

## **The Drain Company Terms and Conditions**

### **Definitions**

**1.1 “Company” means The Drain Company Ltd, its successors and assigns or any person acting on behalf of and with the authority of The Drain Company Ltd.**

**1.2 “Client” means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Client is a reference to each Client jointly and severally.**

**1.3 “Goods” means all Goods or Services supplied by the Company 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).**

**1.4 “Price” means the Price payable for the Goods as agreed between the Company and the Client in accordance with clause 4 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 Goods, or accepts Delivery.**

**2.2 These terms and conditions may only be amended with the Company’s consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and the Company.**

**2.3 Dimensions and specifications contained or referred to in any agreement or in any publications maintained or issued by the Company are estimates only. Unless otherwise expressly agreed in writing by the Company, it is not a condition of any agreement that the Goods will correspond precisely with such dimensions and specifications, and customary or reasonable tolerances will be allowed.**

**2.4 Neither the Company, nor any of its employees or agents, warrant or guarantee the accuracy or completeness of any information provided to the Client. The Client undertakes that all matters relevant to the supply of the Goods hereunder are to the Client’s satisfaction, and in doing so, the Client acknowledges that in deciding to purchase the Goods hereunder that:**

**(a) they have relied on their own skill, inspection and judgement;**

**(b) they have not relied on any statement made by the Company or its employees or agents;**

**(c) they assume the risk of mistake in relation to the information provided.**

**2.5 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 22 of the**

**Electronic Transactions Act 2002 or any other applicable provisions of that Act or any Regulations referred to in that Act.**

### **3. Change in Control**

**3.1 The Client shall give the Company 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, or business practice). The Client shall be liable for any loss incurred by the Company as a result of the Client's failure to comply with this clause.**

#### **4. Price and Payment**

**4.1 At the Company's sole discretion the Price shall be either:**

**(a) as indicated on any invoice provided by the Company to the Client; or**

**(b) the Price as at the date of Delivery according to the Company's current price list; or**

**(c) the Company's quoted price (subject to clause 4.2) which is based upon rates and costs at the date of the quotation, and will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.**

**4.2 The Company reserves the right to change the Price:**

**(a) if a variation to the Goods which are to be supplied (including any applicable plans or specifications) is requested; or**

**(b) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, poor weather or adverse sub-soil water conditions, limitations to accessing the site, safety considerations, prerequisite work by any third party not being completed, inaccurate structural measurements provided by the Client, change of design, iron reinforcing rods in concrete, or hidden pipes and wiring/cabbling, the rapid deterioration or collapse of the host pipe during the course of the Services, or where the state or condition of the host pipe is worse than originally anticipated, the excavation of rock or rock-like substances, interruption during the relining process due to the unexpected use of the host pipe resulting in the possibility that the process will need to be aborted, as a result of dewatering being required due to permanent groundwater or any interruption to the Services by the Client or any third party, etc.) which are only discovered on commencement of the Services; or**

**(c) in the event of increases to the Company in the costs of supply and/or production of the Goods (Including fluctuations in currency exchange rates), and/or Delivery, due to circumstances beyond the reasonable control of the Company.**

**4.3 At the Company's sole discretion, a deposit may be required.**

**4.4 Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date/s determined by the Company,**

**which may be:**

**(a) by way of instalments/progress payments in accordance with the Company's payment schedule;**

**(b) twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices;**

**(c) the date specified on any invoice or other form as being the date for payment; or**

**(d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by the Company.**

**4.5 Payment may be made by cheque, electronic/on-line banking, or by any other method as agreed to between the Client and the Company.**

**4.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to the Company an amount equal to any GST the Company must pay for any supply by the Company under this or any other agreement 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.**

**4.7 Receipt by the Company 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, and until then the Company's rights and ownership in respect of the Goods, and this agreement, shall continue.**

## **5. Delivery**

**5.1 Delivery of the Goods ("Delivery") is taken to occur at the time that:**

**(a) the Client or the Client's nominated carrier takes possession of the Goods at the Company's premises; or**

**(b) the Company (or the Company's nominated carrier) delivers the Goods to the Client's nominated site, even if the Client is not present thereat.**

**5.2 The Company 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.**

**5.3 Any time or date given by the Company to the Client is an estimate only. The Client must still accept Delivery even if late and the Company will not be liable for any loss or damage incurred by the Client as a result of the Delivery being late.**

## **6. Risk**

**6.1 Risk of damage to, or loss, or deterioration of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before**

**Delivery.**

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

**6.3 If the Client requests the Company to leave Goods outside the Company'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.**

**6.4 The Client warrants that the structure of the premises or equipment in or upon which the Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and the Company 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.**

**6.5 The Company shall not be liable for any defect or damage where caused by outside agents. Where the Client requests the Company to repair such damage then the Company reserves the right to charge the Client for any costs incurred in rectifying such damage.**

**6.6 The Client acknowledges that the Company is only responsible for parts that are replaced/supplied by the Company and does not at any stage accept any liability in respect of components supplied by any other third party that subsequently fail and are found to be the source of the failure, the Client agrees to indemnify the Company against any loss or damage to the Goods, or caused thereby, or any part thereof howsoever arising.**

**6.7 Any advice, recommendation, information, assistance or service provided by the Company in relation to Goods provided is given in good faith, is based on the Company's own knowledge and experience and shall be accepted without liability on the part of the Company and it shall be the responsibility of the Client to confirm the accuracy and reliability of the same in light of the use to which the Client makes or intends to make of the Goods.**

**6.8 The Company is not responsible for the re-instatement of the site or any rectification of the services. The Company is not responsible for the removal of rubbish from or clean-up of the building/constructions site/s, when such rubbish was not contributed by the Company specifically, and it is the responsibility of the Client or the Client's agent.**

**6.9 The Client acknowledges that the presence of plant or tree root growth and/or other blockages may indicate damaged pipe work and therefore where the Company is requested to merely clear such blockages, the Company can offer no guarantee against reoccurrence or further damage. In the event of collapse during the pipe clearing process, the Company will immediately advise the Client of the same and shall provide the Client with an estimate for the full repair of the damaged pipe work.**

**6.10 Under no circumstance will the Company be held liable for any damage to the liner due to the unforeseen use of the host pipe during the relining process nor will the Company be liable in the event that the reline is not successful as a result of events beyond their control.**

## **7. Accuracy of Client's Plans and Measurements**

**7.1 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 the Company places an order based on the information. The Company accepts no responsibility for any loss, damages, or costs however resulting from the Client's failure to comply with this clause;**

**(b) the Company 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, the Company accepts no responsibility for any loss, damages, or costs however resulting therefrom.**

## **8. Client's Responsibilities**

### **8.1 It is the Client's responsibility to:**

#### **(a) arrange the following:**

**(i) diversion of any storm water, sewer or water supply pipe, electricity cable, telephone cable or gas pipes; and**

**(ii) the removal of any trees or stumps**

**(iii) the excavation of any rock, requiring the use of pneumatic or hydraulic equipment for extraction, planking, strutting, shoring or underpinning**

**(b) obtain any relevant permits or consents as may be required by local Government or building approval;**

**(c) ensure that prior to commencement of the Services that the Company is advised of the precise location of all known underground services, and asbestos and/or or hazardous materials (and that these are clearly marked) on site, and:**

**(i) the underground mains and services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site. Whilst the Company will take all care to avoid damage to any underground services the Client agrees to indemnify the Company in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified by the Client;**

**(ii) the Client acknowledges that in the event asbestos or any other toxic substances are discovered at the site that it is their responsibility to ensure the safe removal of the same. The Client further agrees to indemnify the Company against any costs incurred by the Company as a consequence of such discovery. Under no circumstances will the Company handle removal of asbestos product. The Company reserves the right to refuse to enter the nominated site to supply the Goods in the event that the Company believes the site to be unsafe. In this event, the Client agrees that it is their responsibility to ensure the site is made safe before the Company will enter the site, and the Company shall not be liable for any delays caused, loss, damages, or costs however resulting from an unsafe site.**

**(d) ensure that the Company has clear and free access to the nominated site to enable them to supply the Goods. The Company shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas, and site equipment such as septic tanks), unless due to the negligence of the Company.**

## **9. Title**

### **9.1 The Company and the Client agree that ownership of the Goods shall not pass until:**

**(a) the Client has paid the Company all amounts owing to the Company; and**

**(b) the Client has met all of its other obligations to the Company.**

**9.2 It is further agreed that, until ownership of the Goods passes to the Client in accordance with clause 9.1:**

**(a) the Client is only a bailee of the Goods and must return the Goods to the Company on request.**

**(b) the Client holds the benefit of the Client's insurance of the Goods on trust for the Company and must pay to the Company 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 the Company and must pay or deliver the proceeds to the Company 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 the Company and must sell, dispose of or return the resulting product to the Company as it so directs.**

**(e) the Client irrevocably authorises the Company to enter any premises where the Company believes the Goods are kept and recover possession of the Goods.**

**(f) the Company 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 the Company.**

**(h) the Company may commence proceedings to recover the Price notwithstanding that ownership of the Goods has not passed to the Client.**

## **10. Personal Property Securities Act 1999 ("PPSA")**

**10.1 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 the Company for Services – that have previously been supplied and that will be supplied in the future by the Company to the Client.**

**10.2 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 the Company may reasonably require to register a financing statement or financing change statement on the Personal**

**Property Securities Register;**

**(b) indemnify, and upon demand reimburse, the Company for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any registration made 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 the Company; and**

**(d) immediately advise the Company 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.**

**10.3 The Company and the Client agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.**

**10.4 The Client waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.**

**10.5 Unless otherwise agreed to in writing by the Company, the Client waives its right to receive a verification statement in accordance with section 148 of the PPSA.**

**10.6 The Client shall unconditionally ratify any actions taken by the Company under clauses 10.1 to 10.5.**

## **11. Security and Charge**

**11.1 In consideration of the Company agreeing to supply 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).**

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

**11.3 The Client irrevocably appoints the Company and each director of the Company as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Client's behalf.**

## **12. Client's Disclaimer**

**12.1 The Client hereby disclaims any right to rescind, or cancel any contract with the Company or to sue for damages or to claim restitution arising out of any inadvertent misrepresentation made to the Client by the Company and the Client acknowledges that the Goods are bought relying solely upon the Client's skill and judgment.**

## **13. Defects, Returns and Warranties**

**13.1 The Client shall inspect the Goods on Delivery and shall within seven (7) days of such time (being of the essence) notify the Company of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Client shall afford the Company an opportunity to inspect the Goods within a reasonable time following such notification 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 the Company has agreed in writing that the Client is entitled to reject, the Company's liability is limited to either (at the Company'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.

**13.3** Subject to the conditions of warranty set out in clause 13.4, the Company warrants that if any defect in any workmanship of the Company becomes apparent and is reported to the Company within three (3) months of the date of Delivery (time being of the essence) then the Company will either (at the Company's sole discretion) replace or remedy the workmanship.

**13.4** The conditions applicable to the warranty given by clause 13.3 are:

(a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:

(i) failure on the part of the Client to properly maintain any Goods; or

(ii) failure on the part of the Client to follow any instructions or guidelines provided by the Company; or

(iii) any use of any Goods otherwise than for any application specified on a quote or order form; or

(iv) the continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or

(v) fair wear and tear, any accident or act of God.

(b) the warranty shall cease and the Company shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without the Company's consent.

(c) in respect of all claims the Company shall not be liable to compensate the Client for any delay in either replacing or remedying the workmanship or in properly assessing the Client's claim.

**13.5** For Goods not manufactured by the Company, the warranty shall be the current warranty provided by the manufacturer of the Goods. The Company 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.

## **14. Consumer Guarantees Act 1993**

**14.1** 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 do not apply to the supply of Goods by the Company to the Client.

## **15. Intellectual Property and Confidentiality**

**15.1** Where the Company has designed, drawn or developed Goods for the Client, including specifications, other technical information and documents ("IP"), then the copyright in the IP shall remain the property of the Company. The Company grants the Client a non-exclusive and non-transferable licence for the use of the IP (solely in relation to the operation of the Client's own business and this agreement), and:



(a) the licence to use the IP shall immediately be withdrawn if the Client is in breach of any obligation (including those relating to payment) under these terms and conditions. In which case, the IP (including copies) must be immediately returned to the Company by the Client; and

(b) the Client agrees that they shall not, without the Company's prior written consent, supply the IP (and any particulars thereof) to any third party.

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

15.3 The Client agrees that the Company may (at no cost) use for the purposes of marketing or entry into any competition, any IP which the Company has created for the Client, or digital media of the completed project.

15.4 Each party agrees to treat all information and ideas communicated to it (including any IP) by the other confidentially and agree not to divulge it to any third party, without the other party's written consent. The parties will not copy any such information supplied, and will either return it or destroy it (together with any copies thereof) on request of the other party.

## 16. Default and Consequences of Default

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

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

16.3 Without prejudice to any other remedies the Company may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions the Company may suspend or terminate the supply of Goods to the Client. The Company will not be liable to the Client for any loss or damage the Client suffers because the Company has exercised its rights under this clause.

16.4 Without prejudice to the Company's other remedies at law the Company shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Company shall, whether or not due for payment, become immediately payable if:

(a) any money payable to the Company becomes overdue, or in the Company's opinion the Client will be unable to make a payment when it falls due;

(b) 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

(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

## 17. Cancellation

**17.1** The Company may cancel any contract to which these terms and conditions apply or cancel Delivery at any time before the Goods are delivered by giving written notice to the Client. On giving such notice the Company shall repay to the Client any money paid by the Client for the Goods. The Company shall not be liable for any loss or damage whatsoever arising from such cancellation.

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

**17.3** 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.

## **18. Privacy Act 1993**

**18.1** The Client authorises the Company or the Company's agent to:

(a) access, collect, retain and use any information about the Client;

(i) (including 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 the Company from the Client directly or obtained by the Company 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.

**18.2** Where the Client is an individual the authorities under clause 18.1 are authorities or consents for the purposes of the Privacy Act 1993.

**18.3** The Client shall have the right to request the Company for a copy of the information about the Client retained by the Company and the right to request the Company to correct any incorrect information about the Client held by the Company.

## **19. Unpaid Seller's Rights**

**19.1** Where the Client has left any item/s with the Company for repair, modification, exchange or for the Company to perform any other service in relation to the item/s and the Company has not received or been tendered the whole of any moneys owing to it by the Client, the Company shall have, until all moneys owing to the Company are paid:

(a) a lien on the item/s; and

(b) the right to retain or sell the item/s, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.

**19.2** The lien of the Company shall continue despite the commencement of proceedings, or judgment for any moneys owing to the Company having been obtained against the Client.

## **20. Construction Contracts Act 2002**

**20.1** The Client hereby expressly acknowledges that:

**(a) the Company has the right to suspend the Services within five (5) working days of written notice of its intent to do so if a payment claim is served on the Client, and:**

**(i) the payment is not paid in full by the due date for payment and no payment schedule has been given by the Client; or**

**(ii) a scheduled amount stated in a payment schedule issued by the Client in relation to the payment claim is not paid in full by the due date for its payment; or**

**(iii) the Client has not complied with an adjudicator's notice that the Client must pay an amount to the Company by a particular date; and**

**(iv) the Company has given written notice to the Client of its intention to suspend the carrying out of construction work under the construction contract.**

**(b) if the Company suspends the Services, it:**

**(i) is not in breach of contract; and**

**(ii) is not liable for any loss or damage whatsoever suffered, or alleged to be suffered, by the Client or by any person claiming through the Client; and**

**(iii) is entitled to an extension of time to complete the contract; and**

**(iv) keeps its rights under the contract including the right to terminate the contract; and may at any time lift the suspension, even if the amount has not been paid or an adjudicator's determination has not been complied with.**

**(c) if the Company exercises the right to suspend the Services, the exercise of that right does not:**

**(i) affect any rights that would otherwise have been available to the Company under the Contractual Remedies Act 1979; or**

**(ii) enable the Client to exercise any rights that may otherwise have been available to the Client under that Act as a direct consequence of the Company suspending the Services under this provision.**

## **21. General**

**21.1 The failure by the Company to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Company'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.**

**21.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Auckland Courts of New Zealand.**

**21.3 The Company shall be under no liability whatsoever to the Client for any incidental, indirect, special and/or consequential loss, damage and/or expense (including loss of profit and any claims, demands or actions against the Client by any third party) suffered by the Client arising out of a breach by the Company of these terms and conditions, even if the Company should have known the possibility of such**

damages arising out of, or in relation to its performance or non-performance of this agreement. Alternatively, the Company's liability shall be limited to damages which under no circumstances shall exceed the Price).

**21.4** The Client shall not, without the prior written consent of the Company, be entitled to set off against, or deduct from the Price (by way or counter claim or other legal or equitable claim), any sums owed or claimed to be owed to the Client by the Company, nor to withhold payment of any invoice because part of that invoice is in dispute.

**21.5** The Company may license or sub-contract all or any part of its rights and obligations without the Client's consent.

**21.6** The Client agrees that the Company may amend these terms and conditions at any time. If the Company makes a change to these terms and conditions, then that change will take effect from the date on which the Company notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for the Company to provide Goods to the Client.

**21.7** 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.

**21.8** The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.