

**Edgesmith Limited** 

20 Anvil Road, Silverdale Auckland 0932 Phone: 09 427 4980 Email: ar@edgesmith.co.nz Web: www.edgesmith.co.nz.

# **CUSTOMER INFORMATION FORM**

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

Customer's Details: ☐ Indivi	idual □ Sole Trader □ Trust □ Partnership □ (	Company □ Other		
Full or Legal Name:				
Physical Address:				Postcode:
Billing Address:				Postcode:
Email:				
Phone No:		Mobile No:		
Personal Details: (please comp	plete if you are an Individual)			
(1) Full Name:		D.O.B:		
Driver's Licence No:		Mobile No:		
	nplete if you are a Sole Trader, Trust, Partnership, Cor			
Trading Name:			No: (if applicable)	
NZBN:		·	(current owners)	
Contact Person:		Phone No:		
Nature of Business:				
•	(if more than two, please attach a separate sheet)			
(1) Full Name:		D.O.B: _		
Residential Address:				Postcode:
Driver's Licence No:	Phone No:		Mobile No:	
(2) Full Name:		D.O.B: _		
Residential Address:				Postcode:
Driver's Licence No:	Phone No:		Mobile No:	
Privacy Officer Details:				
Full Name:		Mobile No:		
Phone No:		Email: _		
TERMS AND CONDITIONS	nation is true and correct and that I accept the su OF TRADE (overleaf or attached) of Edgesmith L on Form and agree to be bound by these condition	imited which form part of	, and are intend	ed to be read in conjunction
SIGNED (CUSTOMER):	SIGNE	ED (ESL)		
	Name			
5 .	Date:	·		



- Dennitions
   "Contract" means the terms and conditions contained herein, together with any Price, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 "ESL" means Edgeamh Limited (or otherwise referred to as the "Vendor"), its successors and assigns or any person acting on behalf of and with the authority of Edgeamh Limited.

  1.3 "Customer "means the persons, erities or any person acting on behalf of and with the authority of the Customer requesting ESL to provide the Goods as specified in any proposal, price, order, invoice or other documentation, and:

  - outcurrentment, aru.

    (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
    (b) if the Customer is a partnership, it shall bind each partner jointly and severally, and
    (c) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and
    (d) includes the Customer's executors, administrators, successors and permitted assigns.
- (d) includes the Customer's executors, administrators, successors and permitted assigns.

  "Goods" means all Goods, or Services, supplied by ESL to the Customer's applied by ESL to the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' asha be interchangeable for the other as forced on a user's electronic device. They are designed to hold a modest amount of data (including PII) specific to a particular Customer and website and can be accessed either by the web server or the Customer's electronic device. If the Customer does not wish to allow Cookies to operate in the background when ordering from the website, then the Customer shall have the right to enabledisable the Cookies first by selecting the option to enabledisable provided on the website, prior to ordering Goods but the website.
- "Price" means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Goods as agreed between ESL and the Customer in accordance with clause 6 below.

- Acceptance
   The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of any Goods.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schools that the parties have entered into, the terms of this Contract and any other prior document or schools that the parties have entered into, the terms of this Contract had prevail.

  2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by
- The Customer acknowledges that the supply of Goods on credit shall not take effect until the Customer has completed a Customer thromation Form with ESL and 1 has been approved with a credit limit established for the account, if required. In the event that the supply of Goods request exceeds the Customers credit limit and/or the account exceeds the payment terms, ESL reserves the right to refuse acceptance for new orders or refuse delivery of the
- Services.

  In the event that the Goods provided by ESL are the subject of an insurance claim that the Customer himade, then the Customer shall be responsible for the payment of any mories payable to the insurance company and agrees to honour their obligation for payment for such transactions invoiced by ESL and shu ensure payment is made by the due date irrespective of whether the insurance claim is successful.

- ensure payment is made by the due date irrespective of whether the insurance claim is successful.

  2.7 Where ESL, gives any advice, recommendation, information, assistance or service provided by ESL in relation to Goods supplied is given in good faith and is based on ESL's own knowledge and experience and all contracts.

  2.8 Electronic agrantures shall be served to be accepted by either early providing that the paties 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.

  2.9 In the event that ESL is required to provide the Goods urgently, that may result in ESL to work outside normal business benome (including, but not limited to working through lutch Thesek, weekends and/or Public Holdery) or inour travel or accommodation costs. Then ESL reserves the right to charge the Customer the additional costs urkees otherwise agreed between ESL and the Clustomer.

## Errors and Omissions

- Errors and Omissions
   The Customer acknowledges and accepts that ESL shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
  - any waspeur or actual error(s) amour ormsson(s):

    (a) resulting from an inadvertent mistake made by ESL in the formation and/or administration of this Contract; and/or

    (b) contained n/omitted from any literature (hard copy and/or electronic) supplied by ESL in respect of the Goods.
- 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 will misconduct of SSL; the Customer shall not be entitled to treat this Contract as repudiated not render it invaid.
  3.3 Clinical errors or omissions, whether in computation or otherwise in the quotation, acknowledgement or invoice shall be subject to correction.

- Authorised Representatives

  The Customer acknowledges that ESL shall (for the duration of the Goods) liaise directly with one (1 authorised representative, and that once introduced as such to ESL, that person shall have the full authority of the Customer to order any Goods, and/or to request any variation thereto on the Customer's behalf. The Customer accepts that they will be solely liable to ESL for all additional costs incurred by ESL incurred to ESL sport it margin) in providing any Goods, or variations's requested thereto by the Customer's dufficultions of the Customer's dufficulties of the Customer's duffic
- If the Customer's duly authorised representative as per clause 4.1 is to have only limited authority to act on the Customer's behalf, then the Customer must specifically and clearly advise ESL in writing of the parameters of the limited authority granted to their representative.
- Customer specifically acknowledges and accepts that they will be solely liable to ESL for all additional ts incurred by ESL (including ESL's profit margin) in providing any Goods, or variations requested by the stomer's duly authorised representative (subject always to the limitations imposed under clause 4.2 (if the control of the

Change in Control
 The Customer shall give ESU not less than fourtiern (11) days prior written notice of any proposed change
 the Customer shall give ESU not less than fourtiern (11) days prior written notice of days got not limited by
 changes in the Customer's name, address, contact details, change of directors, change of trustees, or
 business practice). The Customer shall be liable for any loss incurred by ESI, as a result of the Customer's
 failure to comply with this clause.

- Price and Payment
   At ESL's sole discretion the Price shall be either.
- (a) as indicated on invoices provided by ESL to the Customer in respect of Goods performed or Goods supplied: or

- (a) an indicated on invoices provised by Est. to the Lustonier in respect or Goose performed or Goose
  (b) ESt. spoted thries (abject to clause 6.2 which hall be binding upon ESt. provided that the Customer shall accept ESt. a Price in writing within thirty (30) days.

  ESt. reserves the right to change the Price.

  (a) if a variation to the Goost originally scheduled is requested; or

  (b) if a variation to the Goost originally scheduled is requested; or

  (c) in the event of increases to ESt. in the cost of labour or malerishs which are beyond GLCs control (including but, not limited to any variation as a result of fluctuations in currency exchange rates or increases to ESt. in the cost of taxes, levies, freight or insurance charges, or delays in stipment, wholesale suply trade sich yields are beyond ESt. control.

  Variations will be charged for on the basis of ESt.'s Price, and will be detailed in writing, and shown as variation as in CESt. is myloc. The Colomore shall be required to respond to any variation standard by ESt.

  Payment for all variations must be made in full af the time of their completion.
- Payment for all variations must be made in full at the time of their completion.

  Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date's determined by ESL, which may be:

  (a) the date specified on any invoice or other form as being the date for payment, or

  (b) for certain approved Customers, due twenty (20) days following the end of the month in which an invoice is sent to the Customer's address or address for notices; or

  (c) fairing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by ESL; or

- given to the Customer by ESL or 

  (d) immediately payable as the time the Customer places an order for any non-clock list item or bespoke 
  Goods that ESL have to pay to any third party supplier.

  6.5 Payment may be made by electronichen-line banking, cash EFIPOS, credit card (a surcharge per transaction 
  may apply) or by any other method as agreed to between the Customer and ESL.

  6.6 ESL may in its discretion allocate any payment received from the Customer towards any invoice that ESL 
  determines and may do so at the time of receipt or at any time afterwards. On any default by the Customer 
  ESL may re-allocate any payment received and allocated. In the absence of any payment 
  allocation by ESL payment will be deemed to be aflocated in such manner as preserves the maximum value 
  of ESLS and the control of the customer 
  SSL may recharge the control of the Customer 
  allocation by ESL payment will be deemed to be aflocated in such manner as preserves the maximum value 
  of ESLS and the customer 
  SSL may reclose the control of the Customer 
  SSL may reclose the customer 
  SSL
- Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to SESL an amount equal to any GST ESL must pay for any supply by ESL under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same than ead on the same basis as the Customer pays the Price, includion, the Customer must pay any other taxes and cluties that may be applicable in addition to the Price except where they are expressly included in the Price. 6.8

- 7. Delivery of the Goods
  7.1 ALESL's add discretion, delivery of the Goods shall take place when the Goods are supplied to the Custome at the Customer's nominated address, even if the Customer is not present at the address.

  7.2 ALESL's add discretion the cost of delivery is in addition to the quoted price.

- 7.2 A IESUs sole discretion the cost of delivery is in addition to the quoted price.
  7.3 Delivery of the Goods to a third very hornimated by the Customer is deemed to be delivery to the Customer.
  7.4 Est may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
  7.5 Any time separated by Est. to delivery of the Goods is an examination only and Est. will not be liable for any parameters of the Conditions of the Condition

- Dimensions, Plans and Specifications
   S.1 ESL shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Customer. The Customer acknowledges and agrees that in the event that any of this information provided by the Customer is inaccurate, ESL accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plants, specifications or other information (relutings to the resulting from these inaccurate plants, specifications or other information (relutings to the control of the contro

- Access
  The Customer shall ensure that ESL has clear and free access to the delivery address at all times to enable them to undertake the Goods. ESL shall not be liable for any loss or damage to the delivery address (including, without limitation, damage to pathways, trees, plants, trees, shrubs, driveways and concreted or paved or grassed areasy lunies due to the negligence of estimates. It is the responsibility of the Customer to ensure that access is suitable to accept the weight of laden trucks, front end loaders or other earth moving equipment as may be deemed necessary by ESL. The Customer agrees to indemnity ESL against all costs incurred by ESL in recovering such vehicles in the event they become bogged or otherwise immovable.

- address (even if the Customer is not present at the address).

  20 Notwithstanding the provisions of clause 10.1 if the Customer specifically requests ESL to leave Goods outside ESL spremises for collection or to deliver the Goods on unattended location then such Goods aheal always be left at obe risk of the Customer and it shall be the Customer responsibility to ensure the Goods are insured adequately or at all. In the event that such Goods are lost, damaged or destroyed then replacement of the Goods shall be at the Customer's expense.

  10.3 Extreme instances of weather, temperature or forecast weather, may cause delay to ESL being able to deliver the Goods, ESL accepts no losses, damages or costs as a result of this instance.

  10.4 The Customer acknowledges that Goods supplied may exhibit variations in texture, shade, tone, colour, surface, finish and may fade or change colour over time. White ESL will make every effort to maich thatches of product supplied to mimitide such variations, ESL will not be held lable in any way whatsoever, should such variations occur.

- The Customer activation of the Customer and the Customer
- 10.6 Where ESL has effected delivery, all risk passes to the Customer as per clause 10.1 and the Customer claims the Goods have been stolen, it shall be the Customer's responsibility to contact the police, and shall not excuse the Customer from fulfilling their financial obligations under this Contract.

- On-line Ordering
   The Customer acknowledges and agrees that:
  - (a) ESL dos not guarantee the website's performance; and
     (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 ESL; and
  - (C) on-line ordering may be unavailable from time to time for regularly scheduled mainte upgrades; and
  - upgrades, and ) there are inherent hazards in electronic distribution, and as such ESL cannot warrant against delays or errors in transmitting data between the Customer and ESL including orders, and you agree that to the maximum extert permitted by law, ESL will not be liable for any losses which the Customer suffers as a result of online ordering not being available or for delays or errors in transmitting orders, and
- result or onine orioning not contend available or for onlays or entrors in transmitting foreign.

  ) when making a transaction through the website, the Customer's information will pass through a secure server using SSL (secure sockets layer) encryption technology. The encryption process ensures that the Customer's information cannot be read by or altered by outside influences; and

  If the Customer's information cannot be read by or altered by outside influences; and of the Goods, ESL shall be entitled to reasonably assume that the Customer has received permission from the cardholder for use of the credit card for the transaction.
- 11.2 ESL reserves the right to terminate the Customer's order if it learns that you have provided false or misleading information, interfered with other users or the administration of ESL's business, or violated these terms and conditions.

- Compliance With Laws

  The Costoner and ESL shall comply with the provisions of all statutes, regulations and bylavs of government, local and other public authorities that may be applicable to the Goods including any relating Workset health and safely laws or any other relevant safely standards or legislation pertaining to the Goods.

  The Custoner shall obtain (at the expense of the Custoner) any building consent and reasource consent, and any other licenses and approvals that may be required for the Goods. ESL will require confirmation that all consents and provise laws been obtained by the Customer prior to the commercement of the Goods, and it consents and emprovals have been obtained by the Customer prior to the commercement of the Goods, and it is commerced as the customer due to any changes to the criginal plans and specifications provided by the Customer shall be charged as a variation, in accordance with clause 6.2.

  3 Notwithstanding clause 1.2 if and pursuant to the Health & Safely at Work Act 2015 (the "HSW ACT") ESL agrees at all times to comply with sections 28 and 34 of the "HSW ACT" with meeting their obligations for whealth and safely laws in the workplace regardess of whether they may be the party in control of the Workstein or when they may be acting as a sub-contractor for the Customer who has engaged at third party namely ESL.

- 13. Title
  13.1 ESL and the Customer agree that ownership of the Goods shall not pass until:

  (a) the Customer has paid ESL all amounts owing to ESL: and

  (b) the Customer has met all of its other obligations to ESL

  13.2 Receipt by ESL of any form of payment other than cash shall not be deemed to be payment until that form
  of payment has been horoured, cleared or recognised.

## It is further agreed that:

- I is a little agreeous.

  (a) until ownership of the Goods passes to the Customer in accordance with clause 13.1 that the Customer is only a ballee of the Goods and unless the Goods have become fixtures must return the Goods to ESL.

  (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for ESL and must pay to ESL the proceeds of any insurance in the event of the Goods being load, damaged or destroyed;
- is the production of these terms and conditions by ESL shall be sufficient evidence of ESL's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with ESL to make further enquiries; and
- to make further enquinise, and

  Ib the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the
  ordinary course of business and for market value if the Customer sells, dispose or parts with possession
  of the Goods here the Customer must hold the proceeds of any such act on trust for ESL and must pay
  or deliver the proceeds to ESL on demand; and
  i) the Customer should not convert or process the Goods or intermix them with other goods but if the
  Customer does so then the Customer holds the resulting product on trust for the benefit of ESL and must
  sell, dispose of or return the resulting product to ESL as it as offencts, and
  urless the Goods have become fixtures the Customer irrevocably authorises ESL to enter any premises
  where ESL believes the Goods are kept and recover possession of the Goods.
  It is any recover possession of any Goods in transit whether or not delivery has occurred; and
  t) the Customer shall not charge or grant an encumbrance over the Goods are vigant an encumbrance over the Goods and Soods while they remain the property of ESL; and

  SEL may commence proseedings to recover the Price of the Goods sold notwithstanding that conversible of the Goods has not passed to the Customer.

  Personal Proceet's Securities Act 1999 (PPSA\*\*)

## Personal Property Securities Act 1999 ("PPSA")

- on asserting to these terms and conditions in writing the Customer acknowledges and agrees that: these terms and conditions constitute a security agreement for the purposes of the PFSA; and a security interest is taken in all present or after acquired Goods and/or collateral (account) being a momentary obligation of the Customer to ESI. for Goods that have previously been supplied and that will be supplied in the future by ESI. to the Customer.
- 14.3
- monately designate on the Usbonner to Est. for Locots that have previously deen supplied and that we supplied the future by ESI. by the Customer men and Conditions of Trade constitute a security agreement which creative a security latered in levour of the Vendor:

  (a) for all Goods previously supplied by the Vendor to the Customer (if any); and

  (b) for all of its present and after acquired Goods; and

  (c) for intellectual properly arising out of or in connection with the Services.

  The Customer agrees to great a Pruchase Money Security Interest\* to the Vendor in respect to all amounts owed by the Customer to the Vendor, as that term is defined in the PFSA.

  Where Goods in respect of which the ban not passed to the Customers are sold by the Customer in the Vendor, as that term is defined in the PFSA.

  Where any proceeds of sale and the hash of the Customer's bank account the funds in the Customer's bank account therewes then the Study appreciated of sale when the customer's bank account therewes then to Study appreciated of the Study and the Study and the Study and the Study and the supplied of the Study and the Study and

  - (b) Where any payments are made from the Customer's bank account otherwise than to ESL payment shall be deemed to have been made from all other funds in the Customer's bank account and not from funds held on trust for the Vendor; and
- (C) The trust obligation imposed by this clause and the Vendor's entitlements under the PPSA shall continue for so long as the Vendor is unpaid for all Goods supplied to the Customer. The Customer 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 ESL may reasonably require to register a financing statement of financing change statement on the Personal Property Securities Register, and (b) indemnify, and upon demand reimburse, ESL 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; and
- any Goods charged thereby, and
  (c) not register, or permit to be registered, a financing statement or a financing charge statement in
  relation to the Goods and/or collateral (account) in favour of a third party without the prior written
  consent of ESE; and
  (d) immediately advise ESL of any material change in its business procise of selling Goods which
  would result in a change in the relative of proceeds derived from such sales.

  14.6 ESL and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to
  these terms and conditions.
- 14.6\* eterns and conditions.

  14.7 if any of the Goods are incorporated in or used as material for other goods before payment is made ownership in the whole of the other goods shall be and remain with the Vendor until payment is made. The Vendor's Sclurify interest in the Goods shall continue in the terms of section 2d of the PPSA.

  14.8 The Customer waives its rights as a debtor under sections 116, 120/2), 121, 125, 126, 127, 129, and 131of the PPSA.
- the PPSA.

  14.9 Unless otherwise agreed to in writing by ESL, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.

  14.10 The Customer shall unconditionally ratify any actions taken by ESL under clauses 14.1 to 14.9.

## Security and Charge

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

- Customie either now or in the future, to secure the performance by the Customier of its obligations winder these terms and conditions (including, but not limited to, the payment of any money).

  15.2 The Customer indemnifies ESI. from and against all ESI's costs and disbursements including legal costs on a solicit or and own Customer basis incurred in evercioning ESI. sights under this clause.

  15.3 The Customer invocably appoints ESI. and each director of ESI, as the Customer's true and lawful imited to, signing any document on the Customer's behalf:

  16. Defects

  16. Defects

  16. The Customer shall impact the Goods on delivery and shall within fourteen (14) days of delivery (three being of the essence) notify ESI. of any alleged defect, shortage in quantity, diamage or failure to comply with the description or quide. (NB. This does not apply to shortages of quantity or visible damage potentially caused by fleight movement, which must be notified to ESI, within forty-eight (46) hours of delivery). The the Customer shall have been comply with the description or quide. (NB. This does not apply to shortages of quantity or visible damage potentially caused by fleight movement, which must be notified to ESI, within forty-eight (46) hours of delivery). The the Customer shall also be comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which ESI, has agreed in writing that the Customer is no accordance with 16.1 above, and provided that:

  (a) ESI, have agreed in writing that the Customer is an accordance with 16.1 above, and provided that:

  (b) the Goods are returned after than coloration are outside to repetit the return of the Goods.

  17. Better.

- 17. Returns

## Edgesmith Limited - Terms & Conditions of Trade

- 17.1 ESL has no obligation to accept the return of Goods for credit and specifically manufactured Goods will absolutely not be returned for credit whatsoever unless meeting criteria contained in clause 16.1.
- 17.2 ESL may (at its sole discretion) accept the return of Goods for credit but this may incur a handling fee of twenty percent (20%) of the returned Goods plus any freight charges.

vertratures

or Goods not manufactured by ESL, the warranty shall be the current warranty provided by the nurfacturer of the Goods. ESL shall not be bound by nor be responsible for any term, condition, presentation or warranty other than that which is given by the manufacturer of the Goods.

The Customer agrees that if they are acquiring Goods for the purposes of a business (as that term is defined in the CGA), to the extent permitted by law the provisions of the CGA will not apply to the supply of Goods by ESL to the Customer.

- 20. Intellectual Property
  20.1 Where ESL has designed, drawn, written plans or a schedule of Goods, or created any products for the Customer, her his copyright in all such designs, drawings, documents, plans, schedules and products shall make the property of the products of the customer was such designs, drawings and documents be used without the express written approval of ESL.
  20.2 The Customer warrains that all designs, specifications or instructions given to ESL with or cause ESL to infringe any patient, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemthy ESL against any action taken by a third party against ESL in respect of any control of the customer and the customer agrees to indemthy ESL against any action taken by a third party against ESL in respect of any control of the purposes of marketing or entry into any
- 20.3 The Customer agrees that ESL may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, plans or products which ESL has created for the Customer

- 21. Overous reyments.
  21. 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 (25%) per calendar month (and at ESL's sole discretion such interest shall accompound monthly at such a rate) after as well as before any judgment.
  21.2 If the Customer owes ESL any money the Customer shall indemnify ESL from and against all costs and disbursaments incurred by ESL in recovering the delic (finciding) but not limited to internal administration fees, legal costs on a solicitor and own Customer basis, ESL's collection agency costs, and bank dishonour fees).
- 21.3. Further to any other rights or remedies ESL may have under this Contract, if a Customer has made payment to ESL, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs huncred by ESL under this clause 21, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.
- under the CARBACL.
  Without projudice to ESL's other remedies at law ESL shall be entitled to cancel all or any part of any order
  of the Customer which remains unfulfilled and all amounts owing to ESL shall, whether or not due for
  payment, become immediately payable of ESL becomes overdue, or in ESL's opinion the Customer will be unable to make
  a payment when I falls due, or
- (b) the Customer has exceeded any applicable credit limit provided by ESL; or

# (c) the Customer becomes insolvent or bankrupt, 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 Customer or any asset of the Customer.

- Cancellation
- 22 Cancellation

  22 Amount of any other rights or remedies ESL may have, if at any time the Customer is in breach of any obligation (including those relating to payment and/or failure to remedy any breach in respect of this Contract within the 1(d) working days of receipt by the Customer of such notices) then ISL may suspend the Goods immediately, ESL will not be liable to the Customer for any loss or damage the Customer suffers because ESL has exercised its rights under this clustee.

  222 ESL may cancel any contract to which these terms and conditions apply or carcel delivery of Goods at any time before the Goods are commerced by giving written notice to the Customer. On giving such notice ESL shall repay to the Customer any sums paid in respect of the Price, less any amounts owing by the Customer to ESL for Goods already performed ESL shall not be liable for any loss or damage whistower arising from the Customer contribution.

  23 In the evert that the Customer cancels the delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by ESL as a direct result of the cancellation (including, but not limited by any loss of pricts).
- 22.4 Cancellation of orders for products made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

- Privacy Policy

  All emails, documents, images or other recorded information including Personally Identifiable Information (PII) as defined and inferred to in clause 23.4 held or used by ESL is considered confidential. ESL acknowledges list obligation in relation to the handing, use, declauser and processing of PII pursuant to the Phiracy Act 2020 (the Act) including Part II of the OECD Guidelines and as set out in Schedule 8 of the Act and any statutory requirements where relevant in a European Economic Area TEAC them the EIU Data Privacy Laws (including the General Data Pridection Regulation "GDPR") (collectively, "EU Data Privacy Laws), ESL Scheduleges than the EIU Data Privacy Laws), ESL Scheduleges than the event it becomes aware of any statutory, "EU Data Privacy Laws), ESL Scheduleges than the EIU Data Privacy Laws (ESL Scheduleges Laws), ESL Scheduleges than the EIU Data Privacy Laws), ESL Scheduleges than the EIU Data Privacy Laws), ESL Scheduleges than the EIU Data Privacy Laws (ESL Laws), ESL Lagrees to display reference to such Cockies and the GDPR (where relevant) and must be approved by the Customer by written consent, unless subject to an operation of laws.

  2 Notwithstanding Joseph Scheduleges than the EIU Data Privacy Laws (ESL Laws), ESL Lagrees to display reference to such Cockies and or smith at reading technologies, such as poke and web beacons (if applicately), such technology allows the collection the Customers transpired directly for the EIU Data Privacy Laws (ESL Laws) and the EIU Data Priv Privacy Policy
- 233 If the Customer consents the Contractor's use of Cookies on the Contractor's website and later withdraw that consent, the Customer may manage and control the Contractor's privacy controls vi Customer's web browser, including removing Cookies by deleting them from the browser history when e the site.
- The Customer authorises ESL or ESL's agent to:

  (a) access, collect, retain and use any information about the Customer.
- (a) access, collect, retain and use any information about the Customer;
  (i) (including, name, address, O.D. accupation, driver's license details, electronic contact (e.g., email, Facebook or l'witter details), or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information (where applicable), previous (ii) for the purpose of assessing the Customer's creditworthiness; or
  (iii) for the purpose of marketing products and services to the Customer.
  (b) disclose information about the Customer, whether collected by ESL from the Customer directly or obtained by ESL from any other source, to any other credit provider or any redit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
- Customer.

  23.5 Where the Customer is an individual the authorities under clause 23.4 are authorities or consents for the purposes of the Privacy Act 2020.

  23.6 The Customer shall have the right to request ESL for a copy of the PII about the Customer relained by ESL and the right to request ESL to correct any incorrect PII about the Customer held by ESL.

- Service of Notices

  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; or

  (b) by leaving it at the address of the other party as stated in this Contract; or

  (c) by sending it by registered post to the address of the other party as stated in this Contract; or

  (d) if sent by email to the other party is last known email address. 24.2 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.

- 25. Trusts
  25.1 If the Customer at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust (Trust') then whether or not ESI. may have notice of the Trust, the Customer covenants with ESI. as follows: (a) the Contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund; and
  - against the Trust and the trust fund; and
    the provisions of the Trust do not purport to exclude or take away the night of indemnity of the Custmer and
    the provisions of the Trust do not purport to exclude or take away the night of indemnity of the Custmer
    against the Trust or the trust fund. The Custmer 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, and
    ) the Custmer will not without consent in writing of ESL (ESL will not unreasonably withhold consent),
    cause, permit, or suffer to happen any of the following events:
    (i) the removal, replacement or referement of the Custmer as trustee of the Trust; or
    (ii) any alteration to or variation of the terms of the Trust; or
    (iv) any resettlement of the trust property.

- 26. General
  26.1 Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising hereunder, shall be submitted to, and settled by, either adjudication in accordance with the Construction Contracts Act 2002 and/or by arbitration in accordance with the Arbitration Act 1996 or its analysis are supported by the condition of the conditions are supported by the co
- replacement(s). 262 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 undercreable the validity, extence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

  26.3 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 Auckland courts of New Zealand.

  26.4 Est, shall be under no liability whatsever to the Customer for any indirect and/or consequential loss and/or expense (including) loss of portil) affered by the Customer far any indirect and/or consequential loss and/or expense (including) loss of portil) affered by the Customer arising out of a breach by ESI. of these terms and conditions, clientensitively ESIs is liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

  26.5 ESI. may likence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.
- 203 Est. may learned ancir assign an early part or its rights andoor congainors unper this Contract without the Customer's consent.

  26.6 The Customer cannot licence or assign without the written approval of ESL.

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

  26.8 The Customer agrees that ESL may amend their general terms and conditions for subsequent future to lake effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for ESL to provide Goods to the Customer.

  26.9 Nather party shall be liable for any default due to any act of God, Ava, terroriem, pandemic, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party, vietnercod as Force-Majeurus).

  26.10 Neither party shall be liable for any default due saused by any act of God, flood, storm, pandemic or any event that would not normally be referenced as Force-Majeurus which is beyond the reasonable control any event that would not normally be referenced as Force-Majeurus which is beyond the reasonable control or either party.
- Both parties warrant that they have the power to enter into this Contract and have obtained all necessan authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid