1. General

1.1. References to “Rightway”, “we” and “us” are references to Rightway Roofing Limited, company number 2491633. References to the “customer” and “you” and “your” are references to the person to whom the quote is addressed. References to “product” are references to any product supplied by us to you.

1.2. These terms and conditions govern how any goods and services are provided by us to you. Please read these carefully before accepting a quote.

1.3. Once you engage our services by reference to a quote whether verbally or in writing, a contract between you and us will be formed subject to our acceptance of the quote having regard to scheduling and availability and subject to these terms and conditions.

1.4. Quotes are valid for 30 days from the date of issue, unless stated otherwise on the quote.

1.5. Quotes are based on the costs prevailing at the date of issue of the quote for materials, labour, exchange rates, freight, duties, taxes and other items over which Rightway has no control. Where there is an increase in any of these costs, Rightway reserves the right to refuse or revise a quote.

1.6. We may transfer our rights and obligations under the relevant contract between us to another person or entity and we will notify you in writing if this happens, but this will not affect your rights under these terms and conditions. You may only transfer your obligations under these terms and conditions to another person if we agree in writing prior to such transfer.

1.7 Each provision is intended to operate separately. If any of the provisions in these terms and conditions are found by a court or relevant authority to be unlawful, the remaining provisions shall remain in full force and effect.

1.8 Rightway reserves the right to review and amend these terms and conditions from time to time. Any material changes shalll be notified to the Customer in writing.

1.9 You acknowledge that you have had adequate opportunity to obtain independent legal advice as to the meaning and effect of our terms before they were accepted.

2. Price

2.1 The price detailed in the quote includes the supply and installation of components and materials. The price stated in the quote is exclusive of GST unless stated otherwise and the customer is required to pay GST in addition to the price quoted and subject to any variation in accordance with clause 3.

2.2 A vehicle/service charge will be added to all invoices produced by Rightway, unless otherwise agreed. This charge covers costs associated with Rightway’s vehicle fleet including but not limited to; fuel, road user charges, and general warranty and maintenance costs.

2.3 Labour costs include any time spent travelling to and from the workshop to the Customer, including any time taken to procure any materials and goods required for the job. Labour costs also include administration in relation to the job.

2.4 We may charge additional costs or increase the price where:

(a) Any additional labour time, particularly any time outside of normal business hours, is spent at your property as a consequence of any delay caused by you or any other builder or contractor at your property;

(b) You require work to be suspended for a period of time or as a result of building infrastructure needing to be upgraded before works can commence;

(c) Your property is found to require any work incidental to and in addition to the work provided for in the Quote, including but not limited to matters such as inadequate building framing; inadequate scaffolding; any other issues with respect to any safety equipment provided by you having regard at all times to the health and safety of Rightway’s staff; the cancellation or postponement by you or any third party of any scheduled appointments or works which results in the suspension or delay of our own works.

(d) Either of us request a variation and that variation is accepted by the other party;

(e) The price for the goods and/or services increase and where this occurs the costs may be increased by the amount of any reasonable increase in cost of supply of the good or services between the date upon which the quotation is delivered to the Customer and the date upon which the goods or services are supplied where such increase is beyond the reasonable control of the Customer.

3 Variations

3.1 Where you request a variation to the scope of the quoted goods and services you shall do so promptly in writing. We shall upon receipt amend our Quote and such Quote shall be binding on the parties upon acceptance and the remaining terms and conditions shall apply to such Quote.

3.2 Where we request a variation to the scope of the quoted goods and services we shall do so in writing and amend our Quote. Upon acceptance by you the remaining terms and conditions shall apply to such variation.

3.3 If for any reason a quote is not provided and/or accepted before Rightway commences works, Rightway reserves its right to charge you a reasonable fee for any work undertaken at your request and nothing herein shall limit Rightway’s right to reasonable remuneration for any goods or services provided to you.

4 Deposit

4.1 Rightway may require the Customer to pay a deposit before any works are commenced.

4.2 Rightway shall be entitled to use the deposit to make payment to any third-party providers or manufacturers as those payments are incurred by Rightway. In the event the deposit is to be refunded (except where a full refund is due under clause 5.1(a)), the deposit shall be refunded less any payments or costs that Rightway has incurred.

5 Suspension and Cancellation

5.1 We may have to and have the right by notice to suspend or cancel a contract as a consequence of:

(a) events outside our control or the unavailability of stock;

(b) the Customer failing to pay any money owing after the due date;

(c) a variation to the scope of the quoted goods and services is requested by you or is reasonably required by us and for which a variation quote has not been accepted by you;

(d) if the Customer commits and act of bankruptcy as defined in section 19 of the Insolvency Act 2006, or if liquidation proceedings are commenced in relation to the Customer, or if the Customer should otherwise become bankrupt or insolvent, of if any other event occurs which evidences a lack of credit worthiness or insolvency on the part of the Customer.

5.2 In the event of cancellation under subclause 5.1(a) above, or in the event that the Customer wishes to cancel the goods and services at any time after acceptance of the quote and before the supply of goods and services has commenced,

the party cancelling the quote will endeavour to promptly notify the other party in writing of such cancellation. Upon cancellation we will refund any deposit paid in full less any actual and reasonable costs and expenses incurred in part performance of the quote together with a reasonable administration fee.

5.3 Any suspension or cancellation in accordance with subclause 5.1(b) or 5.1(c) above shall not affect Rightway's claim for money due at the time of suspension or cancellation or for damages for any breach of any of the terms set out hereunder or in the quote or the Customer's obligations under these terms and conditions.

6 Liability

6.1 You warrant that you have not withheld any information regarding your property or its use which could reasonably be expected to affect the products and services we will supply to you.

6.2 Unless due to our negligence, you are responsible for any damage or loss to property that arises from the performance of services at your property.

6.3 We will use commercially reasonable endeavours to start and complete the work as agreed in the quote but do not accept liability for any delay or failure to perform caused by factors beyond our control.

6.4 Notwithstanding any other provision to the contrary, Rightway shall not in any event be liable for any loss of business, business interruption, errors, loss of profits, damages based on a third-party claim or for any other special, incidental, indirect or consequential loss or damage suffered or incurred by the Customer.

6.5 Subject to clause 7.1, all liabilities of Rightway are excluded to the fullest extent permissible by law. Where the law does not permit exclusion, the liability of Rightway shall be limited, at Rightway's option to repair or replacement of the products or payment of the cost of repairing or replacing the products. The total aggregate liability of Rightway arising out of all claims shall not in any event exceed the price paid by Customer to Rightway.

7 Guarantee and Warranty

7.1 Where we carry out work which is 'residential building work' as that term is defined in the Building Act 2004, those works are subject to the warranties contained in Part 4A of the Building Act 2004, including that the work will be carried out with reasonable care and skill.

7.2 If a claim is made, we will need to conduct an inspection and where you have a valid claim, we will either make an adjustment or replace the part. Some products or parts may carry manufacturer warranties. You must notify us of any warranty or guarantee claim as soon as reasonably possible and no later than 14 calendar days after you become aware of a fault, time being of the essence.

7.3 The Consumer Guarantees Act 1993 ("CGA") shall apply unless our products and works are being supplied or are used for the Customer's business purposes, in which event the CGA shall not apply to any of the supplies made by Rightway to the Customer.

7.4 A guarantee or warranty can be voided if the product failure is due to third party interference, fair wear and tear, wilful damage, accident, user negligence, alterations, or failure to keep the product properly serviced.

8 Safety and Standards

8.1 The Customer agrees that the Customer has received adequate information regarding the products to ensure their

safe use and maintenance. The Customer will ensure that the products are properly used in accordance with any instructions provided for the products.

9 Payment Terms

9.1 Payment terms will be stated on each invoice. Invoices are strictly to be paid in full when due. This will usually be on either the 20th of the month following the date of the invoice or within 7 days from the date of the invoice, whichever is specified in the invoice. If no due date is specified, the due date will be 7 days from the date of the invoice.

9.2 Rightway may request payment in full or part for any products and services prior to the commencement of works.

9.3 The Customer may not deduct, set-off or withhold payment of any amount.

9.4 Default interest shall accrue at the rate of 2% per month on any amount not paid by the due date for payment.

9.5 Rightway may suspend all work in the event any invoices are not paid in full by the due date.

9.6 The Customer will be liable for any costs, expenses or damages that Rightway incurs in relation to enforcement of these terms and conditions, including legal costs on a solicitor-client basis.

10 Title, Risk and Insurance

10.1 Rightway shall retain legal and beneficial interest in all products until our invoices and all other amounts owing by the Customer are paid in full.

10.2 The Customer acknowledges that as from the date of delivery of the Products by Rightway until the date the Customer receives good title to the Products, all risk in and for the Products passes to the Customer and the Customer shall ensure that :

(a) the property and all fixtures and fittings are at all times insured for their full replacement value;

(b) where the property is under construction, the Customer shall ensure at all times that adequate builder's risk insurance is in place for the full replacement value of the Products;

(c) store the Products so that they are separately identifiable
from the Customer's own inventory and equipment;

(d) not do any act or allow any act to be done which may void any guarantee or warranty applicable to the Product.

10.3 Until title to the Products passes to the Customer, the Customer holds the Products as Rightway's bailee and, as agent for the Customer, Rightway (and its employees and agents) may, without prior notice, enter upon any land or premises where Rightway believes the Products are kept in order to inspect the Products.

11 Access

11.1 The Customer will ensure that we have adequate access to the property to enable us to complete our works without interruption or delay.

11.2 The Customer grants Rightway a right to access the property for purposes of enforcing any of Rightway's rights under clause 12.

12 Personal Property Securities Act 1991 ("PPSA")

12.1 The Customer grants to Rightway a Security Interest in the products and their proceeds to secure all obligations of the Customer to Rightway. The Customer agrees and acknowledges that:

12.2 these terms and conditions shall constitute a security agreement for the purposes of section 36 of the PPSA;

12.3 Rightway shall as a secured party be entitled to register a financing statement on the relevant securities register ("PPSR") to perfect its security, as a security interest or a purchase money security interest if applicable.

12.4 The Customer shall do all things reasonably necessary at its expense, to enable Rightway to register, maintain and enforce its security interest on the PPSR and shall not do anything to adversely prejudice Rightway security interest.

12.5 The Customer shall sign any documents to enable registration of the financing statement, indemnify Rightway and upon demand reimburse Rightway for any expenses incurred by Rightway in registering a financing statement, a financing change statement or releasing any financing statement, give Rightway at least 10 working days prior written notice of any proposed change to the Customer's name or any other detail relevant or material to the Security Interest, and immediately give Rightway notice of any material change to the Customer's business practice which would prejudice Rightway's Security Interest.

12.6 The Customer's right to receive a copy of the verification statement under section 148 of the PPSA is waived.

12.7 Nothing in sections 114(1)(a), 133 and 134 of the PPSA will apply to these terms, or the security under these terms, and the Customer waives the Customer's rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA.

13 Dispute Resolution

13.1 Any disputes must be raised by a party by giving written notice to the other party. The parties will endeavour to resolve any dispute or difference arising out of or in connection with these terms and conditions by meeting in person within 10 working days of a dispute being raised. If the dispute is not resolved, then the parties agree that the dispute shall be referred to adjudication in the first instance in accordance with Part 3 of the Construction Contracts Act 2002 for a determination which, in the absence of any manifest error, shall be final and binding on the parties.

13.2 If the Customer wishes to raise any dispute regarding payment of any invoice or part thereof, the Customer must provide reasonable details regarding the dispute within 7 calendar days of the date of the invoice, time being of the essence, failing which the Customer shall be deemed to have accepted the invoice in full.

14 Liability and Indemnity

14.1 We will not be liable for any loss or damage suffered by you or otherwise arising in connection with the Services.

14.2 You agree to indemnify us against any costs, claims or liabilities arising out of any breach, delay or non-performance by you of any of these Terms.

14.3 To the extent permitted by law, our liability to you under this Agreement (if any) is limited to the Fee payable and paid for the Services.

15 Force Majeure

15.1 Both parties will be released from their respective obligations under these terms in the event of national emergency, war, prohibitive governmental regulations or where any other cause beyond the reasonable control of either you or us, including strike, riot, lockout or trade disputes for a period of 8 weeks or more renders performance of our respective obligations impossible ("Force Majeure"), provided however that this clause shall not affect any obligations already incurred by the Customer prior to the event of Force Majeure including payment for any goods and/or services already supplied and/or performed in whole or in part.

16 Maintenance and Servicing

16.1 The Customer acknowledges that Rightway has advised the Customer and the Customer shall endeavor to have the products regularly serviced by a suitably qualified person in order to the maintain the products in proper working order.

17 Non-Waiver and Severability

17.1 All rights, powers, exemptions and remedies available to Rightway remain in force notwithstanding any failure or delay in enforcing them. Rightway will not be considered to have waived any right, power, remedy or condition except by express written waiver and signed by Rightway or its authorised signatory.

17.2 If any part of the Contract (including these Terms and Conditions) is held by any court to be illegal, void or otherwise unenforceable, such determination shall not affect the enforceability of any other parts of the Contract (including these Terms and Conditions) which is not illegal, void or otherwise unenforceable.

18 Governing Law

18.1 The Contract and these Terms and Conditions are governed by the law of New Zealand.