



TERMS & CONDITIONS OF TRADE

1. Definitions

- 1.1 "Supplier" means Civilcast Pt Ltd, its successors and assigns or any person acting on behalf of and with the authority of Civilcast Pt Ltd.
- 1.2 "Customer" means the person/s, or person/s acting on behalf of and with the authority of the person/s, requesting the Supplier to provide the Goods or Services as specified in any quotation, order, invoice or other documentation, and:
- if there is more than one Customer, is a reference to each Customer jointly and severally;
 - if the Customer is a part of a Trust, will be bound in their capacity as a trustee; and
 - 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" are used interchangeably).
- 1.4 "Price" means the Price payable (plus GST where applicable) for the Goods as agreed between the Supplier and the Customer in accordance with clause 5.
- 1.5 "GST" means Goods and Services Tax (GST) as defined within the *A New Tax System (Goods and Services Tax Act 1999 (Cth))*.
- 1.6 "Terms of Trade" means these Terms and Conditions and the attached Operational Terms and Conditions.

2. Acceptance

- 2.1 These Terms of Trade govern the Supplier's supply of Goods whenever the Customer makes an order and the Supplier accepts the order for Goods.
- 2.2 These Terms of Trade may only be amended with the consent of both parties in writing, and will prevail to the extent of any inconsistency with any order document or any other representation, communication, document or contract between the Customer and the Supplier.
- 2.3 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these Terms of Trade if:
- the Customer signs these Terms of Trade;
 - The Customer acknowledges acceptance of these Terms of Trade, including by way of electronic acknowledgement;
 - the Customer places an order for or accepts delivery of Goods.
- 2.4 After the Customer's acceptance of these Terms of Trade, each new order for Goods will be governed by them, unless the Customer and Supplier agree otherwise.
- 2.5 The supply of Goods on credit will not take effect until the Customer has completed a credit application with the Supplier and it has been approved with a credit limit established for the account.
- 2.6 If the supply of Goods request exceeds the Customer's credit limit and/or the account exceeds the payment terms, the Supplier reserves the right to refuse delivery and/or request an alternative payment method.
- 2.7 The supply of Goods may be subject to availability and if, for any reason, Goods are not or cease to be available, the Supplier reserves the right to offer alternative Goods to the Customer. If the Customer does not accept the variation, the contract will be deemed cancelled in accordance with Clause 13.2.

3. Errors and Omissions

- 3.1 In the event an actual or alleged error or omission occurs:
- resulting from an inadvertent mistake made by the Supplier in the formation and/or administration of these Terms of Trade; and/or
 - contained in/omitted from any literature (hard copy and/or electronic) supplied by the Supplier in respect of the Goods,
- that is not attributable to the gross negligence and/or wilful misconduct of the Supplier, the Customer will not be entitled to treat this contract as repudiated nor render it invalid.

4. Change in Control

- 4.1 The Customer will give the Supplier no less than 14 days prior written notice of any proposed change of ownership of the Customer or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, or business practice).
- 4.2 The Customer will be liable for any loss incurred by the Supplier as a result of the Customer's failure to comply with this clause.

5. Price and Payment

- 5.1 The Price for the Goods will be:
- the Supplier's quoted price; or
 - If no Price is quoted, the Price agreed between the Supplier and the Contractor in writing.
- 5.2 The Supplier's quoted Price is exclusive of Delivery and will remain valid for the period stated in the quotation or otherwise for a period of 30 days.
- 5.3 The Supplier will not be obligated to supply or deliver quoted Goods until the Customer accepts the quote and places an order, and the Supplier accepts the order.
- 5.4 If the Customer requests a variation to the quoted price or to an order, the Supplier may accept the variation at their sole discretion, and subject to the Customer's acceptance of additional or varied charges, which the Supplier will detail in writing. The Supplier will not be liable for any unclear or inaccurate communications by the Customer. It is the Customer's responsibility to clearly set out their requested order variations and to clearly accept or reject variation charges promptly on receipt of the Supplier's notice. The Supplier will be entitled to rely on verbal or written Customer communications in processing order variations.
- 5.5 Unless otherwise stated the Price is exclusive of GST.
- 5.6 In addition to the Price, the Customer must pay to the Supplier an amount equal to any GST the Supplier must pay for any supply under this or any other contract for the sale of the Goods. The Customer must pay GST without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price.
- 5.7 In addition to GST, the Customer must pay any other taxes, levies and duties that may apply in addition to the Price, except where they are expressly included in the Price.
- 5.8 Time for payment for the Goods being of the essence, the Price will be payable by the Customer within 7 days following the date of any invoice given to the Customer by the Supplier, or another date/s set out by the Supplier and acknowledged by the Customer, which may be:
- on delivery of the Goods;
 - before delivery of the Goods;
 - by way of instalments or progress payments in accordance with the Supplier's required payment schedule;
 - 30 days following the end of the month in which a statement is posted to the Customer's address or address for notices; or
 - the date specified on any invoice or other form as being the date for payment.
- 5.9 Payment may be made by cheque, bank cheque, electronic or on-line banking, credit card, or by any other method as agreed between the Customer and the Supplier. A surcharge may apply per transaction depending on the method of payment.
- 5.10 The Supplier may require payment of a deposit (as set out under the Operational Terms and Conditions or agreed between the Supplier and Customer), which must be received in clear funds, before Goods are dispatched for delivery.
- 5.11 The Customer is not 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.

6. Delivery of Goods

- 6.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:
- the Customer or the Customer's nominated carrier takes possession of the Goods at the Supplier's address; or
 - the Supplier (or the Supplier's nominated carrier) delivers the Goods to the Customer's nominated address, whether or not the Customer is not present at the address.
- 6.2 At the Supplier's sole discretion, the cost of Delivery is either included in the Price or is in addition to the Price. The Supplier will notify the Customer when quoting or otherwise agreeing to the Price.
- 6.3 **Information about the Supplier's Delivery charges (including additional charges) is set out under the Operational Terms and Conditions.** Those charges will apply, unless specific costs associated with Delivery are separately agreed between the Supplier and Customer.
- 6.4 Any time specified by the Supplier for Delivery of the Goods is an estimate only. The Customer must take delivery by receipt or collection of the Goods whenever they are tendered for Delivery.
- 6.5 The Supplier will not be liable for any loss or damage or other claim because of Delivery being late, and the Customer is not relieved of its obligations under these Terms of Trade. In the event of a delay in Delivery, the Customer will not be entitled to treat this contract as repudiated nor render it invalid.

- 6.6 If the Customer does not or is unable to take delivery of the Goods, the Supplier will be entitled to charge a reasonable fee for redelivery and/or storage (as set out under the Operational Terms and Conditions).
- 6.7 The Supplier may deliver the Goods in separate instalments. Each separate instalment will be invoiced and paid in accordance with the provisions in these Terms of Trade.

7. Risk

- 7.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery. It is the Customer's responsibility to insure the Goods on or before Delivery.
- 7.2 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 of Trade by the Supplier is sufficient evidence of the Supplier's rights to receive the insurance proceeds without the need to make further enquiries.
- 7.3 If the Customer requests or accepts Delivery of the Goods at an unattended location or without an authorised signatory, such Goods will be left at the Customer's sole risk.
- 7.4 The Customer acknowledges that Goods supplied may:
- fade or change colour over time; and
 - expand, contract or distort as a result of exposure to heat, cold, weather; and
 - mark or stain if exposed to certain substances; and
 - be damaged or disfigured by impact or scratching.

8. Accuracy of Customer's Plans and Measurements

- 8.1 The Supplier will be entitled to rely on the accuracy of any plans, specifications (including, but not limited to CAD drawings) and other information provided by the Customer.
- 8.2 It is the Customer's responsibility to verify the accuracy of any measurements and quantities required in respect of the Goods before the Customer places an order based on the measurements and quantities.
- 8.3 The Supplier accepts no responsibility for any loss, damages, costs or other claims resulting from the provision by the Customer of inaccurate plans, specifications or other information.

9. Specifications

- 9.1 The Supplier acknowledges that descriptive specifications, illustrations, dimensions and weights stated in the Supplier's or the manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer will not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the contract, unless expressly stated as such in writing by the Supplier.
- 9.2 The Customer must ensure they have access to the most up-to-date product catalogue (provided by the Supplier on request or downloadable on the Supplier's website) to confirm specifications, dimensions, weights and other relevant features of the Goods.

10. Title

- 10.1 The Supplier retains title in the Goods, and ownership in title of the Goods will only pass when:
- the Customer has paid the Supplier all amounts owing to the Supplier for the Goods in question; and
 - the Customer has met all of its other obligations to the Supplier.
- 10.2 Receipt by the Supplier of any form of payment other than cash will not be deemed to be payment unless that form of payment has been cleared and recognised by the Supplier.
- 10.3 It is further agreed that, until ownership of the Goods passes to the Customer in accordance with clause:
- the Customer is only a bailee of the Goods and must return the Goods to the Supplier on request;
 - 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;
 - if the Customer is a non-reseller (a Customer that purchases Goods for their own use and benefit), the Customer must not sell, dispose of, or otherwise part with possession of the Goods, until full title in the Goods passes to them;
 - if the Customer is a reseller (a Customer that expressly purchases Goods to resell to third parties), it may sell, dispose or part with possession of the Goods in the ordinary course of business, but the Customer must hold the proceeds of any sale or transfer of the Goods on trust for the Supplier and must pay or deliver the proceeds to the Supplier on demand;



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- e. the Customer should not convert or process the Goods or intermix them with other goods until full title in the Goods passes to them, 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;
- f. the Customer irrevocably authorises the Supplier to enter any premises where the Supplier believes the Goods are kept and recover possession of the Goods;
- g. the Supplier may recover possession of any Goods in transit, whether or not Delivery has occurred;
- h. the Customer must 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; and
- i. 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.

11. Personal Property Securities Act 2009 ("PPSA")

- 11.1 In this clause financing statement, financing change statement, security agreement, purchase money security interest and security interest has the meaning given to it by the PPSA.
- 11.2 Upon accepting these Terms of Trade, and in consideration of the Supplier supplying the Goods to the Supplier, the Customer grants to the Supplier a security interest or purchase money security interest in the Goods in order to secure payment of the Goods. The Customer agrees that any of the Goods or proceeds of sale of the Goods coming into existence after the date of these Terms of Trade will come into existence subject to the security interest or purchase money security interest granted under these Terms of Trade without the need for any further action or agreement by any party.
- 11.3 The Customer undertakes to:
 - a. promptly 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 Supplier may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a purchase money security interest or security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in this clause; or
 - b. indemnify, and upon demand reimburse, the Supplier for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
 - c. not register a financing change statement in respect of a security interest without the prior written consent of the Supplier;
 - d. 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 Supplier;
 - e. immediately advise the Supplier 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.
- 11.4 The Supplier and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these Terms of Trade.
- 11.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 11.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA, and these sections are thereby excluded.
- 11.7 For the purposes of section 115(7) of the PPSA, the Supplier need not comply with section 132 and 1137(3) of the PPSA.
- 11.8 Unless otherwise agreed to in writing by the Supplier, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 11.9 The Customer must unconditionally ratify any actions taken by the Supplier under this clause.
- 11.10 Subject to any express provisions to the contrary (including those contained in this clause), nothing in these Terms of Trade is intended to have the effect of contracting out of any of the provisions of the PPSA.

12. Security and Charge

- 12.1 In consideration for the Supplier agreeing to supply the Goods, the Customer 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 Customer either now or in the future, to secure the performance by the Customer of its obligations under these Terms of Trade (including, but not limited to, the payment of any money).
- 12.2 The Customer indemnifies the Supplier from and against all the Supplier's costs and disbursements, including legal costs on a solicitor/client basis, incurred in exercising the Supplier's rights under this clause.
- 12.3 The Customer irrevocably appoints the Supplier and each director of the Supplier as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of Clauses 10, 11 and 12 including, but not limited to, signing any document on the Customer's behalf.

13. Cancellation

- 13.1 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 of Trade, the Supplier may suspend or cancel the supply of Goods to the Customer. The Supplier will not be liable to the Customer for any loss or damage to the Customer because the Supplier has exercised its rights under this clause.
- 13.2 The Supplier may cancel any contract to which these Terms of Trade 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 will repay to the Customer any money paid by the Customer for the Goods. The Supplier will not be liable for any loss or damage whatsoever arising from such cancellation.
- 13.3 In the event that the Customer cancels Delivery of Goods, the Customer will be liable for any and all charge or loss (whether direct or indirect) incurred by the Supplier as a result of the cancellation (including, but not limited to, any loss of profits).
- 13.4 If the Customer cancels (for any reason) an order for Goods made to the Customer's specifications or for non-stocklist items, the Customer will be responsible for paying the full Price of the Goods and any other cost or loss directly or indirectly incurred by the Supplier as a result of the cancellation.

14. Defects, Warranties and Competition and Consumer Act 2010 (Cth)

- 14.1 The Customer must inspect the Goods on Delivery and must within 7 days of delivery notify the Supplier in writing of any evident defect or damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification, the Customer must allow the Supplier to inspect the Goods.
- 14.2 Under applicable law (including, without limitation the Competition and Consumer Act 2010 ("CCA")) certain statutory implied guarantees and warranties may be implied into these Terms of Trade ("Non-Excluded Guarantees"). Nothing in these Terms of Trade purports to modify or exclude the Non-Excluded Guarantees.
- 14.3 Except as expressly set out in these Terms of Trade or in respect of the Non-Excluded Guarantees the Supplier makes no warranties or other representations, and assume no liability:
 - a. with respect to the Goods, including, but not limited to, the suitability of the Goods or their fitness for purpose.
 - b. with respect to the accuracy or reliability of any advice, recommendation, information, assistance or service provided by the Supplier in relation to Goods supplied.
- 14.4 The Supplier's liability in respect of the above warranties is limited to the fullest extent permitted by law.
- 14.5 If the Customer is a consumer within the meaning of the CCA, the Supplier's liability is limited to the extent permitted by section 64A of Schedule 2.
- 14.6 If the Supplier is required to replace the Goods under this clause or the CCA, but is unable to do so, the Supplier may refund any money the Customer has paid for the Goods.
- 14.7 If the Customer is not a consumer within the meaning of the CCA, the Supplier's liability is, at the Supplier's sole discretion:
 - a. limited to the value of any express warranty or warranty card provided to the Customer by the Supplier; or
 - b. limited to any warranty to which the Supplier is entitled, if the Supplier did not manufacture the Goods.

15. Returns

- 15.1 Subject to the CCA, Returns will only be accepted if:
 - a. the Customer has complied with the provisions of this clause; and
 - b. the Supplier has agreed that the Goods are defective; and
 - c. the Goods are returned within 30 days (or as otherwise set out under the Operational Terms and Conditions) at the Customer's cost; and
 - d. the Goods are returned in the same condition in which they were delivered, or as close a condition to that in which they were delivered as is possible.
- 15.2 Subject to the CCA, the Supplier will not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
 - a. the Customer failing to properly maintain or store any Goods;
 - b. the Customer using the Goods for any purpose other than that for which they were supplied to the Customer;
 - c. the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - d. the Customer failing to follow any instructions or guidelines provided by the Supplier;
 - e. fair wear and tear, any accident, or act of God.
- 15.3 The Supplier may in its absolute discretion accept non-defective Goods for return in which case the Supplier may require the Customer to pay handling or restocking fees of up to 30% of the value of the returned Goods (or such other amounts set out under the Operational Terms and Conditions) plus any freight costs.
- 15.4 Notwithstanding anything contained in this clause if the Supplier is required by a law to accept a return then the Supplier will only accept a return on the conditions imposed by that law.

16. Default and Consequences of Default

- 16.1 Interest on overdue invoices accrues 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 will compound monthly) after as well as before any judgment.
- 16.2 If the Customer owes the Supplier any money, the Customer indemnifies the Supplier from and against all costs and disbursements incurred by the Supplier in recovering the debt (including but not limited to administration fees, legal costs on a solicitor/client basis, Supplier's contract default fee, and bank dishonour fees).
- 16.3 Further to the Supplier's other rights or remedies, if a Customer has made payment to the Supplier, and the transaction is subsequently reversed, the Customer will be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Supplier.
- 16.4 Further to the Supplier's other rights or remedies, the Supplier is entitled to cancel all or any part of an order that remains unfulfilled, and all amounts owing to the Supplier will become immediately payable, whether or not due for payment, 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;
 - d. a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

17. Intellectual Property

- 17.1 The intellectual property rights in all Goods remains the property of the Supplier (or its licensees or assigns).
- 17.2 The Customer's use of the Goods is strictly limited to the purpose for which they were purchased. Under no circumstances may the designs or drawings of the Goods, or the Goods themselves, be reproduced, sold, distributed or used except in accordance with these Terms of Trade or with the express written approval of the Supplier.
- 17.3 The Customer warrants that all designs, specifications or instructions given to the Supplier will not cause the Supplier to infringe any patent, registered design, copyright or trademark in the execution of the Customer's order and the Customer indemnifies the Supplier against any cost incurred by the Supplier as a result of an infringement (or alleged infringement) or any action taken by a third party against the Supplier in respect of any such infringement.



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18. Operational Terms and Conditions

- 18.1 The Operational Terms and Conditions attached to these Terms of Trade set out delivery, storage, returns and cancellation costs, charges, and special terms with respect to each order made by the Customer.
- 18.2 The Supplier will provide the Operational Terms and Conditions to the Customer each time the Customer makes an order.
- 18.3 The Operational Terms and Conditions may be updated from time to time. It is the Customer's responsibility to review Operational Terms and Conditions each time they are supplied by the Supplier, as any updates will apply to subsequent Customer orders.
- 18.4 The Operational Terms and Conditions will take precedence to the extent of any inconsistency between the general Terms and Conditions and the Operational Terms and Conditions that make up these Terms of Trade.

19. Privacy Act 1988

- 19.1 The Customer agrees for the Supplier to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by the Supplier.
- 19.2 The Customer agrees that the Supplier may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:
- to assess an application by the Customer; and/or
 - to notify other credit providers of a default by the Customer; and/or
 - to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two (2) years.
- 19.3 The Customer consents to the Supplier being given a consumer credit report to collect overdue payment on commercial credit.
- 19.4 The Customer agrees that personal credit information collected by the Supplier may be retained and used and for the following purposes (and for other agreed purposes):
- the provision of Goods; and/or
 - analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; and/or
 - processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
 - enabling the collection of amounts outstanding in relation to the Goods.
- 19.5 The Supplier may give information about the Customer to a CRB for the following purposes:
- to obtain a consumer credit report;
 - to allow the CRB to create or maintain a credit information file about the Customer including credit history.
- 19.6 The information given to the CRB may include:
- personal information as outlined above;
 - name of the credit provider and that the Supplier is a current credit provider to the Customer;
 - whether the credit provider is a licensee;
 - type of consumer credit;
 - details concerning the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced, or alternatively that the Customer no longer has any overdue accounts and the Supplier has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - information that, in the opinion of the Supplier, the Customer has committed a serious credit infringement;
 - advice that the amount of the Customer's overdue payment is equal to or more than one hundred and fifty dollars (\$150).

- 19.7 The Customer has the right to request (by e-mail) from the Supplier:
- a copy of the information about the Customer retained by the Supplier and the right to request that the Supplier correct any incorrect information; and
 - that the Supplier does not disclose any personal information about the Customer for the purpose of direct marketing.
- 19.8 The Supplier will destroy personal information upon the Customer's request (by e-mail) or if it is no longer required, unless it is required to be maintained and/or stored in accordance with the law.
- 19.9 The Customer can make a privacy complaint by contacting the Supplier via e-mail. The Supplier will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.

20. Compliance with Laws

- 20.1 It is the Customer's sole responsibility to obtain (at their own expense) all licenses and approvals that may be required for the Services.
- 20.2 The Customer must ensure that the site will comply with any work health and safety (WHS) laws and any other relevant safety standards or legislation, including for the purposes of safe Delivery of the Goods.

21. Service of Notices

- 21.1 Any written notice given under this contract will be deemed to have been given and received:
- by handing the notice to the other party, in person;
 - by leaving it at the address of the other party as stated in this contract or on the Supplier's quote or invoice;
 - by sending it by registered post to the address of the other party as stated in this contract;
 - if sent by email to the other party's last known email address.
- 21.2 Any notice that is posted will 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 Customer is acting in the capacity of trustee of any trust ("Trust"), at any time upon or subsequent to entering into the contract and before satisfying all its obligations under this contract, then whether or not the Supplier may have notice of the Trust, the Customer covenants with the Supplier as follows:
- the contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;
 - 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.
 - the Customer will not without consent in writing of the Supplier (not to be unreasonably withheld) cause, permit, or suffer to happen any of the following events:
 - the removal, replacement or retirement of the Customer as trustee of the Trust;
 - any alteration to or variation of the terms of the Trust;
 - any advancement or distribution of capital of the Trust; or
 - any resettlement of the trust property.

23. General

- 23.1 The failure by either party to enforce any provision of these Terms of Trade will not be treated as a waiver of that provision, nor will it affect that party's right to subsequently enforce that provision. If any provision of these Terms of Trade is invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.
- 23.2 These Terms of Trade and any contract to which they apply is governed by the laws of the state of New South Wales, and the Customer and Supplier submit to the exclusive jurisdiction of the courts of New South Wales.
- 23.3 Without limiting any other provision of these Terms of Trade, the Supplier will 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 of Trade.
- 23.4 Without limiting any other clause of these Terms of Trade, The Supplier's liability with respect to the Customer will be limited to damages which under no circumstances will exceed the Price of the Goods.

- 23.5 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.
- 23.6 The Supplier may elect to subcontract out any part of the Services but will not be relieved from any liability or obligation under this contract by so doing.
- 23.7 The Customer has no authority to give any instruction to any of the Supplier's sub-contractors without the authority of the Supplier.
- 23.8 The Supplier may amend these Terms of Trade by notifying the Customer in writing. These changes will be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer places a further order for or accepts further delivery of Goods.
- 23.9 Neither party will be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, epidemic, pandemic, fire, flood, storm or other event beyond the reasonable control of either party.
- 23.10 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.