Connoisseur Food Equipment Services – 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 "Connoisseur" means Trebmasi Pty Ltd ATF BW Isambert & HM Isambert & The Trebmasi Trust T/A Connoisseur Food Equipment Services, its successors and assigns or any person acting on behalf of and with the authority of Trebmasi Pty Ltd ATF BW Isambert & HM Isambert & The Trebmasi Trust T/A Connoisseur Food Equipment Services.

1.3 "Client" means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting Connoisseur to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
(a) if there is more than one Client, is a reference to each Client jointly and severally; and
(b) if the Client is a partnership, it shall bind each partner jointly and severally; and
(c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and
(d) includes the Client's executors, administrators, successors and permitted assigns.

1.4 "Goods" means all Goods or Services supplied by Connoisseur to the Client at the Client's request from time to time (where the context 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, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, "**Personal Information**" such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.

1.6 "Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. **If the Client does not wish to allow Cookies to operate in the background when ordering from the website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Goods via the website.**

1.7 "Price" means the Price payable (plus any GST where applicable) for the Goods as agreed between Connoisseur and the Client in accordance with clause 5 below.

1.8 "GST" means Goods and Services Tax (GST) as defined within the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).

2. Acceptance

2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of the Goods.

2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.

2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.

2.4 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 14 of the Electronic Transactions (Queensland) Act 2001 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

3.1 The Client acknowledges and accepts that Connoisseur shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s).

(a) resulting from an inadvertent mistake made by Connoisseur in the formation and/or administration of this Contract; and/or
(b) contained in/omitted from any literature hard copy and/or electronic) supplied by Connoisseur in respect of the Services.

3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of Connoisseur; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Change in Control

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

5. Price and Payment

5.1 At Connoisseur's sole discretion the Price shall be either:
(a) as indicated on any invoice provided by Connoisseur to the Client; or
(b) Connoisseur's quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

5.2 Connoisseur reserves the right to change the Price:
(a) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or
(b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or
(c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, limitations to accessing the site, obscured site defects, prerequisite work by any third party not being completed or inaccurate structural measurements provided by the Client, etc.) which are only discovered on commencement of the Services; or
(d) in the event of increases to Connoisseur in the cost of labour or materials (including but not limited to fluctuations in steel prices, overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond Connoisseur's control.

5.3 Variations will be charged for on the basis of Connoisseur's quotation, and will be submitted in writing, and shown as variations on Connoisseur's invoice. The Client shall be required to respond to any variation submitted by Connoisseur within ten (10) working days. Failure to do so will entitle Connoisseur to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.

5.4 The Client acknowledges that labour on all Service Quotations is an estimate only.

5.5 At Connoisseur's sole discretion a non-refundable deposit may be required.

5.6 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by Connoisseur, which may be:
(a) on delivery of the Goods;
(b) before delivery of the Goods;
(c) by way of instalments/progress payments in accordance with Connoisseur's payment schedule;
(d) the date specified on any invoice or other form as being the date for payment; or
(e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by Connoisseur.

5.7 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed to between the Client and Connoisseur.

5.8 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Connoisseur nor to withhold payment of any invoice because part of that invoice is in dispute.

5.9 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to Connoisseur an amount equal to any GST Connoisseur must pay for any supply by Connoisseur under this or any other Contract for the sale of the Goods. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

6. Delivery of Goods

6.1 Delivery ("**Delivery**") of the Goods is taken to occur at the time that:
(a) the Client or the Client's nominated carrier takes possession of the Goods at Connoisseur's address; or
(b) Connoisseur (or Connoisseur's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.

6.2 At Connoisseur's sole discretion the cost of delivery is included in the Price.

6.3 Connoisseur 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.

6.4 Any time specified by Connoisseur for delivery of the Goods is an estimate only and Connoisseur will not be liable for any loss or damage incurred by the Client as a result of delivery being late. However both parties agree that they shall make every endeavour to enable the Goods to be delivered at the time and place as was arranged between both parties. In the event that Connoisseur is unable to supply the Goods as agreed solely due to any action or inaction of the Client, then Connoisseur shall be entitled to charge a reasonable fee for redelivery and/or storage.

7. Risk

7.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.

7.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, Connoisseur is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Connoisseur is sufficient evidence of Connoisseur's rights to receive the insurance proceeds without the need for any person dealing with Connoisseur to make further enquiries.

7.3 If the Client requests Connoisseur to leave Goods outside Connoisseur's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk.

7.4 The Client warrants that the structure of the premises or equipment in or upon which these Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and Connoisseur shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising should the premises or equipment be unable to accommodate the installation.

7.5 The Client acknowledges that Goods supplied may exhibit variations in shade, colour, texture, surface and finish. Connoisseur will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.

7.6 The Client acknowledges that Goods supplied may:
(a) fade or change colour over time; and
(b) expand, contract or distort as a result of exposure to heat, cold, weather; and
(c) mark or stain if exposed to certain substances; and
(d) be damaged or disfigured by impact or scratching.

7.7 Connoisseur shall not be liable for any defect or damage resulting from incorrect or faulty installation carried out by any other third party.

7.8 The Client agrees that all materials supplied by the Client or the Client's third party sub-contractors will:
(a) be supplied in accordance with all legislative requirements;
(b) be suitable for their inclusion into the Services.

7.9 Where the Client has supplied materials for Connoisseur to complete the Services, the Client acknowledges that it accepts responsibility for the suitability of purpose, quality and any faults inherent in those materials. However, if in Connoisseur's opinion, it is believed that the materials supplied will not conform to the state regulations, then Connoisseur shall be entitled, without prejudice, to halt the Services until the appropriate conforming materials are sourced and all costs associated with such a change to the plans will be invoiced in accordance with clause 5.2.

7.10 Where the Client has supplied Connoisseur with any design specifications (including, but not limited to CAD drawings) the Client shall be responsible for providing accurate data. Connoisseur shall not be liable whatsoever for any errors in the Goods that are caused by incorrect or inaccurate data being supplied by the Client.

7.11 Where Connoisseur gives any advice, recommendation, information, assistance or service provided by Connoisseur in relation to Goods or Services supplied is given in good faith to the Client, or the Client's agent and is based on Connoisseur's own knowledge and experience and shall be accepted without liability on the part of Connoisseur. Where such advice or recommendations are not acted upon then Connoisseur shall require the Client or their agent to authorise commencement of the Services in writing. Connoisseur shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.

8. Access

8.1 The Client shall ensure that Connoisseur has clear and free access to the worksite at all times to enable them to undertake the Services and/or effect Delivery of the Goods. Connoisseur shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways, concreted or paved or grassed areas) unless due to the negligence of Connoisseur.

9. Accuracy of Client's Plans and Measurements

9.1 In the event the Client gives information relating to the Goods (including plans, specifications, measurements, quantities and other information) provided by the Client:
(a) it is the Client's responsibility to verify the accuracy of the information before the Client or Connoisseur places an order based on the information. Connoisseur accepts no responsibility for any loss, damages, or costs however resulting from the Client's failure to comply with this clause;
(b) Connoisseur shall be entitled to rely on the accuracy of such information. The Client acknowledges and agrees that in the event that any of this information provided by the Client is inaccurate, Connoisseur accepts no responsibility for any loss, damages, or costs however resulting therefrom.

Dimensions, Plans and Specifications

9.2 All customary industry tolerances shall apply to the dimensions and measurements of the Goods, unless Connoisseur and the Client agree otherwise in writing.

Compliance and Consents

9.3 The Client and Connoisseur shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services, including any work health and safety (WHS) laws relating to building/construction sites and any other relevant safety standards or legislation.

9.4 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Services.

Title

9.5 Connoisseur and the Client agree that ownership of the Goods shall not pass until:
(a) the Client has paid Connoisseur all amounts owing to Connoisseur; and
(b) the Client has met all of its other obligations to Connoisseur.

9.6 Receipt by Connoisseur of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

9.7 It is further agreed that:
(a) until ownership of the Goods passes to the Client in accordance with clause 9.2.1 that the Client is only a bailee of the Goods and must return the Goods to Connoisseur on request.
(b) the Client holds the benefit of the Client's insurance of the Goods on trust for Connoisseur and must pay to Connoisseur the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;
(c) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for Connoisseur and must pay or deliver the proceeds to Connoisseur on demand.
(d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of Connoisseur and must sell, dispose of or return the resulting product to Connoisseur as it so directs.
(e) the Client irrevocably authorises Connoisseur to enter any premises where Connoisseur believes the Goods are kept and recover possession of the Goods.
(f) Connoisseur may recover possession of any Goods in transit whether or not delivery has occurred.
(g) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they are in the possession of the Client.
(h) Connoisseur may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

Personal Property Securities Act 2009 ("PPSA")

9.8 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

9.9 Upon assenting to these terms and conditions in writing the Client 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 that have previously been supplied and that will be supplied in the future by Connoisseur to the Client.

9.10 The Client 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 Connoisseur 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 13.3(a)(i) or 13.3(a)(ii).
(b) indemnify, and upon demand reimburse, Connoisseur for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby.
(c) not register a financing change statement in respect of a security interest without the prior written consent of Connoisseur;
(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of Connoisseur;
(e) immediately advise Connoisseur of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.

9.10 Connoisseur and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

The Client 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 Connoisseur, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.

The Client agrees to unconditionally ratify any actions taken by Connoisseur under clauses 13.3 to 13.5.

Subject to any express provisions to the contrary (including those contained in this clause 13) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

Security and Charge

9.11 In consideration of Connoisseur agreeing to supply the Goods, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

The Client indemnifies Connoisseur from and against all Connoisseur's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Connoisseur's rights under this clause.

The Client irrevocably appoints Connoisseur and each director of Connoisseur as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Client's behalf.

10. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

10.1 The Client must inspect the Goods on delivery and must within seven (7) days of delivery notify Connoisseur in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow Connoisseur to inspect the Goods.

10.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).

10.3 Connoisseur acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

10.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Connoisseur makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Connoisseur's liability in respect of these warranties is limited to the fullest extent permitted by law.

10.5 If the Client is a consumer within the meaning of the CCA, Connoisseur's liability is limited to the extent permitted by section 64A of Schedule 2.

10.6 If Connoisseur is required to replace the Goods under this clause or the CCA, but is unable to do so, Connoisseur may refund any money the Client has paid for the Goods.

10.7 If the Client is not a consumer within the meaning of the CCA, Connoisseur's liability for defect or damage in the Goods is:
(a) limited to the value of any express warranty or warranty card provided to the Client by Connoisseur at Connoisseur's sole discretion;
(b) limited to any warranty to which Connoisseur is entitled, if Connoisseur did not manufacture the Goods;
(c) otherwise negated absolutely.

10.8 Subject to this clause 15, returns will only be accepted provided that:
(a) the Client has complied with the provisions of clause 15.1; and
(b) Connoisseur has agreed that the Goods are defective; and
(c) the Goods are returned within a reasonable time at the Client's cost (if that cost is not significant); and
(d) the Goods are returned in as close a condition to that in which they were delivered as is possible.

10.9 Notwithstanding clauses 15.1 to 15.8 but subject to the CCA, Connoisseur shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
(a) the Client failing to properly maintain or store any Goods;
(b) the Client using the Goods for any purpose other than that for which they were designed;
(c) the Client continuing the use of any Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
(d) the Client failing to follow any instructions or guidelines provided by Connoisseur;
(e) fair wear and tear, any accident, or act of God.

10.10 In the case of second hand Goods, unless the Client is a consumer under the CCA, the Client acknowledges that it has had full opportunity to inspect the second hand Goods prior to delivery and accepts them with all faults and defects to the extent permitted by law, no warranty is given by Connoisseur as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Client acknowledges and agrees that Connoisseur has agreed to provide the Client with the second hand Goods and takes the Price of the second hand Goods in reliance of this clause 15.10.

10.11 Connoisseur may in its absolute discretion accept non-defective Goods for return in which case Connoisseur may require the Client to pay handling fees of up to twenty-five percent (25%) of the value of the returned Goods plus any freight costs.

20. Notwithstanding anything contained in this clause if Connoisseur is required by a law to accept a return then Connoisseur will only accept a return on the conditions imposed by that law.

20.1

Intellectual Property

20.2 Where Connoisseur has designed, drawn or developed Goods for the Client, then the copyright in any designs and drawings and documents shall remain the property of Connoisseur. Under no circumstances may such designs, drawings and documents be used without the express written approval of Connoisseur.

The Client warrants that all designs, specifications or instructions given to Connoisseur will not cause Connoisseur to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Connoisseur against any action taken by a third party against Connoisseur in respect of any such infringement.

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

21.1

Default and Consequences of Default

21.2 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Connoisseur's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

22. If the Client owes Connoisseur any money the Client shall indemnify Connoisseur from and against all costs and disbursements incurred by Connoisseur in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Connoisseur's contract default fees, and bank dishonour fees).

22.1

Further to any other rights or remedies Connoisseur may have under this Contract, if a Client has made payment to Connoisseur, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Connoisseur under this clause 17 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.

22.2

23. Without prejudice to any other remedies Connoisseur may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions Connoisseur's solicitor or other representative shall repay to the Client any money paid by the Client for the Goods. Connoisseur shall not be liable for any loss or damage the Client suffers because of such cancellation.

23.1

In the event that the Client cancels delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by Connoisseur as a direct result of the cancellation (including, but not limited to, any loss of profits).

23.2

Cancellation of orders for Goods made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

23.3

Privacy Policy

24. All emails, documents, images or other recorded information held or used by Connoisseur is Personal Information, as defined and referred to in clause 19.3, and therefore considered Confidential Information. Connoisseur 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 IIIC 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"). Connoisseur acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Clients Personal Information, held by Connoisseur that may result in serious harm to the Client, Connoisseur will notify the Client in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (as relevant) and must be approved by the Client by written consent, unless subject to an operation of law.

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Notwithstanding clause 19.1, privacy limitations will extend to Connoisseur in respect of Cookies where transactions for purchases/orders transpire directly from Connoisseur's website. Connoisseur agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:
(a) IP address, browser, email client type and other similar details;
(b) tracking website usage and traffic; and
(c) reports are available to Connoisseur when Connoisseur sends an email to the Client, so Connoisseur may collect and review that information (collectively Personal Information").

24.7

24.8

24.9

In order to enable / disable the collection of Personal Information by way of Cookies, the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via Connoisseur's website.

The Client agrees for Connoisseur to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. 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 Client in relation to credit provided by Connoisseur.

The Client agrees that Connoisseur may exchange information about the Client with those credit providers and with related body corporates for the following purposes;
(a) to assess an application by the Client; and/or
(b) to notify other credit providers of a default by the Client; and/or
(c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
(d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.

The Client consents to Connoisseur being given a consumer credit report to collect overdue payment on commercial credit.

The Client agrees that personal credit information provided may be used and retained by Connoisseur for the following purposes (and for other agreed purposes or required by):
(a) the provision of Goods; and/or
(b) assessing, verifying and/or checking the Client'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 Client; and/or
(d) enabling the collection of amounts outstanding in relation to the Goods.

Connoisseur may give information about the Client to a CRB for the following purposes:
(a) to obtain a consumer credit report;
(b) allow the CRB to create or maintain a credit information file about the Client including credit history.

The information given to the CRB may include:
(a) Personal Information as outlined in 19.3 above;
(b) name of the credit provider and that Connoisseur is a current credit provider to the Client;
(c) whether the credit provider is a licensee;
(d) type of consumer credit;
(e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
(f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client is no longer has any overdue accounts and Connoisseur has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
(g) information that, in the opinion of Connoisseur, the Client has committed a serious credit infringement;
(h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars ($150).

The Client shall have the right to request (by e-mail) from Connoisseur:
(a) a copy of the Personal Information about the Client retained by Connoisseur and the right to request that Connoisseur correct any incorrect Personal Information; and
(b) that Connoisseur does not disclose any Personal Information about the Client for the purpose of direct marketing.

25. Connoisseur will destroy Personal Information upon the Client'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.

25.1

The Client can make a privacy complaint by contacting Connoisseur via e-mail. Connoisseur will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

Unpaid Seller's Rights

25.2 Where the Client has left any item with Connoisseur for repair, modification, exchange or for Connoisseur to perform any other service in relation to the item and Connoisseur has not received or been tendered the whole of any monies owing to it by the Client, Connoisseur shall have, until all monies owing to Connoisseur 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.

25.3 The lien of Connoisseur shall continue despite the commencement of proceedings, or judgment for any monies owing to Connoisseur having been obtained against the Client.

Building Industry Fairness (Security of Payment) Act 2017

25.4 At the Connoisseur's sole discretion, if there are any disputes or claims for unpaid Goods and/or Services then the provisions of the Building Industry Fairness (Security of Payment) Act 2017 may apply.

Nothing in this contract is intended to have the effect of contracting out of any applicable provisions of the Building Industry Fairness (Security of Payment) Act 2017 of Queensland, except to the extent permitted by the Act where applicable.

Service of Notices

26. Any written notice given under this Contract shall be deemed to have been given and received:
(a) by handing the notice to the other party, in person;
(b) by leaving it at the address of the other party as stated in this Contract;
(c) by sending it by registered post to the address of the other party as stated in this Contract;
(d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission; and
(e) if sent by email to the other party's last known email address.

26.1 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

Trusts

27. If the Client at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not Connoisseur may have notice of the Trust, the Client covenants with Connoisseur as follows:
(a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
(b) the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not prevent or restrict the exercise by the Client of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
(c) The Client will not without consent in writing of Connoisseur (Connoisseur will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events;
(i) the removal, replacement or retirement of the Client as trustee of the Trust;
(ii) any alteration to or variation of the terms of the Trust;
(iii) any advancement or distribution of capital of the Trust; or
(iv) any resettlement of the trust property.

General

28. The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

28.1 These terms and conditions and any Contract to which they apply shall be governed by the laws of the state in which Connoisseur has its principal place of business, and are subject to the jurisdiction of the courts in that state.

28.2 Subject to clause 15 Connoisseur shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Connoisseur of these terms and conditions (alternatively Connoisseur's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

28.3 Connoisseur may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent. The Client cannot licence or assign without the written approval of Connoisseur.

28.4 Connoisseur may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of Connoisseur's sub-contractors without the authority of Connoisseur.

28.5 The Client agrees that Connoisseur may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for Connoisseur to provide Goods to the Client.

28.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

28.7 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.

Please note that a larger print version of these terms and conditions is available from Connoisseur on request.

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