

BUSINESS DOCUMENTS NEW ZEALAND LIMITED - TERMS AND CONDITIONS

1. CLIENT'S ACKNOWLEDGEMENTS

- 1.1. **This Contract becomes legally binding between the two parties** (based on these terms and conditions contained herein) and **deemed accepted** by the Client once the Client placing a request for the supply of BDNZ's Services, pays a deposit, or if the Client accepts the provision of the Services from BDNZ. In such events, the Client will immediately be bound, jointly and severally, by these Terms and Conditions.
- 1.2. **No amendment of the 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 on 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 BDNZ 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 BDNZ.
- 1.5. The Client acknowledges and accepts that unless any report, description, order, or deal is stated in writing, by **Business Documents New Zealand Limited** or its duly official representative, BDNZ shall not be bound by any such unapproved statements.
- 1.6. BDNZ will act always, in the best interest of the Client, thereby, any advice, recommendations, information, assistance, or service provided by BDNZ to the Client or the Client's agent/representative, in respect of the Services is based on BDNZ's knowledge and experience. Whilst it shall be the responsibility of the Client to confirm the accuracy and reliability of the same considering the use to which the Client makes or intends to make of the Services, human error is possible under these circumstances, and BDNZ shall make all effort to offer the best solution in rectifying any matters raised by the Client.
- 1.7. Where BDNZ 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.

2. OUR CHARGES

- 2.1. Time for payment for the Services shall be of the essence and will be stated on the invoice. If no time is stated, then payment shall be due seven (7) days following the date of invoice.
- 2.2. Payment is accepted by either direct credit, or by any other method as agreed to between the Client and BDNZ.
- 2.3. The Client shall not be entitled to set off against, or deduct from the Charges, any sums owed or claimed to be owed to the Client by BDNZ nor to withhold payment of any invoice because part of that invoice is in dispute.
- 2.4. GST and other taxes and duties that may be applicable shall be added to the Charges except when they are expressly included in the Charges.

3. ENGAGEMENT AND DELIVERY OF THE SERVICES

- 3.1. BDNZ will endeavour to ensure the delivery of the requested Services are provided within a timely manner, however, any time specified by BDNZ can only ever be considered an estimated timeframe and BDNZ will not be liable for any loss or damage incurred by the Client because of any delay. Both parties agree to make every effort to communicate, when necessary, with each other to enable the Services to be provided within any timeframe pre-arranged between BDNZ and the Client. If BDNZ is unable to provide the Services as agreed solely due to any action or inaction of the Client, then BDNZ shall be entitled to charge a reasonable fee for re-providing the Services at a later date.

4. DEFECTIVE SERVICES

- 4.1. Upon delivery and/or completion of the Services, the Client will be entitled to inspect the Services (including any Documentation) and shall within 5 business days of delivery notify BDNZ of any alleged defect, shortage in quantity, error, omission, or failure to comply with the description or quotation for said Services. The Client shall afford BDNZ an opportunity to inspect the Services (including any Documentation) within a reasonable time following delivery or completion. If **no notice** is received by BDNZ within 5 business days from the time of delivery, then the Services shall be assumed to be accepted and free from any defect or fault.

5. TITLE

- 5.1. Title and ownership of any Documents produced by way of the Services supplied by BDNZ shall not pass until all amounts owing to BDNZ for the Services (together with any additional interest or charges as set out in these terms of trade) have been made in full by way of cleared funds and the Client's obligations have been fulfilled, in respect of all contracts between BDNZ and the Client.

6. INTELLECTUAL PROPERTY

- 6.1. Any intellectual property rights contained in the design or manufacture of any items during the provision of the Services provided by BDNZ, shall always remain with BDNZ, however, notwithstanding this, BDNZ grants the Client, a non-exclusive and non-transferable licence, allowing the Client to reproduce in full, any Terms of Trade documentation that BDNZ has supplied the Client (including BDNZ's copyright notice), for the purpose of providing it to the Client's customers, as part of the credit managing of the Client's business. The Client shall only grant their customer the right to retain a copy as a record of the dealings between the Client and their customer. Except as allowed herein the Client agrees not to supply BDNZ's documentation to any person or entity for any purpose whatsoever, without the prior written consent of BDNZ.
- 6.2. The Client warrants that the Client holds all necessary intellectual property rights in any document or material, (including, but not limited to, Terms and Conditions of Trade), that are supplied to BDNZ for its provision of the Services and that there is or will be no infringement of any rights or entitlements held by any third-party.
- 6.3. The Client indemnifies and holds harmless BDNZ for any claims made against it arising from BDNZ's use of any document, material or information supplied by the Client.

7. CONSEQUENCES OF DEFAULT

- 7.1. In any event, BDNZ reserves the right to charge the Client interest in respect of the late payment of any sums due under this Contract, which will be (at BDNZ's sole discretion) calculated and cumulated monthly, at the rate of two percent (2%) per calendar month, from the due date until receipt of payment, and also prior, to any judgement being awarded by a court of law.
- 7.2. Notwithstanding clause 7.1, it is further agreed that if the Client owes BDNZ any money, the Client agrees to reimburse BDNZ all costs and expenses suffered by BDNZ in their attempt to recover all overdue monies owed to BDNZ, (which may include charges incurred by BDNZ 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).
- 7.3. For the sake of clarity, BDNZ 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 BDNZ remain outstanding; or
- (b) If the Client breaches, or fails to comply or repudiates, any obligation (including those relating to payment, whether the payment is due to BDNZ or not) under this Contract or any other subsequent contract with BDNZ; or
- (c) The Client indicating that they will not pay any sum by the due date; or
- (d) 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
- (e) if the Client ceases or threatens to cease carrying on business; or
- (f) If the ownership or effective control of the Client is transferred, or the nature of the Client's business is materially altered.

- 7.4. 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 BDNZ shall become immediately due and payable. Without limiting the effect of this clause 7.4 it shall survive the end of this Contract, and any other terms and conditions which by their nature are intended to survive.

8. CANCELLATION AND TERMINATION

- 8.1. BDNZ may cancel the provision of the Services at any time before the Services commence by giving 7 days written notice. BDNZ shall not be liable to the Client for any loss or damage the Client suffers because BDNZ has relied on its rights covered in this clause.
- 8.2. If the Client cancels the provision of the Services, prior to commencement of the Services, the Client shall be liable for any costs incurred by BDNZ (including, but not limited to, loss of profit) up to the time of cancellation.
- 8.3. Where the Client cancels the supply of BDNZ's Services that they have commenced:
- (a) The initial notification may be by telephone but must be confirmed by written notice or email within seven (7) days; and
- (b) The Client shall be invoiced for all work completed over and above any deposit paid prior to the commencement of the Services; or
- (c) Where failure of clause 8.3(a) occurs, at BDNZ's discretion, the Client may be required to pay the full quoted cost of the Services.

9. PRIVACY POLICY

- 9.1. In accordance with the Privacy Act 2020 and full disclosure, BDNZ 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 BDNZ 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 credit worthiness.
- 9.2. For the avoidance of doubt, all authorities given above are continuing authorities, to apply throughout the duration of the term of BDNZ and Client's trading relationship and any release of Personal Information will always be done in accordance with Privacy legislation and the Client's written consent, unless the request for such information is an operation of law.
- 9.3. The Client, if an individual, has a right of access to Personal Information about the Client held by BDNZ and may request correction of the information.
- 9.4. For the purposes of this clause 9, Personal Information has the meaning given to it in the Privacy Act 2020 and to view BDNZ's full Privacy Policy, this can be viewed on the website: <https://www.businessdocumentsnz.co.nz/>.
- 9.5. In addition, if any individuals are residents of the European Economic Area "EEA", then EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, 'EU Data Privacy Laws') may apply and they can object to processing of their Personal Information, ask to restrict processing of their Personal Information or request portability of their Personal Information. The Client can exercise these rights by contacting BDNZ using our contact details stated on our website: <https://www.businessdocumentsnz.co.nz/> to lodge a privacy complaint whether in respect of either the Privacy Act 2020 or the EU Data Privacy Laws and BDNZ will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to reach a decision on the complaint, in accordance within any defined timelines applicable to the respective Act/s. If the Client is not satisfied with the resolution provided, the Client can make a complaint to the Privacy Commissioner at: <http://www.privacy.org.nz> or [http://edps@edps.europa.eu](mailto:edps@edps.europa.eu).

10. **NOTICES**
- 10.1. Any written notice given under this Contract shall be deemed to have been given and received:
- (a) By handing the notice to the other party, in person;
- (b) By leaving it at the address of the other party as stated in this Contract;
- (c) By sending it by registered post to the address of the other party as stated in this Contract;
- (d) If sent by facsimile to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
- (e) If sent by email to the other party's last known email address.

- 10.2. Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

11. DISPUTE RESOLUTION

- 11.1. BDNZ and the Client will negotiate in good faith and use their reasonable efforts to settle any dispute that may arise out of, or relate to, this Contract, or any breach thereof. If any such dispute cannot be settled amicably through ordinary negotiations, the dispute shall be referred to the representatives nominated by each party who will meet in good faith to attempt to resolve the dispute. 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.

12. CONSUMER GUARANTEE ACT 1993

- 12.1. If the Client is acquiring Services for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Services by BDNZ to the Client.

13. MISCELLANEOUS

- 13.1. 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 provision covered in these terms and conditions.

- 13.2. 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 Wellington Courts of New Zealand.

- 13.3. BDNZ WILL **NOT BE LIABLE** FOR ANY LOSS CAUSED BY A FAILURE BY THE CLIENT TO COMPLY WITH THE CLIENT'S OBLIGATIONS UNDER THIS CONTRACT. FURTHER, BDNZ'S TOTAL LIABILITY WILL NOT, UNDER ANY CIRCUMSTANCES, EXCEED THE CHARGES FOR THE SERVICES SUPPLIED OR PERFORMED, PURSUANT TO THIS CONTACT.

14. DEFINITIONS AND INTERPRETATIONS

- 14.1. "**Contract**" means the Terms and Conditions contained herein, together with any quotation, order, proposal, invoice or other document or amendments expressed to be supplemental to this Contract.
- 14.2. "**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 BDNZ to provide the Services as specified in any quotation, purchase order, or other documentation.
- 14.3. "**BDNZ**" means **Business Documents New Zealand Limited**, its successors and assigns.
- 14.4. "**Charges**" means the cost of the Goods or Services as agreed between BDNZ and the Client subject to clause 2 of this Contract.
- 14.5. "**Services**" means all Services (including, any **Documentation**) supplied by BDNZ to the Client, at the Client's request from time to time (where the context so permits the terms 'Services' or 'Documentation' shall be interchangeable for the other) and includes any advice or recommendations and are as described on the invoices, quotation, work authorisation or any other form as provided by BDNZ to the Client.
- 14.6. "**GST**" means Goods and Services Tax (GST) as defined within the (Goods and Services Tax Act 1985).
- 14.7. **In this Contract, unless the context requires otherwise:**

- (a) **Charges:** A reference to dollars or \$ is to an amount in New Zealand currency.
- (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) **Headings:** Headings to clauses are for convenience only and shall not affect their interpretation;
- (d) **Parts of Contract:** References to this Contract shall including its clauses, cross references, schedules, appendices, or any other document relevant to the Contract;
- (e) **Plurals:** Words importing the singular shall include the plural and vice versa and words importing the masculine, feminine and neuter shall include all three;
- (f) **Statutory Requirements:** A reference to any Act or Regulation shall include subsequent Acts or Regulations in amendment of, or substitution for, the same.

If there is any discrepancy, inconsistency, or ambiguity within or between the documents (or parts of the documents) comprising this Contract, the Client must resolve the discrepancy, inconsistency, or ambiguity by applying the following order of precedence:

- (a) These Terms and Conditions;
- (b) Any additional annexures