

Bracourt Pty Ltd T/A **RedPoint**

ABN: 67 003 493 196

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Phone: (02) 6562 6650

CUSTOMER INFORMATION FORM

Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

Customer'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:		
Physical Address:	State:	Postcode:
Billing Address:	State:	Postcode:
Email Address:		
Phone No:	Fax No:	Mobile No:
Personal Details: <i>(please complete if you are an Individual)</i>		
D.O.B.:	Driver's Licence No:	
Business Details: <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>		
Trading Name:		
ABN:	ACN:	Date Established <i>(current owners)</i> :
Contact Person:	Phone No.	
Nature of Business:		
Directors / Owners / Trustee: <i>(if more than two, please attach a separate sheet)</i>		
(1) Full Name:	D.O.B.:	
Private Address:	State:	Postcode:
Driver's Licence No:	Phone No:	Mobile No:
(2) Full Name:	D.O.B.:	
Private Address:	State:	Postcode:
Driver's Licence No:	Phone No:	Mobile No:

I certify that the above information is true and correct and that I accept the supply of credit by RedPoint *(if applicable)*. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Bracourt Pty Ltd T/A Redpoint which form part of, and are intended to be read in conjunction with this Customer Information Form 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 Customer I shall be personally liable for the performance of the Customer's obligations under this contract.***

SIGNED (CUSTOMER): _____ SIGNED (REDPOINT): _____

Name: _____ Name: _____

Position: _____ Position: _____

WITNESS TO CUSTOMER'S SIGNATURE:

Signed: _____ Name: _____ Date: _____

OFFICE USE ONLY		
Account / Ref. No.	DATA INPUTTED	DATE
		/ /

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Bracourt PTY LTD T/as RedPoint – Terms & Conditions of Trade

1. **Definitions**
- 1.1 "Contract" means the terms and conditions contained herein, together with any Quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 "RedPoint" means Bracourt Pty Ltd T/A RedPoint, its successors and assigns or any person acting on behalf of and with the authority of Bracourt Pty Ltd T/A RedPoint.
- 1.3 "Customer" means individuals, entities or any person acting on behalf of and with the authority of the Customer requesting RedPoint to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one customer, is a reference to each customer jointly and severally; and
- (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
- (c) if the Customer is a partner of a trust, shall be bound in their capacity as a trustee; and
- (d) includes the Customer's executors, administrators, successors and permitted assigns.
- 1.4 "Goods" means all Goods or Services supplied by RedPoint to the Customer at the Customer's request from time to time (where the contract so permits, the terms "Goods" or "Services" shall be interchangeable for the other).
- 1.5 "Confidential Information" means information of a confidential nature (whether oral, written or in electronic form including, but not limited to, Personal Information) specific to a particular client and website, and operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to "Personal Information" such as name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.6 "Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. If the Customer does not wish to allow Cookies to operate in the background when the Customer's computer is used, the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Goods from the website.
- 1.7 "First means the Price payable plus any GST where applicable for the Goods as agreed between RedPoint and the Customer in accordance with clause 6 below.
- 1.8 "GST" means Goods and Services Tax as defined within the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).
2. **Acceptance**
- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts Delivery of the Goods.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 and any other applicable provisions of that Act or any Regulations referred to in that Act.
- 2.5 The Customer acknowledges and accepts that the supply of Goods for accepted orders may be subject to availability and if, for any reason, Goods are not or cannot be delivered, RedPoint reserves the right to vary the Price with alternative Goods as per clause 6.2.9, subject to prior confirmation and agreement of both parties. RedPoint also reserves the right to put the Customer's order on hold and/or halt all Services until such time as RedPoint and the Customer agree to such changes. RedPoint shall not be liable to the Customer for any loss or damage the Customer suffers due to RedPoint exercising its rights under this clause.
- 2.6 These terms and conditions may be meant to be read in conjunction with either RedPoint's Hire Form Order or the Terms and Conditions posted RedPoint's website and:
- (a) where the contract so permits, the terms "Goods" or "Services" shall include any supply of Equipment, as defined therein, and
- (b) where any incorporated terms or documents then the terms and conditions contained therein shall prevail.
3. **Authorised Representatives**
- 3.1 Unless otherwise limited as per clause 3.2 the Customer agrees that (a) should the Customer appoints a third party as RedPoint's authorised representative, that once introduced that person shall have the full authority of the Customer to order any Goods or Services and to accept delivery of the Goods, and that any variation to the Services on the Customer's behalf (such authority to continue until all requested Services have been completed or the Customer otherwise notifies RedPoint in writing that said person is no longer the Customer's duly authorised representative).
- 3.2 In the event that the Customer's duly authorised representative as per clause 3.1 is to have only limited authority to act on the Customer's behalf then the Customer must clearly state the limited authority granted to RedPoint in writing of the parameters of the limited authority granted to their representative.
- 3.3 The Customer specifically acknowledges and accepts that they will be solely liable to RedPoint for any and all costs incurred by RedPoint (a) (including RedPoint's profit margin) in providing any Goods, Services (b) or variations requested by the Customer's duly authorised representative (subject always to the limitations imposed under clause 3.2 if any).
4. **Errors and Omissions**
- 4.1 The Customer acknowledges and accepts that RedPoint shall, without prejudice, accept no liability in respect of any alleged or actual error(s) (a) or omission(s);
- (b) resulting from an inadvertent mistake made by RedPoint in the creation and/or administration of the Customer's order; and
- (c) contained in omitted from any literature (hard copy and/or electronic) supplied by RedPoint in respect of the Services.
- 4.2 In the event such an error and/or omission occurs in accordance with clause 4.1, and is not attributable to the negligence and/or willful misconduct of RedPoint, the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.
5. **Change In Contract**
- 5.1 The Customer shall give RedPoint not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to changes in the Customer's name, address, contact phone or fax numbers, change of trustees, or business practice). The Customer shall be liable for any loss incurred by RedPoint as a result of the Customer's failure to comply with this clause.
6. **Price and Payment**
- 6.1 At RedPoint's sole discretion, the Price shall be either:
- (a) as indicated on any invoice provided by RedPoint to the Customer; or
- (b) the Price as at the date of Delivery of the Goods according to RedPoint's current price list; or
- (c) RedPoint's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or invoice for a period of thirty (30) days.
- 6.2 RedPoint reserves the right to change the Price:
- (a) if a variation to the quotation is requested;
- (b) if during the course of the Services, the Goods are not or cease to be available from RedPoint's third party suppliers, then RedPoint reserves the right to provide alternative Goods; or
- (c) in the event of increases to RedPoint in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in the exchange rate of the Australian dollar and/or international freight and insurance charges) which are beyond RedPoint's control.
- 6.3 Variations will be charged for on the basis of RedPoint's quotation, and will be detailed in writing and shown as variations on RedPoint's invoice. The Customer shall be required to respond to any variation (a) submitted by RedPoint within ten (10) working days. Failure to do so (a) will entitle RedPoint to the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 6.4 At RedPoint's sole discretion, a non-refundable deposit may be required.
- 6.5 Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date determined by RedPoint, which may be:
- (a) on Delivery of the Goods;
- (b) before Delivery of the Goods;
- (c) thirty (30) days following the end of the month in which a statement is posted to the Customer's address or address for notices; or
- (d) the date specified on any invoice or other form as being the date for payment; or
- (e) if the Customer is a partnership, the date which is seven (7) days following the date of any invoice given to the Customer by RedPoint.
- 6.6 Payment may be made by cash, cheque, bank cheque, electronic/online banking, credit card (a surcharge may apply per transaction), PayPal, or by any other method as agreed to between the Customer and RedPoint.
- 6.7 RedPoint may in its discretion allocate any payment received from the Customer towards any outstanding invoices and may do so at the time of receipt or at any time afterwards. On any default by the Customer RedPoint may re-allocate any payments previously received and allocated. In the absence of any payment allocation by RedPoint, payment will be deemed to be allocated in such manner as
- preserves the maximum value of RedPoint's Purchase Money Security Interest (as defined in the PPSA) in the Goods.
- The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by the Customer or to withhold payment of any invoice because part of that invoice is in dispute.
- 6.9 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to RedPoint an amount equal to any GST RedPoint must pay for any supply by RedPoint under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays any GST. In addition, the Customer 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.
7. **On-Line Ordering**
- 7.1 The Customer acknowledges and agrees that:
- (a) RedPoint does not guarantee the website's performance;
- (b) the use of the website does not guarantee the availability of any particular Goods; therefore, all orders placed through the website shall be subject to confirmation of acceptance by RedPoint.
- 7.2 RedPoint does not warrant that the Customer's use of the website will be uninterrupted or free from delays or errors in transmitting data, or that the website will be available for regular scheduled maintenance and/or upgrades;
- (b) there are inherent hazards in electronic distribution, and as such RedPoint cannot warrant against delays or errors in transmitting data between the Customer and RedPoint including orders, and you agree that to the maximum extent permitted by law, RedPoint will not be liable for any losses which the Customer suffers as a result of online-ordering that is not available for or delays or errors in transmitting data;
- 7.3 when making a transaction through the website, the Customer's information will be stored on RedPoint's servers and may be encrypted using sockets layer encryption technology or any other similar technology as disclosed by RedPoint and/or displayed on the website. The encryption process ensures that the Customer's information cannot be read by or altered by outside influences;
- 7.4 if the Customer is not the cardholder for any credit card being used to pay for the Goods, RedPoint shall be entitled to reasonably assume that the Customer is authorised to use the credit card for the cardholder for use of the credit card for the transaction.
- 7.5 RedPoint reserves the right to terminate the Customer's order if it learns that you have provided false or misleading information, or if the Customer is not the cardholder for the credit card used in the business, or violated these terms and conditions.
8. **Delivery of Goods**
- 8.1 Delivery of the Goods is taken to occur at the time that: the Customer or the Customer's nominated carrier takes possession of the Goods at RedPoint's address; or
- 8.2 RedPoint (or RedPoint's nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address.
- 8.3 At RedPoint's sole discretion, the cost of Delivery is either included in the Price or is payable by the Customer. If the cost of Delivery is included in the Price, RedPoint 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.
- 8.4 Any time specified by RedPoint for Delivery of the Goods is an estimate only. The Customer must take Delivery by receipt or collection of the Goods whenever they are tendered for Delivery. RedPoint shall not be liable for any loss or damage incurred by the Customer as a result of Delivery being late. In the event that the Customer is unable to take Delivery of the Goods as arranged then RedPoint shall be entitled to charge a reasonable fee for redelivery and storage.
9. **Risk**
- 9.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.
- 9.2 If any of the Goods are damaged or destroyed following Delivery prior to ownership passing to the Customer, RedPoint is entitled to deliver alternative Goods or to refuse to deliver the Goods. The terms of these terms and conditions by RedPoint is sufficient evidence of RedPoint's rights to receive the insurance proceeds without the need for any further evidence or representation.
- 9.3 If the Customer requests RedPoint to leave Goods outside RedPoint's premises for collection or to deliver the Goods to an unattended location, then all such Goods shall be left at the Customer's sole risk.
10. **Product Specifications**
- 10.1 The Customer acknowledges that:
- (a) descriptive specifications, illustrations, drawings, data, dimensions, and other information supplied by RedPoint or the manufacturer's brochures, sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer shall not be entitled to rely on such information for the purpose of the contract;
- (b) constitute a sale by description, and does not form part of the contract, unless expressly stated as such in writing by RedPoint;
- (c) while RedPoint may have provided information or figures to the Customer in relation to the Goods, the Customer acknowledges that RedPoint has given these in good faith, and are estimates based on industry prescribed estimates and optimal working conditions.
- 10.2 RedPoint and the Customer agree that ownership of the Goods shall not pass until:
- (a) the Customer has paid RedPoint all amounts owing to RedPoint; and
- (b) the Customer has met all of its other obligations to RedPoint.
- 10.3 Receipt by RedPoint of any form of payment other than cash shall not constitute payment of the Goods, and that form of payment has been honoured, cleared or recognised.
- 10.4 It is further agreed that, until ownership of the Goods passes to the Customer in accordance with clause 10.1:
- (a) the Customer is only to use the Goods and must return the Goods to RedPoint on request;
- (b) the Customer holds the benefit of the Customer's insurance of the Goods on or for RedPoint's use of the Goods and must return the Goods of any insurance in the event of the Goods being lost, damaged or destroyed;
- (c) the Customer 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 Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds for the Customer to the Customer.
- 10.5 If any such act or omission by RedPoint and must pay or deliver the proceeds to RedPoint on demand;
- (b) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer must indemnify RedPoint for the loss or damage to RedPoint and must sell, dispose of or return the resulting product to RedPoint as at 16.2 so directs;
- (c) the Customer irrevocably authorises RedPoint to enter any premises where RedPoint believes the Goods are kept and recover possession of the Goods;
- (d) RedPoint may recover possession of any Goods in transit whether or not Delivery has occurred;
- (e) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give any interest in the Goods while they remain in the possession of RedPoint.
- 10.6 RedPoint may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.
11. **Personal Property Securities Act 2009 ("PPSA")**
- 11.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 11.2 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and/or collateral (account) – being a monetary obligation of the Customer to RedPoint for Services – that have previously been supplied and that will be supplied in the future by RedPoint to the Customer.
- 11.3 The Customer undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which RedPoint may reasonably require to:
- (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
- (ii) register any other document required to be registered by the PPSA; or
- (iii) correct a defect in a statement referred to in clause 12.3(a)(i) or 12.3(a)(ii);
- (b) indemnify, and upon demand reimburse, RedPoint for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
- (c) not register, 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 RedPoint;
- (d) immediately advise RedPoint of any material change in its business practices of selling the Goods which would result in a change in the Customer's ownership of the Goods;
- (e) RedPoint and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 11.4 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- Unless otherwise agreed to in writing by RedPoint, the Customer waives their right to receive a verification statement in accordance with section 144 of the PPSA.
- The Customer must unconditionally ratify any actions taken by RedPoint under clauses 12.3 to 12.5.
- 12.9 Subject to information contained in the contract (including those contained in this clause 12), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
13. **Security Charge**
- 13.1 In consideration of RedPoint agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in and to any assets capable of being used as security, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 13.2 The Customer indemnifies RedPoint from and against all legal costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising RedPoint's rights under this clause.
- 13.3 The Customer irrevocably appoints RedPoint and each director of RedPoint as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 13 including, but not limited to, signing any document on the Customer's behalf.
14. **Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)**
- 14.1 The Customer must inspect the Goods on Delivery and must within seven (7) days of Delivery notify RedPoint in writing of any evident defect/damage, shortage in quantity, or failure to comply with the information on the label or the terms and conditions of the Goods included in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow RedPoint to inspect the Goods.
- 14.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees implied by the Consumer Credit Act 1984) are implied into these terms and conditions (Non-Excluded Guarantees).
- 14.3 RedPoint acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees. RedPoint acknowledges that nothing in these terms and conditions or in respect of the Non-Excluded Guarantees, RedPoint makes no warranties or other representations under these terms and conditions including but not limited to the value of any express warranty or RedPoint's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 14.4 The Customer is a consumer within the meaning of the CCA. RedPoint's liability is limited to the extent permitted by section 64A of Schedule 2.
- 14.5 If RedPoint is required to replace the Goods under this clause or the CCA, the Customer may request that RedPoint refund any money the Customer has paid for the Goods.
- 14.6 If the Customer is not a consumer within the meaning of the CCA, RedPoint's liability for any defect or damage to the Goods is limited to the value of any express warranty or RedPoint's liability to the Customer by RedPoint at RedPoint's sole discretion; limited to any warranty to which RedPoint is entitled, if RedPoint did not otherwise negate absolutely.
- 14.7 Subject to this clause 14, returns will only be accepted provided that: the Customer has complied with the provisions of clause 14.1, and the Customer is returning the Goods as a result of the Goods being defective and the Goods are returned within a reasonable time at the Customer's cost (if that cost is not significant); and
- 14.8 the Customer is returning the Goods as a condition to that in which they were delivered as is possible.
- 14.9 Notwithstanding clauses 14.1 to 14.8 but subject to the CCA, (a) RedPoint shall not be liable for any defect or damage which may be caused by the use of the Goods or arise as a result of the Customer failing to properly maintain or store any Goods; (b) the Customer using the Goods for any purpose other than that for which they were intended; or (c) the Customer continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent person; or (d) the Customer failing to follow any instructions or guidelines provided by RedPoint;
- 14.10 fair wear and tear, any accident, or act of God.
- 14.11 In the event of second hand Goods (including, but not limited to refurbished batteries, etc.), unless the Customer is a consumer under the CCA, the Customer acknowledges that it has had full opportunity (a) to inspect the Goods, and (b) to test the Goods, and (c) to be made aware of all faults and that to the extent permitted by law no warranty is given by RedPoint as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded.
- 14.12 The Customer acknowledges and agrees that RedPoint's liability to provide the Customer with the second hand Goods and calculated the Price of the second hand Goods in relation of this clause 14.10.
- 14.13 The Customer acknowledges and agrees that RedPoint does not accept any return in which case RedPoint may require the Customer to pay handling fees up to twenty percent (20%) of the value of the returned Goods plus any freight costs.
- 14.14 Notwithstanding clauses 14.1 to 14.8 in this clause if RedPoint is required by a law to accept a return then RedPoint will only accept a return on the conditions imposed by that law.
- 14.15 Without prejudice to RedPoint's other remedies at law RedPoint shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to RedPoint shall, whether or not due for payment, become immediately payable.
- 14.16 The Customer may be unable to make a payment when it falls due if the Customer has exceeded any applicable credit limit provided by RedPoint.
- 14.17 The Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or (a) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
15. **Intellectual Property**
- 15.1 Where RedPoint has designed, drawn or developed Goods for the Customer, then the copyright in any designs and drawings and/or documents shall remain the property of RedPoint. Under no circumstances shall the copyright and documents be used without the express written approval of RedPoint.
- 15.2 The Customer agrees that RedPoint may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which RedPoint has created for the Customer.
16. **Default and Consequences of Default**
- 16.1 If the Customer fails to make payment 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 RedPoint's sole discretion such interest shall compound monthly (at such a rate) after 16.2.
- 16.3 If the Customer owes RedPoint any money the Customer shall indemnify RedPoint from and against all costs and disbursements incurred by RedPoint in recovering the amount due to RedPoint, to internal administration fees, legal costs on a solicitor and own client basis, RedPoint's contract default fee, and bank dishonour fees).
- 16.4 Further to any other rights or remedies RedPoint may have under this Contract, the Customer shall remain liable to RedPoint for the full amount of the reversed transaction, in addition to any further costs incurred by RedPoint under this clause 16 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.
- 16.5 Without prejudice to RedPoint's other remedies at law RedPoint shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to RedPoint shall, whether or not due for payment, become immediately payable.
- 16.6 The Customer may be unable to make a payment when it falls due if the Customer has exceeded any applicable credit limit provided by RedPoint.
- 16.7 The Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or (a) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
17. **Cancellation**
- 17.1 Without prejudice to any other remedies RedPoint may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions, RedPoint may suspend or terminate the supply of Goods to the Customer. RedPoint will not be liable to the Customer for any loss or damage the Customer may suffer as a result of RedPoint's suspension or termination of the supply of Goods to the Customer.
- 17.2 RedPoint may cancel any contract to which these terms and conditions apply or cancel Delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice, RedPoint shall repay to the Customer any money paid by the Customer for the Goods. RedPoint shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 17.3 In the event the Customer cancels Delivery of Goods, the Customer shall be liable for any and all loss incurred (whether direct or indirect) by RedPoint as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 17.4 Cancellation of orders for Goods made to the Customer's specifications, or for non-stockist items, will definitely not be accepted once production has commenced, or an order has been placed.
18. **Privacy Policy**
- 18.1 All emails, documents, images or other recorded information held or used by RedPoint is Personal Information, as defined and referred to in clause 18.3, and therefore considered Confidential Information. The Customer acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation ("GDPR") (collectively, "EU Data Privacy Laws"). RedPoint acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customer's Personal Information by RedPoint that may result in serious harm to the Customer, RedPoint will notify the Customer in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and as approved by the Customer by written consent, unless subject to an operation of law.
- 18.2 Notwithstanding clause 18.1, privacy limitations will extend to RedPoint's respect for the Customer's privacy in transactions, purchases/orders transpire directly from RedPoint's website. RedPoint agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:
- (a) IP address, browser, email client type and other similar details;
- (b) tracking website usage and traffic, and
- (c) reports are available to RedPoint when RedPoint sends an email to the Customer, so RedPoint may collect and review that information ("collectively Personal Information").
- (d) In order to enable / disable the collection of Personal Information by way of Cookies, the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website or prior to proceeding with a purchase/order via RedPoint's website.
- 18.3 The Customer agrees for RedPoint to obtain from a credit reporting body ("CRB") a credit report on the Customer, including the Customer's name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Customer in relation to credit provided by RedPoint.
- 18.4 The Customer agrees that RedPoint may exchange information about the Customer with third parties (including credit providers and related bodies) for the following purposes:
- (a) to assess the creditworthiness of the Customer and/or to assess an application by the Customer and/or
- (b) to notify other credit providers of a default by the Customer, and/or to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
- (c) to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two (2) years.
- 18.5 The Customer consents to RedPoint being given a consumer credit report to collect overdue payment on commercial credit.
- 18.6 The Customer agrees that the Credit Reporting Information provided may be used and retained by RedPoint for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Goods and/or Services to the Customer;
- (b) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; and/or
- (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
- (d) enabling the collection of amounts outstanding in relation to the Goods.
- 18.7 The Customer may give information about the Customer to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
- (b) to allow the CRB to create or maintain a credit information file about the Customer; and/or
- (c) to enable the CRB to provide a credit report to the Customer.
- 18.8 The information given to the CRB may include:
- (a) Personal Information as outlined in 18.3 above;
- (b) the Customer's name, address and that RedPoint is a current credit provider to the Customer;
- (c) whether the credit provider is a licensee;
- (d) type of consumer credit;
- (e) the provision of Goods and/or Services to the Customer; and/or
- (f) the Customer's payment history, including any defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery has been attempted or attempted by the Customer no longer has any overdue accounts and RedPoint has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments).
- 18.9 Where the Customer requests that RedPoint, the Customer has committed a serious credit infringement, advice that the amount of the Customer's overdue payment is equal to or more than fifty (50%) of the Customer's credit limit (\$500). The Customer shall have the right to request (by e-mail) from RedPoint:
- (a) a copy of the Personal Information about the Customer retained by RedPoint; and
- (b) the right to request that RedPoint correct any incorrect Personal Information; and
- (c) that RedPoint does not disclose any Personal Information about the Customer for the purposes of clause 18.3 above.
- 18.10 RedPoint will destroy Personal Information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 18.11 The Customer can make a privacy complaint by contacting RedPoint via e-mail. RedPoint will respond to that complaint within seven (7) days of receipt and will endeavour to resolve the complaint as soon as possible as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.
19. **Unpaid Seller's Rights**
- 19.1 Where the Customer has left any item with RedPoint for repair, maintenance or exchange and RedPoint has not received any other service in relation to the item and RedPoint has not received or been tendered the whole of any monies owing to it by the Customer, RedPoint shall have, until all monies owing to it by the Customer are paid:
- (a) a lien on the item; and
- (b) the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.
- 19.2 The lien of RedPoint shall continue despite the commencement of proceedings, or judgment for any monies owing to RedPoint having been obtained against the Customer.
- 19.3 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. These terms and conditions and any provision that provides for the enforcement 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.
- 19.4 These terms and conditions and any provision that provides for the enforcement 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.
- 19.5 RedPoint has its principal place of business, and are subject to the jurisdiction of the Kampesey Local Court of New South Wales.
- 19.6 Subject to clause 14, RedPoint shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by RedPoint of these terms and conditions (alternatively RedPoint's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 19.7 RedPoint may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.
- 19.8 The Customer cannot licence or assign without the written approval of RedPoint.
- 19.9 RedPoint may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of RedPoint's subcontractors without the authority of RedPoint.
20. **General**
- 20.1 The Customer agrees that RedPoint may amend their general terms and conditions for subsequent future contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes; or otherwise at such time as the Customer makes a further request for RedPoint to provide Goods to the Customer. 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.
- 20.2 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.

