
MJ Hygiene Management Services Pty Ltd – Terms & Conditions of Trade

1. Definitions

- 1.1 “MJ Services” means MJ Hygiene Management Services Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of MJ Hygiene Management Services Pty Ltd.
- 1.2 “Client” means the person/s or any person acting on behalf of and with the authority of the Client requesting MJ Services to provide the Services/Equipment 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 part of a Trust, shall be bound in their capacity as a trustee; and
 - (c) includes the Client’s executors, administrators, successors and permitted assigns.
- 1.3 “Incidental Items” means any goods, documents, designs, drawings or materials supplied, consumed, created or deposited incidentally by MJ Services in the course of it conducting, or supplying to the Client, any Services.
- 1.4 “Equipment” means all Equipment including any accessories supplied on hire by MJ Services to the Client (and where the context so permits shall include any supply of Services). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation form provided by MJ Services to the Client.
- 1.5 “Services” means all Services supplied by MJ Services to the Client at the Client’s request from time to time.
- 1.6 “Price” means the price payable (plus any GST where applicable) for the Services and/or Equipment hire as agreed between MJ Services and the Client in accordance with clause 6 of this contract.
- 1.7 “GST” means Goods and Services Tax (GST) as defined within the “A New Tax System (Goods and Services Tax) Act 1999”.

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 Services/Equipment provided by MJ Services.
- 2.2 These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and MJ Services.

3. Errors and Omissions

- 3.1 The Client acknowledges and accepts that MJ Services 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 MJ Services 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 MJ Services in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of MJ Services; the Client shall not be entitled to treat this contract as repudiated nor render it invalid.

4. Electronic Transactions (Queensland) Act 2001

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

5. Change in Control

- 5.1 The Client shall give MJ Services 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 MJ Services as a result of the Client’s failure to comply with this clause.

6. Price and Payment

- 6.1 At MJ Services’ sole discretion, the Price shall be either:
- (a) as indicated on any invoice provided by MJ Services to the Client; or
 - (b) MJ Services’ quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 6.2 MJ Services reserves the right to change the Price if a variation to MJ Services’ quotation is requested. Any variation from the plan of scheduled Services or specifications of the Incidental Items (including, but not limited to, any variation as a result of increases to MJ Services in the cost of taxes, levies, materials and labour) will be charged for on the basis of MJ Services’ quotation and will be shown as variations on the invoice. The Client shall be required to respond to any variation submitted by MJ Services within ten (10) working days. Failure to do so will entitle MJ Services 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.
- 6.3 At MJ Services’ sole discretion, a non-refundable deposit may be required.
- 6.4 Time for payment for the Services/Equipment being of the essence, the Price will be payable by the Client on the date/s determined by MJ Services, which may be:
- (a) on delivery of the Services/Equipment;
 - (b) by way of instalments/progress payments in accordance with MJ Services’ payment schedule;
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) the date which is fourteen (14) days following the date of any invoice given to the Client by MJ Services; or
 - (e) the date which is thirty (30) days following the date of any invoice given to the Client by MJ Services; 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 MJ Services.
- 6.5 Payment may be made by cheque, bank cheque, electronic/on-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed to between the Client and MJ Services.
- 6.6 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 MJ Services nor to withhold payment of any invoice because part of that invoice is in dispute.

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6.7 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to MJ Services an amount equal to any GST MJ Services must pay for any supply by MJ Services under this or any other agreement for providing MJ Services' Services/Equipment. 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.

7. Delivery of Services/Equipment

7.1 At MJ Services' sole discretion delivery of the Services/Equipment shall take place when the Services/Equipment are supplied to the Client at the Client's nominated address.

7.2 Delivery of the Services to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.

7.3 At MJ Services' sole discretion, the cost of delivery is either included in the Price or is in addition to the Price

7.4 Any time specified by MJ Services for delivery of the Services/Equipment is an estimate only and MJ Services 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 Services/Equipment to be supplied at the time and place as was arranged between both parties. In the event that MJ Services is unable to supply the Services/Equipment as agreed solely due to any action or inaction of the Client then MJ Services shall be entitled to charge a reasonable fee for re-supplying the Services/Equipment at a later time and date.

8. Risk

8.1 Irrespective of whether MJ Services retains ownership of any Incidental Items all risk for such items shall pass to the Client as soon as such items are delivered to the Client and shall remain with the Client until such time as MJ Services may repossess the Incidental Items in accordance with clause 12.3(f). The Client must insure all Incidental Items on or before delivery.

8.2 MJ Services reserves its right to seek compensation or damages for any damage, destruction or loss suffered in relation to the Incidental Items as a result of the Client's failure to insure in accordance with clause 8.1.

8.3 Where the Client requesting or organising MJ Services to provide Services is acting with or on behalf of any third party and that third party is intended to be responsible for the payment (or any part thereof) of the Price then in the event that the third party does not pay for the Services when due, the Client acknowledges that they shall be liable for the payment of the Price as if they had contracted the Services on their own behalf.

8.4 The Client acknowledges and accepts that the supply of Incidental Items for accepted orders may be subject to availability and if, for any reason, Incidental Items are not or cease to be available, MJ Services reserves the right to vary the Price with alternative Incidental Items as per clause 6.2. MJ Services also reserves the right to halt all Services until such time as MJ Services and the Client agree to such changes.

9. Client's Responsibilities

9.1 The Client acknowledges that in the event **asbestos** or any other toxic substances are discovered at the worksite that it is their responsibility to ensure the safe removal of the same. The Client further agrees to indemnify MJ Services against any costs incurred by MJ Services as a consequence of such discovery. Under no circumstances will MJ Services handle removal of asbestos product.

10. Access

10.1 The Client shall ensure that MJ Services has clear and free access to the work site at all times to enable them to undertake the Services. MJ Services 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) unless due to the negligence of MJ Services.

11. Advice/Recommendation

11.1 Any advice, recommendation, information, assistance or service provided by MJ Services in relation to Incidental Items or Services supplied is given in good faith, is based on MJ Services' own knowledge and experience and shall be accepted without liability on the part of MJ Services 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 Incidental Items or Services.

12. Title to Incidental Items

12.1 MJ Services and the Client agree that where it is intended that the ownership of Incidental Items is to pass to the Client that such ownership shall not pass until:

(a) the Client has paid MJ Services all amounts owing for the Services/Equipment; and

(b) the Client has met all other obligations due by the Client to MJ Services in respect of all contracts between MJ Services and the Client.

12.2 Receipt by MJ Services 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 MJ Services' ownership or rights in respect of the Incidental Items shall continue.

12.3 It is further agreed that:

(a) the Client is only a bailee of the Incidental Items and must return the Incidental Items to MJ Services immediately upon request by MJ Services;

(b) the Client holds the benefit of the Client's insurance of the Incidental Items on trust for MJ Services and must pay to MJ Services the proceeds of any insurance in the event of the Incidental Items being lost, damaged or destroyed;

(c) the Client must not sell, dispose, or otherwise part with possession of the Incidental Items. If the Client sells, disposes or parts with possession of the Incidental Items then the Client must hold the proceeds of sale of the Incidental Items on trust for MJ Services and must pay or deliver the proceeds to MJ Services on demand.

(d) the Client should not convert or process the Incidental Items 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 MJ Services and must dispose of or return the resulting product to MJ Services as MJ Services so directs.

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- (e) the Client shall not charge or grant an encumbrance over the Incidental Items nor grant nor otherwise give away any interest in the Incidental Items while they remain the property of MJ Services;
- (f) the Client irrevocably authorises MJ Services to enter any premises where MJ Services believes the Incidental Items are kept and recover possession of the Incidental Items.

13. Personal Property Securities Act 2009 (“PPSA”)

- 13.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 13.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Incidental Items/Equipment that has previously been supplied and that will be supplied in the future by MJ Services to the Client.
- 13.3 The Client undertakes to:
 - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which MJ Services may reasonably require to;
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 13.3(a)(i) or 13.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, MJ Services for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Incidental Items/Equipment charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of MJ Services;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Incidental Items/Equipment in favour of a third party without the prior written consent of MJ Services;
 - (e) immediately advise MJ Services of any material change in its business practices of selling Incidental Items which would result in a change in the nature of proceeds derived from such sales.
- 13.4 MJ Services and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 13.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 13.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 13.7 Unless otherwise agreed to in writing by MJ Services, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 13.8 The Client must unconditionally ratify any actions taken by MJ Services under clauses 13.3 to 13.5.
- 13.9 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.

14. Security and Charge

- 14.1 In consideration of MJ Services agreeing to supply Services/Equipment, 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).
- 14.2 The Client indemnifies MJ Services from and against all MJ Services' costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising MJ Services' rights under this clause.
- 14.3 The Client irrevocably appoints MJ Services and each director of MJ Services as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Client's behalf.

15. Defects, Warranties and the Competition and Consumer Act 2010 (CCA)

- 15.1 The Client must inspect MJ Services' Services on completion, and the Equipment on delivery and must within forty-eight (48) hours notify MJ Services in writing of any evident defect in the Services/Equipment (including MJ Services' workmanship), or any Incidental Items provided, or of any other failure by MJ Services to comply with the description of, or quote for, the Services/Equipment which MJ Services was to supply. The Client must notify any other alleged defect in MJ Services' Services, Equipment or Incidental Items as soon as is reasonably possible after any such defect becomes evident. Upon such notification, the Client must allow MJ Services to review the Services, Equipment or Incidental Items that were provided.
- 15.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 15.3 MJ Services acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 15.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, MJ Services makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services/Equipment. MJ Services' liability in respect of these warranties is limited to the fullest extent permitted by law.
- 15.5 If the Client is a consumer within the meaning of the CCA, MJ Services' liability is limited to the extent permitted by section 64A of Schedule 2.
- 15.6 If MJ Services is required to rectify, re-supply, or pay the cost of re-supplying the Services/Equipment under this clause or the CCA, but is unable to do so, then MJ Services may refund any money the Client has paid for the Services/Equipment but only to the extent that such refund shall take into account the value of Services/Equipment and Incidental Items which have been provided to the Client which were not defective.

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- 15.7 If the Client is not a consumer within the meaning of the CCA, MJ Services' liability for any defective Services/Equipment or Incidental Items is:
- (a) limited to the value of any express warranty or warranty card provided to the Client by MJ Services at MJ Services' sole discretion;
 - (b) otherwise negated absolutely.
- 15.8 Notwithstanding clauses 15.1 to 15.7 but subject to the CCA, MJ Services shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- (a) the Client failing to properly maintain or store any Incidental Items;
 - (b) the Client using the Incidental Items for any purpose other than that for which they were designed;
 - (c) the Client continuing to use any Incidental Item after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) interference with the Services/Equipment by the Client or any third party without MJ Services' prior approval;
 - (e) the Client failing to follow any instructions or guidelines provided by MJ Services;
 - (f) fair wear and tear, any accident, or act of God.

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 MJ Services' sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 16.2 If the Client owes MJ Services any money the Client shall indemnify MJ Services from and against all costs and disbursements incurred by MJ Services in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, MJ Services' contract default fee, and bank dishonour fees).
- 16.3 Further to any other rights or remedies MJ Services may have under this contract, if a Client has made payment to MJ Services, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by MJ Services under this clause 16 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this agreement.
- 16.4 Without prejudice to MJ Services' other remedies at law MJ Services shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to MJ Services shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to MJ Services becomes overdue, or in MJ Services' 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 MJ Services;
 - (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.

16.5 Compliance with Laws

- 16.6 The Client and MJ Services shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.
- 16.7 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Services.
- 16.8 The Client agrees that the site will comply with any work health and safety (WHS) laws relating to building/construction sites and any other relevant safety standards or legislation.

17. Cancellation

- 17.1 Without prejudice to any other remedies MJ Services may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions MJ Services may suspend or terminate the supply of Services/Equipment to the Client. MJ Services will not be liable to the Client for any loss or damage the Client suffers because MJ Services has exercised its rights under this clause.
- 17.2 MJ Services may cancel any contract to which these terms and conditions apply or cancel delivery of Services/Equipment at any time before the Services are commenced or Equipment provided by giving written notice to the Client. On giving such notice MJ Services shall repay to the Client any money paid by the Client for the provision of the Services/Equipment. MJ Services shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 17.3 In the event that the Client wishes to cancel this contract at any stage, the Client shall be liable for the following conditions:
- (a) seven (7) days written notice if prior to commencement of Services and/or supply of the Equipment;
 - (b) twenty-one (21) days written notice, detailing reasons for said cancellation, if during the course of the contract term; and
 - (c) the Client shall be liable for any and all loss incurred (whether direct or indirect) by MJ Services as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 17.4 In the event that the Client wishes to re-schedule the Services/supply of the Equipment, written notice of seventy-two (72) hours is required. Failure to adhere to this clause 17.4 will incur a cancellation fee.

18. Dispute Resolution

- 18.1 If a dispute arises between the parties to this contract, then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference, each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:
- (a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and
 - (b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

19. Privacy Act 1988

- 19.1 The Client agrees to MJ Services to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by MJ Services.
- 19.2 The Client agrees that MJ Services may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Client; and/or
 - (b) to notify other credit providers of a default by the Client; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two years.
- 19.3 The Client consents to MJ Services being given a consumer credit report to collect overdue payment on commercial credit.
- 19.4 The Client agrees that personal credit information provided may be used and retained by MJ Services for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Incidental Items/Equipment; and/or
 - (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Incidental Items/Equipment; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Incidental Items/Equipment.
- 19.5 MJ Services may give information about the Client to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 19.6 The information given to the CRB may include:
- (a) personal information as outlined in 19.1 above;
 - (b) name of the credit provider and that MJ Services is a current credit provider to the Client;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and MJ Services has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of MJ Services, the Client has committed a serious credit infringement;
 - (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 19.7 The Client shall have the right to request (by e-mail) from MJ Services:
- (a) a copy of the information about the Client retained by MJ Services and the right to request that MJ Services correct any incorrect information; and
 - (b) that MJ Services does not disclose any personal information about the Client for the purpose of direct marketing.
- 19.8 MJ Services 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 agreement or is required to be maintained and/or stored in accordance with the law.
- 19.9 The Client can make a privacy complaint by contacting MJ Services via e-mail. MJ Services will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

20. Equipment Hire

- 20.1 Equipment shall at all times remain the property of MJ Services and is returnable on demand by MJ Services. In the event that Equipment is not returned to MJ Services in the condition in which it was delivered MJ Services retains the right to charge the Client the full cost of repairing the Equipment. In the event that Equipment is not returned at all MJ Services shall have right to charge the Client the full cost of replacing the Equipment.
- 20.2 The Client shall;
- (a) keep the Equipment in their own possession and control and shall not assign the benefit of the Equipment nor be entitled to a lien over the Equipment.
 - (b) not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment.
 - (c) keep the Equipment, complete with all parts and accessories, clean and in good order as delivered, and shall comply with any maintenance schedule as advised by MJ Services to the Client.
- 20.3 The Client accepts full responsibility for the safekeeping of the Equipment and the Client agrees to insure, or self insure, MJ Services' interest in the Equipment and agrees to indemnify MJ Services against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will affect adequate Public Liability Insurance covering any loss, damage or injury to property or persons arising out of the use of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.

21. Service of Notices

- 21.1 Any written notice given under this contract shall be deemed to have been given and received:

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- (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.
- 21.2 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.
- 22. Trusts**
- 22.1 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 MJ Services may have notice of the Trust, the Client covenants with MJ Services 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 MJ Services (MJ Services 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.
- 23. General**
- 23.1 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.
- 23.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland, the state in which MJ Services has its principal place of business, and are subject to the jurisdiction of the Cleveland Courts in Queensland.
- 23.3 Subject to clause 15 MJ Services 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 MJ Services of these terms and conditions (alternatively MJ Services' liability shall be limited to damages which under no circumstances shall exceed the Price of the Services/Equipment).
- 23.4 Neither party shall assign or sub-contract all or any part of their rights and obligations under this agreement without the written consent of the other party.
- 23.5 The Client agrees that MJ Services may amend these terms and conditions by notifying 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 MJ Services to provide Services/Equipment to the Client.
- 23.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 23.7 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.