



GENERAL TERMS OF TRADE

APPLICATION

- A. Unless otherwise agreed in writing by HomeHub Limited ("**HomeHub**", "**We**", "**Us**", or "**Our**"), the following General Terms of Trade, the Key Details recorded in the Works Confirmation referred to in paragraph C (i) below, and any ancillary documents referred to in paragraph C (ii) below ("together, the **Terms**") will apply to the Works at the Site carried out by Us or on Our behalf for any customer of HomeHub ("**You**" or "**Your**") with the approval of IAG New Zealand Limited ("**IAG NZ**") as Your insurer.
- B. IAG NZ is not a party to the agreement created by the Terms and it does not have any obligations under the Terms or responsibility or duties to You arising from the Terms. However, that will not affect any obligation owed to You separately by IAG NZ as Your insurer. The Terms are enforceable by IAG NZ in accordance with the Contract and Commercial Law Act 2017. For transparency, We note that IAG NZ is owned by the same company which owns Us.
- C. If there is any inconsistency between a provision of these General Terms of Trade, and any of the Key Details recorded in the Works Confirmation, or any provision of any ancillary documents, the provisions will apply in the following descending order of priority:
- i. the Key Details recorded in the Works Confirmation or Portal;
 - ii. the General Terms of Trade; and
 - iii. the provisions of any ancillary documents relevant to the Works, including any drawings and specifications, that We expressly agree will form part of the Terms, and which We agree to be bound by through Us signing the document.
- D. The Terms will prevail over any other terms and conditions stipulated by You or included as part of any of your documentation unless those terms and conditions have been expressly acknowledged and agreed to in writing and signed by Us.

DEFINITIONS

The following capitalised terms have the meaning set out below:

Commencement Date has the meaning given to that term in clause 2 of the Terms.

Contract Price has the meaning given to that term in clause 16 of the Terms.

Excess means the excess on Your insurance policy with IAG NZ applicable to Your claim relating to the Works.

Key Details means the key details about You, Us, and/or the Works which We agree with You and record in the Works Confirmation and/or Portal, including, Your name, addresses and contact telephone numbers, a description of the Site, a description of the Works, the expected start date and due date for completion of the Works, the scope of Upgrades and Upgrade Price (if applicable), the Excess, details of payments to be made by You, and any other matter concerning the Works specified in the Works Confirmation and/or Portal.

Portal means the cloud-based online platform called "Prime Ecosystem" that is made available by Us to You and IAG NZ from time to time which records elements of the Key Details, and which You may access until the Works are complete via the hyperlink supplied in the Works Confirmation.

Site means the physical site where the Works will be carried out as described in the Works Confirmation.

Upgrades means any work that You ask Us to undertake as part of the Works, and that We agree to carry out as recorded in the Works Confirmation.

Upgrade Price means the price You must pay Us for the Upgrades in accordance with clause 30.

Variation means any change in the scope of Works which We decide needs to be carried out from time to time when undertaking the Works, which We will discuss with You, and agree with IAG NZ, excluding any Upgrades.

Works means the scope of works described in the Works Confirmation to be carried out and completed by Us or on Our behalf under the Terms, including any Upgrades (if applicable), and subject to any Variations.

Works Confirmation means the electronic confirmation that We send to You (and copy to IAG NZ) which records the Key Details for the project including a hyperlink to the Portal.

TERMS

Works

1. You engage Us to carry out the Works, including any Upgrades and Variations, and all works incidental to, or necessary for, the delivery of the Works. We will carry out the obligations imposed on Us by the Terms and at law.
2. Subject to the satisfaction of any conditions agreed between Us and You, we will endeavour to commence the Works upon the expected start date recorded in the Works Confirmation. Where this is not reasonably possible, we will advise you of the revised expected start date, and the actual start date shall be the "**Commencement Date**" under the Terms.
3. You will provide Us with non-exclusive possession of the Site, including reasonable access to the Site, for the duration of the Works from the Commencement Date. You will be responsible for taking control of the Site once the Works have been completed.
4. We will carry out the Works with reasonable care, skill, diligence and in a proper and workmanlike manner, in accordance with the Terms, and with good trade practices, using experienced and appropriately qualified persons.
5. We will endeavour to complete the Works by the expected due date for completion recorded in the Works Confirmation, subject to any extensions of time We are entitled to under the Terms. If no due date for completion is recorded in the Works Confirmation, then We must complete the Works as soon as reasonably practicable after the Commencement Date.
6. We are responsible for the care of the Works, the Site (which We will have non-exclusive possession of), the materials, any damage to existing buildings or structures, and must keep the Site clean and tidy. On completion of the Works, We must leave the Site in clean and tidy order (suitable for Your immediate occupation and use), remove all of Our equipment relating to the Works, and make good any damage caused by Us or Our subcontractors.
7. We are responsible for the health and safety of the Works, the Site and of Our employees and subcontractors. We must comply with all relevant health and safety laws. You must comply with any reasonable directions We give You to ensure the Site is a safe work environment for Our employees and subcontractors.
8. We will in the course of carrying out the Works, ensure to the extent reasonably possible, that disruption to You is minimised. From time-to-time We may exclude access to parts of the Site to carry out the Works or to ensure the health and safety at the Site. We will deal with You and any loss adjuster professionally, courteously and in recognition that the Site is an occupied dwelling that will remain in use.
9. We may engage a subcontractor or subcontractors to undertake any part or parts of the Works. We are responsible for Our employees and subcontractors.
10. You and We agree that the nature of the Works carried out by Us or on Our behalf under the Terms will not require any building consent, or include any work that relates to any building foundations, pre-existing damage from weathertightness or cladding issues, or any work with chemicals or toxic substances.

Materials

8. Unless otherwise agreed in writing with You:
 - a. We will ensure that all materials used in the Works are new; and
 - b. title to any materials supplied by Us as part of the Works will not pass to You until We have received payment in full of the Excess and any Upgrade Price (as may be adjusted in accordance with the Terms).
12. Until title to the materials passes to You under clause 11.b of the Terms, You will hold the materials as a bailee only, and We will be entitled to retake possession of any materials that are not affixed to the Site at any time prior to payment in full being received by Us for those materials.
13. You grant Us an irrevocable right and authority to enter onto any place where such materials are situated at any reasonable time and to take the materials.

Appointment of loss adjuster

14. IAG NZ may at any time appoint a loss adjuster to act on Your behalf for the purpose of coordinating with Us in relation to the Works.
15. The loss adjuster's role is administrative only and they will not have any responsibility or liability for or in connection with the quality, adequacy, design or compliance (legal or otherwise) of the Works or any part of them (including the identification of any defects in the Works). This clause takes precedence over everything else in the Terms.

Contract Price

16. The price payable for the Works (excluding any Upgrades) will be the price We agree on Your behalf directly with IAG NZ ("**Contract Price**").
17. Any increase in the Contract Price caused by any of Your acts, omissions or defaults will be payable by You in accordance with clause 20, including where such acts, omissions or defaults require Us to carry out a Variation.
18. You will not be responsible for any increase in the Contract Price to the extent it arises from any act, omission or default by Us or any of Our officers, employees, subcontractors or agents which shall be borne by Us or IAG NZ.

Payments by IAG NZ

19. We will submit payment claims to IAG NZ for the Contract Price, and IAG NZ will pay Us on Your behalf, subject to the terms of Our arrangements with IAG NZ.

Payments by You

20. We may invoice You from time to time for any amounts that You owe us under the Terms, including for:
 - a. the Excess in accordance with clause 23;

- a. the Upgrade Price; and
 - b. any other sum that may become payable by You to Us under the Terms, including under clause 17.

21. You agree to pay Our invoices in full by the due date recorded on the invoice or where no due date is specified within 30 working days of Us issuing You an invoice for the amount due.
22. Unless We agree otherwise with You in writing, You agree that We will not be required to start the Works until We have received payment of the Excess, and the Upgrade Price in full from You.

Excess

23. IAG NZ has agreed that You may pay the Excess to Us, and that when You do so, You will not have any further obligation to pay IAG NZ the Excess. The amount of the Excess will be recorded in the Works Confirmation.

Set off

24. We may set off against any amount which We owe You under the Terms, any amount that is payable by You to Us from time to time, whether under the Terms or any other agreement between Us and You, and the amount that is set off must, where applicable, be reflected in any invoice issued by Us under the Terms. Wherever We propose to set off any amount under this clause, We will give prior notice to You.

Compliance with laws

25. We must comply (and must ensure Our employees and subcontractors comply) with all applicable legislation (including the Building Act 2002, Construction Contracts Act 2002, the Building Code), and any other regulations, licences, permits, consents, industry standards and codes of practice which are applicable to or relate to the Works and the Terms.
26. All statutory warranties and guarantees, including those provided for in the Building Act 2004 (including those implied by sections 362I - 362K) and the Consumer Guarantees Act 1993 ("**CGA**") (if applicable), apply to the Works and services provided by Us except where the Customer is acquiring, or holds itself out as acquiring, any goods or services for the purposes of a business in terms of section 43(2) of the CGA, in which case the Customer will not assert or attempt to assert any rights or claims against HomeHub under the provisions of the CGA.

Variations

27. You acknowledge and agree that:
 - a. You may not request any Variation to the Works; and

- a. during the course of the Works, we may (at our discretion) decide that it is necessary for Us to carry out Variations, and We will discuss these with You.
28. If We consider that a Variation is necessary, We will liaise with IAG NZ and the loss adjuster (where one is appointed) and will keep you informed of any impact to the expected due date for completion of the Works recorded in the Works Confirmation due to the Variation.
29. Unless You and We agree otherwise in writing, other than under clause 17, You will not be responsible for the cost of any Variation under the Terms.

Upgrades

30. At Your request, We may (at Our discretion) agree to carry out, or procure the carrying out of, additional work for You as part of the Works. If We agree to carry out Upgrades, You agree that:
- a. You may only request Upgrades before We start the Works and issue the Works Confirmation, and not at any time thereafter;
 - b. the scope of work and associated cost of the Upgrades will be recorded in the Works Confirmation; and
 - c. You will be solely responsible to pay Us for the full cost of the Upgrades (as may be adjusted under clause 31) ("**Upgrade Price**"), which is in addition to the Contract Price paid by IAG NZ.
31. If, due to reasons beyond Our control, the actual cost of carrying out any Upgrades exceeds the cost recorded for those Upgrades in the Works Confirmation, We reserve the right to increase the final cost payable by You for the Upgrades, provided that we discuss the increased cost with You first.

Extension of time

32. We will be entitled to an extension to the expected due date for completion of the Works recorded in the Works Confirmation where:
- a. a Variation is carried out, or the nature of any Upgrades cause Us delay;
 - b. You breach any of the Terms, and that breach causes Us delay; or
 - c. We suspend the Works under clause 48.
33. If We are entitled to an extension of time under the Terms, We will (acting reasonably) determine the revised expected due date for completion and will advise You and IAG NZ of the revised expected due date for completion.

Insurance

33. We must for the duration of the Works maintain appropriate insurance cover for Our business including public liability, and Our vehicles and equipment. We will provide reasonable evidence of such insurances to You on request.
35. IAG NZ will arrange 'contract works' insurance cover for the duration of the Works, for the Contract Price.
36. We will pay any deductibles or excesses under any policy where the loss, damage or liability arises out of any of Our acts or omissions.

Completion

37. We will notify You and IAG NZ when We consider that the Works are complete.
38. You will then have a reasonable opportunity to inspect the Works and confirm to Us that the Works have been completed to Your reasonable satisfaction. You must give Us notice within 20 working days of Our notification to You that the Works are complete.
39. If You are not (acting reasonably) satisfied that the Works are complete, You must notify Us in writing within 20 working days of Our notification to You that the Works are complete and set out the outstanding work to be undertaken.
40. If You fail to give Us notice under clauses 38 or 39, the Works will be deemed to be complete from the date that is 30 working days of Our notification to You that the Works are complete.
41. Promptly following the date of completion (whether notified by You, or deemed under clause 40), We will provide to You:
- a. any guarantees or warranties that We have agreed in writing to provide (which are in addition to those implied by law);
 - b. any certificates of compliance or other documents required for the use or maintenance of the Works (if any); and
 - c. upon Your request, reasonable details of Our insurance policies that are applicable to the Works, and apply following completion.

Defects notification period

42. We must fix and make good all defects in and omissions from the Works notified to Us in writing by You at the time of completion or within 12 months after the date of completion of the Works. We will carry out the rectification work as soon as reasonably practicable and, except where exceptional circumstances apply, no later than 20 working days following Our receipt of written notice from You.

43. In addition to the period referred to above, You are also automatically entitled to the implied warranties under the Building Act 2004 and, if applicable, the CGA.

Limitation of liability

44. To the maximum extent permitted by law, You and We agree that Our maximum liability to You under or in connection with the Terms and any Works will be limited at Our sole option to:

- (1) replacement or re-performance of the Works; or
- (2) a refund of any amount actually paid by You, or IAG NZ, for the Works.

45. provided that this limitation will not apply to Our liability for any fraud or wilful misconduct by Us.

46. To the maximum extent permitted by law, neither You or We shall be liable to each other for any direct or indirect loss of profits or pure economic loss and any indirect, special or consequential damage, loss or cost howsoever arising (including due to any negligence) whether or not the other party should have been aware of the same.

Termination and suspension

47. You may terminate the Terms if any of the following events occurs:

- a. We have a liquidator, receiver, administrator or statutory manager appointed, or enter into a composition with Our creditors, or in Your reasonable opinion, become, or are deemed to be, insolvent or bankrupt; or
- b. We materially fail to carry out any of Our obligations under the Terms which continues unresolved for 10 working days after notice from You.

47. Subject to Your legal rights, We will be entitled to be paid by IAG NZ on Your behalf for the value of the Works properly completed up to the date of termination.

48. We may terminate the Terms or suspend the Works (at Our choice) if any of the following events occurs:

- a. IAG NZ fails on Your behalf to pay an amount when due and IAG NZ does not fix this after We have given IAG NZ, or the loss adjuster, 15 working days to pay;
- b. You materially fail to carry out any of Your obligations under the Terms which continues unresolved for 10 working days after notice from Us; or
- c. any event occurs:
 - i. that is beyond Our reasonable control;
 - ii. which We could not reasonably have provided against before entering into the Terms; and

- i. which prevents Us from performing Our obligations in accordance with the Terms, and such event continues for 30 working days after the date We gave You written notice of the occurrence of any such event; or

- b. You and We are unable (despite having used all reasonable endeavours) to agree on any costs payable by You under clause 17.

Amendments

49. We may amend the Terms at any time. The amended Terms will apply in respect of any part of the Works that we agree to undertake and are commenced after the date the amended terms are sent to You.

Dispute resolution

50. Subject to clause 52, if any dispute arises between You and Us in relation to the Works or the Terms, ("Dispute"), either You or Us must give written notice to the other ("Dispute Notice") specifying the subject matter of the Dispute and requiring that We meet with You within 10 working days after delivery of the Dispute Notice, to attempt to amicably resolve the Dispute ("Dispute Resolution Meeting").

51. If You and Us are unable to amicably resolve the Dispute at the Dispute Resolution Meeting, or if You or Us fail or refuse to attend the Dispute Resolution Meeting within the 10 working day period, or at the time and venue agreed in writing between You and Us, You or We may finally resolve the matter before the New Zealand Courts.

52. Nothing in clauses 50 and 51 will apply to any dispute between You and IAG NZ.

53. Neither You or Us may issue any legal proceedings (other than for urgent interlocutory relief) relating to any Dispute, unless You or Us have first taken all reasonable steps to comply with clause 50, provided that nothing in the Terms will affect any rights You or We may have under the Construction Contracts Act 2002.

General

54. All notices or other communications required to be given under or in connection with the Terms will be given in writing and be sent to the addresses specified in the Terms, or such other address notified in writing by one party to the other from time to time. Your contact information is recorded in the Key Details.

Our contact information is set out below:

Our name: HomeHub Limited
Physical address: NZI Centre, 1 Fanshaw Street,
Auckland, 1010
Postal address: Private Bag 92130, Victoria Street
West, Auckland 1142
Address for service: NZI Centre, 1 Fanshaw Street,
Auckland, 1010
Telephone number: 0800 18 19 20
Email address: info@homehub.co.nz

- a. selecting the 'acceptance button' where indicated in the Portal; or
 - b. by allowing any part of the Works to proceed, in each case, "**Acceptance**".
63. By providing Your Acceptance of the Terms to Us in the manner contemplated by clause 62 , You also agree that:
- a. Your Acceptance will be treated as Your signature for the purposes of clause 61; and
 - b. the date of Your Acceptance will be treated as the date You agreed and signed the Terms.

55. We will not at any time use or disclose any of Your private or confidential information, except for the purpose of completing the Works or complying with Our obligations or as otherwise authorised or agreed with You (including any existing authorisation You may have granted to IAG NZ, or persons such as Us contracting with IAG NZ).
56. You or We may not assign the rights or obligations under the Terms or any part of it without Your or Our consent.
57. By agreeing to be a customer of Us, you will be bound by the Terms and warrant that any person accepting the Terms on Your behalf is duly authorised to do so.
58. The Terms (including any other agreement in writing between Us and You and signed by Us which forms part of the Terms) contain the entire understanding and agreement between Us, and there have been no representations made by You or Us to the other except as expressed in the Terms or which are implied by law and incorporated in accordance with the Terms.
59. If any provision of the Terms is found to be invalid, void, illegal or unenforceable, that provision will be severed from the Terms but will not affect the validity, existence, legality and enforceability of the remaining provisions set out in the Terms, or any other agreement in writing between You and Us that incorporates the Terms.
60. The Terms are governed by New Zealand law and will be subject to the exclusive jurisdiction of the New Zealand courts.
61. Each party consents to the Terms being signed and delivered in electronic form in accordance with the Contract and Commercial Law Act 2017.
62. We will provide You with the Works Confirmation and ask You to confirm Your acceptance of the Terms. You can confirm Your acceptance of the Terms by:
 - a. emailing Us in response to the Works Confirmation We send You; or