

1. **Definitions**

- 1.1. “Supplier” means Devon & Patterson Flooring Limited, its successors and assigns or any person acting on behalf of and with the authority of Devon & Patterson Flooring Limited.
- 1.2. “Customer” means the person/s or any person acting on behalf of and with the authority of the property owner requesting or allowing the Supplier to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
 - (b) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and
 - (c) includes the Customer’s executors, administrators, successors and permitted assigns.
- 1.3. “Goods” means all Goods or Services supplied by the Supplier to the Customer at the Customer’s request from time to time (where the context so permits the terms ‘Goods’ or ‘Services’ shall be interchangeable for the other).
- 1.4. “Price” means the Price payable (plus any Goods and Services Tax (“GST”) where applicable) for the Goods as agreed between the Supplier and the Customer in accordance with clause 6 below.

2. **Acceptance**

- 2.1. The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order (or accepts a quotation) for or accepts delivery of the Goods.
- 2.2. These terms and conditions may only be amended with the consent of both parties in writing and shall prevail to the extent of any inconsistency with any other document or contract between the Customer and the Supplier.
- 2.3. 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 referred to in that Act.

3. **Errors and Omissions**

- 3.1. The Customer acknowledges and accepts that the Supplier 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 the Supplier in the formation and/or administration of this contract; and/or
 - (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by the Supplier in respect of the Services.
- 3.2. In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of the Supplier; the Customer shall not be entitled to treat this contract as repudiated nor render it invalid.

4. **Change in Control**

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

5. **Authorised Representative**

- 5.1. The Customer acknowledges that the Supplier shall (for the duration of the Services) liaise directly with one (1) authorised representative, and that once introduced as such to the Supplier, that person shall have the full authority of the Customer to order any Goods, Services and/or to request any variation thereto on the Customer’s behalf. The Customer accepts that they will be solely liable to the Supplier for all additional costs incurred by the Supplier (including the Supplier’s profit margin) in providing any Goods, Services or variation/s requested thereto by the Customer’s duly authorised representative.

6. **Price and Payment**

- 6.1. At the Supplier’s sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by the Supplier to the Customer; or
 - (b) the Supplier’s quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 6.2. The Supplier reserves the right to change the Price:
- (a) if a variation to the Goods which are to be supplied is requested; or
 - (b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or
 - (c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, limitations to accessing the site, availability of equipment, safety considerations, prerequisite work by any third party not being completed, obscured building defects etc.) which are only discovered on commencement of the Services; or
 - (d) in the event of increases to the Supplier in the cost of labour or materials which are beyond the Supplier’s control; this will include a situation where the Customer has delayed the installation of flooring, and during that delay, there has been an increased labour cost.

- 6.3. Variations will be charged for on the basis of the Supplier's quotation, and will be detailed in writing, and shown as variations on the Supplier's invoice. The Customer shall be required to respond to any variation submitted by the Supplier within ten (10) working days. Failure to do so will entitle the Supplier to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 6.4. At the Supplier's sole discretion a deposit may be required. The amount of any deposit may change from time to time. The deposit payable shall be stipulated on the Quotation. Where the deposit is 80% or higher, the Customer will own the goods, property shall pass upon the cleared payment of the deposit funds.
- 6.5. Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by the Supplier, which may be:
- (a) on delivery (or at the time of ordering, in the event of a cash sale, where materials are sold absentia installation) the Goods;
 - (b) by way of instalments/progress payments in accordance with the Supplier's payment schedule;
 - (c) for certain approved on-account Customers, due twenty (20) days following the end of the month in which a statement is delivered to the Customer's address or address for notices, as per these terms and conditions;
 - (d) the date specified on any invoice or other form as being the date for payment; or
 - (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by the Supplier.
- 6.6. Payment may be made by cash, cheque, bank cheque, electronic/online banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Customer and the Supplier.
- 6.7. The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by the Supplier nor to withhold payment of any invoice because part of that invoice is in dispute. Either party shall make application to the Disputes Tribunal to resolve any disputes that arise.
- 6.8. GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

7. **Delivery of Goods**

- 7.1. Delivery ("**Delivery**") of the Goods is taken to occur at the time that:
- (a) the Customer or the Customer's nominated carrier takes possession of the Goods at the Supplier's address; or
 - (b) the Supplier (or the Supplier's nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address.
- 7.2. At the Supplier's sole discretion the cost of delivery is included in the Price. In this event, it will be stipulated in the Quotation.
- 7.3. The Supplier may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 7.4. Subject to clause 7.5 it is the Supplier's responsibility to ensure that the Services start as soon as it is reasonably possible.
- 7.5. The Services' commencement date will be put back and/or the completion date extended by whatever time is reasonable in the event that the Supplier claims an extension of time (by giving the Customer written notice) where completion is delayed by an event beyond the Supplier's control, including but not limited to any failure by the Customer to:
- (a) make a selection; or
 - (b) have the site ready for the Services; or
 - (c) notify the Supplier that the site is ready.
- 7.6. Any time specified by the Supplier for delivery of the Goods is an estimate only and the Supplier will not be liable for any loss or damage incurred by the Customer as a result of delivery being late. However both parties agree that they shall make every endeavour to enable the Goods to be delivered at the time and place as was arranged between both parties. In the event that the Supplier is unable to supply the Goods as agreed solely due to any action or inaction of the Customer, then the Supplier shall be entitled to charge a reasonable fee for redelivery and/or storage.

8. **Risk**

- 8.1. Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.
- 8.2. If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, the Supplier is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need for any person dealing with the Supplier to make further enquiries.
- 8.3. The Customer acknowledges and accepts that joint peaking, shading, pooling, puddling, or watermarking in carpet are naturally occurring phenomenon, and are not considered to be defects.
- 8.4. The Supplier will not inter alia accept responsibility for any damage to the floor due to microenvironments caused by air-conditioning, heating or large expanses of glass windows without curtains or blinds.

- 8.5. Whilst the Supplier will take all due care to avoid contamination of the finished surface, the Supplier accepts no responsibility for contamination inter alia by natural contaminants such as dust or hair which may be present at the premises.
- 8.6. Where the Supplier is required to install the Goods the Customer warrants that the structure of the premises or equipment in or upon which these Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and the Supplier shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto, providing the Goods were installed in accordance with the manufacturers guidelines.
- 8.7. The Client acknowledges that Goods supplied may:
- (a) fade or change colour over time; and
 - (b) expand, contract or distort as a result of exposure to heat, cold, weather; and
 - (c) mark or stain if exposed to certain substances; and
 - (d) be damaged or disfigured by impact or scratching; and
 - (e) show variations of texture, shade, colour, surface, finish, markings, veining, and contain natural fissures, occlusions, and indentations. Whilst the Supplier will make every effort to match sales samples to the finished Goods the Supplier accepts no liability whatsoever:
 - (i) where such samples (including where faded samples have been provided by the Customer to the Supplier to colour match) differ to the finished Goods supplied; or
 - (ii) for any loss, damages or costs howsoever arising resulting from any texture, shade, colour, surface, finish, markings, veining, and contain natural fissures, occlusions, and indentations between different batches of product.
- 8.8. *Carpet Risk*
- (a) The Customer acknowledges and accepts that:
 - (i) whilst carpet manufacturers make every effort to match dye lots, colours or shade may vary between batches of product and/or between sales samples and actual product supplied; and
 - (ii) carpet manufacturers cannot guarantee to produce perfectly uniform patterned product, therefore there is no guarantee that patterned product will match perfectly when installed; and
 - (iii) the installation process for carpet may require seams and cross-joins. Such joins can appear to 'peak' and may be affected by the light source, but will usually subside over time. They are not a fault or defect in the Goods or in the installation and will not be considered as part of a warranty claim; and
 - (iv) that permanent shading (as applicable to cut pile, velour and velvet carpets) or watermarking cannot be predicted or prevented and this has no detrimental influence of the durability or life of the carpet and is not a manufacturing defect and therefore is not a defect; and
 - (v) 'pooling', 'puddling', or 'watermarking' occurs naturally in cut pile carpet and causes permanent irregular areas of light and dark. This is not considered to be a defect or manufacturing flaw and shall not be considered as part of any warranty claim; and
 - (vi) crush lines may appear in carpet that has been stored for a period of time, which will typically disappear over time after installation.
- 8.9. *Vinyl, Cork Tile, Laminate, Timber and LVT Flooring Risk*
- (a) The Customer acknowledges and agrees that the Supplier shall not be liable for any loss, damages or costs however arising in the event (including but not limited to) circumstances where the use of the Goods is not consistent with the ordinary use of the Goods, for example where:
 - (i) a heavy or sharp object is dropped or falls on the vinyl; or
 - (ii) an object is dragged across the vinyl; or
 - (iii) the vinyl discolours or bubbles in areas due to exposure to extreme heat (including, but not limited to, conservatories and floor to ceiling windows).
 - (b) The Supplier does not recommend vinyl to be installed over a floor that is a combination of wood and concrete, or expansion joints in concrete floors, as any movement, joint, seams in bison board, or thin line board will show through the vinyl.
 - (c) The Customer acknowledges and agrees that vinyl will not fully seal a floor around the edges particularly around showers or baths; the Customer also agrees water can get underneath and therefore bubble and/or discolour the vinyl. The Supplier shall not be held liable for any loss, damages or costs however arising due to the same.
 - (d) The Supplier hereby requests the Customer to remove any and all appliances in the installation area prior to the commencement of any Services. The Customer acknowledges and agrees that the Supplier shall not be held liable for any loss, damages or costs arising due to the Customer's failure to comply with this clause.
 - (e) The Supplier shall advise the Customer if the Supplier believes that there are any issues with the sub floor (including, but not limited to, moisture problems which may cause the vinyl to bubble and discolour) however the Customer acknowledges that it is not always possible to identify such problems therefore the Customer agrees that the Supplier shall not be held liable in any way whatsoever should any such issue go undetected causing damage to the Goods.

(f) The Customer acknowledges that whilst resurfacing compound and floor preparation may help smooth out rough floors; this will not necessarily level a floor.

9. Customer's Responsibilities

9.1. It is the Customer's responsibility to:

- (a) have all areas clean and clear to enable scheduled work to be completed in accordance with the schedule of installation; and
- (b) remove all existing floor coverings, tacks and staples; and
- (c) fully disclose any information that may affect the Supplier's installation procedures (including, but not limited to, disclosing known breaks or tears in the membrane, extensions of existing slabs, thickened beams, curing compounds that may have been used, or the use of concrete over 25mpa); and
- (d) ensure the sub-floor is adequately ventilated and is structurally sound; and
- (e) ensure that the levels of the sub-floor are satisfactory (as the floor coverings can only follow the contours of the sub-floor and will not correct unevenness); and
- (f) remove all items including, but not limited to, glassware, crockery, pot plants, furniture and ornaments. In the very rare event where the Supplier is required to move any items, any movement will be completed on the understanding of all care but no responsibility.

10. Access

10.1. The Customer shall ensure that the Supplier has clear and free access to the site at all times to enable them to undertake the Services. The Supplier shall not be liable for any loss or damage to the site including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas.

11. Title

11.1. Referring first to clause [6.4], the Supplier and the Customer agree that ownership of the Goods shall not pass until:

- (a) the Customer has paid the Supplier all amounts owing to the Supplier; and
- (b) the Customer has met all of its other obligations to the Supplier.

11.2. Receipt by the Supplier of any form of payment other than cash shall not be deemed to be payment until that form of payment has cleared in full.

11.3. It is further agreed that until ownership of the Goods passes to the Customer in accordance with clause 11.1:

- (a) the Customer is only a bailee of the Goods and must return the Goods to the Supplier on request.
- (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for the Supplier and must pay to the Supplier the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
- (c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for the Supplier and must pay or deliver the proceeds to the Supplier on demand.
- (d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of the Supplier and must sell, dispose of or return the resulting product to the Supplier as it so directs.
- (e) the Customer irrevocably authorises the Supplier to enter any premises where the Supplier believes the Goods are kept and recover possession of the Goods.
- (f) the Supplier may recover possession of any Goods in transit whether or not delivery has occurred.
- (g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of the Supplier.
- (h) the Supplier may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer, whether or not possession has occurred or not.

12. Security and Charge

12.1. In consideration of the Supplier agreeing to supply the Goods, the Customer hereby gives consent to the Supplier to register a caveatable or equitable interest over the title of the property where the installation has occurred, in the event of non-payment.

12.2. The Customer indemnifies the Supplier from and against all the Supplier's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Supplier's rights under this clause.

12.3. The Supplier may elect to retain a collection company to recover unpaid accounts. The cost of such retention shall be added to the unpaid account.

13. Defects

13.1. The Customer shall inspect the Goods on delivery and shall within seven (7) days of delivery (time being of the essence) notify the Supplier of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford the Supplier an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which the Supplier has agreed in writing that the Customer is entitled to reject, the Supplier's liability is limited to either (at the Supplier's discretion) replacing the Goods or repairing the Goods.

- 13.2. Goods will not be accepted for return other than in accordance with 13.1 above, and provided that:
- (a) the Supplier has agreed in writing to accept the return of the Goods; and
 - (b) the Goods are returned at the Customer's cost within seven (7) days of the delivery date; and
 - (c) the Supplier will not be liable for Goods which have not been stored or used in a proper manner; and
 - (d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.
- 13.3. Subject to clause 13.1, non-stocklist items or Goods made to the Customer's specifications are not acceptable for credit or return.

14. Warranty

- 14.1. Subject to the conditions of warranty set out in clause 14.2 the Supplier warrants that if any defect in any workmanship of the Supplier becomes apparent and is reported to the Supplier within six (6) months of the date of delivery and/or installation (time being of the essence, being the earlier of the two) then the Supplier will either (at the Supplier's sole discretion) replace or remedy the workmanship.
- 14.2. The conditions applicable to the warranty given by clause 14.1 are:
- (a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
 - (i) failure on the part of the Customer to properly maintain any Goods; or
 - (ii) failure on the part of the Customer to follow any instructions or guidelines provided by the Supplier including where the carpet may need to be re-stretched after a period of time which is part of the ongoing maintenance of carpet and is the responsibility of the Customer; or
 - (iii) any use of any Goods otherwise than for any application specified on a quote or order form, or otherwise inconsistently with the manufacturer's guidelines; or
 - (iv) the continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
 - (v) fair wear and tear, any accident or act of God.
 - (b) the warranty shall cease and the Supplier shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without the Supplier's consent or knowledge.
 - (c) in respect of all claims the Supplier shall not be liable to compensate the Customer for any delay in either replacing or remedying the workmanship or in properly assessing the Customer's claim.
- 14.3. For Goods not manufactured by the Supplier, the warranty shall be the current warranty provided by the manufacturer of the Goods, but provided by the Supplier. The Terms and Conditions of each manufacturer's warranty are typically found on their respective websites. The Supplier shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.
- 14.4. This warranty does not extend to cover joint peaking, shading, pooling, puddling, watermarking, or other naturally occurring phenomenon in carpet. Each warranty claim is assessed on its individual facts, merit and otherwise.

15. Consumer Guarantees Act 1993 ("CGA")

- 15.1. If the Customer is acquiring Goods for:
- (a) the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by the Supplier to the Customer, and expressly contracts out of any obligation under the CGA; and/or
 - (b) for the purposes other than that listed in clause 15.1(a), then nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the CGA.

16. Intellectual Property

- 16.1. The Customer agrees that the Supplier may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which the Supplier has created for the Customer. The Supplier intends to comply with all its obligations in terms of holding personal details of Customers.

17. Default and Consequences of Default

- 17.1. Interest on overdue invoices shall accrue daily 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 the Supplier's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 17.2. If the Customer owes the Supplier any money the Customer shall indemnify the Supplier from and against all costs and disbursements incurred by the Supplier in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Supplier's collection agency costs, and bank dishonour fees).
- 17.3. Further to any other rights or remedies the Supplier may have under this contract, if a Customer has made payment to the Supplier, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Supplier under this clause 17 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this contract.

- 17.4. Without prejudice to the Supplier's other remedies at law the Supplier shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to the Supplier becomes overdue, or in the Supplier's opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer has exceeded any applicable credit limit provided by the Supplier;
 - (c) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

18. **Cancellation**

- 18.1. Without prejudice to any other remedies the Supplier may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions the Supplier may suspend or terminate the supply of Goods to the Customer. The Supplier will not be liable to the Customer for any loss or damage the Customer suffers because the Supplier has exercised its rights under this clause.
- 18.2. The Supplier may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice the Supplier shall repay to the Customer any money paid by the Customer for the Goods. The Supplier shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 18.3. In the event that the Customer cancels delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by the Supplier as a direct result of the cancellation (including, but not limited to, any loss of profits). Such losses shall first be deducted from any deposit paid, at the Supplier's sole discretion.
- 18.4. Cancellation of orders for Goods made or cut to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

19. **Privacy Act 1993**

- 19.1. The Customer authorises the Supplier or the Supplier's agent to:
- (a) access, collect, retain and use any information about the Customer;
 - (i) (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Customer's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Customer.
 - (b) disclose information about the Customer, whether collected by the Supplier from the Customer directly or obtained by the Supplier from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
- 19.2. Where the Customer is an individual the authorities under clause 19.1 are authorities or consents for the purposes of the Privacy Act 1993.
- 19.3. The Customer shall have the right to request the Supplier for a copy of the information about the Customer retained by the Supplier and the right to request the Supplier to correct any incorrect information about the Customer held by the Supplier.

20. **Service of Notices**

- 20.1. Any written notice given under this contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this contract;
 - (c) by sending it by registered post to the address of the other party as stated in this contract;
 - (d) if sent by email to the other party's last known email address.
- 20.2. Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

21. **Trusts**

- 21.1. If the Customer at any time upon or subsequent to entering in to the contract is acting in the capacity of trustee of any trust ("Trust") then whether or not the Supplier may have notice of the Trust, the Customer covenants with the Supplier as follows:
- (a) the contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;
 - (b) the Customer 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 Customer against the Trust or the trust fund. The Customer 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.
 - (c) the Customer will not without consent in writing of the Supplier (the Supplier will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events;
 - (i) the removal, replacement or retirement of the Customer as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;

- (iii) any advancement or distribution of capital of the Trust; or
- (iv) any resettlement of the trust property.

22. General

- 22.1. 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.
- 22.2. These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of any Court or Tribunal with competent jurisdiction in New Zealand.
- 22.3. The Supplier shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Supplier of these terms and conditions (alternatively the Supplier's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 22.4. The Supplier may licence and/or assign all or any part of its rights and/or obligations under this contract without the Customer's consent.
- 22.5. The Customer cannot licence or assign without the written approval of the Supplier.
- 22.6. The Supplier 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 Customer agrees and understands that they have no authority to give any instruction to any of the Supplier's sub-contractors without the authority of the Supplier.
- 22.7. The Customer agrees that the Supplier may amend these terms and conditions by notifying the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for the Supplier to provide Goods to the Customer.
- 22.8. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 22.9. 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.

In summary:

- We are your local, family owned flooring store; we value your custom
- Let's keep everything in writing so we each know where we stand
- Please assist us in installing your new flooring consistently with the manufacturer's guidelines by having the area properly prepared
- We will likely require you to pay a deposit upon accepting your quote, deposits may for forfeited if you cancel, but we don't do this lightly – talk to us as soon as any situation arises.
- Once installed, please ensure you use your new flooring as it is supposed to be used
- Be sure to let us know if there is anything we need to tend to
- I look forward to a client relationship for life.



Malcolm Patterson
Managing Director