Alba Plumbing Limited - Terms & Conditions of Trade

- 1.1
- Definitions
 Abor mans Alba Plumbing Limited, its successors and assigns or any person acting on behalf of and with the authority of Alba Plumbing Limited
 Client means the persons ordering the Works as specified in any imple, document or order, and if there is more than one Client is a reference b each Client jointly and
- 1.3
- Culent means the persons ordering the virious as specified in any invoice, occurrent or coder, and if there is more than one client is a reference to each fillent jointly and severally. Yorks' means all Works or Materials supplied by Alba to the Client of Motor trequest from time to time (where the context so permits the terms Yorks' or Materials 1976). The means the property of the Works are specially for the Works are applicable for the Works are agreed between Alba and the Client in accordance with clients of before 1.4
- Acceptance
 The Clerin is taken to have exclusively accepted and is immediately bound, jointly and
 severally, by these terms and conditions if the Clerit places an order for or accepts
 delivery of any Works. 2. 2.1
- 2.2
- severally, by these terms and conditions if the Cherit paces an unuar not on excepted definery of any Victoria. 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 agreement between the Cherit and Abs.

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 Authoritied Representatives

 Unless otherwise limited as per clause 3.2 the Cherit agrees that should the Cherit introduce any third party to Aba as the Cherit a duty authorised representative that once introduced that person shall have the full authority of the Cherit to other any Materials or Victia on the Client's behalf and of the representative such as the Cherit and the Cherit to the Cherit to the Cherit of the Cherit and the 3. 3.1
- Client Orderwise Roses you in many authorised representative as per clause 3.1 is to have authorised representative), duty submised impresentative as per clause 3.1 is to have in the most authority cauciful on the Clients behalf then the Client must specifically and clearly advise Alba in writing of the parameters of the limited authority granted to their representative. 3.2
- 4. 4.1
- ciearly advises Alba in withing of the parameters of the limited authority granted to their representative. The Client specifically acknowledges and accepts that they will be gotely lable to Alba for all additional loss incurred by Alba (including Alba's profit marpin) in providing any Materials, Works or variations's requested by the Client's duty authorised representative (subject always to the Intribution Imposed under clause 3.2 (if any)). Electronic Iransactions Act 2002. Electronic Iransactions Act 2002 are particularly and the participation of the Act of the Electronic Transactions Act 2002 or any Change in Control of the Act of any Regulations referred in in that Act. 2002 can be applied to the Act of the Electronic Transactions Act 2002 or any Change in Control.

 The Client shall give Alba not less than fourteen (14) days prior written notice of any proposed change of conventing of the Client and any Elegiber of any other change in Control of the Client and any Elegiber of the Client and the State of the Client shall be allowed to the Client shall be allowed to the Client in respect of Works performed of Materials supplied, or any control of Materials supplied, or any Change in the Client's allowed that the Client's hall accept Alba's quotation in writing within thirty (30) days. As reserves the right to change the Price: 5. 5.1

- (b) Alba's quoted Price (subject to clause 6.2) which shall be binding upon Alba provided that the Client shall accept Alba's quotation in writing within thirty (30).
 Alba reserves the right to change the Price:

 (a) if a vention to the Mathematic which are to be supplied is requested; or
 (b) if a vention to the Vortex originally scheduled (including any applicable plans or specifications) is requested;
 (c) where additional Works are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to limitations to site occessibility, poor weather conditions, safety considerations, prerequisite work by any third party not being completed or being non-orde compliant, obscured building delets; change of design, hard rock barriers below the surface, hidden pipes in wells, etc) which are only discovered on conveniencement of the Works or or materials (including) but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international frieight and insured variations. All the changed for on the basis of Alba's quotation, and will be detailed in writing, and shown as variations on Alba's motioe. The Cient shall be required to so will entitle Alba to add the cost of the variation to the Price. Payment for all variations must be made in that it the time of their completion.
 (a) the Price will be payable by the Client of the detates determined by Alba, which may be:
 (a) no completion of the Works; or
 (b) by way of progress payment derive subject on the works the but not worken to the worksteb but not your installed.
 (c) in tradicion in progress payment derive subject on the worksteb but not your installed.
 (d) for catal in apprentic served to the value of any Materia's exchange to the worksteb but not your installed

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- schedule. Such progress payment dame may include use resources authorised variations and the value of any Materials delivered to the worksite but not yet installed;

 (of cretain approved Client's, due twenty (20) days following the end of the month in which a statement is posted to the Clerit's address or address for notices; or

 (of for unapproved Client's service) (7) days following the date of any invoice given to the Client by Abba.

 The Client by Abba.

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 The Client are a spread to the Client by Abba nor to withhold payment of any twoice because part of that invoice is in dispute.

 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to Alba an amount equal to any GST Alba must pay for any supply by Alba under this or any other argument for the side of the Materials. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price; in addition, the Client must pay any other taxes and dides that may be applicable in addition, the Client must pay any other taxes and dides that may be applicable in addition to the Price taxes and dides that may be applicable in addition to the Price taxes and the completion date extended by the applicable in the revent that Alba claims an extension of time (by gying Abbases Kens it is associated in the avenut that Alba claims an extension of time (by gying Abbases Kens it is associated in the avenut that Alba claims an extension of time (by gying Abbases Kens it is associated in the avenut that Alba claims an extension of time (by gying abbases where a the argument and the success and the completion date extended by 6.8
- 7.1
- 7.3 7.4
- Subject to dates 7.2 it.s. Aba's responsibility to ensure that the Works start as soon as its ineasonably possible.

 The Works' commencement date will be put back and the completion date extended by whetever their is reasonable in the event that Alba claims an edesion of time (by giving the Client written notice) where completion is delayed by an event beyond Aba's control, noticing but not inlined to any failure by the Cliento.

 The possibility of the Works or (c) notify Alba that the site is ready for the Works or (c) notify Alba that the site is ready.

 Alba may delayer the Works by separate instalments. Each separate instalment shall be involved and paid in accordance with the provisions in these terms and conditions. Any time specified by Aba's for delayer of the Works is an estimate long and Aba will not Any time specified by Aba's for delayer of the Works is an estimate long and Aba will not however, both parties agree that they shall make every endeavour to enable the Works to be supplied at the time and pace as was arranged between both parties, in the event that Aba is it enabled to charge a reasonable feel for e-supplying the Works at a later time and date, and/or for storage of the Meterals.
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- that Alha is unable to supply the Works as agreed solely due to any action or inaction of the Client, then Aba shall be entitled to charge a reasonable tee for re-supplying the Works at a later time and date, and/or for storage of the Materials.

 (a) where Aba is supplying Materials only, all risk for the Materials shall immedalely pass to the Cent on delivery and the Cent must insure the Materials shall immedalely pass to the Cent on delivery and the Cent must insure the Materials shall immedalely pass to the Cent on delivery and the Cent must insure the Materials shall immedalely at the firm that either.

 (b) the Client or the Cent is nominated carrier takes possession of the Materials at the time that either.

 (ii) the Materials are delivered by Aba or Aba's nominated carrier to the Client's nominated delivery address (even if the Client is nominated delivery address (even if the Client is nominated delivery address (even if the Client is no present at the address).

 (b) where Aba is to both supply and install Materials then Albs shall maintain a contract works insurance policy until the Works are completed. Upon completion of the Works and its first the Abard Shall maintain a contract works insurance policy until the Works are completed. Upon completion of the North Shall shall be the Client's responsibility to ensure the Materials are investment to exceed the Materials to a desired the Materials are lost, demanged or destroyed then replacement of the Materials are lost, demanged or destroyed then replacement of the Materials are lost, demanged or destroyed then replacement of the Materials are lost, demanged or destroyed then replacement of the Materials are lost, demanged or destroyed then replacement of the Materials are lost, demanged or destroyed then replacement of the Materials or lost, demanged or destroyed then replacement of the Materials 8.7

- becoming lodged or stuck. Alba may require the Client or their agent to authorise commencement of the Works in writing. If the drainlying unblocking equipment subsequently becomes lodged or stuck, the Client shall be responsible for the cost of repair, replacement and/or pretrieval of said equipment. Any advice, recommendation, information, assistance or service provided by Alba in relation to Materia's or Works supplied is given in good faith, is based on Alba's own knowledge and experience and shall be accepted without stability on the part of Alba sind to the control of the control
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- Works. You use to the Medicals or Works. You have the makes of intends to make of the Medicals or Works.

 Accuracy of Clientife Plans and Neasurements

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 In the Accuracy of this information provided by the Client is naccurale, Alba accepts no responsibility for any loss, demanges, or costs however resulting from these inaccurate plans, specifications or other information.

 In the avent the Client gives information relating to measurements and quantities of the Medicals required to complete the Works, it is the Client is responsibility to verify the based on these measurements and quantities. Alba accorpts no responsibility for any loss, damages, or costs however resulting from the Client's failure to comply with this clause.
- clause.

 Access
 The Cornt shall ensure that Aba has clear and free access to the work site at all times to enable them to undertake the Works. Alba shall not be liable for any loss or damage to make the properties of the propert 10. 10.1
- 10.2
- of laden fusicis, front end loaders or other earth moving equipment as may be deemed necessary by Aboute. Underground Locations

 Underground Locations

 The underground services on the ste and dearty mark the same. The underground mains as services on the ste and dearty mark the same. The underground mains as services for light mode, but are not limited to, electrical services, gas a services the Clerk must identify include, but are not limited to, electrical services, gas waler mains, impation pipes, follophone cabbles, fibre optic cables, oil pumping mains, and any other services that may be on sta.

 Whitst Alba will take all care to avoid damage to any underground services the Clerk agrees to indemnify Abb an inspect of all and any libidity clarks, isos, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 11.1. 11. 11.1
- 11.2
- clause 11.1. Compliance with Laws
 The Ctent and Alba shall comply with the provisions of all statutes, regulations and bytaws of government, local and other public authorities that may be applicable to the 12. 12.1
- bysins on pyreminent, local and core police, sources such may be apprecise to the The Client stad Colan (at the expense of the Client) all iscenses and approvals that may be required for the works. Ash as not not advant to the client of the works. Ash as not advant to the client form the bine pursuant to the Health & Saley at Work Az OSI (for HSW) Act, Parising out of the engagement. The parties agree that for the purposes of the ISW Act, Aba shall not be the person who The Client agrees that the site will comply with any WorkSale guidelines relating to building/construction sites and any other relevant safety standards or legislation. 122 12.3
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- 13. 13.1
- 13.3
- The Client agrees that the see was comply with any rocksale guidenciae (relaining to building/constituction steas and any other relevant safety standards or legislation.

 Alba and the Client gene that connecting of the Materials shall not pass until;
 (a) the Client has paid Alba all amounts owing to Alba, and
 (b) the Client has net all of its other obligations to Alba.

 Receipt by Alba of any form of payment their than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

 (a) the Client has the client in the Client in accordance with clause 13.1 is further agreed that.

 Materials have been honoured, cleared or recognised.

 (b) the Client holds the benefit of the Client in sustance of the Materials have become faitures must ritum the Materials to Alba on request.

 (b) the Client holds the benefit of the Client's insurance of the Materials have been got, demaged or destroyed.

 (c) the production of these terms the Materials to Materials and must spay to Alba the proceeds of any insurance in the revent of the Materials being lost, demaged or destroyed.

 (c) the production of these terms and proposeds direct from the insurer without the need for any person dealing with Alba to make further enquires.

 (d) the Client must not self, dispose or otherwise part with possession of the Materials other than in the ordinary course of ousiness and for market value. If the Client selfs, disposes or part with possession of the Materials them the Client must hot but proceeds of any such act on trust for Alba and must spay or deliver the proceeds to Alba or demand of Alba and must self, disposes or or them the self-and for the Deriver of Alba and must self, dispose or or return the resulting product on trust for Alba and the Materials of Alba and

 - P Bernet of Andre are more and any andre and a second a second and a second a second and a secon
 - possession of the Materials.
 Alba may recover possession of any Materials in transit whether or not delivery has occurred.
 The Client shall not charge or grant an encumbrance over the Materials nor grant nor otherwise give away any interest in the Materials while they remain the property of
 - Abba. May commence proceedings to recover the Price of the Meterials sold notwithstanding that ownership of the Meterials has not passed to the Client consolir properly Securities Act 1999 (*PSA*) on asserting to these terms and conditions in writing the Client echnowledges and each that the conditions in the control of the primoses of the primoses.
- 14. 14.1
- Personal Property Securities Act 1999 (*PPSA*)
 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that.

 (b) a security interest is taken in all Malerials and/or collateral (account) being a monetary obligation of the Client to Abla for Vorkes that have previously been supplied and that will be supplied in the future by Alba to the Client.

 (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Alba may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register,

 (b) indemnity, and upon demander provided any further information to the complete, accurate and up-to-date in all respects) which Alba may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register (b) indemnity, and upon demander in financing change statement on the Personal Property Securities Register or releasing any Alaerties changed thereby.

 (c) not register, or permit to be registered, a financing statement or a financing change statement in realton to the Malerials androic collateral (account) in favour of a finite party without the prior written consent of Alba; and (in minefallety exists Alba of any material change in its business practices of selling Malerials which would result in a change in the nature of proceeds derived from such sales.

 Aboa and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA.

 Unless otherwise agreed to in writing by Aba, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.

 Unless otherwise agreed to in writing by Aba, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.

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- 14.6 15. 15.1
- 15.2

- the thickness of the control and the control a 17. 17.1
- - ums
 ums will only be accepted provided that:
 the Client has complete with the provisions of clause 17.1; and
 Aften has agreed in writing to accept the return of the Materials, and
 the Materials are returned at the Client's cost within seven (7) days of the delivery
 date: and
 - date; and Alba will not be liable for Materials which have not been stored or used in a proper

- (a) Alba will not be table for Materials which have not been stored or used in a proper manner, and (a) the Materials have returned in the condition in which they were ide-ferred and with all presents of the property of th

- Consumer Guarantees Act 1993
 If the Client is acquiring Materials for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Materials by Aba to the Client.
- 21. 21.1
- 21.2

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- Consumer Guarantees Act 1993
 If the Cetent is acquiring Materials for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Materials by Abla to the Client.
 Intellectual Property
 When Abla has designed, the the copyright in all such designs, drawings, accument, by the Abla the State of the property of the copyright in all such designs, drawings, accument, plans as property of the copyright in all such designs, drawings and documents be used without the express written approval of Abla.
 The Client act Abla discretion. Under no circumstances may such designs, drawings and documents be used without the express written approval of Abla.
 The Client arrants that all designs, specifications or instructions given to Abla will not cause Abla to niringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Abla against any action factor by a thrift cause Abla to niringe any patent, registered design or trademark in the execution of the Client's corder and the Client agrees to indemnify Abla against any action factor by a thrift cause of the Client's corder and the Client agrees to indemnify Abla against any action factor by a thrift of the Client's corder and the Client agrees that Abla may (at no cost) use for the purposes of marketing or entry individual to the Client's corder and the Client's action and the Client's corder and the Client's action and the Client's corder and the Client's action and the Client's action
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- 23.4
- to the Client. On giving such notes Alba shall repay to the Client any sums paid in sepect of the Prico, lies any amounts owing by the Client to Alba for Works aready performed. Alba shall not be liable for any loss of damage whatscerer arising from such in the event that the Client cances the delivery of Works the Client shall be liable for any and all loss incurred (whether direct or indirect) by Alba as a direct result of the cancellation (including, but not limited to, any loss of profits). Cancellation (including, but not limited to, any loss of profits). Cancellation of orders for products made to the Client's specifications, or for non-trocking terms, will definitely not be accepted once production has commenced or an order has been placed.

 All disputes and differences between the Client and Alba louching and concerning this agreement shall be referred to arbitration under a single arbitration agreed upon by both parties, or faining agreement, by two arbitration (one to be appointed by each party) and their umpris (appointed by them prior to arbitration), such arbitration to be carried out in accordance with provisions of the Arbitration Act 1996.

 Privacy Act 1931

 Privacy Act 1932

 Privacy Act 1931

 Privacy Act 1932

 Privacy Act 1931

 Privacy Act 1932

 Privacy

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- 27. 27.1
 - d: handing the notice to the other party, in person; leaving it at the address of the other party as stated in this contract; sending it by registered post to the address of the other party as stated in this other.
 - by sending it by fegistered post to the address of the oner party as stated in this contract, if sent by facsimite transmission to the fax number of the other party as stated in this contract (if any), or receipt of confirmation of the transmission; if sent by email to the other party's last known email address; you foce that it posted shall be deemed to have been served, unless the contrary is own of the party of the provided shall be deemed to have been served, unless the contrary is own. If the time when by the ordinary course of post, the notice would have been forced. (d) 27.2
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 Clern thereby expressly acknowledges that
 Abb has the right to suspend work within five (5) working days of written notice of its
 intent to do so if a payment claim is served on the Client, and:
 (5) the payment is not paid in tilb by the due date for payment and no payment
 schedule has been given by the Client or
 (8) a scheduled amount stated in a payment schedule issued by the Client in
 (9) a schedule is not payment claim is not paid in full by the due date for its payment;
 or

 - malsion to the payment claim is not paid in full by the due date for its payment; or (iii) the Cleint has not complied with an adjudicator's notice that the Client must pay an amount to Alba by a particular date, and (iv) Alba has given written notice to the Client of its intention to suspend the carbon date of the Client of the Client of the Client of the Client of the Alba suspends work, it:

 (i) is not intended not not contract and (ii) is not liable for any loss or damage whatever suffered, or alleged to be suffered by the Client or by any person daming though the Client, and (iii) is entitled on a testesson of them to complete the forth, and (iii) is entitled on a testesson of them to complete the forth, and any at any time fill the suspension, even if the amount has not been paid or an adjudicator's determination has not been complete with.

 (i) Alba averages the right to suspend work, the exercise of that right does not:

 (i) Alba creates the right to suspend work, the exercise of that right does not.

 (ii) affect any rights that would otherwise have been available to Alba under the Contractual Remedes Act 1975, or

 (iii) enable the Client to exerces any rights last may otherwise have been available to the Client under that Act as a direct consequence of Alba suspending work.
- General
 The fature by either penty 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, vide, legal or unenforceable the valid's, usisence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
 These terms and conditions and any contract to which they apply shall be governed by the laxs of New Zealand and are subject to the jurisdiction of the courts of Hamilton, Nau-Zealand. 29. 29.1 29.2
- 29.3
- These terms and conditions and any contract to which they appry snail be governed by the laws of New Zealand and are subject to the jurisdocton of the courts of Hamitton, New Zealand.

 Also shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of portif) suffered by the Client arising out of a breach by Also a thiss terms and conditions (alternative) Abba I solitiys shall be limited to draneges which under no circumstances shall exceed the Price of the Neither party shall essign or sub-contract all or any part of their rights and obligations under this egreement without the written consent of the other party. The Client around the contract all or any part of their rights and obligations under this egreement without the written consent of the other party. The Client around the contract all or any but of the critical from the date on which the Client accopies such changes, or otherwise as tuch time as the Client makes a further request for Alba to provide Works to the Client.

 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.
- 29.4
- 29.5
- lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party. Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates briding and visit (each obtigations on them. 29.7

Important Notice To Accompany All Payment Claims

Section 20, Construction Contracts Act 2002

What is this?

This notice is attached to a claim for a payment (a payment claim) under the Construction Contracts Act 2002 (The Act).

The person who sent this payment claim (the claimant) is claiming to be entitled to a payment for, or in relation to, the construction work carried out to date under a construction contract.

Whether that person is entitled to a payment, and how much they are entitled to, will depend on whether you have a construction contract and what you have agreed between yourselves about payments. If you haven't agreed on payments, there are default provisions in the Act.

What should I do with this payment claim?

You can either -

- Pay the amount claimed in the payment claim (in full) on or before the due date for payment; or
- If you dispute the payment claim, send the claimant a written payment schedule that complies with section 21 of the Act (a
 payment schedule) starting the amount you are prepared to pay instead (which could be nothing).

The due date for a payment is the date agreed between you and the claimant. That due date must be set out in the payment claim. If you haven't agreed on a due date, then the Act says that a payment is due within 20 working days after the payment claim is served on you. (For the purposes of the Act, a working day is any day other than a Saturday, a Sunday, a public holiday, or any day from 24 December to 5 January).

When do I have to act?

You should act promptly. Otherwise, you may lose the right to object.

What if I do nothing?

If you don't pay the amount claimed by the due date for payment or send a payment schedule indicating what you will pay instead, the claimant can go to court to recover the unpaid amount from you as a debt owed. In addition, the court may decide that you have to pay the claimant's costs for bringing the court case.

Can I say that I will not pay, or pay less than, the claimed amount?

Yes, by sending a written payment schedule.

Note: If you do not send a written payment schedule, the claimant can bring court proceedings against you or refer the matter to adjudication (or both).

How do I say I will not pay, or pay less than, the claimed amount?

To say that you will pay nothing or indicate what you will pay instead, you must send the claimant a written payment schedule. You must indicate the amount that you are prepared to pay, which could be nothing. This amount is called the **schedule amount**. If the scheduled amount is less than the claimed amount, you must explain in the payment schedule –

- How you calculated the scheduled amount; and
- Why the scheduled amount is less than the claimed amount; and
- Your reason or reasons for not payment the full amount claimed.

Note: The written payment schedule must also state which payment claim the payment schedule relates to.

Note: If you state in the payment schedule that you will pay less than the claimed amount or pay nothing at all, the claimant may refer the dispute about how much is owing for adjudication.

How long do I have?

You must send a payment schedule by the date agreed in the contract or, if no date was agreed, within 20 working days after the payment claim was served on you.

If I say I will pay another amount instead, when do I have to pay it?

You must still pay the scheduled amount by the due date for payment.

What if I don't pay the scheduled amount when I say I will?

If you send a payment schedule but do not pay the scheduled amount by the due date, the claimant can go to court to recover the unpaid amount from you as a debt owed or refer the matter to adjudication (or both).

Note: A court may also require you to pay the claimant's costs.

Advice

Important: If there is anything in this notice that you do not understand or if you want advice about what to do, you should consult your lawyer immediately.