

Terms and Conditions for FLK it over Business

IMPORTANT INFORMATION

Is any liability excluded by these Terms?

Yes. We will not be liable to you for any loss or damage that you incur as a result of the Services we provide to you or the Platform (accessible at www.FLKitover.com) unless we have breached these Terms. In the event we are liable to you, our liability will be limited to supplying the Services again or paying the cost of having the Services supplied again. This limitation of liability is subject to any laws, including the Australian Consumer Law for Australian customers and the Consumer Guarantees Act and Fair Trading Act for New Zealand customers.

In addition to this, neither party will be liable to the other party for any loss or damage that is indirect or consequential. See section 16 of these Terms for further information in relation to liability.

Can you be required to indemnify us by these Terms?

Yes. You indemnify us against any claim or demand made against us by any third party due to or arising out of your breach of these Terms; your breach of any law; or your breach of the rights of any third party in the course of using our Services. This liability is limited to the extent that we have contributed to the loss, either through our negligence or a breach of these Terms.

Importantly, you are also entitled to a similar indemnity from us in the event of a breach by us of the Terms, any laws, or the rights of a third party in the course of providing the Services. See section 15 ("Indemnity") for more information.

In what circumstances can your access to the Services be restricted, suspended, or terminated?

We can restrict or suspend your access to the Services and the Platform by giving you 14 days' written notice if you fail to pay your fees on time. See section 4 ("Fees and charges") for more information.

We can also delete or deactivate your account, block your IP address, or otherwise suspend or terminate your access with immediate effect to all or any part of the Platform, the Content, Subscriber Content or the Services if:

- you commit a breach of any of these Terms which either cannot be rectified or remains unrectified for at least 14 days following receipt of a written notice from us setting out the breach and requiring the breach to be rectified;
- there is a change in control, ownership or management of your business or you sell or otherwise dispose of substantially all of your business assets to a third party.

See section 19 ("Termination") for more information on when these Terms can be cancelled.

1. Accessing the Platform

- (a) These terms of use (**Terms**) cover your access to and use of:
- (i) this web platform accessible at www.FLKitover.com (**Platform**) provided by FLK It Over Pty Limited (ABN 18 617 026 203) (**we, us** or **our**);
 - (ii) any services provided through the Platform (**Services**), including:
 - (A) facilitating the entry and electronic signing by the relevant parties into agreements including residential tenancy agreements, sales and/or auction agreements, leasing agreements, licence agreements, property management

agreements and other documents (whether as provided on our Platform or provided by you or any other person) (**Documents**);

- (B) facilitating Document management and administration services and other services, as relevant (including administration of rent increases), for those who pay the relevant subscription plan fees to us (**Subscribers**); and
 - (C) such other services that we may provide from time to time.
- (b) If you do not agree with all of these Terms, including our privacy policy at <https://flkitover.com/privacy-policy-business/>, do not access or otherwise use the Platform or the Services or any information or materials contained on the Platform.
- (c) Your use of the Platform or the Services means you agree to abide by these Terms.
- (d) We may change our Services or suspend, terminate or restrict your access to the Services, in accordance with these Terms.

2. **Eligibility for use and acknowledgements**

- (a) Our Services are only available to individuals (that is, natural persons) and entities that are capable of forming legally binding contracts under applicable law.
- (b) We reserve some parts of the Services for Subscribers. If you are a Subscriber, your subscription to the Services is non-exclusive, revocable and not transferable, unless otherwise agreed by us.
- (c) In using the Services, you acknowledge and agree that:
- (i) while we may charge a fee for the Services, we are not a party to any Documents; and
 - (ii) any Documents that are facilitated by the Services are not endorsed by us and are undertaken at each party's own risk;
 - (iii) we are not responsible for any loss or damage arising from any third party services that we connect you with through the Services, such as third party utilities providers and agents, other than to the extent we have contributed to such loss or damage through our negligence or breach of these Terms;
 - (iv) any statement made by a party in connection with or in any way related to, a Document, is attributable to that party. We do not take any responsibility for, or make any representations or warranties relating to any such statements, including as to any term of the Document or, where applicable, in relation to the property the subject of the Services or the Document; and
 - (v) we are not responsible for any identification checks required under any Document – in the case of sales and/or auction agreements, the agents are responsible for completion and verification of all identity checks.

3. **Subscribers**

- (a) In order to use certain Services, you will need to become a Subscriber by registering with us for an account, providing us with the requested information, and paying the relevant subscription fee to us.
- (b) You warrant that the information you supply in each registration application, including for all of your approved users, is, to the best of your knowledge, accurate, complete and up to date.
- (c) The Services which you receive as a Subscriber will depend on the subscription plan selected by you (**Subscription Plan**). To find out more about our Subscription Plans, please contact us at support@flkitover.com or see the Platform.
- (d) We may add to or change features on any of our Subscription Plans from time to time as detailed on the Platform or otherwise notified to you. Please regularly check the Platform for updates that may affect your Subscription Plan. If any change that is proposed to be made to a feature on your Subscription Plan is reasonably likely to cause you material detriment, we will provide you with at least 30 days' prior written notice of the change and you may terminate your subscription for the Services at any time during this 30 day period by emailing us at support@flkitover.com. Your termination will take effect at the end of the 30 day period and we will refund to you the balance of any Subscription Plan fees paid upfront by you, on a pro rata basis, for the remainder of the relevant month.
- (e) We will not use your logo on our marketing materials, including our Platform, without your prior consent and subject to any terms and conditions that you reasonably impose.

4. **Fees and charges**

Payments

- (a) Signatories and witnesses can access the Platform and the relevant Services to review, complete and execute their Documents without paying any fees to us.
- (b) Each Subscription Plan is subject to the payment of the relevant fee by Subscribers to us.
- (c) The Subscription Plan fees are inclusive of goods and services tax (**GST**), where applicable.
- (d) As a Subscriber, you agree to pay on time all applicable fees and taxes to us in connection with the relevant Subscription Plan selected by you, by one of the methods described on the Platform or as otherwise notified to you. Our fees are charged on monthly basis in advance.
- (e) All fees are in Australian dollars (regardless of where you are located), unless otherwise stated.
- (f) You hereby authorise the collection by us of your Subscription Plan fees by charging the credit card provided by you to us, or our payment processor, Stripe, or any other payment method described on the Platform. You are

responsible for notifying us in advance of any changes to your payment or credit card details.

- (g) All invoices must be paid in full within 30 days of receipt of a tax invoice from us. Time is of the essence in respect of all payments.
- (h) If we do not receive full and proper payment of your Subscription Plan fees in accordance with section 4(g) then, without prejudice to our other rights, we may terminate your subscription (or restrict or suspend your access to any of our Services) after giving you 14 days' prior written notice to pay the outstanding amount.

Changes to Subscription Plan fees

- (i) We reserve the right to change our fees for any of our Subscription Plans or other Services at any time at our discretion. We will provide you with at least 30 days' prior written notice of any proposed new fees or changes to existing fees prior to commencing charging such fees. Your continued use of such Services, after the expiry of the 30 day period, will constitute your acceptance of such amendments to our fees.
- (j) If you do not agree to our new or amended fees on your Subscription Plan, you may terminate your subscription for the Services by emailing us at support@filkitover.com, stating the reason for your termination. Your termination will take effect from the end of the current monthly Subscription Plan cycle in which you terminate your subscription for the Services and we will cease providing the Services to you from that time.

Upgrading or downgrading your Subscription Plan

- (k) You may upgrade your Subscription Plan to a higher level of Subscription Plan (e.g. from Small to Medium), at any time, by selecting the 'change plan' button on your Subscriber dashboard on the Platform and on payment of the relevant fees for the new Subscription Plan.
- (l) If you are close to the maximum number of Documents permitted for your Subscription Plan per month, we will notify you and you will have the option to change your Subscription Plan, by selecting the 'change plan' button as detailed in section 4(k). If you decide not to increase your Subscription Plan and you have reached the maximum number of Documents for your Subscription Plan then you have the option on our Platform to send a Document for a fee of \$2.00 plus GST (**Document Fee**). By selecting the option to send a Document for the Document Fee, you hereby authorise the collection by us of your Document Fee by charging the credit card provided by you to us, or our payment processor, Stripe, or any other payment method described on the Platform.
- (m) Your new Subscription Plan will commence immediately on payment of the relevant fee for the higher Subscription Plan.
- (n) If you wish to downgrade your Subscription Plan to a lower Subscription Plan (e.g. from Large to Medium), you can do so by selecting the 'change plan' button on your Subscriber dashboard on the Platform.
- (o) When you upgrade or downgrade your Subscription Plan, we will refund you the balance of your previous Subscription Plan fee, on a pro rata basis, for

the remainder of the month and charge you the new Subscription Plan fee, on a pro rata basis, for the rest of that month.

- (p) Your downgraded Subscription Plan will commence once we issue confirmation to you of your new Subscription Plan.

5. Refunds

- (a) Our Services come with guarantees that cannot be excluded under the Australian Consumer Law in Schedule 2 to the *Competition and Consumer Act 2010* (Cth) (**ACL**) in Australia or the Consumer Guarantees Act 1993 (**CGA**) and Fair Trading Act 1986 (**FTA**) in New Zealand. If you are in New Zealand and using the Services for commercial purposes, you agree that the CGA will not apply.
- (b) If you have a major problem with our Services or a minor problem that cannot be fixed or has not been fixed within a reasonable time, you have the right to cancel the Services you receive from us, if the Services are:
 - (i) not provided with due care and skill;
 - (ii) not reasonably fit for a particular purpose which you specified at the time of entering into these Terms; or
 - (iii) not delivered within a reasonable time when there is no agreed end date.
- (c) If you cancel the Services for the reasons outlined in section 5(b) above, we will provide you with a refund of your Subscription Plan fee in the same form as your original payment, in accordance with these Terms. To the extent permitted by law, including the ACL in Australia and the CGA and FTA in New Zealand, we do not provide any refund of fees paid in connection with the Services other than as specified in these Terms.

6. GST

- (a) In this section 6, with respect to Australia, GST Law has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and, with respect to New Zealand, GST Law means the Goods and Services Tax Act 1985 and, in each case, terms used which are not defined in this document, but which are defined in the relevant GST Law, have the meanings given in the GST Law (as the context requires).
- (b) Unless stated otherwise, all consideration provided under this document is exclusive of GST. If GST is payable by the party making the supply (supplier), the recipient must, upon receipt of a tax invoice (or such other documentation as may be required to claim an input tax credit) from the supplier, pay the supplier an amount equal to the GST payable on that supply.

7. Your rights and obligations in respect of the Platform

- (a) You may view and download and/or print any of the content on the Platform, including all text, graphics, images, information or any materials including template Documents and special conditions and annexures provided by us on the Platform (**Content**) that we have expressly permitted may be printed or downloaded on your personal computer, laptop, smart phone, tablet, PDA

or other similar device, to avail of our Services or for use in a personal and non-commercial capacity.

- (b) You agree that you will not:
- (i) alter or remove any copyright, trade mark or other proprietary notice of ours or of any other company or person on the Platform;
 - (ii) modify or edit the Content or publish, sell or license any Content, including, but not limited to, making the Content available on any other website;
 - (iii) to the maximum extent permitted by law, reverse engineer, translate, adapt or modify any software used in connection with the Platform;
 - (iv) create any links from any other website to the Platform, without our express prior written permission;
 - (v) use any Content on the Platform for any commercial purpose other than as permitted by us;
 - (vi) use any robot, spider, other automatic device or manual process to monitor or copy any Content, without our prior written consent;
 - (vii) post to the Platform or transmit to us any content that contains viruses or other harmful computer code, files or programs designed to interrupt, limit or destroy the functionality of any computer software or hardware;
 - (viii) use any device, software or routine to interfere or attempt to interfere with the proper working of the Platform or the Services or to gain unauthorised access to the Platform, the Services or our computer systems or any activity that disrupts, diminishes the quality of, or interferes with the performance or functionality of the Platform or the Services;
 - (ix) use the Services to send any emails or communications to any third party which constitute or contain 'affiliate marketing', 'junk mail', 'chain letter', 'pyramid schemes', spam or 'unsolicited commercial electronic messages' as defined in the *Spam Act 2003* (Cth) in Australia or the *Unsolicited Electronic Messages Act 2007* in New Zealand (or any amendments to, or replacements of, any of this legislation) or which otherwise breach these acts; or
 - (x) take any action that imposes an unreasonable load on the Platform's infrastructure.
- (c) You are responsible for who has access to your Platform account (**Account**). You must keep your password and username to access the Platform and to use the Services safe and secure. You must not disclose your passwords to third parties.
- (d) If your contact details change, you are responsible for notifying us of such changes.

8. Subscriber Content

- (a) Subscribers may upload and store draft and executed Documents, special conditions and annexures to Documents, emails and other messages as permitted by the Services, details of signatories and any witnesses required to complete Documents or other materials to the Platform as permitted by us (**Subscriber Content**).
- (b) Subscribers are entirely responsible for each individual item of Subscriber Content that they upload, email or otherwise make available via the Services.
- (c) We are not responsible or liable for any loss or damage arising from or in relation to Subscriber Content (including any Subscriber Content in Documents) which has been uploaded, downloaded, posted, emailed to or otherwise made available through the Services other than to the extent such loss or damage is caused by our negligence or breach of these Terms by us.
- (d) Without limiting section 8(c), if a Subscriber requests our assistance with any Subscriber Content, such as inserting, amending or deleting any provisions of any Document, the Subscriber is still responsible for such Subscriber Content.
- (e) As a Subscriber, you warrant that you have reviewed and checked all Subscriber Content, including all Documents, prior to the Documents being signed by any party and that the parties have given the requisite permissions to sign the Documents via the Services and all Documents created, completed or submitted via the Services.
- (f) You indemnify us against any loss or damage of any kind suffered by you in relying on the Subscriber Content, the Services or the Platform (other than where such loss or damage is caused by our negligence or a breach of these Terms by us).
- (g) You acknowledge that while you may store Documents on the Platform, the Platform and the Services do not comprise a backup or storage service for Subscriber Content and you are responsible for maintaining adequate copies of any Subscriber Content on your own filing systems.
- (h) You acknowledge that we may establish reasonable limits concerning use of the Services, including the maximum number of days that Subscriber Content will be retained on the Platform, the maximum number and size of email messages, or other Subscriber Content that may be transmitted or stored via the Services, and the frequency with which you may access the Platform. We will provide you with reasonable written notice of any such limits.

9. **Intellectual property**

- (a) All intellectual property rights in:
 - (i) all Content and other information included on the Platform; and
 - (ii) the arrangement of the Content on the Platform,are owned by our licensors or us.
- (b) To the extent required for us to provide our Services to you, you grant to us a non-exclusive, royalty free, non-transferable licence to use, reproduce and modify (including the right to sub-license) any Subscriber Content of which

you are the owner or licensee of the intellectual property rights, on and from the date of your first Subscription Plan payment, until the Services as between you and us are terminated.

- (c) No duplication, public transmission, modification, deletion or reproduction of the Content may be made without our permission, except for printing and storage for personal use or other specific use permitted under copyright law.
- (d) Any use of the trade marks, logos or product names appearing on our Platform, without permission from us or the relevant rights holder, is prohibited except where specific use is authorised under trade mark law or other laws.
- (e) You must not upload any materials through the Platform, or use the Services, for purposes which are obscene, offensive, defamatory, discriminatory, inaccurate, fraudulent, misleading, unlawful, pornographic, promote violence, are hateful or which in any way infringe any third parties' rights, including their intellectual property rights and privacy rights or circumvent storage space limits.

10. **The Services**

- (a) The information provided on the Platform is provided for general information purposes only and does not constitute professional advice. You must exercise independent skill and care in selecting any of the Services (and any third party services) referred to on, or made available through, the Platform. We do not give any advice as to the appropriateness or suitability of the Services for you.
- (b) We do not give or claim to give legal, taxation or financial advice. It is solely your responsibility to ensure that the Services you obtain through the Platform meet your requirements. If you are unsure about your requirements, you should contact your lawyer, accountant or financial advisor.
- (c) By using our Services, you warrant that the information you supply is, to the best of your knowledge, accurate, complete and up-to-date. It is your responsibility to inform us of any changes to that information. You may do this by contacting us at hello@FLKItover.com.
- (d) You must comply with all laws in connection with or in relation to the Services, including all applicable laws dealing with electronic execution and related witnessing requirements of Documents, all real property or conveyancing legislation (as relevant to each State and Territory of Australia or New Zealand, as applicable), all landlord and tenant legislation, privacy legislation and the ACL in Australia or the FTA in New Zealand.
- (e) Where applicable, Subscribers are responsible for verifying the identity of signatories, including identity verification by way of copies of passports, driver licences or photographs, mobile phone numbers and signatures and for ensuring that all Documents and their execution comply with all relevant laws. We are not responsible, in any way, for any act or omission of any person with respect to Documents. Subscribers indemnify us for any loss or damage of any kind suffered by any person with respect to the verification of signatories' identities or authorisations to use the Services, including to complete and execute Documents through the Services.

- (f) You are responsible for:
 - (i) ensuring that the electronic signing of all Documents using our Services is permitted under the applicable laws for the proper execution of that Document. We are not responsible, in any way, for any Document that is signed using the Platform that cannot be signed electronically and must be signed with a wet ink signature in accordance with applicable laws; and
 - (ii) ensuring compliance with any legal (including procedural) requirements for signing and witnessing the Documents.
- (g) By using our Services, you consent, and have obtained the consent of the other signatories, to the Documents being electronically executed.
- (h) Once a Document has been executed by the parties through the Services, any further changes or variations relevant to such Document will be agreed between the parties to the Document and not through the Services, unless otherwise notified to us.
- (i) We may, at any time, request a form of identification to verify your identity or the identity of other relevant persons in connection with our Services.
- (j) Neither we (nor any of our authorised representatives) will be liable for any charges or other damages or loss arising in connection with any incorrect information provided by you or any third party.
- (k) You acknowledge that your completion of a Document through the Platform, including submitting your signature, does not mean that you have entered into a legally binding agreement. Entry into the agreement will be subject to all relevant legal requirements.
- (l) You will not have entered into a legally binding agreement until:
 - (i) you have provided all of the information required by the Services for entering into the Document, including valid execution of the Document;
 - (ii) all other parties to the Document have also provided all relevant information and validly executed the Document;
 - (iii) a copy of the fully executed Document is provided to each of the parties to the agreement through the Services; and
 - (iv) all other legal (including procedural) requirements are satisfied in relation to execution (and if applicable, witnessing) of the Document,as required by law.
- (m) We are not liable to you or anyone else if you are not able to enter a legally binding agreement through the Platform, including in circumstances where any party to the Document:
 - (i) fails to provide all information needed to enter into the Document;
 - (ii) provides inaccurate or false or misleading information; or

- (iii) fails to execute the Document (including failing to execute the Document in a manner as required by applicable law).
- (n) You are responsible for keeping a copy of your Documents and any relevant information. We recommend that you save a copy of the completed Documents and executed Documents to your system or print a copy of it, for your record keeping purposes, as soon as you receive a copy of the executed Document through the Services. Subscribers may retain copies of Documents on the Platform through the Services for the term of their Subscription Plan.
- (o) Subscribers are responsible for dealing with any requests from individuals seeking a copy of a Document to which they are a party and if we receive any such requests we will direct the individual to the subscriber.
- (p) You acknowledge that we reserve the right, at any time, to modify the Services (or any part thereof), in accordance with these Terms. If any change that is proposed to be made to the Services is reasonably likely to cause you material detriment, we will provide you with at least 30 days' prior written notice of the change and you may terminate your subscription for the Services at any time during this 30 day period by emailing us at hello@flkitover.com. Your termination will take effect at the end of the 30 day period and we will refund to you the balance of any Subscription Plan fees paid upfront by you, on a pro rata basis, for the remainder of the relevant month.

11. **Other parties' products and services**

If you use our Services with any third parties' products or services, such as a third party hosting service provider, we are not responsible for any loss arising from or in connection with such use of third party products or services other than to the extent such loss or damage is caused by our negligence or breach of these Terms by us. We do not warrant that any of the Services are interoperable or are compatible with any such third parties' products or services.

12. **Accuracy of information**

We are providing the Platform, the Content and the Services on an "as is" basis. While we use reasonable endeavours to keep the information on the Platform as accurate, complete and up to date as possible, we do not represent or make any warranty in respect of the accuracy, reliability, completeness, currency of any of the Content, contained in or distributed through, or linked, downloaded or accessed from the Platform.

13. **Availability of the Platform**

- (a) While we use reasonable endeavours to ensure that the Platform, including the Content, functionality, performance and features are available continuously, we do not represent or warrant that access will be secure, error free, uninterrupted or timely or that the Platform or the related server are free of viruses, bugs or other harmful applications or interference. You are responsible for implementing sufficient procedures and virus checks to satisfy your own requirements.
- (b) We will use reasonable efforts to provide advance written notice to Subscribers and registered users, by email (to the email address on our

records) of any scheduled unavailability of the Platform or any of our Services, for maintenance, updating or any other reason. We may be unable to provide advance notice of any unscheduled unavailability of the Platform or where urgent repairs or patches are required due to reasons beyond our reasonable control.

- (c) We may suspend your access to the Platform without prior notice due to urgent maintenance, system failure, emergency repairs or any other reason beyond our reasonable control.

14. **Privacy**

- (a) Our [Privacy Policy](#), which forms part of these Terms, applies to any personal information collected by us from users of our Services and the Platform.
- (b) As set out in our Privacy Policy, we may disclose your personal information overseas, such as where a landlord entering into a Document through the Platform resides overseas.
- (c) Overseas recipients of your personal information are not subject to Australian or New Zealand law, including the *Australian Privacy Act 1988* (Cth) (**Australian Privacy Act**) and the Australian Privacy Principles in Australia and the New Zealand Privacy Act 2020 and the New Zealand Privacy Principles (**NZ Privacy Act**). The laws applying to such overseas recipients may differ from Australian or New Zealand laws and may apply a greater or lesser standard of protection for your personal information.
- (d) By accepting these Terms, you:
 - (i) consent to the disclosure by us, of your personal information overseas in accordance with our Privacy Policy; and
 - (ii) acknowledge that we will not be accountable under the Australian Privacy Act or the NZ Privacy Act for such disclosure and that you will not be able to seek redress under the Australian Privacy Act or the NZ Privacy Act, unless we have acted negligently or in breach of these Terms.
- (e) If you use our Services to complete a Document at the request of a Subscriber, should you wish to access your personal information which is collected in the Document or obtain a copy of the Document, please direct your request to the Subscriber. While we will store a copy of the completed Document, which is encrypted, we do not access the Document or any personal information which may be included in the Document.
- (f) If you become aware of, or suspect that there has been, an unauthorised access to, or unauthorised disclosure of Personal Information (as defined in the Australian Privacy Act in Australia or the NZ Privacy Act in New Zealand), or Personal Information has been lost in circumstances where unauthorised access to, or unauthorised disclosure of, the Personal Information may occur (collectively, a Data Breach), then you must promptly notify us of the Data Breach.
- (g) We will use our best endeavours and take all reasonable steps to complete an assessment of any suspected or known Data Breach in relation to any Personal Information held by us through the Services in a timely manner to

determine the cause and extent of the breach, including the nature of the data involved in the breach to the extent that we are able to do so given the particular circumstances of the suspected or known Data Breach.

- (h) The relevant Subscriber(s) will provide us with such assistance as we may reasonably require in relation to making the determination regarding a Data Breach.
- (i) If we assess that the Data Breach amounts to an eligible data breach as defined in the Australian Privacy Act in Australia or the NZ Privacy Act in New Zealand, we (and where relevant, the Subscriber) will comply with the notification requirements set out in the Notifiable Data Breaches Scheme as set out in the Australian Privacy Act in Australia or the NZ Privacy Act in New Zealand.
- (j) In the event of a Data Breach, we and you each agree to bear their own costs in relation to complying with this section and any other obligations relating to the Data Breach.

15. **Indemnity**

Each party (Indemnifier) agrees to indemnify the other party (Indemnified Party) (including the Indemnified Party's officers, directors, agents, subsidiaries and employees) against any claim or demand, including legal fees and costs, made against the Indemnified Party by any third party due to or arising out of the Indemnifier's breach of these Terms, or infringement of any law or the rights of a third party in the course of using or providing the Services, as the case may be. Any amount claimed by an Indemnified Party pursuant to this indemnity will be proportionately reduced to the extent that any loss suffered by the Indemnified Party can be established to have been caused or contributed to by the negligence of the Indemnified Party or a breach of these Terms by the Indemnified Party.

16. **Limitation of liability**

- (a) We exclude, to the maximum extent permitted by law, any liability which may arise as a result of your use of the Content, the Subscriber Content, the Platform and the Services, other than as a result of a breach of these Terms by us.
- (b) We acknowledge that you may have certain rights under the ACL in Australia and the CGA or FTA in New Zealand that cannot be excluded. However, where such statutory provisions apply or where liability for a breach of these Terms by us cannot be excluded, to the extent to which we are entitled to do so, our liability shall be limited at our option to:
 - (i) the re-supply of the Services; or
 - (ii) the payment of the cost of having the Services supplied again.
- (c) All other warranties and guarantees that may be implied by statute or common law and that can be excluded are hereby excluded.
- (d) To the extent permitted by law and subject only to any express exceptions contained in these Terms, neither party is liable for any indirect or consequential losses (including loss of goodwill, business or anticipated

savings), loss of profits or use, any rectification costs or any third party claims, in connection with these Terms or the Services.

17. **Third Party Sites**

- (a) We may provide links to other websites which are not under our control or maintained by us (**Third Party Sites**).
- (b) We are providing these links to you only as a matter of convenience and, to the maximum extent permitted by law, we will not be responsible for the content of such Third Party Sites.
- (c) Any link to a Third Party Site does not imply that:
 - (i) the Third Party Site is in any way affiliated with us;
 - (ii) the Third Party Site is legally authorised to use our trade marks, trade names, logos or copyright; or
 - (iii) we are legally authorised to use the trade marks, trade names, logos or copyright of the Third Party Site.
- (d) We take no responsibility for any Third Party Site accessed via the Platform. Nor do we make any representations, warranties or undertakings in respect of the content available on or through any Third Party Site.
- (e) If you decide to link to a Third Party Site, you leave our Platform at your own risk.

18. **Third Party Service Providers**

- (a) If requested by you, we may provide your personal information to third party service providers who provide services relating to matters regarding your sale, lease, licence, moving or a new tenancy, such as valuers, surveyors, makers of signage and promotional materials, home decoration stylists, tradespeople, removalists, cleaners, utilities providers and utility connection agents and agents (**Third Party Service Providers**).
- (b) We are connecting you with the Third Party Service Providers only to assist you with your sale, purchase, licence, move, lease or your new tenancy. To the maximum extent permitted by law, we will not be responsible for the goods or services provided by any Third Party Service Providers. We do not guarantee that any Third Party's goods or services can be provided to you.
- (c) Your interactions with any Third Party Service Providers, including payment and delivery of goods and services and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such Third Party Service Providers. You should make whatever investigation you feel necessary or appropriate before making any decision to obtain their goods or services.
- (d) Any reference to any Third Party Service Provider on the Platform or any introduction to such Third Party Service Providers which we provide does not imply that the Third Party Service Provider is in any way affiliated with us or that we endorse them or their goods or services.

- (e) We do not make any representations, warranties or undertakings in respect of the goods or services provided by or through any Third Party Service Providers.

19. Term and termination

- (a) These Terms will continue until terminated by either party as provided for by the Terms.
- (b) In addition to our other termination rights under these Terms, we reserve the right to immediately delete or deactivate your account, block your IP address, or otherwise immediately suspend or terminate your access to all or any part of the Platform, the Content, Subscriber Content, or the Services in any of the following circumstances:
 - (i) if you commit a breach of any of these Terms which either cannot be rectified or remains unrectified for at least 14 days following receipt of a written notice from us setting out the breach and requiring rectification of the same;
 - (ii) provided that you are a Subscriber – if there is a change in control, ownership or management of your business, where "control" includes the ability to determine the outcome of your financial or operating policies; or
 - (iii) provided that you are a Subscriber – if you sell or otherwise dispose of substantially all of your business assets to a third party.
- (c) Either party may terminate these Terms at any time for convenience upon 30 days' prior written notice to the other party.
- (d) We will not be liable to you or any third party for any termination, in accordance with these Terms, of your access to the Platform, the Content, the Subscriber Content (where relevant) or the Services.
- (e) If we exercise our right to terminate for convenience under section 19(c), then we will refund such portion of fees for the Services paid by you up to the date of termination on a pro rata basis for the portion of the relevant billing cycle remaining.
- (f) If either:
 - (i) you exercise your right to terminate for convenience under section 19(c); or
 - (ii) we exercise our right to terminate under section 19(a),then any fees paid by you prior to termination are not refundable to you and you must pay all outstanding fees due to us for the Services provided up to the effective date of termination.
- (g) On termination of these Terms for any reason:
 - (i) if you are a Subscriber, then your subscription will be cancelled in accordance with these Terms;
 - (ii) you agree to promptly return, delete or destroy (at our option) our

confidential information and any materials provided by us to you during the term of these Terms;

- (iii) we agree to promptly return, delete or destroy (at your option) your confidential information provided by you to us during the term of these Terms;
- (iv) you will not have access to your account, including Subscriber Content which was submitted by you during your Subscription Plan up to the date of termination, unless otherwise agreed by us;
- (v) you will delete any links to the Platform from your websites;
- (vi) you will immediately cease use of our intellectual property, such as our trade marks and the Content and will remove any trade marks from all of your materials, including your online properties;
- (vii) if we have used your trade marks, including your logos, in our promotional materials and on our Platform, we will cease to do so;
- (viii) we will immediately cease use of any Subscriber Content provided by you;
- (ix) you may continue to use any Documents or rent increase letters generated by you through the Services which you have already downloaded through the Services prior to termination; and
- (x) we will cease use of your Subscriber Content, subject to your acknowledgement that all backup copies of your Subscriber Content already stored on our systems, to the extent that they exist, may remain on our systems for archive purposes.

20. **Modification to Terms**

- (a) We may amend these Terms and any of our other policies relating to the Platform and the Services, at any time, at our discretion. We will provide you with at least 30 days' prior written notice of amendments, either by email, SMS, by notifications on the Platform or otherwise and any such amendments will be effective at the end of the 30 day notice period.
- (b) You are responsible for reviewing these Terms regularly. Continued use of the Platform and our Services after any such amendments constitutes your consent to such amendments.
- (c) If you do not agree to any proposed amendment to the Terms or any of our policies, then you may terminate your subscription for the Services at any time during the 30 day period referred to in section 20(a) by emailing us at support@flkitover.com, stating the reason for your termination. We will then cease the provision of such Services to you at the end of the 30 day period and we will refund to you the balance of any Subscription Plan fees paid upfront by you, on a pro rata basis, for the remainder of the relevant month.

21. **General**

- (a) These Terms are governed by the laws of New South Wales, Australia. You submit to the non-exclusive jurisdiction of the courts of that State.
- (b) A reference to the singular includes the plural number and vice versa.
- (c) If any provision or part of these Terms is for any reason declared invalid or unenforceable, the validity of the remaining portion is not to be affected and the remaining portion is to remain in full effect.
- (d) Subject to any separate agreements between us and paid Subscribers for our services, these Terms record the entire agreement between you and us in relation to your use of the Platform, the Content, the Subscriber Content (where relevant) and the Services and supersedes all previous negotiations, understandings, representations and agreements, in relation to the subject matter of these Terms.

Updated: 25th July 2024