
Euro Servicing and Installation Wellington Limited – Terms & Conditions of Trade

1. Definitions

- 1.1 “Contract” means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 “Seller” means Euro Servicing and Installation Wellington Limited, its successors and assigns or any person acting on behalf of and with the authority of Euro Servicing and Installation Wellington Limited.
- 1.3 “Client” means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting the Seller to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Client, is a reference to each Client jointly and severally; and
 - (b) if the Client is a partnership, it shall bind each partner jointly and severally; and
 - (c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and
 - (d) includes the Client’s executors, administrators, successors and permitted assigns.
- 1.4 “Services” means all Services (including consultation and/or installation services) or Goods (including but not limited to any parts or consumables, etc) supplied by the Seller to the Client at the Client’s request from time to time (where the context so permits the terms ‘Services or ‘Goods’ shall be interchangeable for the other).
- 1.5 “Confidential Information” means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party’s intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, “**Personal Information**” such as: name, address, D.O.B, occupation, driver’s license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.6 “Cookies” means small files which are stored on a user’s computer. They are designed to hold a modest amount of data (including personal information) specific to a particular client and website, and can be accessed either by the web server or the client’s computer. **If the Client does not wish to allow Cookies to operate in the background when ordering from the website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Goods via the website.**
- 1.7 “Price” means the Price payable (plus any Goods and Services Tax (“GST”) where applicable) for the Goods as agreed between the Seller and the Client in accordance with clause 5 below.

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts Delivery of the Goods.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Client acknowledges that the supply of Goods on credit shall not take effect until the Client has completed a credit application with the Seller and it has been approved with a credit limit established for the account.
- 2.5 In the event that the supply of Goods request exceeds the Clients credit limit and/or the account exceeds the payment terms, the Seller reserves the right to refuse Delivery.
- 2.6 Any advice, recommendation, information, assistance or service provided by the Seller in relation to Services or Goods supplied is given in good faith, is based on the Seller’s own knowledge and experience and shall be accepted without liability on the part of the Seller and it shall be the responsibility of the Client to confirm the accuracy and reliability of the same in light of the use to which the Client makes or intends to make of the Services or Goods.
- 2.7 The Client acknowledges and accepts that the supply of Goods and/or parts and consumables for accepted orders may be subject to availability and if, for any reason, Goods are not or cease to be available, the Seller reserves the right to substitute comparable Goods (or components of the Goods) and vary the Price as per clause 5.2. In all such cases the Seller will notify the Client in advance of any such substitution, and also reserves the right to place the Client’s order and/or Services on hold until such time as the Seller and the Client agree to such changes
- 2.8 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 Client acknowledges and accepts that the Seller 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 Seller 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 Seller 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 Seller; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Change in Control

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

5. Price and Payment

- 5.1 At the Seller’s sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by the Seller to the Client; or

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- (b) the Seller's quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 5.2 The Seller reserves the right to change the Price:
- (a) if a variation to the Services originally scheduled (including any cancellations, specifications and/or instalations) is requested; or
 - (b) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, discovery of additional faults on inspection or instalation, work outside normal business hours, obscured/latent defects which require remedial work, safety considerations etc.) which are only discovered on commencement of the Works; or
 - (a) in the event of increases to the Seller in the cost of labour or materials which are beyond the Seller's control.
- 5.3 Variations will be charged for on the basis of the Seller's quotation, and will be detailed in writing, and shown as variations on the Seller's invoice. The Client shall be required to respond to any variation submitted by the Seller within ten (10) working days. Failure to do so will entitle the Seller 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.
- 5.4 At the Seller's sole discretion a deposit may be required.
- 5.5 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by the Seller, which may be:
- (a) on or before Delivery of the Goods;
 - (b) by way of instalments/progress payments in accordance with the Seller's payment schedule;
 - (c) for certain approved Clients, due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices;
 - (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 five (5) days following the date of any invoice given to the Client by the Seller.
- 5.6 Payment may be made by electronic/on-line banking, credit card for online ordering (a surcharge per transaction may apply), EFT Post or by any other method as agreed to between the Client and the Seller.
- 5.7 The Seller may in its discretion allocate any payment received from the Client towards any invoice that the Seller determines and may do so at the time of receipt or at any time afterwards. On any default by the Client the Seller may re-allocate any payments previously received and allocated. In the absence of any payment allocation by the Seller, payment will be deemed to be allocated in such manner as preserves the maximum value of the Seller's Purchase Money Security Interest (as defined in the PPSA) in the Goods.
- 5.8 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by the Seller nor to withhold payment of any invoice because part of that invoice is in dispute.
- 5.9 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to the Seller an amount equal to any GST the Seller must pay for any supply by the Seller under this or any other contract for the sale of the Goods. 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 duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 6. On-Line Ordering**
- 6.1 The Customer acknowledges and agrees that:
- (a) the Seller does not guarantee the website's performance;
 - (b) display on the website does not guarantee the availability of any particular Goods; therefore, all orders placed through the website shall be subject to confirmation of acceptance by the Seller
 - (c) on-line ordering may be unavailable from time to time for regularly scheduled maintenance and/or upgrades;
 - (d) there are inherent hazards in electronic distribution, and as such the Seller cannot warrant against delays or errors in transmitting data between the Customer and the Seller including orders, and you agree that to the maximum extent permitted by law, the Seller will not be liable for any losses which the Customer suffers as a result of online-ordering not being available or for delays or errors in transmitting orders;
 - (e) when making a transaction through the website, the Client's information will pass through a secure server using SSL (secure sockets layer) encryption technology or any other similar technology as disclosed by the Seller and/or displayed on the website. The encryption process ensures that the Client's information cannot be read by or altered by outside influences;
 - (f) if the Client is not the cardholder for any credit card being used to pay for the Goods, the Seller shall be entitled to reasonably assume that the Client has received permission from the cardholder for use of the credit card for the transaction.
- 6.2 The Seller reserves the right to terminate the Client's order if it learns that you have provided false or misleading information, interfered with other users or the administration of the Seller's business, or violated these terms and conditions.
- 7. Delivery of Goods**
- 7.1 Delivery ("**Delivery**") of the Goods is taken to occur at the time that the Seller (or the Seller's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.
- 7.2 At the Seller's sole discretion the cost of Delivery is in addition to the Price.
- 7.3 Any time specified by the Seller for Delivery of the Goods is an estimate only. The Client must take Delivery by receipt or collection of the Goods whenever they are tendered for Delivery. The Seller will not be liable for any loss or damage incurred by the Client as a result of Delivery being late. In the event that the Client is unable to take Delivery of the Goods as arranged then the Seller shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 8. Call-Out Fee**
- 8.1 In the event that the Seller is required to provide the Services urgently, that may require the Seller's staff to work outside normal business hours (including but not limited to working, through lunch breaks, weekends and/or Public Holidays) then the Seller reserves the right to charge the Client a minimum call out fee based on the Seller's standard hourly labour rate, plus travel, plus Goods, unless otherwise agreed between the Seller and the Client.

9. Risk

- 9.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.
- 9.2 If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Client, the Seller is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by the Seller is sufficient evidence of the Seller's rights to receive the insurance proceeds without the need for any person dealing with the Seller to make further enquiries.
- 9.3 The Seller shall take all reasonable care and skill when undertaking the Services; but no liability will be accepted by the Seller for any damage howsoever causes, except due to the express negligence or the Seller.
- 9.4 The Seller or its employees may carry out tests on the appliances or Goods at the Seller's discretion and the Seller will not be liable for (and the Client indemnifies the Seller against) any damages caused to, or by the appliances during such tests, unless it arises from the recklessness or wilful misconduct of the Seller or its employees.
- 9.5 Any third-party certification that may be required can be arranged by the Seller on the Client's behalf and at the Client's expense.
- 9.6 The Seller is only responsible for parts and/or consumables that are replaced/supplied by the Seller and does not at any stage accept any liability in respect of components supplied by any other third party that subsequently fail and are found to be the source of the failure, the Client agrees to indemnify the Seller against any loss or damage to the Goods, or caused thereby, or any part thereof howsoever arising.
- 9.7 Where the Client has supplied any Goods for the Seller to complete the Services under this Contract, that they take responsibility for the suitability of purpose, quality and any faults inherent in those Goods. The Seller shall not be responsible for any defects in the Goods, any loss or damage howsoever arising from the use of Goods supplied by the Client.
- 9.8 Where the Seller has performed temporary repairs on the appliances that:
- (a) the Seller offers no guarantee against the reoccurrence of the initial fault, or any further damage caused; and
 - (b) the Seller will immediately advise the Client of the fault and shall provide the Client with an estimate for the full repair of the appliance.
- 9.9 The Seller shall upon installation ensure that all appliances are to be installed in a manner that is fully compliant with industry standards. If, for any reason, the Client specifically requires the appliances to be installed in any way which goes against the Seller's recommendations and/or falls below industry standards; a request detailing that requirement must be made in writing to the Seller. Accordingly, the Seller offers no warranty in regards to the aforementioned.
- 9.10 The Seller accepts no responsibility for:
- (a) any damage or defects in any appliances caused by movement and/or interference of the said appliances; and
 - (b) painting, re-decorating, re-sealing, carpentry or any other Services required for the restoration or making good of any surface/area where any Services have been carried out.
- 9.11 The Client acknowledges that they shall:
- (a) not be entitled to withhold any payment due under this Contract because of any delay in the connection of, or the supply of electricity to the appliances by an electrical distributor or any other third party; and
 - (b) be responsible for any building work, excavation work, core drilling or any other non-standard surface penetrations that need to be carried out to enable the Seller to carry out the Services.
- 9.12 If during the course of installation when the Services are being conducted within and around switchboards that if the same is found defective or deemed to be unsafe by the Seller, then the Seller shall notify the Client immediately. The power, if isolated, will not be re-energised until such time as the existing condition has been rectified and made safe in accordance to the Electrical Safety Regulations. The Client accepts and agrees that any costs associated with the rectification Services including any Goods and labour shall be the responsibility of the Client and will be shown as a variation on the invoice.

10. Compliance with Laws

- 10.1 The Client and the Seller shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.
- 10.2 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Services.
- 10.3 Any live Services or Services undertaken near live conductors where it is safe to do so shall be dealt with in accordance with Australian and New Zealand Wiring standards being "Safe working on Low Voltage Electrical Installations, relevant Commonwealth and Statutory Acts and Work Place Regulations". The Seller's live Services procedures are designed to eliminate risk of injury to the Seller's employees, damage to the Client's installations and unexpected power disconnections. It may in some cases require disconnection and isolation of the installation to undertake such Services for which additional charges may be applicable. This shall be invoiced in accordance with clause 5.2.

11. Title

- 11.1 The Seller and the Client agree that ownership of the Goods shall not pass until:
- (a) the Client has paid the Seller all amounts owing to the Seller; and
 - (b) the Client has met all of its other obligations to the Seller.
- 11.2 Receipt by the Seller of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 11.3 It is further agreed that until ownership of the Goods passes to the Client in accordance with clause 11.1:
- (a) the Client is only a bailee of the Goods and must return the Goods to the Seller on request;
 - (b) the Client holds the benefit of the Client's insurance of the Goods on trust for the Seller and must pay to the Seller the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;
 - (c) the Client 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 Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for the Seller and must pay or deliver the proceeds to the Seller on demand;
 - (d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of the Seller and must sell, dispose of or return the resulting product to the Seller as it so directs;
 - (e) the Client irrevocably authorises the Seller to enter any premises where the Seller believes the Goods are kept and recover possession of the Goods;
 - (f) the Seller may recover possession of any Goods in transit whether or not Delivery has occurred;

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- (g) the Client 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 Seller;
- (h) the Seller may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

12. Personal Property Securities Act 1999 (“PPSA”)

- 12.1 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:
 - (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) a security interest is taken in all Goods and/or collateral (account) – being a monetary obligation of the Client to the Seller for Services – that have previously been supplied and that will be supplied in the future by the Seller to the Client.
- 12.2 The Client undertakes to:
 - (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 the Seller may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, the Seller for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;
 - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of the Seller; and
 - (d) immediately advise the Seller of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 12.3 The Seller and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 12.4 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA.
- 12.5 Unless otherwise agreed to in writing by the Seller, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 12.6 The Client shall unconditionally ratify any actions taken by the Seller under clauses 12.1 to 12.5.
- 12.7 Subject to any express provisions to the contrary (including those contained in this clause 12), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

13. Security and Charge

- 13.1 In consideration of the Seller agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 13.2 The Client indemnifies the Seller from and against all the Seller’s costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Seller’s rights under this clause.
- 13.3 The Client irrevocably appoints the Seller and each director of the Seller as the Client’s true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 13 including, but not limited to, signing any document on the Client’s behalf.

14. Defects

- 14.1 The Client shall inspect the Goods on Delivery and shall within seven (7) days of Delivery (time being of the essence) notify the Seller of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford the Seller an opportunity to inspect the Goods within a reasonable time following Delivery if the Client believes the Goods are defective in any way. If the Client 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 Seller has agreed in writing that the Client is entitled to reject, the Seller’s liability is limited to either (at the Seller’s discretion) replacing the Goods or repairing the Goods.
- 14.2 Goods will not be accepted for return other than in accordance with 14.1 above, and provided that:
 - (a) the Seller has agreed in writing to accept the return of the Goods; and
 - (b) the Goods are returned at the Client’s cost within seven (7) days of the Delivery date; and
 - (c) the Seller 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.
- 14.3 The Seller will not accept the return of Goods for credit.

15. Warranty

- 15.1 For Goods not manufactured by the Seller, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Seller 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.
- 15.2 In the case of second hand Goods, the Client acknowledges that full opportunity to inspect the same has been provided and accepts the same with all faults and that no warranty is given by the Seller as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Seller shall not be responsible for any loss or damage to the Goods, or caused by the Goods, or any part thereof however arising.

16. Consumer Guarantees Act 1993

- 16.1 If the Client is acquiring Goods 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 Goods by the Seller to the Client.

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17. Intellectual Property

- 17.1 The Client agrees that the Seller may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which the Seller has created for the Client.

18. Default and Consequences of Default

- 18.1 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 Seller's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 18.2 If the Client owes the Seller any money the Client shall indemnify the Seller from and against all costs and disbursements incurred by the Seller in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Seller's collection agency costs, and bank dishonour fees).
- 18.3 Further to any other rights or remedies the Seller may have under this Contract, if a Client has made payment to the Seller, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Seller under this clause 18 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.
- 18.4 Without prejudice to the Seller's other remedies at law the Seller shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Seller shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client has exceeded any applicable credit limit provided by the Seller;
 - (c) the Client 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 Client or any asset of the Client.

19. Cancellation

- 19.1 Without prejudice to any other remedies the Seller may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions the Seller may suspend or terminate the supply of Goods to the Client. The Seller will not be liable to the Client for any loss or damage the Client suffers because the Seller has exercised its rights under this clause.
- 19.2 The Seller 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 Client. On giving such notice the Seller shall repay to the Client any money paid by the Client for the Goods. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 19.3 In the event that the Client cancels Delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by the Seller as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 19.4 Cancellation of orders for Goods and/or parts and consumables used for the Services, will definitely not be accepted once the parts and consumables have been used in the Services, or an order has been placed.

20. Privacy Policy

- 20.1 All emails, documents, images or other recorded information held or used by the Seller is Personal Information as defined and referred to in clause 20.3 and therefore considered confidential. The Seller acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1993 ("the Act") including Part II of the OECD Guidelines and as set out in Schedule 5A of the Act and any statutory requirements where relevant in a European Economic Area "EEA" then the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). The Seller acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by the Seller that may result in serious harm to the Client, the Seller will notify the Client in accordance with the Act and/or the GDPR. Any release of such personal information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.
- 20.2 Notwithstanding clause 20.1, privacy limitations will extend to the Seller in respect of Cookies where transactions for purchases/orders transpire directly from the Seller's website. The Seller agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to the Seller when the Seller sends an email to the Client, so the Seller may collect and review that information ("collectively Personal Information")
- In order to enable / disable the collection of Personal Information by way of Cookies, the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via the Seller's website.
- 20.3 The Client authorises the Seller or the Seller's agent to:
- (a) access, collect, retain and use any information about the Client;
 - (i) (including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Client.
 - (b) disclose information about the Client, whether collected by the Seller from the Client directly or obtained by the Seller 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 Client.
- 20.4 Where the Client is an individual the authorities under clause 20.3 are authorities or consents for the purposes of the Privacy Act 1993.

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- 20.5 The Client shall have the right to request the Seller for a copy of the Personal Information about the Client retained by the Seller and the right to request the Seller to correct any incorrect Personal Information about the Client held by the Seller.
- 21. Service of Notices**
- 21.1 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 facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 21.2 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.
- 22. Trusts**
- 22.1 If the Client 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 Seller may have notice of the Trust, the Client covenants with the Seller as follows:
- (a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
 - (b) the Client 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 Client against the Trust or the trust fund. The Client 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 Client will not without consent in writing of the Seller (the Seller will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Client 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.
- 23. General**
- 23.1 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.
- 23.2 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 the Lower Hutt Courts of New Zealand.
- 23.3 The Seller shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Seller of these terms and conditions (alternatively the Seller's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 23.4 The Seller may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.
- 23.5 The Client cannot licence or assign without the written approval of the Seller.
- 23.6 The Seller 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 Client agrees and understands that they have no authority to give any instruction to any of the Seller's sub-contractors without the authority of the Seller.
- 23.7 The Client agrees that the Seller may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for the Seller to provide Goods to the Client.
- 23.8 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.
- 23.9 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.