

WIRED DOG (2006) LIMITED TERMS OF TRADE

1. DEFINITIONS

- 1.1 "Wired Dog" means Wired Dog (2006) Limited or any agents, employees, franchises or sub-contractors of Wired Dog (2006) Limited.
- 1.2 "Customer" means the party or parties receiving Goods and/or Services from Wired Dog.
- 1.3 "Due Date" means in respect of each invoice issued to the Customer by Wired Dog, the date that is 7 days after the invoice date or such other date agreed in writing by a director of Wired Dog Auckland Limited.
- 1.4 "Event of Default" means an event specified in clause 6.1.
- 1.5 "Goods" means any goods and/or materials provided to the Customer by Wired Dog
- 1.6 "Invoice" means an invoice issued by Wired Dog to the Customer.
- 1.7 "Property" means the land owned by the Customer (either legally or beneficially) where Wired Dog provides Goods and/or Services.
- 1.8 "Quote" means a quotation from Wired Dog to the Customer for the supply of Goods and/or Services.
- 1.9 "Services" means services provided to the Customer by Wired Dog.
- 1.10 "Terms and Conditions" means these terms of trade.

2. ACCEPTANCE OF TERMS AND CONDITIONS

- 2.1 Any of the following done by or on behalf of the Customer shall constitute a binding contract and acceptance of these Terms and Conditions:
 - (a) express or implied acceptance of any Quote;
 - (b) acceptance of any Goods or Services;
 - (c) the giving of any instructions to Wired Dog that are acted upon; or
 - (d) any express or implied authority given to Wired Dog to provide Goods or Services to the Customer.

3. CUSTOMER INFORMATION

- 3.1 The Customer authorises Wired Dog to collect such commercial, financial and personal information about the Customer as is necessary for assessing the credit worthiness of the Customer or enforcing Wired Dog's rights under these Terms and Conditions and further authorises Wired Dog to disclose such information to other parties for those purposes.
- 3.2 Where the Customer is a natural person, the authority given pursuant to clause 3.1 shall constitute sufficient authority for the purposes of the Privacy Act 1993 and the Customer acknowledges that he or she has a right to access the information and request corrections to it.

4. RESERVATION OF TITLE AND LIABILITY FOR PAYMENT

- 4.1 Payment for Goods and Services supplied by Wired Dog is due on the Due Date unless otherwise approved in writing by a director of Wired Dog (2006) Limited. Wired Dog may in its sole discretion decide that no Goods or Services shall be supplied to the Customer until payment is received by Wired Dog in advance of supply of the Goods or Services.
- 4.2 Property and ownership in any Goods will not pass to the Customer but will remain with Wired Dog until payment in full of the purchase price of the Goods and any Services related to those Goods and all other amounts owing to Wired Dog by the Customer and all Goods shall be subject to a purchase money security interest.
- 4.3 Risk in the Goods shall pass at the time of delivery.
- 4.4 If payment for any Goods or Services is not made by the Customer to Wired Dog in full by the Due Date, the following provisions shall apply:
 - (a) The Customer shall deliver the Goods to Wired Dog on demand. In the event that the Customer does not comply with a demand immediately upon receipt or deemed receipt of the demand, Wired Dog shall be entitled to enter upon the Customer's premises at any time and do all things necessary to take possession of the Goods. The Customer hereby grants permission and an irrevocable licence to Wired Dog to enter upon the premises where the Goods shall be for the purpose of doing anything necessary to take possession of the Goods;
 - (b) The Customer will pay interest on all amounts owing to Wired Dog from the Due Date to the date or dates of payment at the rate of Wired Dog's then current bank overdraft rate plus 5% or such lesser rate as Wired Dog may accept in lieu thereof; and
- 4.5 The Customer will be responsible for all costs incurred by Wired Dog in exercising its rights under the Terms and Conditions including, but not limited to, debt collection costs and legal fees properly incurred by Wired Dog in seeking or obtaining recovery of amounts owing by the Customer to Wired Dog.
- 4.6 Notwithstanding any request the Customer, any payment received by Wired Dog may be appropriated by Wired Dog to discharge such liability of the Customer to Wired Dog as Wired Dog sees fit.

5. QUOTES

- 5.1 Quotes are valid for 14 days from the date of the Quote.
- 5.2 Wired Dog reserves the right by notice to the Customer to alter or amend any Quote before receipt by Wired Dog of acceptance of the Quote by the Customer.
- 5.3 Wired Dog reserves the right, by notice to the Customer, to alter any Quote at any time prior to the supply of Goods and/or Services where the alteration is due to an increase in the cost to Wired Dog of any Goods or Services that is beyond the control of Wired Dog.

6. DEFAULT

- 6.1 The following events shall constitute an Event of Default:
 - (a) The failure to make payment by the Due Date;
 - (b) The Customer enters into an agreement for the sale or proposed sale of its business or assets;
 - (c) The Customer commits a breach of any of the Terms and Conditions and the Customer fails to remedy the breach within 7 days of receiving notice from Wired Dog specifying the breach; and
 - (d) The Customer is adjudicated bankrupt, or a receiver, liquidator or official assignee, administrator or statutory manager is appointed to the Customer or its business or assets, or any part of its assets, or the Customer is unable to pay its debts when due within the meaning of the Companies Act 1993, or Wired Dog, acting reasonably, believes the Customer is likely to become unable to pay its debts when due, or execution of judgments for amounts over the sum of \$10,000 is levied against it and not discharged within thirty (30) days or within the terms of any arrangement made with the judgment creditor, whichever is the later.
- 6.2 Upon the occurrence of an Event of Default any amounts currently outstanding shall become immediately due and the Due Date for all amounts shall be deemed to be the earlier of the actual Due Date or the date that the Event of Default occurs

7. CANCELLATION AND WITHDRAWAL OF ORDERS

- 7.1 The Customer may not defer or cancel an order once accepted by Wired Dog or once a Quote has been accepted without Wired Dog's consent in writing and with any request for an amendment, deferment or cancellation, the Customer must provide Wired Dog with 7 days notification in advance.
- 7.2 The Customer shall be responsible for and agrees to indemnify Wired Dog for all costs incurred by Wired Dog as a result of the Customer cancelling an order or the suspension of the provision of Goods or Services as a result of the occurrence of an Event of Default.
- 7.3 In the event that the provision of Goods and/or Services to the Customer is cancelled, suspended or terminated for any reason Wired Dog shall have no responsibility whatsoever for any loss or damage of any kind which may result directly or indirectly from such cancellation or suspension or from any recovery of Goods pursuant to the provisions of these Terms and Conditions.

8. LIMITATIONS ON LIABILITY

Description

- 8.1 Any description of the Goods and/or Services is given by way of identification and shall not constitute the contract a sale by description. The Customer shall take the Goods at the Customer's own risk as to their quality, conditions or suitability for any purpose.

Liability

- 8.2 Wired Dog's liability for damages arising out of or in connection with any contract for the sale of Goods or the supply of Services to the Customer will be limited to claims in relation to faulty Goods as set out in clause 8.4, and all conditions and warranties expressed or implied by statute the common law, equity, trade custom or usage or otherwise are hereby expressly excluded to the maximum extent permitted by law.

Faulty Goods

- 8.3 Any claims for faulty Goods must be fully documented and referred to the Wired Dog representative with whom the Customer has customary contact. Acceptance of any items will not constitute acceptance of claims. All items will be subject to inspection by Wired Dog before credit will be considered.
- 8.4 To the extent permitted by law, Wired Dog shall have sole right to decide whether Goods are capable of repair and Wired Dog's liability (if any) in respect of claims under any contract arising hereunder shall be limited as follows:
 - (a) Where the Goods are capable of repair, to the repair of the Goods or the payment of the cost of having the Goods repaired, or
 - (b) Where the Goods are incapable of repair to the replacement of the Goods or the supply of equivalent Goods or the payment of the cost of replacing the Goods or of acquiring equivalent Goods.

- 8.5 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods and/or Services from Wired Dog for business purposes in terms of sections 2 and 43 of that act.

Indirect Loss

- 8.6 So far as the law permits, Wired Dog shall not be liable in any way whatsoever for any indirect or consequential loss or loss of profit arising from contract or otherwise including in particular, but not limited to, any loss by reason of delay, defective or faulty materials or workmanship, negligence or any act or matter or thing done, permitted or omitted by Wired Dog and the Customer shall have no rights to off-set claims against the invoiced prices for Goods under any circumstances.

- 8.7 The Customer shall indemnify Wired Dog against all claims and loss of any kind however caused or arising and without limiting the generality of the foregoing whether caused or arising as a result of the negligence of Wired Dog or otherwise, brought by any person in connection with any matter, act, omission, or error by Wired Dog in connection with the Goods and/or Services.

- 8.8 If, contrary to the disclaimer of liability contained in these Terms and Conditions Wired Dog is forced or deemed to be liable, following or arising from the supply of Goods or Services to the Customer, then such liability is limited in aggregate to \$100.00.

9. INFORMATION

- 9.1 The Customer acknowledges that it has received, read and understood a copy of these Terms and Conditions.
- 9.2 In the event that at any time due to any circumstance including, but not limited to, pressures of trading, adverse marketing conditions, financial pressure from lenders, failure to pay rent, the failure to pay taxation, internal conflicts or any other cause, there is reason for the Customer or any of its officers or others being signatories to this form, to suspect that the Customer may be or may become unable to pay its debts when due within the meaning of the Companies Act 1993, or may be adjudicated bankrupt or have a receiver, a liquidator or official assignee, administrator or statutory manager appointed to the Customer then the Customer will notify Wired Dog immediately.

10. EXCLUSIONS AND VARIATIONS

- 10.1 Wired Dog shall have the right to vary or amend any of the provisions of these Terms and Conditions from time to time. The most current version of these Terms and Conditions shall be kept on Wired Dog's website at <http://www.wiredog.co.nz> and the Customer acknowledges that it shall be bound by the most current version of the Terms and Conditions.

11. PPSA

- 11.1 The Customer grants a security interest under the Personal Property Securities Act 1999 ("PPSA") over any Goods supplied by Wired Dog to the Customer. The Customer shall at Wired Dog's request, promptly execute any document, contract, agreement, deed or other action as Wired Dog may require to ensure that any security interest created constitutes a perfected security interest over the Goods.
- 11.2 The Customer waives any right to receive a verification statement in respect of any financing statement or financing change statement relating to the security interest under PPSA.
- 11.3 Nothing in sections 114(1)(a), 117(1), 133 and 134 of the PPSA shall apply to these Terms and Conditions. The Customer's rights as a debtor in sections 116, 119, 120(2), 121, 125-127, 129 and 132 of the PPSA shall not apply to these Terms and Conditions.

12. MISCELLANEOUS

- 12.1 All notices authorised or required to be made under these Terms and Conditions shall be sent by facsimile transmission, delivered personally or sent by prepaid mail at such address as each party may from time to time notify to the other parties. All notices shall be deemed to have been received the day they are sent except where sent by post that shall be deemed to have been received two (2) days after the date of posting and where sent by facsimile transmission upon receipt of the correct and complete transmission report.
- 12.2 Save as specifically and expressly contemplated in these Terms and Conditions no provision hereof shall be changed, waived or modified without the express written agreement of Wired Dog.
- 12.3 These Terms and Conditions embody the entire agreement of the Customer and Wired Dog in respect of the ordering, supply, delivery of and payment for Goods or Services, and any order received by Wired Dog from the Customer shall be deemed to incorporate these Terms and Conditions notwithstanding any purported change to the Terms and Conditions specified by the Customer.
- 12.4 Any waiver or failure to execute any rights by Wired Dog shall not be deemed a waiver of any further or other right of Wired Dog in respect of the Customer.
- 12.5 The Customer shall not be entitled to rely upon any statement of any kind made by a person including a representative or agent of Wired Dog, which include a representation of any kind, which contradicts or is contrary to these Terms and Conditions.
- 12.6 Wired Dog and the Customer agree that:
 - (a) All the provisions of these Terms and Conditions are reasonable in all the circumstances and each provision is and will be deemed to be severable and independent; and
 - (b) If any provision hereof is found by any Court of competent jurisdiction to be invalid, illegal or unenforceable in any respect the validity, legality and enforceability of the remaining provisions will not be affected and the invalid, illegal or unenforceable provision shall be severed from this document.
- 12.7 The Customer hereby irrevocably appoints each of the directors of Wired Dog (2006) Limited at any time and from time to time jointly and severally as its attorney in the event of default by the Customer in the payment of any monies due and owing by the Customer to Wired Dog and that default continuing for more than 14 days after due date for payment for the purpose of:
 - (a) taking possession of the Goods of Wired Dog held by the Customer or on the Property and disposing of such Goods owned by it;
 - (b) enforcing its rights pursuant to clause 13.9, to the extent necessary to recover any monies owing to Wired Dog by the Customer and any costs incurred by Wired Dog in connection with such recovery.