

1. DEFINITIONS & INTERPRETATION

- 1.1. This Privacy Policy discloses our privacy practices (including what information we collect, whom we collect it from, why we collect it and how we use such information). If applicable, capitalised terms have the meaning given to them in this Privacy Policy. In addition, the following definitions apply to this Privacy Policy:
- 1.2. 'Supplier,' 'we,' or 'us' means Taranaki Appliance Services Limited trading as Taranaki Appliance Services (our successors and assigns) or any person acting with the authority of Taranaki Appliance Services Limited.
- 1.3. 'Client,' 'you', or 'your' means the Client purchasing Services from us or any person acting on your behalf.
- 1.4. 'Services' means all Services provided to you, including any provision of Goods as specified in any documentation or otherwise provided to you under any Agreement.
- 1.5. 'Agreement' means our terms & conditions of trade, as may be amended from time to time (including our Privacy Policy and any service level Agreement, orders, purchases or schedules as applicable).
- 1.6. 'Cookies' means small files 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. They can be accessed either by the web server or your computer. If you do not wish to allow, Cookies to operate in the background when accessing the Website. You have the right to enable or disable the Cookies first by selecting the option provided on the Website.
- 1.7. 'Personal Information' is defined in Part 1, section 7 of the Privacy Act 2020, and is information about an identifiable individual (including the individual's name, address, email, phone numbers, credit card details, place of work, and other information necessary for us to provide the Services).
- 1.8. 'Website' means a location accessible on the internet through the world wide web and provides multimedia content via a graphical user interface.
- 1.9. In this Privacy Policy, unless the context otherwise requires:
 - (a) headings are for convenience only and do not affect interpretation; and
 - (b) a reference to legislation includes all regulations, orders, instruments, codes, guidelines, or determinations issued under that legislation or any modification, consolidation, amendment, re-enactment, replacement, or codification.

2. COLLECTED INFORMATION

- 2.1. We may collect Personal Information when you purchase our Services, register for events, complete surveys, subscribe to our newsletters or mailing list, enter promotions or otherwise communicate with us. The Personal Information may include your name, contact details, email address, credit card details, place of work, position and other information necessary for us to provide the Services you have requested.
- 2.2. We collect unique identifiers, browser type and settings, device type, operating system, and mobile network information (including the carrier name, phone number, and application data). We also collect information about the interaction of your apps, browsers, and devices with our Services, including IP address, crash reports, system activity, and the date, time, and referrer URL of your request.
- 2.3. Server logs and different web analytic tools are used to help us record this information (including Cookies). We may also identify search terms, your location and what content or Services are viewed when visiting our Website.
- 2.4. We gather information about our Website user's Personal Information provided when you complete an online form or request our Services. When visitors leave comments on the Website, we collect the data shown in the comments form and the visitor's IP address and browser user agent string to help spam detection. Google Analytics or our web servers collected information can include the following types:
 - (a) the date and time of visits to the Website
 - (b) pages viewed;
 - (c) the referring Website;
 - (d) your IP address; and
 - (e) technical information on browser connections.

- 2.5. This information is anonymous, and no attempt is made to identify users or their search activities. We use this information to administer the Website and better understand our users and how they use it.
- 2.6. We may not be able to provide you with the Services you require if you do not provide us with the necessary Personal Information when requested.
- 2.7. We retain Personal Information regarding you for as long as your account is active to provide you with our Services. We also retain Personal Information for as long as necessary to achieve the purposes described in this Privacy Policy. The precise periods for keeping your Personal Information vary depending on the nature of the information and why we need it. Factors we consider in determining these periods include the minimum required retention period prescribed by law or recommended as best practice, the period during which a claim can be made concerning an Agreement or other matter, and whether the Personal Information has been aggregated or anonymised (or other relevant criteria).

3. DISCLOSURE AND USE OF INFORMATION

- 3.1. We use our collected information to interact with you directly, like your email address or other contact information. We may let you know about upcoming changes or improvements to our Services. If you contact us, we will keep a record of your request to help solve any future issues you might be facing.
- 3.2. We also use third-party service providers (such as Google) to help us track the effectiveness of our Website to generate visitor traffic and display targeted advertising. These advertisements may collect anonymous information about your visits to the Website on which such ad is placed, your interaction with these ads and the Services offered by us and others through a cookie (including Google Analytics) or other web technologies. We and other selected marketing organisations may use this anonymous information to inform, optimise and provide targeted advertisements.
- 3.3. When you enquire about or purchase Services from us, we may ask for your consent to collect information about you from others (including undertaking credit checks, obtaining references, or co-operating with your other service providers or suppliers).
- 3.4. We may use collected information to:
 - (a) provide you with the Services that you have requested;
 - (b) verify that existing information that we hold about you is accurate and complete;
 - (c) process credit card transactions;
 - (d) maintain or improve our Services or Website;
 - (e) communicate with you to inform you about new Services or other promotional activities;
 - (f) help with any issues or problems you may have with our Services or Website;
 - (g) assist us in performing our obligations or enforcing our rights under any Agreement with you; and
 - (h) undertake research and analysis.
- 3.5. We will share Personal Information outside of our business if we have a reasonable belief that access, use, preservation, or disclosure of the data is necessary to:
 - (a) meet any applicable law, regulation, legal process, or enforceable governmental request;
 - (b) enforce applicable terms of our service, including investigation of potential violations;
 - (c) detect, prevent, or otherwise address fraud, security, or technical issues; and
 - (d) protect against harm to our rights, property, safety, users, or the public as required or permitted by law.
- 3.6. If a third party acquires us or substantially all of our assets, our Client information will be one of the transferred assets. We will continue to ensure the confidentiality of any Personal Information and will give affected users notice before personal data is transferred or becomes subject to a different Privacy Policy.
- 3.7. We may share aggregated, non-personally identifiable information publicly and with our contractors, service providers and other third parties (including marketing organisations such as Google).

- 3.8. We will ask for your consent before using Personal Information for purposes other than those set out in this Privacy Policy.
- 3.9. You are solely responsible for complying with any laws and regulations that apply to your collection and use of your end users' information, including Personal Information you collect about them using Website technologies (including Cookies or similar technologies).
- 3.10. We acknowledge our obligation regarding the handling, use, disclosure or processing of Personal Information under the Privacy Act 2020 (and part two of the Organisation for Economic Co-operation and Development (OECD) guidelines on the protection of privacy and trans-border flows of personal data) including any statutory requirements where relevant under the General Data Protection Regulation (GDPR).
- 3.11. If we become aware of any data breaches or disclosure of your Personal Information held by us that may result in serious harm to you, we will notify you in accordance with the Privacy Act 2020 or the requirements set out in the GDPR.

4. COOKIES

- 4.1. A cookie is a small text file placed on your device by a Website to capture information about your visit.
- 4.2. We use Cookies (including Cookies developed by our third-party service providers such as Google Analytics) for several purposes, including improving our Services, enhancing your online experience with us and maintaining the secure connection between your browser and our servers while using our Website.
- 4.3. You agree that:
 - (a) in most circumstances, you can adjust the settings on your browser to notify you when you are offered a cookie so you can decide whether or not to accept it. However, if you disable or block Cookies, our secure Services (such as online payments) won't work, and other parts of our Website may not work correctly; and
 - (b) we use Cookies and other tracking software throughout our Website. These collect information covering multiple sessions across multiple devices which may identify you personally, such as where you provide us with information on an online form (regardless of whether that form is submitted or not) or when you are using, or have used, one of our secure online Services.
- 4.4. Session Cookies:
 - (a) we use session Cookies to identify a particular session on our Website. A session is the time you visited and spent on our Website using a specific device. The information collected from the session (which may or may not identify you personally) is about your browsing activities on our Website, such as what buttons you clicked, what pages you visited, what content we displayed to you, and information you entered on our Website. We don't monitor your activity after you have left our Website, and we do not watch what you are doing on other Websites simultaneously as you are using ours;
 - (b) every time you go back to our Website using the same device in the same session, the Website will recognise what happened previously with the browsing activities on that device;
 - (c) we use persistent Cookies to give you the ability to set your preferences for our Website; and
 - (d) we may also use these Cookies for fraud detection and investigation.
- 4.5. Information collected by our Cookies will:
 - (a) identify you and your browser, and determine if your device has previously visited our Website;
 - (b) identify other pages or a third party's Website you have accessed through our Website or when we provide you with a link to click;
 - (c) help us to understand, optimise and personalise your experience;
 - (d) improve our advertising and deliver you content or offers we think are most relevant; and
 - (e) detect malicious activity from your device that may place your security at risk.
- 4.6. If you consent to our Cookies on our Website and later wish to withdraw your consent, you may manage and control your privacy settings via your web browser (including removing Cookies or deleting them from your browser history when exiting the Website).

5. STORAGE AND SECURITY OF INFORMATION

- 5.1. We always try to ensure that our information is accurate and up to date. We will maintain security safeguards to protect your information and take all reasonable steps to ensure that your information is not disclosed to any unauthorised person or entity.
- 5.2. We use encryption to protect your private information as you enter it on our Website, such as the Secure Socket Layer (SSL) protocol. When you pay online by credit card, we use a PCI-DSS compliant third-party payment gateway to process the payment securely.
- 5.3. We may store the Personal Information we collect in any format we choose at our offices or premises outside our offices, including data storage facilities or online storage located within or outside New Zealand. We store and process information (both personal and non-personally identifiable information) on servers in several different countries worldwide. Information held in another country may be subject to that country's privacy laws. It may permit the government and other regulatory authorities to access such information in certain circumstances. Regardless of where your information is processed, we apply the same protections described in this Privacy Policy. We also comply with specific legal frameworks relating to the transfer of data.

6. EMBEDDED CONTENT FROM OTHER WEBSITES

- 6.1. Our Website may include embedded content or articles. Embedded content from other Websites behaves the same way as if the visitor has visited the other Website. These Websites may collect data about you, use Cookies, embed additional third-party tracking, and monitor your interaction with that embedded content (including tracking your interaction with the embedded content if you have an account and are logged in to that Website).
- 6.2. Our Website may also contain links and advertisements which link to third party Websites. We have no control over the privacy policies of such third parties, and we encourage you to review such policies before providing any information.

7. ACCESS AND CORRECTION OF INFORMATION

- 7.1. Under the Privacy Act 2020, individuals have the right to access and request the correction of their Personal Information. You also have rights under the GDPR. If you have any questions about this Privacy Policy or requests relating to your Personal Information, please contact us. If you would like to update your details, please request and complete a Client Information Form with your amended details.

8. GENERAL

- 8.1. Resolving complaints: When we receive formal written complaints, we respond by contacting the person who made the complaint. We work with the appropriate regulatory authorities, including local data protection authorities, to resolve any complaints regarding the transfer of your data that we cannot resolve with you directly.
- 8.2. Updates to this Policy: We change this Privacy Policy from time to time. We will not reduce your rights under this Privacy Policy without your explicit consent. We always indicate the date the last changes were published, and we offer access to archived versions for your review. If changes are significant, we'll provide a more prominent notice (including for certain Services, email notification of Privacy Policy changes).
- 8.3. Legal Basis For Collecting Information: We process your Personal Information based on your written or oral consent. You may withdraw your consent at any time. The withdrawal of consent will not affect the lawfulness of processing Personal Information based on consent before its withdrawal.
- 8.4. This Privacy Policy is governed by and to be construed in accordance with the laws of New Zealand, and each party submits to the exclusive jurisdiction of the courts of New Zealand.

1. DEFINITIONS

- 1.1. If applicable, capitalised terms have the meaning given to them in this Agreement. In addition, the following definitions apply in this Agreement:
- 1.2. 'Supplier,' 'we', or 'us' means Taranaki Appliance Services Limited trading as Taranaki Appliance Services (our successors and assigns) or any person acting with the authority of Taranaki Appliance Services Limited.
- 1.3. 'Client,' 'you', or 'your' means the Client purchasing Goods or Services from us or any person acting on your behalf (including authorised representatives).
- 1.4. 'Goods' means all Goods supplied to you at your request.
- 1.5. 'Services' means all Services supplied to you, including any provision of Goods as specified in any documentation or otherwise supplied to you under this Agreement (and where the context permits, the terms 'Goods' or 'Services' shall be interchangeable for the other).
- 1.6. 'Worksite' means the address or location you nominate for us to supply the Goods or Services.
- 1.7. 'Price' means the Price of the Services (in accordance with clause 6).
- 1.8. 'Agreement' means these terms & conditions of trade, as may be amended from time to time (including our privacy policy and any orders, purchases or schedules as applicable).
- 1.9. 'Amounts Owing' means any amount you owe to us, from time to time, including the Price, any interest payable, any of your liability under this Agreement and any enforcement expenses incurred by us in seeking payment of any Amounts Owing by you.
- 1.10. 'Business Day' means Monday to Friday, excluding public holidays in New Zealand.
- 1.11. 'Confidential Information' means all information that could be reasonably regarded in the circumstances as confidential, including information that relates to the business, interests or affairs of a party, this Agreement, the Goods or Services (as applicable), and intellectual property rights, but excludes information which is:
 - (a) in the public domain, other than as a result of a breach of this Agreement;
 - (b) in the possession of a party prior to the commencement of this Agreement without any obligation of confidentiality; and
 - (c) is independently developed or acquired by a party prior to the commencement of this Agreement without relying on information that would itself be Confidential Information.
- 1.12. 'Event of Default' means your failure to comply with this Agreement (including your obligations in clause 6).
- 1.13. 'Insolvency Event' means an event of insolvency, including bankruptcy; the appointment of an insolvency administrator, manager, receiver or liquidator; any action related to winding up or making a material arrangement in relation to creditors; applying for any type of protection against creditors; being unable to pay your debts as they fall due; or taking or suffering any similar or analogous action in any jurisdiction as a consequence of debt.
- 1.14. 'Personnel' means directors, officers, employees, agents and contractors.
- 1.15. 'CCLA' means the Contract and Commercial Law Act 2017.
- 1.16. 'PPSA' means the Personal Property Securities Act 1999.
- 1.17. 'Security Agreement' and 'Security Interest' have the meanings given to them in Part 2, sections 16 and 17 of the PPSA.
- 1.18. 'Regulator' means any authority, commission, government department, court, tribunal, or similar having regulatory or supervisory authority over the parties or Services.
- 1.19. 'Related Company' has the meaning given to it in Part 1, section 2(3) of the Companies Act 1993.

2. INTERPRETATION

- 2.1. In this Agreement, unless the context otherwise requires:
 - (a) headings are for convenience only and do not affect interpretation;
 - (b) a reference to legislation includes all regulations, orders, instruments, codes, guidelines or determinations issued under that legislation or any modification, consolidation, amendment, re-enactment, replacement or codification of it;
 - (c) a reference to 'in writing' includes by email;
 - (d) the words 'include' or 'including' or similar expressions are to be construed without limitation;
 - (e) a reference to a party shall include that party's successors, permitted assigns and substitutes; and
 - (f) a word importing the singular includes the plural and vice versa.

3. ACCEPTANCE

- 3.1. All orders are subject to our acceptance, and we may (at our sole discretion) accept any order in whole or in part by issuing an invoice in

- respect of the applicable Services, delivering the Goods or Services or otherwise confirming the order in writing.
- 3.2. We reserve the right to charge a minimum call-out fee of one (1) hour of labour, a per-kilometre travelled rate and any Goods used to undertake the Services unless otherwise agreed between both parties.
- 3.3. In the event that you authorise us to undertake the Services on a 'do and charge' basis, we shall do so up to \$300.00 (plus GST), and payment will be due on completion of the Services. Any amount over this threshold will only be completed with your prior approval.
- 3.4. We are under no obligation to enquire as to the authority of any person placing an order on your behalf.
- 3.5. If you place an order for or accept any provision of Services from us, you are taken to accept this Agreement and are immediately bound jointly and severally (including if you are part of a trust, in which case you shall be bound in your capacity as a trustee).
- 3.6. Your acceptance to this Agreement shall continue to all future orders, purchases or schedules (as applicable), and this Agreement will be, or is deemed to be incorporated into, and form part of, each order, purchase or schedule as if this Agreement was set out or implied therein in full.
- 3.7. Both parties shall accept electronic signatures (provided that both parties have complied with sections in Part 4, subpart 3 and all other relevant sections in Part 4 of the CCLA).
- 3.8. This Agreement may only be amended with our written consent and shall supersede any other document or other agreement between both parties.

4. AUTHORISED REPRESENTATIVES

- 4.1. Should you introduce any third party to us as your authorised representative, that representative shall have the full authority of you to order any Services on your behalf, and such authority shall continue until all requested Services have been completed or you notify us in writing that said person is no longer your authorised representative.
- 4.2. You agree that you will be solely liable for any expenses incurred in providing any Services requested by your authorised representative.
- 4.3. If your authorised representative is to have only limited authority to act on your behalf, you must advise in writing to us the parameters of the limited authority granted to your authorised representative.

5. CHANGES TO DETAILS

- 5.1. You agree that you will give us (addressed to the financial controller or equivalent) not less than fourteen (14) days prior written notice of any proposed change to your name and any other changes to your details (including but not limited to changes to the ownership of the company, address, email, contact phone or business structure).
- 5.2. Should you fail to comply with clause 5.1, you agree that you will breach this Agreement and shall be liable for any expense or loss of profit suffered by us (including any Related Company).

6. PRICE AND PAYMENT

- 6.1. You will pay us the Price set out in any quotation or documentation that we provide to you under this Agreement, plus any 'Goods and Services Tax' (as defined and imposed in Part 2, section 8(1) of the Goods and Services Tax Act 1985 (GST)).
- 6.2. Unless otherwise agreed by us in writing, the Price shall be:
 - (a) indicated on invoices provided to you in respect of the Services; or
 - (b) our quoted Price, which will be binding, subject to your acceptance of our quotation in writing within seven (7) days.
- 6.3. If the Price is not set out in quotations or other documentation, the Price for the relevant Goods or Services will be at our standard rate according to our current Price list or at a rate notified to you by us.
- 6.4. The Price will be payable by you on the date(s) determined by us (at our sole discretion), which may be:
 - (a) on completion of the Services;
 - (b) due twenty (20) days following the end of the month in which a statement or invoice is sent to your address or address for notices; or
 - (c) seven (7) days following the date of any invoice given to you by us if there is no notice to the contrary.
- 6.5. We reserve the right at any time to alter any Price lists. Any alterations to any Price list will be effective from the date specified by us and apply to all orders or purchases accepted by us on or after that date.
- 6.6. Payment may be made by cash, electronic/online banking, or any other method that we agree to in writing.
- 6.7. Payment in any form other than cash shall not be taken to be payment for the Amounts Owing, and all ownership rights of the Goods or Services remain with us until that form of payment has been cleared and received in accordance with clause 18.1.
- 6.8. In the event that we are required to supply the Services urgently, which may require us to work outside regular business hours (including working

through lunch breaks, weekends or public holidays), we reserve the right to charge additional labour costs unless otherwise agreed between the parties.

- 6.9. We may require that you pay a deposit or provide a guarantee as security for paying any Amounts Owing.
- 6.10. You shall not withhold payment of any Amounts Owing because part of the Services are disputed, and in the event that part of the Services are disputed, you agree that you will:
 - (a) perform all of your obligations to us under this Agreement and pay in full any Amounts Owing except for the amount that is in dispute; and
 - (b) provide a specific and detailed explanation of the dispute in writing to us within seven (7) days from delivery.
- 6.11. If an Insolvency Event occurs, all Amounts Owing will (whether or not due for payment) immediately become due and payable.

7. VARIATIONS

- 7.1. The Price will be adjusted to reflect any extra cost or expense incurred by us because of any instruction received from you (or your authorised representative) or any action or inaction on your part.
- 7.2. We reserve the right to change the quoted Price if:
 - (a) any information supplied by you is inaccurate;
 - (b) you request any change to plans, specifications or the Services that were initially quoted;
 - (c) additional Services are required due to the discovery of hidden or unidentifiable difficulties (including limitations to access the Worksite or appliance, further faults which are found upon disassembly or further inspection, soiled appliances that require cleaning prior to the commencement of the Services, vermin or insect damage) which are only discovered upon commencement of the Services; or
 - (d) our costs increase due to changes beyond our control (including any cost of Goods, charges, taxes, or levies imposed by any Regulator).
- 7.3. Variations will be charged based on our quotation, detailed in writing and shown as variations on the invoice. You shall be required to respond to any variation submitted by us within seven (7) days, and failure to do so will entitle us to add the cost of the variation to the Price.

8. DELIVERY

- 8.1. We will deliver the Goods or Services to the delivery location that we each agree to in writing, and if the delivery location is at your premises (subject to clause 25), you will provide us and our Personnel with suitable access to the premises, together with any amenities reasonably required by us or our Personnel to perform delivery of the Goods or Services.
- 8.2. You accept that the supply of Goods for accepted orders may be subject to availability and if, for any reason, Goods are not or cease to be available, we reserve the right to substitute comparable Goods (or components of the Goods) and vary the Price (in accordance with clause 7). In all such cases, we will notify you in advance of any such substitution and reserve the right to place your order on hold until both parties agree to such changes.
- 8.3. If we are unable to supply the Services as agreed solely due to any action or inaction of you, then we shall be entitled to charge a reasonable fee for the re-supplying of Services at a later time and date (including storage of the Goods if applicable).
- 8.4. Any time specified by us for delivery of the Goods is an estimate only, and we will not be liable for any expenses or losses incurred due to your reliance on our estimated time for delivery, nor can you cancel any order for any delay in delivery that is less than fourteen (14) days after our estimated time for delivery, or any delay in delivery due to any event beyond our control.
- 8.5. We may deliver the Goods in separate instalments, which will be invoiced and paid as individual transactions.

9. ERRORS AND OMISSIONS

- 9.1. You agree that we have no liability in respect of any errors or omissions:
 - (a) resulting from an inadvertent mistake made by us in the formation or administration of this Agreement; or
 - (b) contained in any documentation supplied to you by us regarding the Services.
- 9.2. If such an error or omission occurs and is not attributable to our negligence or willful misconduct, all obligations or rights under or in connection with this Agreement shall continue in full force and effect.

10. DEFECTS

- 10.1. You shall inspect all Goods or Services immediately on delivery and shall notify us of any alleged defect, shortage in quantity, damage or any other issue within seven (7) days from the date of delivery.

- 10.2. If you do not notify us within the seven (7) day timeframe (in accordance with clause 10.1), then the Goods or Services shall be presumed to be free from any defect, and we will consider all Goods or Services to be supplied free from any defect or other issue, subject to clause 15.1.
- 10.3. You shall allow us to inspect the Goods or Services within fourteen (14) days (from the date of delivery) if you believe the Goods or Services are defective in any way.

11. RETURNS AND WARRANTIES

- 11.1. We may (at our sole discretion) accept the return of Goods for credit, but this may incur a restocking fee of twenty-five percent (25%) of the value of the returned Goods (and any freight expenses).
- 11.2. Returns will only be accepted provided that:
 - (a) we have agreed in writing to accept the return of the Goods;
 - (b) the Goods are returned at your cost within seven (7) days of the delivery date and are returned in the condition in which they were delivered (including all packaging material, brochures and instruction material in as new condition as is reasonably possible).
- 11.3. For Goods not manufactured by us, the warranty shall be the current warranty supplied by the Goods manufacturer. We shall not be bound by any condition, representation, or warranty other than that which the Goods manufacturer gives.
- 11.4. In the case of second-hand Goods, you acknowledge that an opportunity to inspect the Goods has been provided and accept the second-hand Goods with all faults. We give no warranty as to the quality or suitability for any purpose, and any implied warranty is expressly excluded. We shall not be responsible for any loss or damage to the Goods or caused by the Goods, however arising.

12. PRIVACY ACT 2020

- 12.1. You authorise us and our agents to collect, use, retain and disclose 'personal information' (as defined in Part 1, section 7 of the Privacy Act 2020) about you and your Personnel that you or they provide to us for the following purposes:
 - (a) exercising our rights or performing our obligations under this Agreement;
 - (b) using the services of credit reporting and debt collection agencies, and you consent to us disclosing personal information (including any information about an Event of Default or repayment history) to a credit reporter, who may hold that information and use it to provide its credit reporting services;
 - (c) registering any Security Interest under this Agreement;
 - (d) direct marketing purposes (including by email and other electronic means), unless you notify us that you do not wish to receive direct marketing from us; and
 - (e) the use or transfer of personal information to a Related Company in connection with the performance of our obligations or exercise of our rights under this Agreement.
- 12.2. Clause 12.1 is authority and consent from you in accordance with sections in Part 3 and all other relevant sections in the Privacy Act 2020.
- 12.3. You (if you are an individual) have the right under information privacy principles 6 and 7, and sections in Part 4, subpart 1 and Part 4, subpart 2 of the Privacy Act 2020 to access, and request correction of, any of your personal information held by us and if you provide any personal information about a third party (including your Personnel) to us, you confirm that you are authorised to do so by the relevant individual, and you have informed the relevant individual that they have the right to contact us to access and, if applicable, request correction of any personal information that we hold about them.
- 12.4. If the Services are expected to involve the sharing of any data sets, or other personal information, to you by us or us to you, we will enter into a separate data protection agreement with you.
- 12.5. If you do not provide the personal information requested by us, we may not be able to perform our obligations under this Agreement.

13. CONFIDENTIAL INFORMATION

- 13.1. Each party must keep confidential all Confidential Information, however, nothing in clause 13 prevents a party from disclosing Confidential Information:
 - (a) in the circumstances expressly provided for in this Agreement;
 - (b) if the disclosure is required by law or Regulator (but only to the extent required); or
 - (c) if the disclosure is reasonably required to enable a party to perform its obligations or enforce its rights under this Agreement.
- 13.2. We may disclose Confidential Information to a Related Company and their Personnel on a 'need to know' basis, provided that person is under

a duty to keep the Confidential Information confidential in accordance with this Agreement.

14. INTELLECTUAL PROPERTY

- 14.1. Copyright in all Goods or Services (including any plans, specifications or other technical information) provided by us under this Agreement is vested in us, including any new intellectual property created as a result of or in connection with the provision of our Goods or Services.
- 14.2. If, notwithstanding clause 14.1, any intellectual property rights in any of our Goods or Services vests in you, you assign those intellectual property rights to us with effect from creation and agree to do all things reasonably required by us to give effect to such assignment.
- 14.3. You warrant that the use by us of any plans, specifications or other technical information provided by you will not infringe the intellectual property rights of any other person and indemnify us against any expenses or losses (including full legal expenses on a solicitor-client-basis) that we may suffer or incur in the event of any such infringement.

15. CONSUMER GUARANTEES ACT 1993 AND FAIR TRADING ACT 1986

- 15.1. Subject to clause 15.2, nothing in this Agreement will affect any rights you may have as a 'consumer' (as defined under the Consumer Guarantees Act 1993 (CGA)) under the CGA.
- 15.2. For the purposes of section 2 and Part 5, section 43(2) of the CGA, the parties acknowledge and agree that, if you are acquiring, or hold yourself out as acquiring, the Goods or Services in trade:
 - (a) to the extent permitted by law, you are contracting out of the CGA (to the extent that the CGA would otherwise apply to any matters covered by this Agreement); and
 - (b) it is fair and reasonable for the parties to be bound by clause 15.2.
- 15.3. If you are acquiring the Goods or Services to resupply the Goods or Services in trade, you undertake that you will:
 - (a) contract out of the CGA to the maximum extent permitted by law in your contracts with your customers; and
 - (b) procure that your customers, and each person in the distribution chain thereafter, contract out of the CGA to the maximum extent permitted by law in their contracts with customers.
- 15.4. For the purposes of section 5D of the Fair Trading Act 1986 (FTA), the parties acknowledge and agree that, if you are acquiring, or hold yourself out as acquiring, the Goods or Services in trade:
 - (a) to the extent permitted by law, you are contracting out of sections 9, 12A and 13 of the FTA; and
 - (b) it is fair and reasonable for the parties to be bound by clause 15.4.
- 15.5. You will indemnify us against any expenses or losses incurred by us as a result of your breach of clause 15.

16. CANCELLATION

- 16.1. Should you cancel all or part of any order, you shall be liable for all Amounts Owing to us prior to cancellation (including any direct or indirect expenses incurred by us as a result of you cancelling any part of any order).
- 16.2. We shall be entitled to cancel all or part of any order of yours which remains unperformed, and all Amounts Owing to us shall (whether or not due) become immediately payable if:
 - (a) any Amounts Owing to us becomes overdue, or in our opinion, you will be unable to meet your payments as they fall due; or
 - (b) an Insolvency Event occurs, and you become insolvent/bankrupt, convene a meeting with your creditors or a receiver/liquidator or similar person is appointed in respect of you or any of your assets.
- 16.3. Orders made to your specifications or non-stock-list items cannot be cancelled once production has commenced.

17. DEFAULT

- 17.1. Unless waived by us in writing, we may charge interest at a rate of two and a half percent (2.5%) per calendar month on the outstanding amount from the due date of payment until the date the outstanding amount is paid (and any interest shall compound monthly at such a rate).
- 17.2. If an Event of Default occurs, you agree to reimburse us for any fees or expenses we incur in recovering any Amounts Owing (including but not limited to administration fees, debt collection agency fees and full legal expenses on a solicitor-client basis).
- 17.3. Should you fail to pay any account, we may withhold the release of any producer statement or other certification or documentation relating to the Services performed until all Amounts Owing are paid in full.

18. RETENTION OF TITLE

- 18.1. Ownership (including all right, title and interest) of the Goods or Services remains with us and does not pass to you until:
 - (a) we have received all Amounts Owing; and
 - (b) you have performed all of your obligations under this Agreement.
- 18.2. If any Amounts Owing is overdue, or an Insolvency Event occurs, you give irrevocable authority to us to use reasonable force to enter anywhere Goods may be stored, to remove any Goods. We shall not be liable in contract, tort or otherwise for any damages, expenses, or losses incurred by you or any third party, and you indemnify us against any liability we may have to any third party (including full legal expenses on a solicitor-client basis), as a result of us exercising our rights under clause 18.2, except where damages, expenses or losses are due to our negligence or fraud.
- 18.3. If any Goods are damaged where full payment has not been received, and therefore ownership remains with us, you agree that we are entitled to:
 - (a) receive all insurance proceeds paid for the Goods; and
 - (b) supply this Agreement as a binding legal agreement which is sufficient evidence for us to deal directly with the insurance company to receive all proceeds for the Goods we legally own under clause 18.1.
- 18.4. We may commence proceedings to recover the Price of the Services supplied, notwithstanding that ownership of the Goods or Services has not passed to you.

19. SECURITY AND LIEN

- 19.1. Subject to us providing any Goods or Services, you charge all of your right, title and interest (whether joint or several) in any land, real estate or other assets capable of being legally charged with a lien, owned by you either now or in the future, to secure the performance of all obligations (including full payment of all Amounts Owing) under this Agreement.
- 19.2. You irrevocably appoint all directors of our companies (including any Related Company) as your true and lawful attorney(s) and agree that the appointed attorney(s) may perform all necessary acts to enforce our rights provided in clause 19.1 of this Agreement (including signing any document on your behalf).
- 19.3. You are liable for all our disbursements and expenses (including full legal expenses on a solicitor-client basis) incurred in exercising our rights under clause 19 to secure the performance of your obligations under this Agreement.
- 19.4. In accordance with Part 5, subpart 5 of the CCLA, we hold a lien for work done and may sell at public auction any property that has been left by you for Services if any Amounts Owing are outstanding.
- 19.5. It is fair and reasonable for the parties to be bound by clause 19.

20. PERSONAL PROPERTY SECURITIES ACT 1999

- 20.1. You acknowledge and agree that:
 - (a) this Agreement constitutes, in favour of us, a Security Agreement creating a Security Interest in the Goods or Services or the proceeds of such Goods or Services; and
 - (b) the Security Interest granted to us secures the payment of all Amounts Owing (all present and after-acquired personal property) you may owe to us from time to time and at any time.
- 20.2. You agree that you will sign any further documentation and provide any information which we may reasonably require to ensure we are paid all Amounts Owing due to us and otherwise to protect our interests under this Agreement, including by registration of a financing statement and ensuring that we have a first ranking perfected Security Interest in the Goods or Services, or a Security Interest in the proceeds of any Goods or Services (a Security Interest taken in all collateral and any proceeds of any collateral).
- 20.3. To the extent permitted by law, we each contract out of:
 - (a) sections 114(1)(a), 133 and 134 of the PPSA; and
 - (b) your rights referred to in sections 107(2)(a), (c), (d), (e), (f), (g), (h) and (i) of the PPSA.
- 20.4. You waive your right to receive a verification statement under section 148 of the PPSA in respect of any financing statement relating to a Security Interest.
- 20.5. Nothing in this Agreement is to be construed as an agreement that a Security Interest in Goods (collateral) attaches at a later time than the time specified in Part 3, section 40(1) of the PPSA; a Security Interest is perfected in accordance with Part 3, section 41(1) of the PPSA; a Security Interest in all after-acquired property attaches at the time specified in Part 4, section 44(1) of the PPSA; and a Security Interest in collateral shall extend to the proceeds as specified in Part 4, section 45(1) of the PPSA.

- 20.6. Each Security Interest is a continuing Security, notwithstanding any intermediate payments, settlement of accounts or anything else.
- 20.7. You must provide us with information and any associated documentation reasonably requested by us from time to time relating to your financial status.
- 20.8. If at any time we consider that your financial status is unsatisfactory, we may require you to grant additional Security Interest(s) as security for the Amounts Owed, and we may suspend or cancel further supply of Goods or Services until you have provided such Security Interest(s).
- 20.9. You shall unconditionally ratify any actions taken by us under clause 20.

21. WORKSITE ACCESS

- 21.1. You shall ensure that we have clear and free access to the Worksite at all times to enable us to undertake the Services (including carrying out any inspections or for the delivery or installation of the Goods), and we shall not be liable for any loss or damage to the Worksite (including damage to pathways, driveways, footpaths or grassed areas) unless due to our negligence.
- 21.2. Inspection of the Worksite during the course of the Services shall be by appointment only, and we must accompany you at all times when on the Worksite unless otherwise agreed.
- 21.3. It is your responsibility to organise temporary fencing to ensure the Worksite is protected from damage or theft if any fencing or other boundary is removed from the Worksite.

22. SURPLUS GOODS

- 22.1. We are not responsible for removing excess Goods or rubbish (including demolished Goods) from the Worksite, and all waste we generate will be placed in a designated area appointed by you.
- 22.2. Goods that we bring to the Worksite, which are surplus at the completion of the Services, will remain our property.
- 22.3. Disposal of any appliance (including third party disposal costs) will be your responsibility and will be shown as variations on the invoice, and you acknowledge and agree that we shall be entitled to retain:
- (a) any components replaced during the provision of the Services; and
 - (b) all proceeds obtained from the sale of faulty appliances (where it has been deemed that the appliance is not to be repaired) or components to any parts recycler or salvage yard to recover any Amounts Owed to us.

23. INSURANCE AND RISK

- 23.1. In the event we retain ownership of the Goods or Services in accordance with clause 18.1, then:
- (a) where we supply Goods only, all risk for the Goods shall immediately pass to you on the delivery of the Goods (by us or our nominated carrier), and you must insure the Goods on or before delivery; or
 - (b) where we are to supply and install Goods, then we shall maintain an insurance policy for the Services until completion, at which point all risk shall immediately pass to you.
- 23.2. Where we are requested to attend to repairs, and the fault is deemed to be user-generated and not a faulty appliance, we reserve the right to charge a minimum assessment fee for inspections plus any additional Goods or Services that may be required to complete the repair.
- 23.3. If you are in the commercial food industry, you acknowledge and accept that it is your responsibility to ensure that regular temperature checks are conducted, and any Goods are used and maintained in accordance with our instructions or any manufacturer's documentation. We shall not be held liable for any damage to property, food spoilage, or injury due to consequential defects in the appliances (or any accessories).
- 23.4. We reserve the right to decline Services if an appliance contains any toxic substances (including hazardous contamination or has been contaminated by vermin or insect infestation). The manufacturer's warranty does not cover vermin and insect damage to appliances.
- 23.5. Where you are a tenant (and not the owner of the land and premises where the Goods are to be repaired or installed), you warrant that full consent has been obtained from the owner or property manager for us to repair or install the Goods on the owner's land and premises and will supply contact information for confirmation of such consent before the commencement of any Services. You acknowledge and agree that you shall be personally liable for full payment of the Price for all Services provided under this Agreement and to indemnify us against any claim made by the owner of the premises (however arising) in relation to the Services provided by us (except where such claim has occurred because of our negligence when servicing or installing the Goods).
- 23.6. In the event that the Goods or Services provided by us are the subject of an insurance claim that you have made, you shall be responsible for the payment to the insurance company and agree to honour your obligation

for payment under this Agreement by the due date irrespective of whether the insurance claim is successful.

- 23.7. You acknowledge and agree that:
- (a) onsite repairs shall incur our current labour rates plus kilometres travelled; and
 - (b) if any appliances require transport, then any fees incurred for such transport shall be at your expense.
- 23.8. Where the appliance is assessed at our workshop but not repaired, we reserve the right to charge additional costs for the reassembly of the appliance and any delivery expenses we face in delivering the appliance to your nominated address. If you have requested us to diagnose a fault or identify parts that require a technician's attention, all costs will be charged to you irrespective of whether or not the repair goes ahead.
- 23.9. If we form the opinion that the fault or appliance is uneconomical to repair, then we shall request you to authorise the commencement of any Services in writing, and you shall accept responsibility for the payment of all Goods or Services provided in repairing the fault or appliance.
- 23.10. Any advice, recommendation or information that we provide in relation to Goods or Services supplied by us is given in good faith, is based on our knowledge and experience and shall be accepted without liability on our part.
- 23.11. If you have requested us to diagnose a fault that requires investigation, disassembly or testing, all costs will be charged to you irrespective of whether or not the repair goes ahead.
- 23.12. We are not responsible for any errors in the Goods or Services or for additional expenses caused by you supplying inaccurate plans, specifications or other technical information.
- 23.13. Where we have provided information or figures to you regarding the performance of the Goods, you acknowledge that we have given these in good faith and are estimates based on information provided by the Clean Energy Council (CEC), the Water Efficiency Labelling and Standards (WELS), the Energy Efficiency and Conservation Authority (EECA) or industry prescribed estimates. The efficiency of the Goods may be less than estimated due to factors out of our control (including the age of the appliance, existing wiring, weather conditions, water pressure, water source or the mineral content of water based on geographical location).
- 23.14. You accept that we are only responsible for Goods or Services that are supplied or replaced by us, and we do not accept any responsibility for previous Services carried out by any third party or for any loss or damage to the Goods or Services that are caused by any other third party after the completion of the Services.
- 23.15. You acknowledge and accept that:
- (a) all descriptive specifications, illustrations, drawings, data dimensions, and weights stated in our fact sheets, Price lists, or advertising material are indicative only; and
 - (b) where we have performed temporary repairs that: (i) we offer no guarantee against the reoccurrence of the initial fault or any further damage caused; and (ii) we will immediately advise you of the fault and shall provide you with an estimate for the full repair.
- 23.16. Should you request us to leave Goods outside our premises for collection or deliver the Goods to an unattended location, you agree that those Goods shall be left unattended at your sole risk.

24. NOTIFICATION OF SERVICES

- 24.1. You must precisely locate all unseen or underground services on the Worksite and mark the same prior to us commencing any of the Services (including electrical services, gas services, sewer services, water mains, telephone cables, fibre optic cables, or any other services that may be present on the Worksite).
- 24.2. You agree that we are in no way liable for any damages, expenses or fines incurred due to any unseen or underground services that are not precisely located and marked by you in accordance with clause 24.1.
- 24.3. If you request us to engage a service locator, this shall be in addition to the Price and 'dial before you dig' must be consulted and any potential underground services marked on the site. Whilst we will take all care to avoid damage to any underground services, you agree to indemnify us in respect of all and any liability claims, loss, damage, costs, and fines resulting from damage to services not precisely located and marked.

25. HEALTH AND SAFETY AT WORK ACT 2015

- 25.1. Each party will comply with the Health and Safety at Work Act 2015 (HSW Act), including all health and safety duties specified in Part 2 of the HSW Act, as well as all other applicable standards and codes of practice relating to health and safety. In addition, each party will comply with the other party's pre-notified and reasonable health and safety policies when on the party's premises.

- 25.2. You must notify us of any known hazards arising from your premises to which any person may be exposed, as well as notify us of any notifiable injury, illness, incident or event (as defined in Part 1, subpart 3 of the HSW Act) to ensure that your workplace is without risks to the health and safety of any person.
- 25.3. Each party must consult, cooperate and coordinate activities with all other persons who have a health and safety duty in relation to the same matter in providing the Goods or Services (including in connection with the delivery of the Goods or Services).

26. LIABILITY

- 26.1. To the extent permitted by law, we shall have no liability whatsoever to you for any direct or indirect expense or loss of profit suffered by you arising out of a breach by us of this Agreement (including any unintentional misrepresentation made to you by us regarding any of the Goods or Services).
- 26.2. To the extent permitted by law, our liability shall not exceed the Price of the Services we supplied under this Agreement.
- 26.3. To the extent permitted by law, our total liability under or in connection with this Agreement and the Goods or Services is limited to, at our option:
- (a) in the case of Goods, any one or more of the following: (i) the replacement of the Good(s) or the supply of equivalent Good(s); (ii) the repair of the Good(s); (iii) the payment of the expense of replacing the Good(s) or of acquiring equivalent Good(s); or (iv) the payment of the expense of having the Good(s) repaired; or
 - (b) in the case of Services: (i) supplying the Services again; or (ii) the payment of the expense of having the Services supplied again.
- 26.4. If, notwithstanding clause 11, we have any liability under or in connection with this Agreement, to the maximum extent permitted by law:
- (a) our total aggregate liability to you for any loss, damage or liability arising out of or in connection with this Agreement will be limited to the lesser of: (i) the Price paid by you to us for the applicable Goods or Services; or (ii) the actual loss or damage suffered by you; and
 - (b) we will not be liable for any: (i) indirect, special or consequential loss or damage whatsoever; or (ii) loss of profits, revenue, data, goodwill, customers, opportunities or loss of or damage to reputation.
- 26.5. The limitations and exclusions on liability in this clause 26 will apply irrespective of the legal basis for the applicable claim, including contract, equity, tort or statute, except negligence and fraud.
- 26.6. In no circumstances will we have any liability whatsoever under or in connection with this Agreement:
- (a) for the acts or omissions of any third party;
 - (b) any act or omissions performance in accordance with your instructions (or instructions from your authorised representatives); or
 - (c) to any third party.

27. GENERAL

- 27.1. Governing law: This Agreement is governed by and to be construed in accordance with the laws of New Zealand, and each party submits to the exclusive jurisdiction of the courts of New Zealand.
- 27.2. Entire Agreement: This Agreement constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, representations and understandings.
- 27.3. Priority: To the extent of an inconsistency between:
- (a) this Agreement;
 - (b) all other schedules to this Agreement;
 - (c) any privacy or data agreement (if applicable); and
 - (d) the order of priority set out above will apply (with (a) having the highest priority).
- 27.4. Subcontracting: We may subcontract the performance of our obligations (including to a Related Company) on the basis we remain solely liable to you for the performance of our obligations.
- 27.5. Assignment: You must not assign, novate or transfer your rights or obligations under this Agreement without our prior written consent (which may be withheld at our sole discretion). We may assign this Agreement to any other person. Without limiting the foregoing, we may assign to any other person all or part of the Amounts Owed by you.
- 27.6. Amendments: Except where stated otherwise in this Agreement, any amendment to this Agreement must be in writing, signed by both parties, except where we are required to make changes to ensure compliance with applicable laws, in which case we can give you notice of any such amendments required, and you will be bound by the same.
- 27.7. Notices: Any notice, demand or other communication to be served on a party must be in writing and sent by personal delivery, pre-paid post or email to the address of the relevant party (or otherwise notified to the other party from time to time). Any notice or other communication is

- deemed to be received (i) if personally delivered, on receipt, (ii) if posted by pre-paid official postal service, on the fifth Business Day after posting (or seven Business Days after posting if sent from one country to another), and (iii) if sent by email on the date and time that the email was sent (as evidenced in the sender's email sent history). Notices received after 5pm on a Business Day will be deemed received on the next Business Day.
- 27.8. Force majeure: We will not be liable to you for any failure or delay in performing our obligations under this Agreement where such failure or delay is caused by events or circumstances beyond our reasonable control (including any strike, lockout, labour dispute, delay in transit, embargo, epidemic, pandemic, accident, emergency, order of government or other authority or act of god).
- 27.9. Severability: If any part of this Agreement is illegal or unenforceable, you agree that part shall be amended to the extent permitted by law to allow the enforceability of any rights, and if it is not able to be modified, then it will be severed, and all remaining rights in this Agreement will continue in full force and effect.
- 27.10. Waiver: A single or partial exercise or waiver of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.
- 27.11. Termination: Either party may terminate this Agreement immediately by written notice if the other party breaches a term of this Agreement which is not capable of remedy or, where the breach is capable of remedy, fails to remedy the breach within 20 Business Days of written notice of the breach.
- 27.12. Survival: Any rights or obligations under or in connection with this Agreement, which is by nature a continuing obligation, will survive termination of this Agreement by either party.
- 27.13. Rights of third parties: This Agreement is not intended to confer a benefit on any person other than the parties to this Agreement.
- 27.14. Relationship: We will supply Goods or Services to you as an independent contractor. Nothing in this Agreement creates any partnership, joint venture or employment relationship between the parties.
- 27.15. Non-exclusive: This Agreement is not exclusive, and you agree that there are no restrictions on us to supply any Goods or Services to any other person.
- 27.16. Counterparts: This Agreement may be executed in any number of counterparts (including by electronic signature or by email exchange of pdf copies) which together will constitute the one instrument.