

Alchemis Limited – 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 “**Alchemis**” means Alchemis Limited, its successors and assigns or any person acting on behalf of and with the authority of Alchemis Limited.
- 1.3 “**Client**” means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting Alchemis 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 Alchemis 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 using Alchemis’s 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 making enquiries via the website.**
- 1.7 “**Price**” means the Price payable (plus any Goods and Services Tax (“GST”) where applicable) for the Goods as agreed between Alchemis and the Client in accordance with clause 7 below.

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 The Client acknowledges and accepts that the supply of Goods on credit shall not take effect until the Client has completed a credit application with Alchemis and it has been approved with a credit limit established for the account.
- 2.5 In the event that the supply of Goods requested exceeds the Client’s credit limit and/or the account exceeds the payment terms, Alchemis reserves the right to refuse Delivery.
- 2.6 The Client acknowledges 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, Alchemis reserves the right to vary the Price with alternative Goods as per clause 7.2 subject to prior confirmation and agreement of both parties and Alchemis also reserves the right to halt all Services until such time as Alchemis and the Client agree to such changes. Alchemis shall not be liable to the Client for any loss or damage the Client suffers due to Alchemis’s exercising its rights under this clause.
- 2.7 Where Alchemis gives any advice, recommendation, information, assistance or service provided by Alchemis in relation to the Goods supplied is given in good faith to the Client, or the Client’s agent and is based on Alchemis’s own knowledge and experience and shall be accepted without liability on the part of Alchemis.
- 2.8 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Distribution of Goods via an Approved Distributors

- 3.1 The Client agrees that until they are authorised as a distributor by Alchemis, (and hereinafter the Client shall be referred to as “**Distributor**” for the purposes of this clause) the Distributor shall not be able to sell the Goods on as a Distributor for Alchemis or represent to any third parties that the Distributor is in any way acting for Alchemis. Alchemis shall not accept responsibility or agree to be bound in any way by any contracts with third parties to whom the Distributor is a party.
- 3.2 At Alchemis’s sole discretion, the Distributor acknowledges that only approved Distributors shall have the authority to accept internet orders via their respective website and/or any alternative online auction sites.
- 3.3 Orders from a Distributor are accepted on the basis that;
- (a) unless otherwise agreed by prior approval between Alchemis and the Distributor, Goods may only be resold to consumers at retail level and may not be sold at wholesale level or to any other trader that is known or is suspected to be purchasing for resale,
 - (b) the Goods are kept separate from the Distributor’s own goods;
 - (c) the Goods are insured by the Distributor with a reputable insurer and noting the interest of Alchemis;
 - (d) Goods are to be sold for retail or displayed for sale at only the nominated locations advised by the Distributor to Alchemis,
 - (e) sale of Goods by mail order, internet or any other method outside of the traditional display and sell at the approved location is prohibited without prior written consent of Alchemis, and
 - (f) Goods are to be displayed, presented and marketed in the manner that is in the best interest of the brand name.
- 3.4 The Distributor will receive all the proceeds of any resale of/or any dealing with the Goods whether the proceeds are tangible or intangible, whether direct or indirect in trust for Alchemis and will keep such proceeds in a separate trust account until the liability of the Distributor to Alchemis pursuant to this Contract. Such proceeds shall be deemed to be equal in dollar terms to the amount owing by the Distributor to Alchemis in respect of the Goods at the time of receipt of such proceeds.

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- 3.5 Any default of clauses 3.1-3.3 may at Alchemis's sole discretion be subject to immediate and permanent closure of account facilities, with any account balances payable immediately on demand.
- 3.6 Alchemis has sole discretion on which brands or Goods are made available to any approved Distributor and Alchemis does not guarantee continuing supply of any specific brand or Goods.
- 4. Errors and Omissions**
- 4.1 The Client acknowledges and accepts that Alchemis 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 Alchemis 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 Alchemis 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 wilful misconduct of Alchemis; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.
- 5. Change in Control**
- 5.1 The Client shall give Alchemis 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 and contact phone or fax number/s, change of trustees or business practice). The Client shall be liable for any loss incurred by Alchemis as a result of the Client's failure to comply with this clause.
- 6. On-Line Ordering**
- 6.1 The Client acknowledges and agrees that:
- (a) Alchemis does not guarantee the website's performance;
 - (b) display on 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 Alchemis;
 - (c) on-line ordering may be unavailable from time to time for regularly scheduled maintenance and/or upgrades;
 - (d) there are inherent hazards in electronic distribution, and as such Alchemis cannot warrant against delays or errors in transmitting data between the Client and Alchemis including orders, and you agree that to the maximum extent permitted by law, Alchemis will not be liable for any losses which the Client suffers as a result of online-ordering not being available or for delays or errors in transmitting orders;
 - (e) when making a transaction through the website, the Client's information will pass through a secure server using SSL (secure sockets layer) encryption technology or any other similar technology as disclosed by Alchemis and/or displayed on the website. The encryption process ensures that the Client's information cannot be read by or altered by outside influences; and
 - (f) if the Client is not the cardholder for any credit card being used to pay for the Goods, Alchemis shall be entitled to reasonably assume that the Client has received permission from the cardholder for use of the credit card for the transaction.
- 6.2 Alchemis reserves the right to terminate the Client's order if it learns that you have provided false or misleading information, interfered with other users or the administration of Alchemis's business, or violated these terms and conditions.
- 7. Price and Payment**
- 7.1 At Alchemis's sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by Alchemis to the Client; or
 - (b) the Price as at the date of Delivery of the Goods according to Alchemis's current price list; or
 - (c) Alchemis's quoted price (subject to clause 7.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 7.2 Alchemis reserves the right to change the Price:
- (a) if a variation to the Goods which are to be supplied is requested; or
 - (b) if during the course of the Services, the Goods cease to be available from Alchemis's third party suppliers, then Alchemis reserves the right to provide alternative Goods, subject to prior confirmation and agreement of both parties; or
 - (c) in the event of increases to Alchemis in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond Alchemis's control.
- 7.3 Variations will be charged for on the basis of Alchemis's quotation, and will be detailed in writing, and shown as variations on Alchemis's invoice. The Client shall be required to respond to any variation submitted by Alchemis within ten (10) working days. Failure to do so will entitle Alchemis 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.
- 7.4 At Alchemis's sole discretion a non-refundable deposit may be required.
- 7.5 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by Alchemis, 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 Alchemis's payment schedule;
 - (d) for certain approved Clients, due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices;
 - (e) the date specified on any invoice or other form as being the date for payment; or
 - (f) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by Alchemis.
- 7.6 Payment may be made by electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Client and Alchemis.
- 7.7 Alchemis may in its discretion allocate any payment received from the Client towards any invoice that Alchemis determines and may do so at the time of receipt or at any time afterwards. On any default by the Client Alchemis may re-allocate any payments previously received and allocated. In the absence of any payment allocation by Alchemis, payment will be deemed to be allocated in such manner as preserves the maximum value of Alchemis's Purchase Money Security Interest (as defined in the PPSA) in the Goods.

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- 7.8 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 Alchemis nor to withhold payment of any invoice because part of that invoice is in dispute.
- 7.9 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to Alchemis an amount equal to any GST Alchemis must pay for any supply by Alchemis 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.

8. Delivery of Goods

- 8.1 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 Alchemis’s address; or
 - (b) Alchemis (or Alchemis’s nominated carrier) delivers the Goods to the Client’s nominated address even if the Client is not present at the address.
- 8.2 At Alchemis’s sole discretion the cost of Delivery is either included in the Price or is in addition to the Price.
- 8.3 Alchemis 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 Alchemis for Delivery of the Goods is an estimate only and Alchemis 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 Alchemis is unable to supply the Goods as agreed solely due to any action or inaction of the Client, then Alchemis shall be entitled to charge a reasonable fee for redelivery and/or storage.

9. Risk

- 9.1 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.
- 9.2 If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Client, Alchemis is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by Alchemis is sufficient evidence of Alchemis’s rights to receive the insurance proceeds without the need for any person dealing with Alchemis to make further enquiries.
- 9.3 If the Client requests Alchemis to leave Goods outside Alchemis’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.
- 9.4 Alchemis shall endeavour to match old for new, however, the Client acknowledges and accepts that colours may not match due to differences in colour matching/mixing technologies, fading and/or weathering of the sample provided to colour match from. Therefore, Alchemis shall not be held responsible or liable for any differences that may result.
- 9.5 The Client acknowledges that:
- (a) all descriptive specifications, illustrations, drawings, data, dimensions, ratings and weights stated in Alchemis or Alchemis’s manufacturer’s fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Client shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the Contract, unless expressly stated as such in writing by Alchemis;
 - (b) while Alchemis may have provided information or figures to Alchemis regarding the performance of the Goods, the Client acknowledges that Alchemis has given these in good faith, and are estimates based on industry prescribed estimates.
- 9.6 Alchemis accepts no responsibility for any damage or performance related problems with any Goods where they have not been used and/or maintained in accordance with Alchemis’s and/or the manufacturers’ recommendations.

10. Title

- 10.1 Alchemis and the Client agree that ownership of the Goods shall not pass until:
- (a) the Client has paid Alchemis all amounts owing to Alchemis; and
 - (b) the Client has met all of its other obligations to Alchemis.
- 10.2 Receipt by Alchemis 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.
- 10.3 It is further agreed that until ownership of the Goods passes to the Client in accordance with clause 10.1:
- (a) the Client is only a bailee of the Goods and must return the Goods to Alchemis on request;
 - (b) the Client holds the benefit of the Client’s insurance of the Goods on trust for Alchemis and must pay to Alchemis 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 Alchemis and must pay or deliver the proceeds to Alchemis 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 Alchemis and must sell, dispose of or return the resulting product to Alchemis as it so directs;
 - (e) the Client irrevocably authorises Alchemis to enter any premises where Alchemis believes the Goods are kept and recover possession of the Goods;
 - (f) Alchemis 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 remain the property of Alchemis; and
 - (h) Alchemis may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

11. Personal Property Securities Act 1999 (“PPSA”)

- 11.1 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that:
- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) a security interest is taken in all Goods and/or collateral (account) – being a monetary obligation of the Client to Alchemis for Services – that have previously been supplied and that will be supplied in the future by Alchemis to the Client.

- 11.2 The Client undertakes to:
- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Alchemis may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, Alchemis for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;
 - (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 Alchemis; and
 - (d) immediately advise Alchemis of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 11.3 Alchemis and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 11.4 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.
- 11.5 Unless otherwise agreed to in writing by Alchemis, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 11.6 The Client shall unconditionally ratify any actions taken by Alchemis under clauses 11.1 to 11.5.
- 11.7 Subject to any express provisions to the contrary (including those contained in this clause 11), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

12. Security and Charge

- 12.1 In consideration of Alchemis 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).
- 12.2 The Client indemnifies Alchemis from and against all Alchemis's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Alchemis's rights under this clause.
- 12.3 The Client irrevocably appoints Alchemis and each director of Alchemis as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12 including, but not limited to, signing any document on the Client's behalf.

13. Defects

- 13.1 The Client shall inspect the Goods on Delivery and shall within seven (7) days of Delivery (time being of the essence) notify Alchemis of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford Alchemis an opportunity to inspect the Goods within a reasonable time following Delivery if the Client believes the Goods are defective in any way. If the Client shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which Alchemis has agreed in writing that the Client is entitled to reject, Alchemis's liability is limited to either (at Alchemis's discretion) replacing the Goods or repairing the Goods.
- 13.2 Goods will not be accepted for return other than in accordance with 13.1 above, and provided that:
- (a) Alchemis has agreed in writing to accept the return of the Goods; and
 - (b) the Goods are returned at the Client's cost within fourteen (14) days of the Delivery date; and
 - (c) Alchemis will not be liable for Goods which have not been stored or used in a proper manner; and
 - (d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.
- 13.3 Alchemis will not accept the return of Goods for credit.
- 13.4 Subject to clause 13.1, non - defective, non-stocklist items or Goods made to the Client's specifications are not acceptable for credit or return.

14. Warranty

- 14.1 For Goods not manufactured by Alchemis, the warranty shall be the current warranty provided by the manufacturer of the Goods. Alchemis shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

15. Consumer Guarantees Act 1993

- 15.1 If the Client is acquiring Goods for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 ("CGA") do not apply to the supply of Goods by Alchemis to the Client.

16. Intellectual Property

- 16.1 Where Alchemis has designed, drawn or developed Goods for the Client, then the copyright in any designs and drawings and documents shall remain the property of Alchemis. Under no circumstances may such designs, drawings and documents be used without the express written approval of Alchemis.
- 16.2 The Client agrees that Alchemis may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which Alchemis has created for the Client.

17. Default and Consequences of Default

- 17.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Alchemis's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 17.2 If the Client owes Alchemis any money the Client shall indemnify Alchemis from and against all costs and disbursements incurred by Alchemis in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Alchemis's collection agency costs, and bank dishonour fees).
- 17.3 Further to any other rights or remedies Alchemis may have under this Contract, if a Client has made payment to Alchemis, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs

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incurred by Alchemis 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.

- 17.4 Without prejudice to Alchemis's other remedies at law Alchemis shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Alchemis shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Alchemis becomes overdue, or in Alchemis's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client has exceeded any applicable credit limit provided by Alchemis;
 - (c) the Client 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
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

18. Cancellation

- 18.1 Without prejudice to any other remedies Alchemis may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions Alchemis may suspend or terminate the supply of Goods to the Client. Alchemis will not be liable to the Client for any loss or damage the Client suffers because Alchemis has exercised its rights under this clause.
- 18.2 Alchemis 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 Client. On giving such notice Alchemis shall repay to the Client any money paid by the Client for the Goods. Alchemis shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 18.3 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 Alchemis as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 18.4 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.

19. Privacy Policy

- 19.1 All emails, documents, images or other recorded information held or used by Alchemis is Personal Information as defined and referred to in clause 19.3 and therefore considered confidential. Alchemis acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1993 ("the Act") including Part II of the OECD Guidelines and as set out in Schedule 5A of the Act 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"). Alchemis acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by Alchemis that may result in serious harm to the Client, Alchemis 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 (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.
- 19.2 Notwithstanding clause 19.1, privacy limitations will extend to Alchemis in respect of Cookies where the Client utilises Alchemis's website to make enquiries. Alchemis 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 Alchemis when Alchemis sends an email to the Client, so Alchemis may collect and review that information ("collectively Personal Information")
- If the Client consents to Alchemis's use of Cookies on Alchemis's website and later wishes to withdraw that consent, the Client may manage and control Alchemis's privacy controls via the Client's web browser, including removing Cookies by deleting them from the browser history when exiting the site.
- 19.3 The Client authorises Alchemis or Alchemis's agent to:
- (a) access, collect, retain and use any information about the Client;
 - (i) (including, 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 or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Client.
 - (b) disclose information about the Client, whether collected by Alchemis from the Client directly or obtained by Alchemis from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.
- 19.4 Where the Client is an individual the authorities under clause 19.3 are authorities or consents for the purposes of the Privacy Act 1993.
- 19.5 The Client shall have the right to request (by e-mail) from Alchemis, a copy of the Personal Information about the Client retained by Alchemis and the right to request that Alchemis correct any incorrect Personal Information.
- 19.6 Alchemis 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.
- 19.7 The Client can make a privacy complaint by contacting Alchemis via e-mail. Alchemis 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 twenty (20) 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 <http://www.privacy.org.nz/comply/comptop.html>.

20. Service of Notices

- 20.1 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;

- (e) if sent by email to the other party's last known email address.
- 20.2 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.

21. Trusts

- 21.1 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 Alchemis may have notice of the Trust, the Client covenants with Alchemis 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 purport to exclude or take away the right 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 Alchemis (Alchemis 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.

22. General

- 22.1 Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising herein, shall be submitted to, and settled by, mediation before resorting to any external dispute resolution mechanisms (including arbitration or court proceedings) by notifying the other party in writing setting out the reason for the dispute. The parties shall share equally the mediator's fees. Should mediation fail to resolve the dispute, the parties shall be free to pursue other dispute resolution avenues.
- 22.2 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.
- 22.3 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Auckland, New Zealand.
- 22.4 Except to the extent permitted by law "CGA", Alchemis 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 Alchemis of these terms and conditions (alternatively Alchemis's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 22.5 Alchemis may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.
- 22.6 The Client cannot licence or assign without the written approval of Alchemis.
- 22.7 Alchemis 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 Alchemis's subcontractors without the authority of Alchemis.
- 22.8 The Client agrees that Alchemis 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 Alchemis to provide Goods to the Client.
- 22.9 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc, ("Force Majeure") or other event beyond the reasonable control of either party.
- 22.10 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.