

1. Definitions

1.1 "Contract" means the terms and conditions contained herein, together with any Quotation/Presentation/Proposal/Packager or document or amendments expressed to be supplemental to this Contract.

1.2 "SideKit" means SideKit, (or otherwise referred to as the Vendor) its successors and assigns or any person acting on behalf of and with the authority of SideKit.

1.3 "Client" means the persons, entities or any person acting on behalf of and with the authority of the Client requesting SideKit to provide the Services as specified in any proposal, quotation, order, invoice or other communication, and:

- (a) if there is more than one Client, is a reference to each Client jointly and severally, and
- (b) if the Client is a partnership, it shall bind each partner jointly and severally, and
- (c) if the Client is a trust, shall be bound in their capacity as a trustee, and
- (d) includes the Client's administrators, successors and permitted assigns.

1.4 "Documentation" means any goods, documents, designs, drawings or materials supplied, consumed, created or deposited incidentally by SideKit in the course of its conducting, or supplying to the Client, any Services.

1.5 "Services" means all Services supplied by SideKit to the Client at the Client's request from time to time including but not limited to: Products, work on the Client's behalf of the Client as specified in the Quotation/Presentation/Proposal/Packager that will be read in conjunction with this Contract for which the Services are provided by SideKit to the Client (where the context so permits the terms "Services" or "Projects" shall be interchangeable for the other).

1.6 "Consultant" shall mean any person or persons engaged by SideKit to provide specialised Services on behalf of the Client.

1.7 "Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and to access that information at the web server or the client's computer. If the Client does not wish to allow Cookies to operate in the background when ordering from the website, the Client shall have the right to enable/disable the Cookies first by selecting the option to enable/disable ordering on the website, prior to ordering Services via the website.

1.8 "Fee" means the price payable (plus any Goods and Services Tax ("GST") where applicable) for the Services as agreed between SideKit and the Client in accordance with clause 7 of this Contract.

2. Acceptance

2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for, or accepts Services provided by SideKit.

2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.

2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.

2.4 The Client acknowledges that the supply of Services on credit shall not take effect until the Client has completed a credit information form with SideKit and it has been approved with a credit limit established for the account.

2.5 In the event that the supply of Services requested exceeds the Client's credit limit and/or the account exceeds the payment terms, SideKit reserves the right to refuse delivery.

2.6 Where SideKit gives any advice, information, assistance or service provided by SideKit in relation to Services supplied is given in good faith to the Client, or the Client's agent, and is based on SideKit's own knowledge and experience and shall be accepted without liability on the part of SideKit. Where such advice or recommendations are not acted upon then SideKit shall require the Client or their agent to authorise commencement of the Services in writing. SideKit shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.

2.7 None of SideKit's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of SideKit in writing nor is SideKit bound to any such unauthorised statements.

2.8 In the event that SideKit is required to provide the Services urgently, that may require SideKit to work outside normal business hours and/or outside standard remote working environment (including but not limited to working through lunch breaks, weekends and/or Public Holidays) then SideKit reserves the right to charge the Client additional labour, travel and/or accommodation costs (penalty rates will apply), unless otherwise agreed between SideKit and the Client.

2.9 The Client acknowledges and accepts that whilst SideKit may provide an initial free of charge consultation, should the Client subsequently engage SideKit, then additional consultations shall be considered part of the Services and shall therefore become chargeable.

2.10 Should the Client arrive late for a pre-arranged appointment with SideKit, and SideKit agrees and is able to extend the waiting time to accommodate the Client, then the Client shall be charged for the original and the extended meeting time.

2.11 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any regulations related to the use of electronic signatures.

2.12 The Services to be supplied by SideKit will be described as per SideKit's Quotation/Presentation/Proposal/Packager.

3. Errors and Omissions

3.1 The Client acknowledges and accepts that SideKit shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):

- (a) resulting from an inadvertent mistake made by SideKit in the formation and/or administration of this Contract; and/or
- (b) contained in material from any literature (hard copy and/or electronic) supplied by SideKit in respect of the Services.

3.2 In the event such an error or omission occurs or arises, SideKit shall not be liable for any damages or losses suffered by the Client and/or willful misconduct of SideKit; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Change in Control

4.1 The Client shall give SideKit not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact details, change of business structure, or business practice). The Client shall be liable for any loss incurred by SideKit as a result of the Client's failure to comply with this clause.

5. SideKit's Responsibilities

5.1 SideKit must, when providing the Services, perform the Services in an efficient and professional manner, engaging personnel with suitable training, experience and expertise, and exercise due care, skill and attention. If SideKit becomes aware of any matter which may change the scope or timing of the Services, it shall provide the Client with reasonable written notice in relation to the change, and in any event provide such notice within ten (10) business days of first becoming so aware.

5.2 If SideKit is required to exercise their professional judgment between the Client and a third party with whom the Client has a contract, then they shall do so independently and as required by the terms of that contract.

5.3 SideKit shall use all reasonable efforts to inform themselves, of the Client's requirements for the Project and for that purpose they shall contact the Client throughout the performance of the Services.

5.4 If SideKit considers that the information, documents and other particulars made available to SideKit by the Client are not sufficient to enable SideKit to provide the Services in accordance with this Contract, SideKit may advise the Client who shall then provide such further assistance, information, or other particulars as necessary in the circumstances.

5.5 SideKit shall perform the Services in a timely manner to the extent that it is within SideKit's control to do so.

6. Client's Responsibilities

6.1 The Client shall as soon as practicable make available to SideKit access to all information, documents, stakeholders and other particulars relating to the Client's requirements for the Project, which SideKit considers as relevant to the provision of the Services.

6.2 Where the Client has provided instructions or specifications for SideKit to complete the Services (including, but not limited to, any requested variation to the original Services), then SideKit shall accept no liability whatsoever for the limited to those services being deemed as unsatisfactory to the Client.

6.3 Unless the parties specifically agree otherwise, the Client shall as soon as practicable obtain all approvals, authorities, licenses and permissions which are required from governmental, corporate or other responsible authorities for the lawful implementation and completion of the Project.

6.4 The Client agrees that the Services to be provided by SideKit are not to be provided to any other persons such as his agent and accounting and if other such professional services are required the Client shall obtain these services at his own cost.

6.5 The Client may appoint a person or persons to act as their representative and shall give written notice to SideKit of the name of the person or persons appointed to act as their representative and the person or persons appointed shall have full authority to act on behalf of the Client for all purposes in connection with this Contract.

6.6 If the Client becomes aware of any matter which may change the scope or timing of the Services or the Project, then the Client will give written notice of the same to SideKit.

6.7 The Client shall carry out any additional special obligations set out in the Project.

6.8 The Client shall cooperate with SideKit and shall not interfere with or obstruct the proper performance of the Services.

6.9 The Client to be responsible for Health and Safety regulation and site compliance for site location.

7. Fee and Payment

7.1 At SideKit's sole discretion the Fee shall be either:

- (a) as indicated on any invoice provided by SideKit to the Client; or
- (b) SideKit's quoted price (subject to clause 7.2) which will be valid for the period stated in the quotation or otherwise for a period of 12 months.

7.2 SideKit reserves the right to change the Fee:

- (a) if a variation to the Services (including any variation to the Client's brief or specifications) is requested; or
- (b) where additional Services are required due to the discovery of unidentifiable difficulties (including, but not limited to, change to Quotation/Presentation/Proposal/Packager, Client provision of sub-optimal information) etc as a result of any increase to SideKit in the cost of disbursements (including but not limited to third party consultants) which are only discovered during the provision of the Services; or
- (c) where additional costs are incurred by SideKit due to unexpected delays, or receipt of approvals or permits, across to an assessment area not being available as agreed or when pre-arranged.

7.3 Variations will be charged for on the basis of SideKit's Price Quotation, and will be detailed in writing, and shown as variations on SideKit's invoice. The Client shall be required to respond to any variation submitted by SideKit within ten (10) working days. Failure to do so will entitle SideKit to add the cost of the variation to the Fee. Payment for all variations must be made in full at the time of their completion.

7.4 At SideKit's sole discretion a non-refundable deposit may be required.

7.5 The Client acknowledges that the Services shall be charged either at an hourly rate or a single packaged cost as stipulated in SideKit's brief or service agreement.

7.6 Time for payment for the Services being of the essence, the Fee will be payable by the Client on the date(s) determined by SideKit, which may be:

- (a) by way of instalments/progress payments in accordance with SideKit's payment schedule; or
- (b) the date specified on any invoice or other form as being the date for payment.

7.7 Payment may be made by electronic/invoice banking, or by any other method as agreed between the Client and SideKit.

7.8 SideKit may in its discretion allocate any payment received from the Client towards any invoice that SideKit determines and may do so at the time of receipt or at any time afterwards. On any payment by the Client SideKit may re-allocate any payments previously received and allocated. In the absence of any payment allocation by SideKit, payment will be deemed to be allocated in such manner as preserves the maximum value of SideKit's Purchase Money Security Interest (as defined in the PPSA).

7.9 Unless otherwise stated the Fee does not include GST. In addition to the Fee, the Client must pay to SideKit an amount equal to any GST SideKit must pay for any supply by SideKit under this or any other agreement for providing SideKit's Services. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Fee. In the event the Client must pay any other taxes and duties that may be applicable in addition to the Fee except where they are expressly included in the Fee.

8. Reimbursable Expenses

8.1 SideKit shall be reimbursed for all expenses properly incurred in connection with the provision of the Services, except where such expenses are specifically stated in writing by SideKit as being non-reimbursable. All reimbursable expenses (e.g. travel, communications, couriers, third party engagement etc) will be charged at the cost involved (excluding GST) to SideKit, plus any reasonable administration fees thereat.

9. Provision of the Services

9.1 SideKit shall exercise reasonable skill, care and diligence in the performance of the Services in accordance with the best practice and standards of the Marketing & Operations Management professions.

9.2 SideKit may deliver the Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.

9.3 Any time specified by SideKit for delivery of the Services is an estimate only and SideKit will not be liable for any loss or damage incurred by the Client as a result of any delay. However, both parties agree that they shall make every endeavour to enable the Services to be supplied at the time and place as was arranged between both parties. In the event that SideKit is unable to supply the Services as agreed solely due to any action or inaction of the Client then SideKit shall be entitled to charge a reasonable fee for re-supplying the Services at a later time and date.

10. Nominated Consultants

10.1 SideKit may engage Consultants, as required, acting solely as agent on behalf of the Client and the following shall apply:

- (a) SideKit shall be entitled to enter into contracts with such Consultants in the name of the Client; and
- (b) the Client shall be responsible for all payments to such Consultants; and
- (c) where SideKit pays the Consultants account on behalf of the Client, the Client shall reimburse SideKit for the payment of the Consultants account together with an account-handling fee within seven (7) days from the date of submission of the account to SideKit to the Client; and
- (d) if the Client does not reimburse SideKit within seven (7) days from the date of submission of the account in accordance with sub-clauses 23.1 and 23.2, SideKit shall be entitled to:
 - (i) charge interest as per clause 23, from the date of payment of the Consultants account by SideKit to the date of reimbursement to SideKit by the Client; and/or
 - (ii) charge an administration fee as set out in this Contract.

10.2 SideKit does not warrant the accuracy or quality of the Consultants work or warrant that the recommendations of the Consultant are appropriate or adequate or are fit for their purpose or that they are not given negligently. The Client agrees that they shall not make any demand on SideKit or commence any legal proceedings against SideKit and SideKit shall not be liable, whether in negligence or otherwise, to the Client in relation to any work performed by the Consultant.

10.3 At the option of the Client, and notified to SideKit in writing, the Client shall engage relevant Consultants required for the Project (after consultation with SideKit) and shall be liable for all payments to such Consultants.

11. Extension of Contract Period

11.1 SideKit shall as per clause 9 above be entitled to claim an extension to the term of the Services in the event of delays resulting from any matter whatsoever which is not entirely under the control of SideKit. These matters shall include, but are not limited to (delays caused by):

- (a) response(s) to information request(s) made by SideKit to the Client not being available when required; or
- (b) approval from authorities response time(s); or
- (c) information from Consultants; or
- (d) changes to the brief being requested by the Client; or
- (e) any other variation, to this Contract, including, but not limited to, technical/service provider issues etc.

11.2 In the event that there is a break in the continuity of Services being provided by SideKit due to the Client's instructions or all Services are suspended by SideKit pursuant to overdue payments, then Fees for Services completed at the time of suspension shall be payable by the Client to SideKit. SideKit shall be entitled to claim an extension to the term of the Services up to date of such a break or suspension plus all Fees, wages and expenses reasonably incurred as a result of such a break or suspension, unless otherwise agreed.

12. IT Access

12.1 SideKit shall not be held liable for any loss, corruption, or deletion of files or data (including, but not limited to the unintended introduction of viruses and/or illegal hacking) resulting from the Services provided by SideKit, once SideKit has completed the Client's requirements online and signed out. It is the sole responsibility of the Client to back-up any data. SideKit may not be held liable for any loss, corruption, or deletion of files or data (including, but not limited to the unintended introduction of viruses and/or illegal hacking) which will be subject to an additional cost for repair in accordance with clause 12.2.

12.2 Notwithstanding clause 12.1, where multiple users are granted access logs, SideKit cannot be held responsible for the loss of or those logs details or changes made by that log user. NE SideKit can, in most cases, limit access, however, as limited to the control of data entry, changes etc once a user is provided access.

12.3 It shall be the Client's responsibility to make the access available on the agreed dates and times. If the Services are delayed or interrupted by the failure of the Client to make the access available as per the schedule agreed to between SideKit and the Client, any additional costs will be invoiced to the Client as per clause 7.2.

13. Risk

13.1 Irrespective of whether SideKit retains ownership of any Documentation all risk for such items shall pass to the Client as soon as the Client has accepted the Documentation to the Client and shall remain with the Client until such time as SideKit may repossess the Documentation. The Client must insure all Documentation on or before delivery.

13.2 SideKit reserves its right to seek compensation or damages for any damage, destruction or loss suffered in relation to the Documentation as a result of the Client's failure to insure in accordance with clause 13.1.

13.3 SideKit may not be held liable for any loss, corruption, or deletion of files or data (including, but not limited to the unintended introduction of viruses and/or illegal hacking) which will be subject to an additional cost for repair in accordance with clause 12.2.

13.4 Notwithstanding clause 12.1, where multiple users are granted access logs, SideKit cannot be held responsible for the loss of or those logs details or changes made by that log user. NE SideKit can, in most cases, limit access, however, as limited to the control of data entry, changes etc once a user is provided access.

13.5 SideKit shall be entitled to the accuracy of any plans, reports, specifications and other information provided by the Client. The Client acknowledges and agrees that in the event that any of this information provided by the Client is inaccurate, SideKit accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, reports, specifications or other information.

13.6 Where the performance of any contract between SideKit and the Client requires SideKit to utilise products or Services from a third-party provider, the contract between SideKit and the Client shall incorporate and be subject to, the conditions of the supply of such products and/or Services to SideKit and the Client shall be liable for the cost in full including SideKit's margin of such products and/or Services.

14. Insurance

14.1 SideKit shall have public liability of at least one (1) million dollars. It is the Client's responsibility to ensure that they are similarly insured.

15. Compliance with Laws

15.1 The Client and SideKit shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services, including any WorkSafe guidelines regarding health and safety laws relating to workplaces and any other relevant safety standards or legislation.

15.2 Notwithstanding clause 15.1 and pursuant to the Health & Safety Act 2015 (the "HSW Act") SideKit agrees at all times to comply with sections 29 and 34 of the "HSW Act" with meeting their obligations for health and safety laws in the workplace regardless of whether they may be a party in control of the worksite or if in the event that they may be acting as a subcontractor for the Client's where the Client has engaged a third party head contractor.

16. Title

16.1 SideKit and the Client agree that where it is intended that the ownership of Documentation is to pass to the Client that such ownership shall not pass until:

- (a) the Client has paid SideKit all amounts owing for the Services; and
- (b) the Client has met all other obligations due by the Client to SideKit in respect of all contracts between SideKit and the Client.

16.2 It is further agreed that:

- (a) the Client shall not make any payment for the Services has been received in full. SideKit may give notice in writing to the Client to return to SideKit any documentation provided to the Client as part of SideKit's Services. Upon such notice being given, the rights of the Client to obtain ownership or any other interest in the Services, shall cease; and
- (b) the Client must not sell, dispose, or otherwise part with possession of the Documentation. If the Client sells, transfers or parts with possession of the Documentation then the Client must hold the proceeds of sale of the Documentation on trust for SideKit and must pay or deliver the proceeds to SideKit on demand.

17. Personal Property Securities Act 1999 ("PPSA")

17.1 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:

- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
- (b) a security interest is taken in all Documentation and/or collateral (account) – being a monetary obligation of the Client to SideKit for Services – that have previously been supplied and that will be supplied in the future by SideKit to the Client.

17.2 The Client undertakes to:

- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up to date in all respects) which SideKit may reasonably require to register a financing statement or financing charge statement on the Personal Property Securities Register; and
- (b) indemnify, and upon demand reimburse, SideKit for all expenses incurred in registering a financing statement or financing charge statement on the Personal Property Securities Register or releasing any Documentation charged thereby; and
- (c) register, or permit to be registered, a financing statement or a financing charge statement in relation to the Documentation and/or collateral (account) in favour of a third party through the prior written consent of SideKit.

17.3 SideKit and the Client agree that nothing in clauses 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.

17.4 The Client hereby acknowledges that these Terms and Conditions of Trade constitute a security agreement which creates a security interest in favour of the Vendor:

- (a) for all Goods previously supplied by the Vendor to the Client (if any); and
- (b) for all of its present and after acquired Goods; and
- (c) for intellectual property arising out of or in connection with the Services.

17.5 The Client agrees to grant a "Purchase Money Security Interest" to the Vendor in respect to all amounts owed by the Client to the Vendor, as that term is defined in the PPSA.

17.6 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA. The Client otherwise agrees to be in writing by SideKit, the Client waives its right to receive a verification statement in accordance with section 145 of the PPSA.

17.7 The Client shall unconditionally ratify any actions taken by SideKit under clauses 17.1 to 17.7.

17.8 Subject to any express provisions to the contrary (including those contained in this clause 17.7), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

18. Lien

18.1 Where the Client has left any of their Documentation with SideKit in order for SideKit to provide any Services in relation to that Documentation and SideKit has not received or been tendered the whole of the Fee, or the payment has been dishonoured, SideKit shall have a lien on the Documentation; and the right to retain the Documentation whilst SideKit is in possession of the Documentation until such time as payment has been made in full. The lien of SideKit shall continue despite the commencement of proceedings or judgement for the Fee having been obtained. The Client shall remain under an obligation to release the Documentation to the Client if the Client is in default of payment except as may be required by any law or statute.

19. Use of Reports and Advice

19.1 Any advice that SideKit gives to the Client, its employees or agents is for the Client's exclusive use and must be used only for the purpose described in the Quotation/Presentation/Proposal/Packager.

19.2 SideKit gives the Client the following advice:

- (a) must not be used or disclosed for any other purpose, referred to in any document or made available to any other person, except the Client's lawyers or other professional adviser assisting in the Services; and
- (b) may not be relied upon by any other party other than the Client.

19.3 SideKit is not responsible to any other party other than the Client, who is provided with or obtains a copy of SideKit's advice.

19.4 SideKit's advice may, on occasion, be given to the Client in draft form or orally only on the basis that the Client may not rely on advice in that form. Accordingly, SideKit shall not be responsible if the Client or any other party relies on the advice or proceeds to act on the basis of any draft or oral form of the advice.

19.5 The Client acknowledges that the signed copy of SideKit's final Documentation is the definitive version.

20. Consumer Guarantees Act 1993

20.1 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 SideKit to the Client.

21. Intellectual Property

21.1 SideKit shall retain copyright of all intellectual property (including, but not limited to, Documentation) prepared by SideKit. The Client shall be granted, by SideKit, a licence to use this intellectual property only for the agreed scope of Services, and the purpose for which they are intended, conditional upon all of the following:

- (a) the Client shall not use the intellectual site (or to that part of the site) to which the intellectual property relates. The Client may reproduce Documentation, in which SideKit has copyright, as reasonably required in connection in the manner with which the Services are retained, but not otherwise; and
- (b) the Fee property due to SideKit has been paid.

21.2 Any agreement otherwise in writing, all Documentation is provided for the sole use of the Client and is confidential to them and their professional advisers.

21.3 Where SideKit has developed software, spreadsheets, training materials, databases, proposals, tender documents and other electronic tools in providing the Services to the Client, then the copyright in those software, spreadsheets, training materials, databases, proposals, tender documents and other electronic tools shall remain vested in SideKit, and shall only be used by the Client for the purposes of the Services.

21.4 The Client warrants that the Client shall not infringe any patent, registered design or trademark in the execution of the Client's Services.

Client's order and the Client agrees to indemnify SideKit against any action taken by a third party against SideKit in respect of any such infringement.

21.5 The Client acknowledges that any software/online services provided by SideKit belong to the publishers and the Client is granted access to the software/online services. The Client gives SideKit the right to access the software/online services using the Client's and/or administration login for the purposes of completing the Services, complying with IRD instructions or in the case of non-payment to restrict or block the Client's access to the software/online services.

21.6 Whether SideKit or the Client retains the copyright in relation to original work which is specifically developed for the Client shall be determined by the Client and SideKit shall be bound by both parties to this Contract.

21.7 The Client warrants that all designs or instructions to SideKit will not cause SideKit to infringe any patent, registered design or trademark in the execution of the Client's order.

22. Confidentiality

22.1 The Client assumes liability for all loss or damage suffered by SideKit as a result of breach of confidentiality undertaken by itself, or its employees or agents.

22.2 Both the Client and SideKit agree to treat all information and ideas communicated to it by the other confidentially and agree not to disclose, or otherwise use, such information, without the other party's written consent. The parties will not copy any such information supplied and will return it or destroy it (together with any copies thereof) on request of the other party.

22.3 Exceptions to clause 22.2 will be disclosures to legal advisers, disclosures required by law, and disclosures necessary for the proper performance of the Services.

22.4 SideKit is obliged to remain vigilant and to advise the Client of any conflict of interest that may potentially impact or harm the Client. To avoid conflict of interest and commercial sensitivities, it is agreed by SideKit that any and all information regarding the Client (and their business, commercial agenda and employees) shall remain confidential at all times and shall only be disclosed in the event of legal order or obligation.

22.5 The obligations of this clause 22 shall survive termination or cancellation of this Contract.

23. Default and Consequences of Default

23.1 Interest on overdue payments shall accrue from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at SideKit's sole discretion such interest shall compound monthly at such rate) after as well as before any judgment.

23.2 If the Client owes SideKit any money the Client shall indemnify SideKit from and against all costs and disbursements (including but not limited to legal and administration fees, legal costs of a solicitor and own client basis, SideKit's collection agency costs, and bank dishonour fees).

23.3 Further to any other rights or remedies SideKit may have under this Contract, if a Client has made payment to SideKit, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by SideKit under this clause 23, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.

23.4 Without prejudice to SideKit's other remedies at law SideKit shall be entitled to call on all or any part of any order of the Client which remains unfulfilled and all amounts owing to SideKit shall, whether or not due for payment, become immediately payable if:

- (a) any money payable to SideKit becomes overdue, or in SideKit's opinion the Client will be unable to make a payment when it falls due; and
- (b) the Client has exceeded any applicable credit limit provided by SideKit; and
- (c) the Client becomes insolvent, commences a meeting with its creditors or proposes or enters into an arrangement with its creditors, or is placed in liquidation, or is subject to a receivership or administration, or is subject to a winding up order, or
- (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

24. Cancellation

24.1 Without prejudice to any other rights or remedies SideKit may have, if at any time the Client is in breach of any obligation (including those relating to payment rights) or failure to remedy any breach in respect of this Contract within ten (10) working days of the receipt by the Client of such notice(s) then SideKit may suspend the Services immediately. SideKit will not be liable to the Client for any loss or damage that the Client suffers because SideKit has exercised its rights under this clause.

24.2 SideKit may cancel any contract to which these terms and conditions apply or cancel delivery of Services at all time before the Services are commenced by giving written notice to the Client. On giving such notice SideKit shall repay to the Client any money paid to SideKit for the Services. SideKit shall not be liable for any loss or damage whatsoever arising from such cancellation.

24.3 In the event that the Client cancels delivery of the Services the Client shall be liable for any and all loss incurred (whether direct or indirect) by SideKit as a direct result of the cancellation (including, but not limited to, any loss of profits).

24.4 The Client acknowledges and accepts that where the Client wishes to postpone or cancel the Services that SideKit must be notified no later than fourteen (14) days of the agreed delivery date as agreed to between both parties. Where such notice is received inside this timeframe, SideKit reserves the right to charge a reasonable fee for the delay in the commencement of the Service.

25. Privacy Policy

25.1 All emails, documents, images or other recorded information including Personally Identifiable Information (PII) as defined and referred to in clause 25.3 held or used by SideKit is considered confidential. SideKit acknowledges its obligation in relation to the handling and processing of PII pursuant to the Privacy Act 2020 (the "Act") including Part II of the OECD Guidelines and as set out in Schedule 8 of Act and any statutory requirements where relevant in a European Economic Area "EEA" then the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR" (collectively, "EU Data Privacy Laws"). SideKit acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's PII, held by SideKit that may result in serious harm to the Client, SideKit will notify the Client in accordance with the Act and/or the GDPR. Any release of such PII must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an order of law.

25.2 Notwithstanding clause 25.1, privacy limitations will extend to SideKit in respect of Cookies where transactions for Services transpire directly to SideKit's website. SideKit agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of the Client's Personal Information such as:

- (a) IP address, browser, email Client type and other similar details; and/or
- (b) tracking website usage and traffic; and/or
- (c) reports which are available to SideKit when SideKit sends an email to the Client; so SideKit may collect and review that information (collectively "PII").

25.3 The Client authorises SideKit's PII agent to:

- (a) access, collect, receive and use any information about the Client;
- (b) (including name, address, D.O.B, occupation, driver's license details, electronic contact (e.g. email, Facebook or Twitter details), details of next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or
- (c) for the purpose of marketing products and services to the Client;
- (d) disclose information about the Client, whether collected by SideKit from the Client directly or obtained by SideKit from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference for the Client; or
- (e) provide information about the Client to any other person who may be contacted by SideKit in writing of the parameters of the limited authority granted to their representative.

25.4 Where the Client is an individual the authorities under clause 25.3 are authorities or consents for the purposes of the Privacy Act 2020.

25.5 If the Client consents to SideKit's use of Cookies on SideKit's website and later wish to withdraw that consent, the Client may manage and control their privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when using the Client's browser.

25.6 The Client shall have the right to request SideKit for a copy of the Personal Information about the Client retained by SideKit and the right to request SideKit to correct any incorrect Personal Information about the Client held by SideKit.

26. Authorised Representatives

26.1 Where Unless otherwise limited as per clause 26.2 the Client agrees that should the Client introduce any third party to SideKit as the Client's duly authorised representative, that once introduced that person shall have the full authority of the Client to order any Documentation or Services on the Client's behalf and/or to request any variation to the Services on the Client's behalf (such authority to continue until all requested Services have been completed or the Client otherwise notifies SideKit in writing that said person is no longer the Client's duly authorised representative).

26.2 In the event that the Client's duly authorised representative as per clause 26.1 is to have limited authority to act on behalf of the Client, SideKit shall be notified specifically and clearly advise SideKit in writing of the parameters of the limited authority granted to their representative.

26.3 The Client specifically acknowledges and accepts that they will be solely liable to SideKit for all additional costs incurred by SideKit (including SideKit's profit margin) in providing any Services, Documentation or variations requested by the Client's duly authorised representative (subject always to the limitations imposed under clause 26.2 (if any)).

27. Liability Limitations

27.1 The liability limitations of SideKit, its partners, associates, and employees shall exclude any indirect loss and/or expense (including, but not limited to, lost or lost of business opportunity and payment of liquidated damages, etc.) suffered by the Client arising out of a breach by SideKit of these terms and conditions.

27.2 The maximum liability of SideKit under this Contract shall at no time exceed the amount of Professional Indemnity insurance cover carried by SideKit, and will at a maximum, be limited to the cost of the original Services provided.

27.3 The Client will not be liable for any loss or damage that the Client suffers because SideKit has exercised its rights under this Contract in respect of any claim of whatsoever kind, that may be made by any person and any costs and expenses that may be incurred by SideKit.

28. Service of Notices

28.1 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; or
- (b) by leaving it at the address of the other party as stated in this Contract; or
- (c) if sent by email to the other party's last known email address.

29. Trusts

29.1 If the Client at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not SideKit may have notice of the Trust, the Client covenants with SideKit as follows:

- (a) The Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and its trust fund; and
- (b) The Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity; and
- (c) The Client will not without consent in writing of SideKit (SideKit will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Client as trustee of the Trust; or
 - (ii) any alteration to or variation of the terms of the Trust; or
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.

30. General

30.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

30.2 These terms and conditions shall apply to any contract to which they are made by SideKit for the purposes of the laws of New Zealand and are subject to the jurisdiction of the Auckland Courts of New Zealand.

30.3 SideKit may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.

30.4 The Client cannot licence or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.

30.5 SideKit may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of SideKit's sub-contractors without the authority of SideKit.

30.6 Neither party shall be liable for any default due to any act of God, war, pandemic, terrorism, strike, lock-out, industrial action, fire, flood, storm or other beyond the reasonable control of either party (referenced as Force Majeure).

30.7 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.

