the Client because of the Services late commencement, however, HQ Cabins will at every opportunity liaise with the Client to ensure the Services do take place (**lead times can vary but average between 4-6 weeks**), as soon as reasonably possible. HQ Cabins at its discretion shall be entitled to charge a reasonable fee for re-supply of the Services at a later stage.
- 7.2. Delivery ("**Delivery**") of the Goods is understood to have taken place when:
 - (a) The Goods are picked-up at HQ Cabins address by the Client or the Client's representative; or
 - (b) HQ Cabins Delivery truck driver obtains a signed receipt of Delivery of the Goods by the Client or the Client's representative at the Client's Site address provided.
- 7.3. Any delivery costs associated with the supply of Services shall be either included or in addition to the Price and as such will be stated on the invoice issued to the Client by HQ Cabins. Additional travel charges will apply where the Services are to be provided outside of a 25km radius of HQ Cabins' base.
- 7.4. Delivery dates for the supply of the Services will only be an estimate, as delays may occur beyond HQ Cabins control i.e., Third Party HQ Cabins s, Force Majeure, etc. (including Government imposed lockdowns effecting HQ Cabins suppliers and employees, if a Site is closed and all tradespeople are required to, self-isolate). Regardless of clause 7.1, HQ Cabins will **not be liable for any loss or damage incurred by the Client because of the Services being late**.
- 7.5. **Failure to remove the portable cabin on or before the date arranged between the two parties will result in storage fees of \$7.50 plus GST per square metre per day until the portable cabin is removed from HQ Cabins building site premises.**

8. SITE ACCESS

8.1. The Client shall, prior to commencement of the Services:

- (a) Make sure the Site access is always available and free from any obstructions or barriers to enable HQ Cabins to deliver any Goods or commence the Services as agreed. Heavy equipment (including trucks or trailers) may be necessary to make Delivery, therefore the Site is needs to be able to sustain the weight of such equipment and/or vehicles. HQ Cabins does not accept any liability for loss or damage caused to the Site, during access, except if proven to be, due to the carelessness or inattention of HQ Cabins; and
- (b) If the Site access requires the Delivery driver to reverse into the Site because of lack of a turning area, the Client will ensure there is always a person on site at the time of any scheduled Delivery to assist with backing; and
- (c) Make certain HQ Cabins, has easy access to water, electrical power supply and toilets facility, as required, or alternatively the Client agrees to supply a generator and port-a-loo, such costs shall be borne by the Client; and
- (d) Upon request from HQ Cabins, the Client agrees to provide a safe and protected storage space on site for any Goods and/or HQ Cabins equipment and tools. The Client accepts responsibility, if any of the stored items are destroyed, stolen and/or

GENERAL TERMS AND CONDITIONS – HQ CABINS

damaged by the likes of vandals and agrees to meet the cost of replacement or repair, regardless should any insurance claim be declined; and

- (e) For the sake of health and safety on the Site, the Client agrees:
 - (i) To remove any items or personal effects that may obstruct or delay HQ Cabins in completing the Services in the timeframe agreed; and
 - (ii) Confirm the Site location is safe and stable (including but not limited to, any buildings or foundations, or if equipment for which the Goods are to be mounted or installed is secure). HQ Cabins reserves the right to halt the Services and seek and EOT as per clause 8.2 without penalty, if HQ Cabins believes for any reason, the Site not to be safe;
 - (f) **Advise all underground or hidden services**, if the Client is unsure of the locations of all utility and hidden services in or around the Site area, the Client agrees to engage a third-party contractor to mark the exact locations of any underground pipes or cabling including plumbing, gas or electrical and any other services known to be on the property. HQ Cabins will always use all due care to avoid damaging any such services; and
 - (g) Obtain and pay for all planning and building approvals, licenses, consents, or permits required for the Services, unless otherwise agreed in writing between the Client and HQ Cabins. If HQ Cabins agrees to obtain the approvals, then the cost of those approvals shall be the Client's responsibility and shall be in addition to the Price.
- 8.2. **Extension Of Time "EOT"** – HQ Cabins may at any time, at his/her discretion, seek an extension of time, to put back the commencement date and/or extend the Services period for completion, by giving the Client notice, (such written notice shall include the reasons and the requested length of said extension) which the grounds of extension are based upon because of:
- (a) Any variations as per clause 6;
 - (b) Any delay (including third-party suppliers) in the supply or manufacture of Goods required for the Services;
 - (c) Suspension of Services if the Construction Contract Act 2002 applies;
 - (d) Inclement weather and the consequences of the weather to the Site access and safety and/or the ability to work; or
 - (e) A Force Majeure event as per clause 24 (but only for the period that the force majeure event affects the Services); and
 - (f) Delay by any local or other authority in granting any necessary consent or approval; and
 - (g) Any act, default, delay, or omission on the part of the Client in providing instructions, making payment, or doing anything necessary (including but not limited to, selecting items for the Services, or confirming the Site being ready to commence the Services) to allow the Services to proceed; and
 - (h) Anything outside HQ Cabins' reasonable control.
- 8.3. The Client agrees to indemnify HQ Cabins in respect of any liability claims, loss or damage, costs or fines, resulting from the Client's action or in action of clauses 8.1(e)(ii) and 8.1(f) which fines the foundations, equipment or property not being able to maintain the installation or any damage to the Services due to the hidden services locations not being exactly marked.
- 8.4. Nothing in this Contract shall have the effect of limiting or preventing HQ Cabins from claiming more than one extension of time for a delay specified in clause 8.2.

9. GENERAL RISK

- 9.1. All risk for the Services passes to the Client on completion. It shall be the Client's responsibility to ensure the Goods are **adequately insured**, prior to the Goods being dispatched for delivery.
- 9.2. HQ Cabins is entitled to receive all the insurance proceeds payable for the Goods (uninstalled) should any Goods be damaged or destroyed after delivery has happened if title to the Goods has not been passed to the Client. Although the preparation of these terms and conditions is done so by HQ Cabins, HQ Cabins shall still be entitled, without prejudice to any other of its rights or remedies under these terms and conditions to use this Contract (including invoices, consignment notes or delivery dockets) with the Client, as prima facie evidence, if an insurance claim is made and thereby no further investigations ought not to be necessary.
- 9.3. **The Client Accepts and Agrees that:**
- (a) All dimensions, plans, and specifications pertaining to the Services shall be in line with New Zealand Standards ("**NZS**") customary industry tolerances; and
 - (b) HQ Cabins shall be entitled to rely on the accuracy of any plans, specifications or other information provided by the Client; and
 - (c) If any plans, designs or specifications or any other information supplied by the Client pertaining to the Services that HQ Cabins should reasonably be expected to rely on, as being compliant with NZS but are subsequently found to be inaccurate or invalid because it is proven that the Client was in breach of clause 9.3(a) unbeknown to HQ Cabins, then HQ Cabins shall not be liable for any losses, damages, or costs (howsoever arising) that the Client may suffer; and
 - (d) Other than a Force Majeure event, if the Services are delayed for more than a 3-month period by the Client, once a job has commenced, the Client agrees to settle all monies owed with HQ Cabins for completed stages and/or Goods purchased up to the date in which the delay started. HQ Cabins shall have the right to requote the balance of Services to be performed, if the cost to HQ Cabins in performing such Services increases due to any increase, or the introduction by a statutory or other authority of a tax, duty, charge, levy, or legislation then the amount of the increase is to be treated as a variation and clause 6 shall apply.

GENERAL TERMS AND CONDITIONS – HQ CABINS

- (e) Goods may present variations in shade, colour, markings, and indentations, surface texture, and finish, all of which may fade or discolour over a period time. Batches of products from suppliers are known to vary, which is beyond HQ Cabins control, however, match batching supplies and/or where new Goods are used with existing items, every effort will be made to reduce any variations wherever possible. HQ Cabins shall not accept liability, in any way whatsoever where such variations occur; and
 - (f) Goods can mark or stain if exposed to certain substances or be damaged or disfigured by impact or scratching; and
 - (g) Timber products are prone to expand and contract, HQ Cabins will accept **no responsibility** for gaps that may appear (during prolonged dry periods), or distort because of exposure to heat, cold or weather; and
 - (h) Polished concrete **is a process, not a finish**, thereby HQ Cabins **does not** accept responsibility for any reactions or staining in the final look of the floor; and
 - (i) All Goods supplied by HQ Cabins with product maintenance instructions are important to follow, as failure to comply with such maintenance instructions may result in any applicable warranty becoming void.
- 9.4. HQ Cabins will **not accept responsibility** for any defect that may occur due to:
- (a) Failure by the Client to follow HQ Cabins recommendations:
 - (i) Not to place or put any heavy furniture on the polished concrete section to early, to thereby limit any underlining cracking; and
 - (ii) Not to clean the surfaces with harsh chemicals; or
 - (iii) If other tradesmen contracted to the Site, cause any damage to HQ Cabins Services during or after completion. If the Client requests HQ Cabins to remedy any such damage, additional charges will apply; or
 - (b) Failure to confirm the Site location is safe and stable (including but not limited to, any foundations for which the Goods are to be installed is secure). If for any reason (including the discovery of latent or unfavourable soil conditions such as liquefaction residue or risk) HQ Cabins reserves the right to halt the Services and seek and EOT as per clause 8.2 without penalty, if HQ Cabins believes for any reason, the Site not to be safe.

10. DEFECTIVE GOODS AND/OR SERVICES

- 10.1. The Client agrees to examine the Goods (Services on completion) on delivery and shall satisfy itself that they conform with the quotation, description, purchase order or any other document applicable to this Contract, that the Goods are of merchantable quality, fit for purpose and in a useable condition.
- 10.2. If the Client discovers a defect in the quality, or a shortage in the quantity of the Goods, or a failure to comply with HQ Cabins quote and these terms and conditions, they must immediately notify HQ Cabins of that defect on Completion Sheet that HQ Cabins provided. **If no written notice** is received by HQ Cabins within 3 Business Days from the time of delivery, then the Goods and Services shall be assumed to be accepted and clear from any defect or fault.
- 10.3. Notwithstanding clauses 10.1 and 10.2, if the Goods are to be picked-up by the Client or the Client's representative or the Client third-party transporter, then the Client accepts and acknowledges that the Client **must be present** at HQ Cabins factory premises to conduct a full inspection of the Goods, **prior to the release of the Goods**. HQ Cabins will **not accept any liability** for any subsequent damage that may occur with the Goods after dispatch and/or during transportation.
- 10.4. Except which is permitted by law (which cannot be contracted out of, excluded, or modified including but not limited to, the Consumer Guarantees Act 1993, the Fair Trading Act 1986, the Contract and Commercial Law Act 2017 or any other applicable statute), HQ Cabins liability in any case of any defect or fault, or otherwise under this Contract, shall be limited to:
 - (a) The value of the total amount invoiced to the Client; or
 - (b) HQ Cabins repairing or replacing the Goods in relation to the defective or faulty Goods and/or Services for which such liability arises.

11. WARRANTIES

- 11.1. Only a **manufacturer's warranty** will apply (if any) when HQ Cabins **has not** actually manufactured the Goods. HQ Cabins will **not be liable** in any way or be required to meet any obligation given under a manufacturer's warranty. In the event of a claim, the Client must deal directly with the manufacturer.
- 11.2. Any **expressed warranty** offered by HQ Cabins regarding any Goods, or the Services will be clearly detailed in the Warranty Document, which will be provided upon the completion of the Services.

12. OTHER LEGISLATION

- 12.1. If the Client is acquiring Goods or Services for the **purposes of a trade or business**, the Client acknowledges that the provisions of section 43 of the Consumer Guarantees Act 1993 ("**CGA**") and section 5D of the Fair Trading Act 1986 ("**FTA**") do not apply to the supply of Goods or Services by HQ Cabins to the Client, nor will the provisions of the FTA apply to either parties conduct or representations if unintentional: section 9 (**misleading conduct**), section 12A (**unsubstantiated representations**) or section 13 (**false or misleading representations**).

GENERAL TERMS AND CONDITIONS – HQ CABINS

- 12.2. If the Client is acquiring Goods or Services in the capacity as a “consumer” as defined in the Consumer Guarantees Act 1993 and the Client is **not in trade**, nothing in the Contract will exclude or limit the Client’s rights or remedies under the Act.
- 12.3. Both HQ Cabins and the Client agreed to comply with all governing laws (including the provisions of all statutes, regulations, and bylaws of Government, local and other public authorities) of New Zealand applicable to the Goods and Services and agree that nothing in this Contract is intended to have the effect of contracting out of any applicable provisions of the Building Act 2004, Construction Contracts Act 2002 (unless section 11 of the Act is applied), ss362I to 362K of the Building Act 2004, Plumbers, Gasfitters, and Drainlayers Act 2006, Electricity Act 1992 and Electricity (Safety) Regulations 2010, the Health and Safety at Work Act 2015 (“the HSW Act”), the Resource Management Act 1991 (relating to the use, storage and/or disposal of any surplus Goods and/or waste from the worksite), the Fair Trading Act 1986 and the Contract and Commercial Law Act 2017 (including any substitute to those Acts or re-enactment thereof or order-in-council and other instrument from time to time issued or made under, that legislation), except to the extent permitted by those Acts where applicable.
- 12.4. Worksite inductions (“**Worksite Inductions**”) are to be carried out, in accordance with New Zealand’s Health and Safety Laws, prior to the commencement of the Works on the Worksite, regardless of whom is in possession of the Worksite.
- 12.5. Furthermore, unless otherwise agreed, any Worksite Inductions, if requested by the Client, the Client accepts the liability for additional costs (charges based on HQ Cabins standard hourly rate plus any overtime rate, if applicable) for any time involved for an employee or sub-contractor of HQ Cabins with carrying out a Worksite Induction, including time during or outside normal working hours.
- 12.6. If the Client is ever in breach of clause 11, then the Client accepts and agrees to indemnify HQ Cabins against all claims, liability, losses, or costs imposed or incurred by HQ Cabins, because of such a breach.

13. INSURANCE

- 13.1. HQ Cabins will have in place **Public Liability Insurance** with appropriate cover for loss or damage to any other property, or injury or death or illness which arises from carrying out HQ Cabins Services of not less than \$5 million. It is the Client’s responsibility to ensure that they are similarly insured.

14. TITLE

- 14.1. Title in any Goods (including documentation, if applicable) supplied by HQ Cabins in the provision of the Services does not pass to the Client until payment for the Goods and Services (together with any additional interest or charges as set out in these terms and conditions) have been made in full by way of cleared funds and the Client’s obligations have been fulfilled, and until then HQ Cabins ownership or rights in respect of the Goods and Services shall continue.
- 14.2. Until such time as title passes to the Client, the Client holds the Goods on trust for HQ Cabins as “bailee” and must return any uninstalled Goods to HQ Cabins on request and irrevocably authorises HQ Cabins to enter any property where HQ Cabins believes the uninstalled Goods are kept and recover possession, without HQ Cabins being liable for any loss or damage caused to the Client.

15. PERSONAL PROPERTY SECURITIES ACT 1999 (“PPSA”)

- 15.1. The Client will make available all relevant paperwork and do such acts and execute such further documents as in the opinion of HQ Cabins may be necessary or desirable to enable HQ Cabins to perfect under the PPSA the security interest created by these terms and conditions.
- 15.2. HQ Cabins may do all things which it thinks desirable to remedy any default by the Client or otherwise protect the security interest created by these terms and conditions.
- 15.3. The Client irrevocably appoints HQ Cabins to be the Client’s attorney to do anything which HQ Cabins agrees to do under these terms and conditions and anything which the attorney thinks desirable to protect HQ Cabins interests under these terms and conditions and the Client ratifies anything done by an attorney under this clause. The Client agrees sections 114(1)(a), 133 and 134 of the PPSA shall not apply to these terms or the security under these terms and conditions.
- 15.4. The Client agrees and waives their right to be given a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to the security interest created by these terms and conditions.
- 15.5. The Client agrees that none of the Client’s rights as debtor under sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA shall apply to these terms and conditions.
- 15.6. The Client also agrees that where the Client has rights in addition to those in Part 9 of the PPSA, those rights will continue to apply.
- 15.7. The Client must not change the Client’s name without first notifying HQ Cabins of the new name not less than 7 Business Days before the change takes effect.
- 15.8. The Client must not allow or permit the creation of a lien over any of the Goods.

16. SECURITY AND CHARGE

- 16.1. The Client acknowledges and accepts that by accepting these terms and conditions, it charges all its rights, title, and interest (whether joint or several) in any land, realty, or other assets capable of being charged (including, but not limited to, the payment

GENERAL TERMS AND CONDITIONS – HQ CABINS

of all monies owed at any time), 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.

- 16.2. The Client indemnifies HQ Cabins from and against all HQ Cabins costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising HQ Cabins rights under this clause.
- 16.3. The Client irrevocably appoints HQ Cabins and each director of HQ Cabins as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 16 including, but not limited to, signing any document on the Client's behalf.

17. INTELLECTUAL PROPERTY

- 17.1. All rights, title, and interests in and to all Intellectual Property created for the Client by HQ Cabins shall become part of HQ Cabins Intellectual Property that HQ Cabins is entitled to retain.
- 17.2. The Client agrees to indemnify HQ Cabins against any claims by third parties for any breach of Intellectual Property caused by the Client. Furthermore, where the Client has supplied any Intellectual Property to HQ Cabins, the Client warrants that the supply of such Intellectual Property does not breach any patent, trademark, design, or copyright.
- 17.3. The parties agree, unless the Client is to make purchase to the rights of any Intellectual Property created for them by HQ Cabins, that HQ Cabins retains all rights, to the use of said Intellectual Property for HQ Cabins own benefit, such as, in the use of promoting their business or advertising thereof, or for entry use, on any worldwide industry platform.

18. DEFAULT

- 18.1. In any event, HQ Cabins reserves the right to charge the Client interest in respect of the late payment of any sums due under this Contract, at the rate being two and a half percent (2.5%) per calendar month (interest shall accrue daily and will compound monthly), from the due date until receipt of payment, and also prior, to any judgement being awarded by a court of law.
- 18.2. For the sake of clarity, HQ Cabins has the right to suspend or bring the whole Contract to an end, or parts thereof, or any other contract or contracts with the Client, in addition to its other remedies, upon the happening of any of the following events of default:
 - (a) Where monies owed by the Client to HQ Cabins remain outstanding; or
 - (b) If the Client breaches, or fails to comply or repudiates, any obligation under this Contract or any other subsequent contract with HQ Cabins; or
 - (c) The Client intimating that they will not pay any sum by the due date; or
 - (d) Any Goods seized by any other creditor of the Client or any other creditor intimates that it intends to seize the Goods; or
 - (e) Any Goods in the possession of the Client are materially damaged while any sum due from the Client to HQ Cabins remains unpaid; or
 - (f) The Client dies, becomes insolvent or subject to bankruptcy laws, calls a meeting of creditors, or if a company – enters into an arrangement with creditors or makes an assignment/compromise for the benefit of its creditors, or receivers, managers, liquidators (provisional or otherwise), administrators or any similar party is appointed in respect of the Client (or any asset of the Client), has any winding up petition presented against, or ceases to carry on business; or
 - (g) If the Client ceases or threatens to cease carrying on business; or
 - (h) if the ownership or effective control of the Client is transferred, or the nature of the Client's business is materially altered.
- 18.3. Whether this Contract is ended by mutual agreement or due to any breach by the Client, all monies owed by the Client (including any interest or costs due) to HQ Cabins shall become immediately due and payable. Without limiting the effect of this clause 18.3 it shall survive the end of this Contract, and any other terms and conditions which by their nature are intended to survive.
- 18.4. Where any event of default occurs, HQ Cabins may appoint a receiver in respect of all Goods (including their proceeds) supplied to the Client and any such receiver may take possession of the Goods and sell them and otherwise exercise all rights and powers conferred on a receiver by law.
- 18.5. Notwithstanding clause 18.1, it is further agreed that if the Client owes HQ Cabins any money, the Client agrees to reimburse HQ Cabins all costs and expenses suffered by HQ Cabins in their attempt to recover all overdue monies owed to HQ Cabins, (which may include charges incurred by HQ Cabins from their banking institute for dishonours or chargebacks, legal costs on a solicitor and own client basis, inhouse admin fees or any fees charged during the debt recovery process, if a debt is passed to a recognised Debt Collection Recovery Agency).

19. CANCELLATION

- 19.1. **By HQ Cabins:**
 - (a) At any time before the Services are carried out upon provided the Client 5 Business Days' notice in writing; or
 - (b) Upon the required notice being given under section 24A (relating to suspension or terminations) of the Construction Contracts Act 2002 (if applicable); and
 - (c) HQ Cabins agrees to refund the Client any funds paid by the Client in respect of the Goods or Services, less any amounts owing to HQ Cabins for any Goods purchased on the Client's behalf where credits or refunds cannot be obtained from HQ Cabins third- party suppliers; and

GENERAL TERMS AND CONDITIONS – HQ CABINS

- (d) HQ Cabins will **not be liable** to the Client for any loss or damage the Client suffers because HQ Cabins has relied on its rights covered in this clause.

19.2. By the Client:

- (a) Within the “**Cooling Off Period**” in accordance with clause 2; or
- (b) Where the Client cancels the Services that have already commenced:
 - (i) The initial notification may be by telephone or email but must be confirmed in writing within 5 Business Days; and
 - (ii) The Client shall be invoiced for all work completed up until the date of cancellation and an administration fee of \$250.00 will apply. Any deposit paid prior to the commencement of the Services will be forfeited in lieu of monies due, however, the Client remains liable for any monies due over and above any deposit paid; or
 - (iii) At HQ Cabins discretion, where failure of clause 19.2(b)(i) occurs, the Client may be required to pay the full quoted Price.

20. PRIVACY POLICY

- 20.1. In accordance with the Privacy Act 2020 and full disclosure, HQ Cabins has advised the Client that Personal Information will be collected, handled, used, and stored about the Client during the business relationship and thereby, the Client grants consent to HQ Cabins to proceed with any inquiries with any third party necessary for the following purposes:
 - (a) Assessing the Client’s credit risk (if any);
 - (b) Administering the Client orders;
 - (c) Receiving information from one or more credit reference agencies, relating the credit record and repayment history of the Client;
 - (d) Disclosing credit-related information to, and using the credit services of, one or more credit reference agencies, on a continuing basis at any time and entirely at its discretion concerning the Client’s creditworthiness.
- 20.2. For the avoidance of doubt, all authorities given above are continuing authorities, to apply throughout the duration of the term of HQ Cabins and Client’s trading relationship.
- 20.3. The Client, if an individual, has a right of access to Personal Information about the Client held by HQ Cabins and may request correction of the information.
- 20.4. HQ Cabins agrees to destroy Personal Information upon the Client’s request in writing (or email) or if the Personal Information is no longer required unless it is required to fulfill the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 20.5. If any Client believes their privacy has been breached in any way, then a privacy complaint can be made to HQ Cabins Privacy Officer via email, contact details can be found on HQ Cabins website - www.hqcabins.co.nz. HQ Cabins will respond to that complaint within 7 days of its receipt, should more time be needed to investigate the complaint then HQ Cabins will undertake to decide on a resolution as to the complaint within 20 days of the original date of receipt. If the Client is not satisfied with the resolution provided by HQ Cabins, the Client can make a complaint to the Privacy Commissioner at www.privacy.org.nz.
- 20.6. For the purposes of this clause 20, Personal Information has the meaning given to it in the Privacy Act 2020.

21. NOTICES

- 21.1. If either party gives or is required to give notice to the other party under this Contract, it must be:
 - (a) In writing;
 - (b) Be given directly to the other party concerned;
 - (c) Directed to the recipient’s address for service of notice, specified in the quotation or, proposal (Contract details) or as advised from time to time; or
 - (d) Sent by pre-paid post; or
 - (e) Email address that was given to HQ Cabins by the other party for the purposes of service.
- 21.2. **Notice is taken as received when:**
 - (a) A notice given in accordance with clause 21.1 is taken to be received; or
 - (b) If given to the concerned party on delivery; or
 - (c) If sent by prepaid post, 5 Business Days after the date of posting for local or regional mail and 10 Business Days after the date of posting for international mail; or
 - (d) If sent by courier mail, immediately upon signed receipt thereof; or
 - (e) If sent by email, at the time denoted in an automated receipt notification received by the sender (in the absence of manifest error or tampering) or, if that function is not enabled, upon acknowledgement of receipt by the other party by return email or otherwise).

22. DISPUTE RESOLUTION

- 22.1. If either party has any dispute or disagreement in connection with, or arising out of, this Contract that party must give the other party written notice, clearly identifying, and providing full details of the dispute. Both parties, if unable to do so themselves, will appoint one representative to act on their behalf to try to settle the dispute (each party shall bear their own costs associated with

GENERAL TERMS AND CONDITIONS – HQ CABINS

any mediation method chosen). Failure to settle the dispute by the representatives and/or by mediation within 10 Business Day (or whatsoever timeframe allowed) after service of the written notice shall allow either party to issue a further notice (subject to clause 21.1) to the other party stating that the dispute is now to be referred to a sole arbitration and the provisions of the Arbitration Act shall apply or where the Construction Contract Act 2002 “CCA” applies, the matter shall be dealt by initiating adjudication and appointing an adjudicator as per Part 3 of the CCA.

- 22.2. Nothing shall restrict either party’s freedom to commence legal proceedings to preserve any legal right or remedy or protect and proprietary or trade secret right.
- 22.3. Furthermore, the Client agrees not to contract any third party to replace HQ Cabins as their provider of the Services to be supplied under this Contract until the dispute resolution process in clause 22.1 has been completed, and then only if arbitration has found against HQ Cabins in its determination, and HQ Cabins is unable or unwilling to resolve, rectify or correct the issues that have led the arbitrator to find against HQ Cabins.

23. ASSIGNMENT

- 23.1. Neither party shall assign, sub-license or otherwise transfer this Contract or any part of it to any other person, without not firstly obtaining written consent (hardcopy or email) of the other party. Such consents **shall not be unreasonably withheld or delayed**.
- 23.2. Unless specifically stated otherwise, in any consent to an assignment (as covered in clause 23.1), no **assignment shall release or discharge the assignor** from any liability or obligation under this Contract.
- 23.3. Furthermore, it is agreed between the parties that the Client **cannot give any instructions or redirect the performance of the Services** of any of HQ Cabins subcontractors or third-party suppliers that are engaged to carry out any part of the Services, without firstly obtaining **written consent from HQ Cabins**.

24. FORCE MAJEURE

- 24.1. Both parties are freed from any liability or obligations, if a Force Majeure event occurs:
- (a) The obligations of a party under this Contract will be suspended to the extent that it is wholly or partially precluded from complying with its obligations under this Contract by Force Majeure; and
 - (b) A party affected by Force Majeure must notify the other party as soon as practicable of the Force Majeure and the extent to which that party is unable to comply with its obligations; and
 - (c) If a failure or delay in performance exceeds 60 Business Days, either party may immediately terminate this Contract by written notice to the other party.
- 24.2. Nothing in clause 24.1 shall excuse payment of any amount owing due or which becomes due under the terms of this Contract.

25. MISCELLANEOUS

- 25.1. If any term or obligation of this Contract is at any time held by any jurisdiction to be negated, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as severable and shall not in any way affect any other of these terms and conditions.
- 25.2. The legality, construction and performance of this Contract shall be governed by the laws of New Zealand. The Client agrees that any dispute arising from the Contract between the two parties that cannot reasonably be resolved by mediation shall then be litigated only, by the jurisdiction of the Auckland Courts of New Zealand.
- 25.3. HQ CABINS WILL **NOT BE LIABLE** FOR ANY LOSS CAUSED BY A FAILURE BY THE CLIENT TO COMPLY WITH THE CLIENT’S OBLIGATIONS UNDER THIS CONTRACT. FURTHERMORE, HQ CABINS’ TOTAL LIABILITY WILL NOT, UNDER ANY CIRCUMSTANCES, EXCEED THE PRICE OF THE GOODS OR SERVICES SUPPLIED OR PERFORMED, PURSUANT TO THIS CONTACT.
- 25.4. HQ Cabins reserves the right from time to time to amend their terms and conditions, but for disclosure purposes any amendments shall always be provided in writing to the Client and/or notified by email that the updated terms and conditions are posted and ready for viewing on HQ Cabins website. The amended terms and conditions take effect for any new contracts from when the Client accepts the updated terms and conditions and/or from when the Client asks HQ Cabins to deliver/supply additional Goods and/or Services.

26. DEFINITIONS AND INTERPRETATION

- 26.1. In this Contract, unless the context otherwise requires capitalised terms have the meaning set out below:
- (a) “**Business Days**” means a day on which banks are open for business in New Zealand other than a Saturday, Sunday, or public holiday.
 - (b) “**Client**” means the person/s, entities (including but not limited to, partnerships and/or a trust and where applicable shall include the Client’s executors, administrators, successors and permitted assigns) or any person with written consent given by the Client to act on the Client’s behalf to request HQ Cabins to provide the Services as specified in any quotation, purchase order or other documentation.
 - (c) “**Confidential Information**” means any information:

GENERAL TERMS AND CONDITIONS – HQ CABINS

- (i) Relating to this Contract;
- (ii) Relating to a quotation, order or proposal or its contents;
- (iii) Relating to a Client of HQ Cabins
- (iv) Disclosed by either party to the other party on the express basis that such information is confidential; or
- (v) Which might reasonably be expected by either party to be confidential in nature.

Provided that, where information relates exclusively to one party, nothing in this Contract will require that party to maintain confidentiality in respect of that information.

- (d) **“Contract”** means this Contract, inclusive of its terms and conditions contained herein, its schedules and annexures or any quotation, proposal, invoice, or document that forms part thereof and/or is deemed to be supplementary to this Contract.
 - (e) **“HQ Cabins”** means **High Quality Limited trading as HQ Cabins**, their successors, and assigns.
 - (f) **“Cooling Off Period”** means an agreed period between HQ Cabins and the Client within which the Client has the right to cancel this Contract without penalty.
 - (g) **“Force Majeure”** means an event outside the reasonable control of either party, including an act of God, earthquake, adverse weather conditions, flood, storm, fire, explosion, war, rebellion, terrorism, strike, lock-out, industrial action national or global epidemics or pandemic and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government quarantine restrictions for any Goods or individuals.
 - (h) **“GST”** means Goods and Services Tax, as defined within the Goods and Services Tax Act 1985.
 - (i) **“Intellectual Property”** means and includes (whether invisible, electronic or any other form) all brands, and symbols, names and images used in commerce, goodwill, logos, formulae, techniques, know-how, specifications, designs, drawings, copyright, manufacturing processes, patents, and trademarks (if any) whether registered or not, software (and source and object code), business strategies and contracts, confidential business information including market and marketing strategies.
 - (j) **“Goods”** means Goods, equipment, parts, of any kind that HQ Cabins provides to the Client as specified in any Contract, quotation, proposal, order, or any other documentation.
 - (k) **“Personal Information”** means information about an identifiable individual by ways of their name, address, D.O.B., occupation, driver’s license details, electronic contact type details, such as, email, IP Address, social media such as: Facebook, or Twitter, or next of kin and any other contact information (if applicable) and were deemed relevant shall include any previous credit applications or credit reporting status. By the nature of such information, it shall always be considered Confidential Information.
 - (l) **“PPSA”** means Personal Property Securities Act 1999.
 - (m) **“Price”** means the Price due under this Contract for the supply of Goods and/or Services as detailed in any quote or proposal or invoice and duly accepted by the Client and (if applicable) shall include any GST payable.
 - (n) **“Services”** means all Services (including any documentation, advice, consultancy, or recommendations) supplied by HQ Cabins to the Client, and are as described on the invoices, quotation, authorisation form, equipment hire authority, or any other forms as provided by HQ Cabins to the Client.
 - (o) **“Site”** means the land (or that part of the land) that HQ Cabins reasonably needs to occupy to carry out and practically complete the Services required under this Contract.
- 26.2. In this Contract, unless the context requires otherwise:
- (a) **Headings:** Headings to clauses are for convenience only and shall not affect their interpretation;
 - (b) **Joint obligations:** If there is more than one person or party to this Contract herein, this Contract shall bind all persons and parties jointly and severally;
 - (c) **Parts of Contract:** References to this Contract shall including its clauses, cross references, schedules, appendices, or any other document relevant to the Contract;
 - (d) **Plurals:** Words importing the singular shall include the plural and vice versa and words importing the masculine, feminine and neuter shall include all three;
 - (e) **Price:** A reference to dollars or \$ is to an amount in New Zealand currency;
 - (f) **Statutory Requirements:** A reference to any Act or Regulation shall include subsequent Acts or Regulations in amendment of, or substitution for, the same.
- 26.3. **Neutral Interpretation** - nothing in this Contract is to be interpreted against a party solely on the ground that that party put forward this Contract or a relevant part of it.