



CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

Buyer's Details: <input type="checkbox"/> Individual <input type="checkbox"/> Sole Trader <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/> Other:		
Full or Legal Name:		
Trading Name: (If different from above)		
Billing Address:		Postcode:
Delivery Address:		Postcode:
Email Address:		
Phone No:	Fax No:	Mobile No:
Contact (for order)	Name:	Mobile No:
Personal Details: (please complete if you are an Individual)		
Driver's Licence No: (Please attach a copy)	Private Address:	Postcode:
Business Details: (please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)		
Company Number:	Date Incorp. (current owners):	
Nature of Business:		
Paid Up Capital: \$	Estimated Monthly Purchases: \$	Credit Limit Required: \$
Principal Place of Business is: <input type="checkbox"/> Rented <input type="checkbox"/> Owned <input type="checkbox"/> Mortgaged (to whom):		
Directors / Owners / Trustee (if more than two, please attach a separate sheet)		
(1) Full Name:		D.O.B.
Private Address:		Postcode:
Driver's Licence No: (Please attach a copy)	Phone No:	Mobile No:
(2) Full Name:		D.O.B.
Private Address:		Postcode:
Driver's Licence No: (Please attach a copy)	Phone No:	Mobile No:
Account Terms: <input type="checkbox"/> 7 Days <input type="checkbox"/> COD		
Purchase Order Required? <input type="checkbox"/> YES <input type="checkbox"/> NO	Accounts to be emailed? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Accounts Email Address:		
Accounts Contact (for Payment):		Phone No:
Bank and Branch:		Account No:
Trade References: (please provide companies that are willing to do trade references)		
Name:	Address:	Phone / Fax / Email:
1.		
2.		
3.		

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Diversity Food Limited T/A Machi which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. **I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Buyer I shall be personally liable for the performance of the Buyer's obligations under this contract.**

SIGNED (BUYER): _____



Personal/Directors Guarantee and Indemnity

IN CONSIDERATION of Diversity Foods Limited T/A Machi and its successors and assigns ("the Seller") at the request of the Guarantor (as is now acknowledged) supplying and continuing to supply goods and/or services to

("the Buyer") [*Insert Company Name In Box Provided*]

I/WE (also referred to as the "Guarantor/s") UNCONDITIONALLY AND IRREVOCABLY:

- GUARANTEE** the due and punctual payment to the Seller of all monies which are now owing to the Seller by the Buyer and all further sums of money from time to time owing to the Seller by the Buyer in respect of goods and services supplied or to be supplied by the Seller to the Buyer or any other liability of the Buyer to the Seller, and the due observance and performance by the Buyer of all its obligations contained or implied in any contract with the Seller, including but not limited to the Terms & Conditions of Trade signed by the Buyer and annexed to this Guarantee and Indemnity. If for any reason the Buyer does not pay any amount owing to the Seller the Guarantor will immediately on demand pay the relevant amount to the Seller. In consideration of the Seller agreeing to supply the Goods to the Buyer, the Guarantor charges all of its right, title and interest (joint or several) in any land, realty or other assets capable of being charged, owned by the Guarantor now or in the future, to secure the performance by the Guarantor of its obligations under these terms and conditions (including, but not limited to, the payment of any money) and the Guarantor acknowledges that this personal guarantee and indemnity constitutes a security agreement for the purposes of the Personal Property Securities Act 1999 ("PPSA") and unequivocally consents to the Seller registering any interest so charged. The Guarantor irrevocably appoints the Seller and each director of the Seller as the Guarantor's true and lawful attorney/s to perform all necessary acts to give effect to this clause including, but not limited to, signing any document on the Guarantor's behalf which the Seller may reasonably require to:
 - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - register any other document required to be registered by the PPSA or any other law; or
 - correct a defect in a statement referred to in clause 1(a) or 1(b).
- HOLD HARMLESS AND INDEMNIFY** the Seller on demand as a separate obligation against any liability (including but not limited to damages, costs, losses and legal fees calculated on a solicitor and own client basis) incurred by, or assessed against, the Seller in connection with:
 - the supply of goods and/or services to the Buyer; or
 - the recovery of monies owing to the Seller by the Buyer including the enforcement of this Guarantee and Indemnity, and including but not limited to the Seller's nominees' costs of collection and legal costs; or
 - monies paid by the Seller with the Buyer's consent in settlement of a dispute that arises or results from a dispute between, the Seller, the Buyer, and a third party or any combination thereof, over the supply of goods and/or services by the Seller to the Buyer.

I/WE FURTHER ACKNOWLEDGE AND AGREE THAT

- I/We have received, read and understood the Seller's Terms and Conditions prior to entering into this Guarantee and Indemnity and agree to be bound by those Terms and Conditions.**
- This Guarantee and Indemnity shall constitute an unconditional and continuing Guarantee and Indemnity and accordingly shall be irrevocable and remain in full force and effect until the whole of monies owing to the Seller by the Buyer and all obligations herein have been fully paid satisfied and performed.
- No granting of credit, extension of further credit, or granting of time and no waiver, indulgence or neglect to sue on the Seller's part (whether in respect of the Buyer or any one or more of any other Guarantor(s) or otherwise) and no failure by any named Guarantor to properly execute this Guarantee and Indemnity shall impair or limit the liability under this Guarantee and Indemnity of any Guarantor. Without affecting the Buyer's obligations to the Seller, each Guarantor shall be a principal debtor and liable to the Seller accordingly.
- If any payment received or recovered by the Seller is avoided by law such payment shall be deemed not to have discharged the liability of the Guarantor, and the Guarantor and the Seller shall each be restored to the position in which they would have been had no such payment been made.
- The term "Guarantor" whenever used in this Guarantee and Indemnity shall, if there is more than one person named as Guarantor, mean and refer to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this Guarantee and Indemnity shall bind them jointly and severally.
- I/We have been advised to obtain independent legal advice before executing this Guarantee and Indemnity. I/we understand that I/we am/are liable for all amounts owing (both now and in the future) by the Buyer to the Seller.**
- I/we irrevocably authorise the Seller to obtain from any person or company any information which the Seller may require for credit reference purposes. I/We further irrevocably authorise the Seller to provide to any third party, in response to credit references and enquiries about me/us or by way of information exchange with credit reference agencies, details of this Guarantee and Indemnity and any subsequent dealings that I/we may have with the Seller as a result of this Guarantee and Indemnity being actioned by the Seller.
- The above information is to be used by the Seller for all purposes in connection with the Seller considering this Guarantee and Indemnity and the subsequent enforcement of the same.

GUARANTOR-1	
SIGNED: _____	
FULL NAME: _____	
HOME ADDRESS: _____	
DATE OF BIRTH: _____	
EXECUTED as a Deed this day of 20____	

GUARANTOR-2	
SIGNED: _____	
FULL NAME: _____	
HOME ADDRESS: _____	
DATE OF BIRTH: _____	
EXECUTED as a Deed this day of 20____	

Note: 1. If the Buyer is a sole trader or partnership the Guarantor(s) should be some other suitable person(s).
 2. If the Buyer is a club or incorporated society the Guarantor(s) should be the president and secretary or other committee member

MACHI – Terms & Conditions of Trade

<p>1. Definitions</p> <p>1.1 "Seller" means Diversity Foods Limited T/A Machi, its successors and assigns or any person acting on behalf of and with the authority of Diversity Food Limited T/A Machi.</p> <p>1.2 "Buyer" means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Buyer is a reference to each Buyer jointly and severally.</p> <p>1.3 "Goods" means all Goods or Services supplied by the Seller to the Buyer at the Buyer's request from time to time (where the context so permits the terms "Goods" or "Services" shall be interchangeable for the other).</p> <p>1.4 "Price" means the Price payable (plus any Goods and Services Tax (GST) where applicable) for the Goods as agreed between the Seller and the Buyer in accordance with clause 5 below.</p> <p>2. Acceptance</p> <p>2.1 The Buyer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Buyer places an order for or accepts delivery of the Goods.</p> <p>2.2 These terms and conditions may only be amended with the consent of both parties in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Buyer and the Seller.</p> <p>3. Electronic Transactions Act 2002</p> <p>3.1 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 22 of the Electronic Transactions Act 2002 or any other applicable provisions of that Act or any Regulations referred to in that Act.</p> <p>4. Change in Control</p> <p>4.1 The Buyer shall give the Seller not less than fourteen (14) days prior written notice of any proposed change of ownership of the Buyer and/or any other change in the Buyer's details (including but not limited to, changes in the Buyer's name, address, contact phone or fax numbers, or business practice). The Buyer shall be liable for any loss incurred by the Seller as a result of the Buyer's failure to comply with this clause.</p> <p>5. Price and Payment</p> <p>5.1 At the Seller's sole discretion, the Price shall be either:</p> <p>(a) as indicated on any invoice provided by the Seller to the Buyer; or</p> <p>(b) the Price as at the date of delivery of the Goods according to the Seller's current price list; or</p> <p>(c) 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 seven (7) days.</p> <p>5.2 The Seller reserves the right to change the Price:</p> <p>(a) if a variation to the Goods which are to be supplied is requested; or</p> <p>(b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or</p> <p>(c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties which are only discovered on commencement of the Services; or</p> <p>(d) in the event of increases to the Seller in the cost of labour 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 freight and insurance charges) which are beyond the Seller's control.</p> <p>5.3 The Seller reserves the right to change the Price if a variation to the Seller's quotation is requested. 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 Buyer 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.</p> <p>5.4 At the Seller's sole discretion, a non-refundable deposit may be required.</p> <p>5.5 Time for payment for the Goods being of the essence, the Price will be payable by the Buyer on the date/s determined by the Seller, which may be:</p> <p>(a) on delivery of the Goods;</p> <p>(b) before delivery of the Goods;</p> <p>(c) the date specified on any invoice or other form as being the date for payment; or</p> <p>(d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Buyer by the Seller.</p> <p>5.6 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, or by any other method as agreed to between the Buyer and the Seller.</p> <p>5.7 The Buyer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Buyer by the Seller nor to withhold payment of any invoice because part of that invoice is in dispute.</p> <p>5.8 Unless otherwise stated the Price does not include GST. In addition to the Price the Buyer 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 agreement for the sale of the Goods. The Buyer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Buyer pays the Price. In addition, the Buyer 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.</p> <p>6. Delivery of Goods</p> <p>6.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:</p> <p>(a) the Buyer or the Buyer's nominated carrier takes possession of the Goods at the Seller's address; or</p> <p>(b) the Seller (or the Seller's nominated carrier) delivers the Goods to the Buyer's nominated address even if the Buyer is not present at the address.</p> <p>6.2 At the Seller's sole discretion, the cost of delivery is either included in the Price for orders exceeding the minimum order value or is in addition to the Price.</p> <p>6.3 The Seller may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.</p> <p>6.4 Any time specified by the Seller for delivery of the Goods is an estimate only and the Seller will not be liable for any loss or damage incurred by the Buyer as a result of delivery being late. However, both parties agree that they shall make every endeavour to enable the Goods to be delivered at the time and place as was arranged between both parties. In the event that the Seller is unable to supply the Goods as agreed solely due to any action or inaction of the Buyer, then the Seller shall be entitled to charge a reasonable fee for redelivery and/or storage.</p> <p>7. Risk</p> <p>7.1 Risk of damage to or loss of the Goods passes to the Buyer on Delivery and the Buyer must insure the Goods on or before Delivery.</p> <p>7.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Buyer, 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.</p> <p>7.3 If the Buyer requests the Seller to leave Goods outside the Seller's premises for collection or to deliver the Goods to an unattended location, then such Goods shall be left at the Buyer's sole risk.</p> <p>7.4 The Seller warrants that Products manufactured on its registered premises, and supplied to Buyers, shall meet all safety regulations and standards as defined by the Hazard Analysis and Critical Control Points (HACCP), Food Safety Programme, and are eminently suitable for public consumption and thereby compliant with the Australia New Zealand Food Standards Code.</p> <p>7.5 The Buyer and Seller shall store the Goods between 0°- 4°C if fresh and at -18°C if frozen.</p> <p>7.6 Where the Seller gives advice or recommendations to the Buyer, or the Buyer's agent, with specific instructions regarding the use and storage of the Products, and such advice or recommendations are not acted upon, then the Seller shall not be liable in</p>	<p>any way whatsoever for any damages or losses that occur after delivery of the Products.</p> <p>Access</p> <p>The Buyer shall ensure that the Seller has clear and free access to the delivery site at all times to enable them to deliver the Products. The Seller shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of the Seller.</p> <p>Compliance with Laws</p> <p>The Buyer 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 handling and storing of the Goods.</p> <p>The Seller has Product safety and Product recall procedures in place which will conform to the requirements of all laws and the recommendations of the Australian and New Zealand Food Authority.</p> <p>Title</p> <p>The Seller and the Buyer agree that ownership of the Goods shall not pass until:</p> <p>(a) the Buyer has paid the Seller all amounts owing to the Seller; and</p> <p>(b) the Buyer has met all of its other obligations to the Seller.</p> <p>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. It is further agreed that until ownership of the Goods passes to the Buyer in accordance with clause 9.1:</p> <p>(a) the Buyer is only a bailee of the Goods and must return the Goods to the Seller on request.</p> <p>(b) the Buyer holds the benefit of the Buyer'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.</p> <p>(c) the Buyer 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 Buyer sells, disposes or parts with possession of the Goods then the Buyer 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.</p> <p>(d) the Buyer should not convert or process the Goods or intermix them with other goods but if the Buyer does so then the Buyer 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.</p> <p>(e) the Buyer irrevocably authorises the Seller to enter any premises where the Seller believes the Goods are kept and recover possession of the Goods.</p> <p>(f) the Seller may recover possession of any Goods in transit whether or not delivery has occurred.</p> <p>(g) the Buyer 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.</p> <p>(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 Buyer.</p> <p>Personal Property Securities Act 1999 ("PPSA")</p> <p>10.1 Upon assenting to these terms and conditions in writing the Buyer acknowledges and agrees that:</p> <p>(a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and</p> <p>(b) a security interest is taken in all Goods and/or collateral (account) – being a monetary obligation of the Buyer to the Seller for Services – that have previously been supplied and that will be supplied in the future by the Seller to the Buyer.</p> <p>10.2 The Buyer undertakes to:</p> <p>(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;</p> <p>(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;</p> <p>(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</p> <p>(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.</p> <p>10.3 The Seller and the Buyer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.</p> <p>10.4 The Buyer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.</p> <p>10.5 Unless otherwise agreed to in writing by the Seller, the Buyer waives its right to receive a verification statement in accordance with section 148 of the PPSA.</p> <p>10.6 The Buyer shall unconditionally ratify any actions taken by the Seller under clauses 10.1 to 10.5.</p> <p>Security and Charge</p> <p>11.1 In consideration of the Seller agreeing to supply the Goods, the Buyer 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 Buyer either now or in the future, to secure the performance by the Buyer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).</p> <p>11.2 The Buyer indemnifies the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own Buyer basis incurred in exercising the Seller's rights under this clause.</p> <p>11.3 The Buyer irrevocably appoints the Seller and each director of the Seller as the Buyer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Buyer's behalf.</p> <p>Buyer's Disclaimer</p> <p>12.1 The Buyer hereby disclaims any right to rescind, or cancel any contract with the Seller or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Buyer by the Seller and the Buyer acknowledges that the Goods are bought relying solely upon the Buyer's skill and judgment.</p> <p>Defects</p> <p>13.1 The Buyer shall inspect the Goods on delivery and shall within twenty-four (24) hours 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 Buyer shall allow the Seller an opportunity to inspect the Goods within a reasonable time following delivery if the Buyer believes the Goods are defective in any way. If the Buyer 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 Buyer is entitled to reject, the Seller's liability is limited to either (at the Seller's discretion) replacing the Goods.</p> <p>13.2 Goods will not be accepted for return other than in accordance with 13.1 above, and provided that:</p> <p>(a) the Seller has agreed in writing to accept the return of the Goods; and</p> <p>(b) the Goods are returned at the Buyer's cost within twenty-four (24) hours of the delivery date; and</p> <p>(c) the Seller will not be liable for Goods which have not been stored or used in a proper manner; and</p> <p>(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.</p> <p>13.3 The Seller may (in its discretion) accept the return of Goods for credit but this may incur a handling fee of twenty percent (20%) of the value of the returned Goods plus any freight.</p> <p>13.4 Subject to clause 13.1, non-stock item or Goods made to the Buyer's specifications are not acceptable for credit or return.</p> <p>Consumer Guarantees Act 1993</p> <p>14.1 If the Buyer is acquiring Goods for the purposes of a trade or business, the Buyer acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by the Seller to the Buyer.</p> <p>Default and Consequences of Default</p> <p>15.1 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.</p> <p>15.2 If the Buyer owes the Seller any money the Buyer 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 Buyer basis, the Seller's collection agency costs, and bank disbursement fees).</p> <p>15.3 Further to any other rights or remedies the Seller may have under this contract, if a Buyer has made payment to the Seller, and the transaction is subsequently reversed, the Buyer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Seller under this clause 15 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Buyer's obligations under this agreement.</p> <p>15.4 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 Buyer which remains unfulfilled and all amounts owing to the Seller shall, whether or not due for payment, become immediately payable if:</p> <p>(a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Buyer will be unable to make a payment when it falls due;</p> <p>(b) the Buyer has exceeded any applicable credit limit provided by the Seller;</p> <p>(c) the Buyer 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</p> <p>(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer.</p> <p>Cancellation</p> <p>16.1 Without prejudice to any other remedies the Seller may have, if at any time the Buyer 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 Buyer. The Seller will not be liable to the Buyer for any loss or damage the Buyer suffers because the Seller has exercised its rights under this clause.</p> <p>16.2 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 prior notice to the Buyer. On giving such notice the Seller shall repay to the Buyer any money paid by the Buyer for the Goods. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.</p> <p>16.3 In the event that the Buyer cancels delivery of Goods the Buyer 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).</p> <p>Privacy Act 1993</p> <p>17.1 The Buyer authorises the Seller or the Seller's agent to:</p> <p>(a) access, collect, retain and use any information about the Buyer;</p> <p>(i) (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Buyer's creditworthiness; or</p> <p>(ii) for the purpose of marketing products and services to the Buyer.</p> <p>(b) disclose information about the Buyer, whether collected by the Seller from the Buyer 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 Buyer.</p> <p>17.2 Where the Buyer is an individual the authorities under clause 17.1 are authorities or consents for the purposes of the Privacy Act 1993.</p> <p>17.3 The Buyer shall have the right to request the Seller for a copy of the information about the Buyer retained by the Seller and the right to request the Seller to correct any incorrect information about the Buyer held by the Seller.</p> <p>Service of Notices</p> <p>18.1 Any written notice given under this contract shall be deemed to have been given and received:</p> <p>(a) by handing the notice to the other party, in person;</p> <p>(b) by leaving it at the address of the other party as stated in this contract;</p> <p>(c) by sending it by registered post to the address of the other party as stated in this contract;</p> <p>(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;</p> <p>(e) if sent by email to the other party's last known email address.</p> <p>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.</p> <p>General</p> <p>19.1 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.</p> <p>19.2 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 courts of Manukau, New Zealand.</p> <p>19.3 The Seller shall be under no liability whatsoever to the Buyer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Buyer 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).</p> <p>19.4 Neither party shall assign or sub-contract all or any part of their rights and obligations under this agreement without the written consent of the other party.</p> <p>19.5 The Buyer agrees that the Seller may amend these terms and conditions by notifying the Buyer in writing. These changes shall be deemed to take effect from the date on which the Buyer accepts such changes, or otherwise at such time as the Buyer makes a further request for the Seller to provide Goods to the Buyer.</p> <p>19.6 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.</p> <p>19.7 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 binding and valid legal obligations on them.</p>
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