



TERMS AND CONDITIONS

NZ RECOVERIES LIMITED NZBN 942 904 335 8311

1. TERMS AND CONDITIONS

1.1 These Terms and Conditions apply to all Services provided by **NZ Recoveries Limited NZBN 942 904 335 8311 of PO Box 106910, Auckland, Auckland City 1143 (NZR)** including any Application completed by the Client. These Terms and Conditions override all terms proposed by the Client and supersede any prior agreement or terms between the Parties.

1.2 The Agreement constitutes the entire agreement between the Parties. No other representations are made by NZR in relation to supply of Services. There are no other terms and to the extent permitted, all other terms including warranties that may be implied, including statutory terms, are excluded.

1.3 If any other agreement exists between NZR and the Client, these Terms and Conditions nevertheless apply to all Services provided, which are also covered by the Agreement. However, if there is any inconsistency with these terms, the Agreement will prevail to the extent of any inconsistency.

2. DEFINITIONS

2.1 Expressions defined in brackets in these Terms and Conditions will be given the meaning where defined throughout these Terms and Conditions whether the definition is used again before or after where the expression is defined.

2.2 “**Agreement**” means the Application for the supply of Services by NZR to the Client together with these Terms and Conditions.

2.3 **AML Act:** means the Anti-Money Laundering (AML) and Counter-Terrorism Financing (CTF) Act 2006 (Cth) (Australian Legislation) and any equivalent New Zealand legislation.

2.4 **AML Program:** means the NZR AML/CTF Program.

2.5 “**Amounts Owing**” means all monetary amounts owing by the Client to NZR, including but not limited to commissions and any other debts incurred by the Client to NZR.

2.6 “**Annual Fee**” has the meaning set out in Clause 4.1

2.7 “**Application**” means the document titled ‘Application for Services – Authority to Act as Commercial Agent’ completed by the Client and submitted to NZR.

2.8 “**NZR**” means NZ Recoveries Limited NZBN 942 904 335 8311 of PO Box 106910, Auckland, Auckland City 1143 (NZR) and its related entities. NZR is a wholly owned subsidiary of Credit Clear Limited (ACN 604 797 033) an Australian Company listed on the Australian Stock Exchange (ASX:CCR)

2.9 “**Authorised Representative**” means a representative from either Party who holds a position of either: Chief Executive Officer, Director of Finance, Director of Sales Accounts Receivable Manager, Credit Manager or Office Manager.

2.10 “**Commercial Debt**” means a debt incurred in relation to ‘commercial credit’ as defined in the Privacy Act 1988 (Cth) (Australian Legislation) and any equivalent New Zealand legislation.

2.11 “**Client**” means the Client as described in the Application, including its officers, agents, successors and assigns or any person acting on the Client’s behalf, with the authority of the Client.

2.12 “**Commission**” has the meaning set out in Clause 4 and as set out in the Application.

2.13 **Guiding Principles on Business and Human Rights:** means the United Nations’ Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework

2.14 “**Invoice**” means a taxation invoice for Services issued by NZR to the Client.

2.15 “**Intellectual Property**” means all and any patents, patent applications, trademarks, service marks, trade names, domain names, registered designs, unregistered design rights, copyrights, know how, trade secrets and rights in confidential information, URLs and all and any other intellectual property rights, whether registered or unregistered, and including all applications and rights to apply for any of the same.

- 2.16 **“Modern Slavery”**: has the same meaning as it has in the Modern Slavery Act 2018 (Cth) (Australian Legislation) and any equivalent New Zealand legislation.
- 2.17 **“Non-Excludable Provision”** has the meaning set out in Clause 7.7.
- 2.18 **“Party(ies)”** means the parties to the Agreement including NZR and the Client.
- 2.19 **“Personal Information”** has the meaning given in the Privacy Act 1988 (Cth) (Australian Legislation) and any equivalent New Zealand legislation.
- 2.20 **“Price”** means the price payable for the Services specified in the Application and in the Pricing Schedule to this Agreement and as set out in the Invoice in accordance with Clause 4.
- 2.21 **“Privacy Laws”** refers to the parts contained to the Privacy Act 1988 (Cth) (Australian Legislation) and any equivalent New Zealand legislation
- 2.22 **“Services”** means all debt recovery or legal services and any other services requested by the Client and supplied by NZR to the Client, specified in the Application for Services and in the Service Schedule to this Agreement, including any advice or recommendations and as specified in the Invoice(s) and includes where applicable the digital receivables management services under the style of Credit Clear and all related entities, and where applicable the Services set out in the Schedule to this Agreement.
- 2.23 **“Terms and Conditions”** means these terms and conditions of NZR’s supply of Services to the Client pursuant to the Application.
- 2.24 **“Website”** means the internet site located at www.nzrecoveries.co.nz operated by NZR.

3. ACCEPTANCE

- 3.1 NZR may accept the Client’s Application to purchase the Services signed by an Authorised Representative. If NZR accepts the Client’s Application, the Client agrees to be bound by the Terms and Conditions contained herein.
- 3.2 Where more than one Client has entered into the Agreement and/or is listed as a Client in the Application, the Clients are jointly and severally liable for all payments of the Amount Owning and/or Price.
- 3.3 Upon acceptance of these Terms and Conditions by the Client, the Terms and Conditions are binding and can only be amended in accordance with Clause 16.
- 3.4 The Client must give NZR written notice of any proposed change of legal or beneficial ownership of the Client or any change in the Client’s name and any other change in the Client’s details, including but not limited to, changes in the Client’s address, business practice or any other details contained in the Application, within five (5) days from the date of such change. The Client is liable for any loss incurred by NZR because of the Client’s failure to comply with this clause.
- 3.5 In the event NZR does not accept the Client’s Application for all or any part of the Services, it will notify the Client in writing and refund any money that has been paid by the Client for the Services under the Agreement.

4. PRICING AND PAYMENT TERMS

- 4.1 The Pricing and all fees and commissions payable under this Agreement are set out in the Application for Services and the Pricing Schedule to this Agreement.
- 4.2 Unless otherwise agreed, the Client will pay an Annual Fee as stated in Part 4 of the Application immediately upon execution of the Application. A subsequent annual fee of \$250.00 (plus GST) will be due on the same date each year thereafter until the Agreement expires or is terminated. The Annual Fee may be reviewed by NZR each year and can be increased or decreased at NZR’s sole discretion with seven (7) days written notice to the Client.
- 4.3 Where requested by the Client:
- (a) the Client will pay NZR the Price as agreed between the Parties for each letter of demand, written and mailed by NZR to a debtor, in accordance with the Client’s instructions.
 - (b) NZR will charge an administration fee of an additional 20% on all third-party fees. NZR will engage third parties only where the Client agrees and/or provides instructions to proceed with engaging that third-party; and,
 - (c) NZR will issue the Client with an Invoice for the Additional Services including the third-party charges and the Client must pay NZR the amount stated on the Invoice within the time stipulated therein the Invoice.

- 4.4 Where requested by the Client, NZR will, provided the Client complies with Clause 6.1 herein:
- (a) take all action necessary, including but not limited to, instructing solicitors and third parties to commence legal proceedings to give effect to the instructions of the Client to recover and secure the debt(s);
 - (b) instruct, at the cost and instruction of the Client, such other persons, including but not limited to any solicitor or process service agent, as are necessary to assist in carrying out NZR's obligations to recover and secure the debt(s);
 - (c) arrange for the preparation and service of such documents as may be necessary to initiate legal proceedings against the debtor(s) in accordance with the instructions of the Client; and
 - (d) not, except in following any instructions provided by the Client or otherwise with the Client's prior approval:
 - (i) enter any repayment arrangement;
 - (ii) negotiate with the debtor; or,
 - (iii) bind any or purport to bind the Client to acceptance of an amount that is less than the full amount of the debt referred.
- 4.5 The Client agrees to pay NZR's Commission to NZR in the following circumstances:
- (a) All or part of the Client's debt or any consideration is paid to NZR; or
 - (b) All or part of the Client's debt or any consideration is paid to the Client, or any of its related entities or authorised third parties; or
 - (c) The Client's debt or any consideration is settled by mutual agreement, instalment arrangement, return of goods (where applicable), reinstatement of services (where applicable), contra, or other settlement arrangement - either arranged and/or organised by NZR, or by the Client directly or indirectly at any stage after NZR's initial demand is issued, or contact/involvement with the Client's debtor; or
 - (d) NZR assists in locating a payment that clears the Client's debt, reduces the Client's debt, or was previously unallocated by the Client; or
 - (e) Instructions to NZR are withdrawn by the Client whilst further recovery options are available and/or the account is not subject to a write off, or write off recommendation by NZR; or
 - (f) A file is held, or no instructions are provided by the Client to NZR for a period equal to, or more than sixty (60) days.
- 4.6 The Client agrees and acknowledges:
- (a) to pay within the terms of this agreement, all costs, charges and expenses incurred by NZR or any third party NZR engages on instructions from the Client while providing Services, including but not limited to, legal fees and expenses, court filing fees and statutory fees, process server fees.
 - (b) that these costs, charges and expenses, must be paid to NZR by the Client even though they may not be recoverable, in full or in part, from the debtor. NZR agrees that should it recover any such amounts from the debtor, those amounts will be refunded to the Client in accordance with and subject to the terms of this Agreement.
 - (c) that NZR is entitled to and will charge the Client, and the Client agrees to pay an administration and management fee of 20% in addition to the gross cost charged by third party service providers to NZR, acting on NZR's instructions in the provision of the Services to the Client. The gross costs will include but will not be limited to costs charged for legal fees and expenses, court filing fees, statutory fees and process server fees. The Client agrees and acknowledges that the administration and management fees set out herein and payable by the Client may be charged by NZR or by a related entity of NZR and/or Credit Clear Limited.
 - (d) that in the event that the Client is entitled to the benefits of a cost order following litigation or the commencement and resolution of legal proceedings, or determination of legal proceedings, or by other agreement, such legal costs will not and cannot include the costs incurred by the Client as set out in clause 4.5(c).

- 4.7 It is the Clients responsibility to advise NZR of any payments received directly from debtors while engaging NZR to provide the Services. NZR reserves the right to charge the Client the Commission from date a debt is referred to NZR.
- 4.8 NZR will charge a file referral fee of \$25.00 plus GST per file referred by the Client, such fee to be payable by the file debtor only in circumstances where the file referral fee is collected by NZR.
- 4.9 NZR will charge a recall fee of \$25.00 plus GST payable by the Client to NZR for any debt referred and withdrawn by the Client ten (10) days or more after the file referral date.
- 4.10 Payment of an Invoice issued by NZR to the Client is to be made within the time stipulated on that invoice, with time for payment being of the essence, unless otherwise agreed between Authorised Representatives on behalf of each respective Party in writing.
- 4.11 If the Client does not pay the Invoice in full by the payment due date in accordance with these Terms and Conditions or as specified on the Invoice, NZR may charge, in addition to any other costs recoverable under the Agreement:
- (a) interest calculated daily on the total outstanding balance at a rate of 0.05%.
 - (b) any costs and expenses (including any commission payable to any commercial or mercantile agents and legal costs) incurred by NZR in recovering any unpaid amounts under the Agreement.
- 4.12 Payment by the Client can be made by cheque, bank cheque or any other method as agreed to between the Parties. If payment is made by direct debit of funds or any other electronic transaction and the payment transaction fails for whatever reason, the Client agrees to reimburse NZR for any fees incurred by NZR. If payment is made by credit card, the Client is liable for any processing or merchant fees in using the credit card as a method of payment to NZR.

5. BANK ACCOUNT

- 5.1 All monies received on behalf of the Client by NZR, a solicitor, or third party engaged by NZR under these Terms and Conditions, will be deposited into NZR's trust account unless otherwise agreed in writing by the Parties.
- 5.2 The Client agrees that NZR will deduct any amounts payable under Clause 4 from monies collected on behalf of the Client by NZR. Where such amounts exceed or are not deducted out of the monies collected on behalf of the Client, the Client will pay all Invoices issued for such amounts and within the terms as stipulated on the Invoice.
- 5.3 NZR will account to the Client monthly for the amounts referred to in Clause 5.1, but after deducting the amounts referred to in Clause 5.2, where such deduction is approved.

6. THE CLIENT'S DUTY TO NZR

- 6.1 The Client warrants to NZR that, while NZR are engaged to provide the Services to the Client, they:
- (a) will provide NZR with all relevant information concerning the debt(s) and the parties responsible for the debt(s) and authorise NZR and its solicitors or other third parties to utilise the information for any proper purpose relevant to the Services;
 - (b) undertake to promptly provide NZR with information that is accurate, complete, correct and up to date to the best of their knowledge and in the event fresh information comes to light, that that information is immediately provided to NZR;
 - (c) will provide NZR with details of the following default information, all Commercial Debts of the Client that have been outstanding for a period of sixty-one (61) days or more and what steps the Client has taken to recover whole or part of the debt;
 - (d) will reimburse NZR for any direct and/or reasonable loss NZR suffers due to any information provided by the Client to NZR that is inaccurate, incomplete, not up to date or otherwise misleading. If such an event arises, the Client agrees to cooperate with NZR at its own expense in the handling of any complaints, disputes, investigations and/or litigation that arises as a result of the use of NZR's services pertaining to the information supplied by the Client;
 - (e) have taken all reasonable steps to advise a debtor company that delinquent debt(s) may be referred to a credit bureau;
 - (f) will immediately advise NZR, pertaining to a debt referred by the Client to NZR, of:
 - (i) any payment made directly to the Client in relation to a debt;

- (ii) any credit processed by the Client in relation to a debt; and,
 - (iii) any communication received directly from the debtor to the Client surrounding the debt.
 - (iv) are aware that while NZR are engaged to provide the Services, NZR will charge the agreed Commission as per Clause 4 above for any payments made directly to the Client from the Debtor. It is the responsibility of the Client to account to NZR as soon as practicable following receipt of payment in accordance with this clause
- (g) must provide NZR instructions in writing by way of email or any other form as agreed between the Parties pertaining to the commencement of any legal proceedings to recover a debt.

7. INDEMNITY AND EXCLUSION OF LIABILITY

7.1 The Client acknowledges:

- (a) the information provided to it, may in whole or in part, represent or be based on information provided to NZR from third parties, public registers or publicly available information sources;
- (b) information delivered to a Client may not be all the information NZR holds on the relevant individual or organisation;
- (c) NZR does not and cannot guarantee or warrant to correctness completeness, merchantability or fitness for a particular purpose of any information or Service provided by NZR. Such information or Service is to be considered current within NZR's established procedures for updating information and products and usually is not the product of independent investigation prompted by an enquiry (whether by the Client or any other person; and,
- (d) that every business division, to some degree or another, represents an assumption of risk and that NZR in providing information does not, and cannot, underwrite the Client's risk in any manner whatsoever.

7.2 To the maximum extent permitted by law, the Client agrees that, NZR shall be under no liability to the Client in respect of any loss, liability of damage of any kind of loss suffered or incurred by the Client, including loss of profits and any indirect, consequential or economic loss, arising out of or relating to:

- (a) the supply of any information or any Service to the Client;
- (b) any delay in supplying or failure to supply any information or Service to the Client; or,
- (c) any decision made using information or any Service supplied by NZR.

7.3 Subject to Clause 7.6 and except as expressly provided to the contrary in these Terms and Conditions, all conditions, guarantees, terms, undertaking, inducements, representations or warranties express or implied by statute, the common law, equity, trade, custom or usage or otherwise, are expressly excluded to the maximum extent permitted by law.

7.4 To the extent that the Client directly causes the relevant loss, the Client agrees to release, hold harmless and indemnify NZR, from and against any liability directly arising out of or relating to:

- (a) The supply of any information or any Service to the Client;
- (b) Any delay in supplying or failure to supply any information or Service to the Client.
- (c) Any decision made using information or any Service supplied by NZR.

7.5 If a Party is liable under, or in connection with this Agreement whether in contract, tort (including without limitation negligence), in equity, under statute or under an indemnity, then the cumulative liability of that Party in the aggregate (to the maximum extent permitted by law) to the other Party in connection with this Agreement, in any twelve (12) month period, will be limited to the Fees payable by the Client to NZR (Limitation Amount). The Parties agree that the Limitation Amount operates as a cap on the aggregate liability of each Party under the Agreement in respect of any twelve (12) month period.

7.6 Where NZR is not able to exclude a term, condition, warranty, undertaking, inducement or representation imposed by legislation in relation to these Terms and Conditions ('Non-Excludable Provision'), and NZR is able to limit the Client's remedy for breach of the Non-Excludable Provision, then NZR's liability for breach of the Non-Excludable Provision is limited to, in the case of Services, the supplying of the Services again or a payment in accordance with the applicable terms of clause 7.5.

- 7.7 Subject to NZR's obligations under the Non-Excludable Provisions and to the maximum extent permitted by law, NZR's maximum aggregate liability for all claims under or relating to these Terms and Conditions or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, is limited in accordance with the applicable terms of clause 7.5. In calculating NZR's aggregate liability under this clause, the Parties must include any amounts paid or the value of any Services supplied by NZR for a breach of any Non- Excludable Provisions.
- 7.8 Neither party will be liable to the other for any consequential, indirect or special loss or damage, loss of actual or anticipate profits or revenue, loss of business, business interruption, costs the Client has incurred, amounts that the Client is liable to their Clients for any loss suffered by third parties under or relating to these Terms and Conditions or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, whether or not such loss or damage was foreseeable and even if advised of the possibility of the loss or damage.
- 7.9 Each indemnity in these Terms and Conditions is a continuing obligation, separate and independent from the other obligations of the Parties and survives termination, completion and expiration of these Terms and Conditions.
- 7.10 NZR will not be liable to the Client for any acts or omissions of any person supplied by NZR where that person is acting under the Client's direction and control during the course of the Agreement and the Client will indemnify NZR against all liability, claims, damage, loss, costs and expenses (including without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against NZR and any loss, cost, damage or expense) arising from or incurred in connection with such acts or omissions.

8. PRIVACY

- 8.1 NZR will comply with the Australian and New Zealand Privacy Principles as defined by the regulatory regimes therein and to the extent permitted, pursuant to the *Privacy Act 1988* (Cth) (Australian Legislation) (**Privacy Laws**) in all dealings with the Client.
- 8.2 The Client agrees to:
- (a) comply with the Privacy Laws in respect of any Personal Information received by it from NZR or disclosed by it to NZR (and, without limitation, before it uses any Services in relation to a debt due by a debtor who is an individual, inform the debtor that Personal Information about the debtor may be disclosed to a collection agency);
 - (b) comply with the Privacy Laws in respect of any Personal Information received by it from NZR or disclosed by it to NZR;
 - (c) Cooperate with NZR in:
 - (i) discharging the privacy obligations of NZR under the Privacy Laws when collecting Personal Information from or about individuals;
 - (ii) correcting or updating Personal Information from or about individuals;
 - (iii) providing access to any record of Personal Information following a request from an individual; and,
 - (iv) the resolution of any complaint alleging breach of the Privacy Laws or a privacy policy by NZR in relation to Personal Information disclosed to NZR by the Client or by NZR to the Client.
- 8.3 The Client:
- (a) acknowledges that the information supplied by NZR to the Client pursuant to this Agreement is for the exclusive use of the Client and such information is supplied in confidence and will not be disclosed or provided to another individual or organisation without NZR's prior written consent; and,
 - (b) shall not identify either NZR or its confidential publications, except in circumstances as prescribed by law, as a course of reference unless the Client first obtains written permission to do so from NZR, which permission shall be in the sole discretion of NZR.
- 8.4 NZR warrants that it complies with the Privacy Laws in respect of the Personal Information handled by it while providing a Service. In giving this warranty, NZR relies in the performance by the Client of its obligations under Clause 8.2.

- 8.5 NZR may need to collect Personal Information about the Client, including but not limited to, the Client's name, address, driver license details, credit card details, date of birth and credit or business history. The Client consents to NZR using the Client's Personal Information in order to:
- (a) provide services to the Client;
 - (b) enter contracts with the Client or third parties; and,
 - (c) to market to the Client and maintain a client relationship with the Client.

- 8.6 The Client also consents to NZR disclosing the Client's Personal Information:
- (a) to NZR's service providers, contractors and affiliated companies from time to time to help improve and market NZR's services to the Client; and,
 - (b) to NZR's debt recovery agents or lawyers in the event the Client is in default of any provision of the Terms and Conditions.

8.7 The Client has a right to access the personal information NZR holds about them.

9. SECURITY AND DATA PROTECTION

9.1 NZR acknowledges that to enable NZR to provide the Services, it may be necessary for the Client to disclose Personal Information to NZR.

9.2 NZR will:

- (a) Ensure that the Personal Information is protected against misuse, loss and unauthorised access, modification or disclosure in the same way as if NZR was bound by the requirements of the New Zealand and Australian Privacy Principles under the Privacy Act;
- (b) Ensure that it complies with the Client's directions and all applicable privacy laws and codes, including the Privacy Act, when it collects, uses, discloses, stores or transfers Personal Information in connection with providing the Services under this Agreement;
- (c) Upon request by the Client, comply with the Client's Privacy Policy;
- (d) Ensure that only authorised Personnel of NZR have access to the Personal Information and not disclose the Personal Information to any person other than its authorised Personnel without the consent of the Client and will immediately notify the Client when it becomes aware that a disclosure of the Personal Information may be required by any law;
- (e) Establish and implement a data breach response plan in respect of the Personal Information which includes a mechanism to immediately notify the Client if there are reasonable grounds to suspect a data breach and outline appropriate remedial action, and NZR will ensure that the Client is so notified;
- (f) Participate in and provide any requested supporting information to the Client in the event a suspected data breach or privacy incident requires investigation and remediation action;
- (g) Only use, and ensure that the authorised Personnel of NZR only use, the Personal Information for the purposes of fulfilling its obligations under this Agreement, including but not limited to providing the Services;
- (h) Maintain records of changes to personal information;
- (i) Destroy or return to the Client at the Client's request, the Personal Information once the Services have been completed, except only where retention is necessary to enable NZR to comply with any law;
- (j) NZR will:
 - A. implement and maintain administrative, physical and technical security safeguards in providing the Services and in accordance with Good Industry Practice;
 - B. use information security technologies in providing the Services in accordance with Good Industry Practice;
 - C. maintain and comply with, at all times, an information security policy that meets the requirements to protect against the unauthorised access, use, destruction, loss or alteration of the Client's data, Personal Information, Client's Confidential Information and Material in connection with the provision of the Services that meets or exceeds Good Industry Practice;
 - D. proactively implement technical and organisational controls to prevent, detect, and

remediate vulnerabilities identified in NZR's Environment on a timely basis;

- (k) Ensure that any subcontractor of NZR is bound to comply with the provisions of this clause.
- 9.3 NZR collects personal information about the Client for the purposes set out in its Privacy Policy located on its website. The Privacy Policy sets out:
 - (a) the personal information NZR collects;
 - (b) how NZR collects and uses this information;
 - (c) how the Client may access or correct it; and
 - (d) how the Client may make a complaint in respect of NZR's management of the information.
- 9.4 By the Client providing instructions to NZR to provide Services and executing this Agreement, the Client is consenting to NZR collecting, handling, using, disclosing and otherwise dealing with the Client's Personal Information (including credit related personal information) in accordance with the terms of NZR's Privacy Policy and in accordance with New Zealand and Australia's privacy laws.

10. COMPLIANCE

- 10.1 NZR will comply with legislation, industry or other codes, standards or guidelines and other laws relevant to the provision of the Services.
- 10.2 NZR and the Client will work together to establish a reporting format that will cover key areas of compliance including the laws and standards detailed in this Section and the matters set out in Schedule to this Agreement, and compliance obligations the Client is bound to and reliant upon NZR under this agreement (Compliance Reporting Requirements). The Compliance Reporting Requirements are to be mutually agreed between NZR and the Client within 30 days of this Agreement being signed, or by such further time that may be agreed between the parties.
- 10.3 NZR will maintain in force, at a minimum, the following insurance policies:
 - (a) professional indemnity insurance in an amount of not less than \$2 million per claim; and
 - (b) cyber insurance in the amount of \$5 million per claim. (NZR Required Insurance).
- 10.4 NZR will within a reasonable amount of time, if requested, provide to the Client evidence of the currency of the NZR Required Insurance

11. INTELLECTUAL PROPERTY

- 11.1 To the extent that NZR utilises the Intellectual Property of the Client, and in order to provide the full benefit of the Services under this Agreement, the Client grants to NZR, a non-exclusive, non-transferable, royalty-free licence for the Term to use, reproduce and modify the Client's Material.

12. GOODS AND SERVICES TAX ("GST")

- 12.1 Where dollar amounts are stated in this Agreement, those amounts are exclusive of any applicable GST.
- 12.2 If whole or in any part of any other payment (including any commission) is the consideration for a taxable supply, the Client must pay to NZR an additional amount equal to the GST amount, either concurrently with that Payment or as otherwise agreed in writing.
- 12.3 Any reference to a cost or expense in this Agreement excludes any amount in respect of GST forming part of the relevant cost or expense
- 12.4 Invoices:
 - (a) NZR will provide the Client with an Invoice for all Services supplied by and/or on behalf NZR to the Client pursuant to the Agreement.
 - (b) NZR will provide the Invoices to the Client within seven (7) days of end of month or within such time as is reasonably practical or as agreed by the Client.

13. TERM & TERMINATION

- 13.1 Unless otherwise terminated in accordance with Clause 12 herein, this Agreement shall continue to remain in force or as otherwise agreed between the Authorised Representatives of each respective party in writing.
- 13.2 NZR may terminate this Agreement or may cancel all or any part of any order/referral of the Client, which remains unfulfilled:

- (a) At any time without prejudice to any of its rights which NZR may have against the Client:
 - (i) If the Client is an individual and commits an act of bankruptcy, or if a company commits an act of insolvency, within the meaning of the *Insolvency Act 2006 (NZ)*.
 - (ii) If any event occurs, which is likely to adversely affect the Client's liability to pay for the Services (including but not limited to the appointment of a receiver, receiver and manager, administrator, controller, liquidator, provisional liquidator, trustee or similar parson (each an "insolvency representative") to the Client's undertaking)
 - (b) On seven (7) days' notice if:
 - (i) The Client fails to pay any Amounts Owing under this Agreement within thirty (30) days from end of month or in the alternative, as agreed by Authorised Representatives from both Parties in writing.
 - (ii) There is a change in the ownership, control, or financial condition of the Client, which in NZR's opinion, may affect the Client's ability to comply with the Terms and Conditions of this Agreement.
 - (iii) The Client breaches any of the Terms and Conditions contained herein
 - (c) on thirty (30) days' notice without reason.
- 13.3 The Client agrees that NZR hold a lien over any files or monies held by NZR until all the Amount Owing to NZR, its agents and/or solicitors are paid in full.
- 13.4 The Client may terminate this Agreement at any time by giving NZR thirty (30) days' notice in writing.
- 13.5 In the event this Agreement is terminated by either Party for any reason, then:
- (a) all Amounts Owing to NZR will, whether due for payment, become immediately payable by the Client.
 - (b) the Client shall remain liable to pay all Amounts Owing to NZR, which have been incurred by the Client prior to the said termination and
 - (c) NZR will deduct the Amounts Owing from any monies held on behalf of the Client.
- 13.6 Termination of this Agreement does not relieve the Client from its obligations contained in these Terms and Conditions.
- 13.7 Each indemnity contained in Clause 7 of these herein survives the termination of this Agreement.
- 13.8 Any debts placed for collection by the Client with NZR, which remain uncollected at the time of the termination of the Agreement for any reason, shall remain available for collection by NZR upon the Terms and Conditions contained herein and will be paid for by the Client at the applicable rates prevailing at the time such Services are provided.
- 13.9 NZR can reasonably refuse to accept or continue to handle any debt(s) offered by the Client for collection.
- 13.10 Where the Parties have not renewed these Terms and Conditions by their expiry date then these Terms and Conditions shall go into holding over, on a month to month basis until such time as the Parties enter into new Terms and Conditions, or either Party terminates on 30 days' written notice to the other Party. The rate of the Commission will continue at the rate prevailing as at the expiry date of these Terms and Conditions.
- 14. CLIENT AS TRUSTEE**
- 14.1 If the Client carries on business as trustee of a trust, then the Client warrants that:
- (a) the Client enters into the Agreement as trustee of a trust;
 - (b) the Client has all requisite powers to enter into the Agreement; and,
 - (c) the beneficiary of the trust approves the purchase of the Services on the terms of the Agreement.
- 15. SEVERABILITY**
- 15.1 If any provision contained in these Terms and Conditions becomes void or unenforceable for any reason, then that part will be severed with the intent that all remaining parts will continue to be in full force and effect and be unaffected by the severance of any other parts.



16. GOVERNING LAW

16.1 If practicable, these Terms and Conditions are governed by the laws of New Zealand and each Party submits to the non- exclusive jurisdiction of New Zealand in respect of any proceedings arising in connection with these Terms and Conditions. Each Party waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

17. ENTIRE AGREEMENT

17.1 These Terms and Conditions comprises the entire agreement between the Parties. No additional terms and conditions apply to the sale of the Services unless the Terms and Conditions are varied in accordance with Clause 18.

18. NO RELIANCE

18.1 The Client acknowledges that neither NZR nor any person acting on NZR's behalf have made any representation or other inducement to the Client entering into these Terms and Conditions and further, have not entered into these Terms and Conditions in reliance on any representations or inducements (including in relation to the use of the Services) except for those representations contained in these Terms and Conditions.

19. VARIATION

19.1 From time to time, NZR may wish to vary these Terms and Conditions. If NZR intends to do so, NZR will provide the Client with twenty-eight (28) days' written notice of the varied Terms and Conditions. If the Client has any reasonable grounds to believe the change will be detrimental to their rights, the Client may terminate these Terms and Conditions in writing, without penalty, within twenty-eight (28) days of receiving NZR's written notice. Any other variation of these Terms and Conditions must be agreed in writing by Authorised Representatives on behalf of NZR and the Client.

20. NO WAIVER OF RIGHTS

20.1 No delay or omission by a party to exercise any right, power or remedy available to that party as a result of a continuing breach or default under these Terms and Conditions will impair any such right, power or remedy, nor will it be construed to be a waiver of that Party's rights to take action or make a claim in respect of a continuing breach or default.

21. AGREEING TO THESE TERMS AND CONDITIONS

21.1 The person signing (or ticking the acceptance box if done online) any document which forms part of these Terms and Conditions for and on behalf of the Client, the Client hereby warrants that he or she has the Client's authority to enter into these Terms and Conditions on the Client's behalf and is empowered to bind the Client to these Terms and Conditions.

21.2 The person signing (or ticking the acceptance box if done online) these Terms and Conditions indemnifies NZR against all losses, costs and claims incurred by NZR out of the person so signing, (or ticking the acceptance box if done online) these Terms and Conditions, not in fact having such power and/or authority.

22. CONFIDENTIALITY

22.1 NZR and the Client agree that the Agreement and any other information furnished by the Parties to each other pursuant to the Agreement is and remains confidential between the Parties and the Parties must not disclose the same, or permit or cause the same to be disclosed, either directly or indirectly, to any third party unless:

- (a) prior approval in writing has been obtained from the other Party;
- (b) disclosure is required by law or;
- (c) the information is in the public domain prior to the disclosure by the Party.

22.2 The expression "any third party" for the purposes of Clause 21 does not include the financial or legal advisers of a Party.

23. DUTY BY NZR

23.1 NZR hold a general duty to the Client to:

- (a) act only on the Client's instruction in respect of the Services provided to the Client.
- (b) perform the Services in accordance with the industry guidelines for debt collection; and
- (c) provide the Services to the Client in a professional and skilled manner.

- 23.2 NZR agrees to:
- (a) comply with the Client's AML Program; and
 - (b) in accordance with the Client's AML Program, refer any suspicious matters by email to the Client using any such contact details as provided by the Client to NZR from time to time within 1 business day of forming the relevant suspicion.
- 23.3 A suspicious matter, as referenced in clause 22.2(b), arises where NZR or its personnel suspect on reasonable grounds that:
- (a) an individual is not the person that they claim to be;
 - (b) an agent of an individual, who NZR or its personnel deal with in relation to the provision or prospective provision of the Services, is not the person the agent claims to be; or
 - (c) information that NZR or its personnel have been provided with in respect of the provision, or prospective provision, of the Services may relate to the proceeds of crime or investigation of a crime (including money laundering, terrorism financing or tax avoidance).
- 23.4 NZR will take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Services to the Client.
- 23.5 If at any time NZR becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of the Agreement, NZR will as soon as reasonably practicable take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains.
- 24. DISPUTE RESOLUTION**
- 24.1 A Party claiming that a dispute has arisen in relation to the Service, must give written notice specifying the nature of the dispute to the other Party.
- 24.2 Should the Client dispute an invoice issued by NZR, the Client must within 7 days of the date of the invoice, give notice to NZR of the dispute. Should no notice be provided by the Client to NZR in relation to an invoice, the Client is deemed to have accepted the invoice and agrees and acknowledges that no dispute can be thereafter raised in relation to the invoice.
- 24.3 Should a dispute arise in relation to the Services, the Parties must use their best endeavors to resolve same within 14 days of notice.
- 24.4 Should the dispute fail to resolve the dispute within 14 days, then the Parties must escalate the dispute internally to the CEO of each respective Party.
- 24.5 This Clause does not apply to an application to the Court for urgent interlocutory or injunctive relief.
- 25. WARRANTY BY THE PARTIES**
- 25.1 The Parties warrant to each other that:
- (a) they have full power and capacity to enter into the Agreement,
 - (b) they are unaware, as of the date of this Agreement, of anything which might or will adversely affect their ability to fulfil its obligations under the Agreement.
- 26. PREVIOUS EDITIONS**
- 26.1 This edition of these Terms and Conditions replaces and supersedes all previous editions of the Terms and Conditions NZR has issued.
- 27. MISCELLANEOUS**
- 27.1 NZR may by written notice to the Client assign any and or all of its benefits, rights and obligations under this Agreement, including the benefit, rights and obligations contained in these Terms and Conditions to any third party without the Client's consent.
- 27.2 The use of the Website is intended for users over the age of 18. The Client must ensure that their access to, or use of, the Website is not illegal or prohibited by laws, which apply to the Client. The Client must take their own precautions to ensure that the process, which the Client employs for accessing the Website, does not expose the Client to risk of viruses, malicious computer code or other forms of interference, which may damage their computer system. NZR takes no responsibility for any such damage which may arise in connection with the Client's use of the Website.
- 27.3 Information contained throughout the Website and in our database is believed to be accurate and reliable at the time of publishing. There may be misprint, human errors and omissions. NZR reserves



- their right to make changes and corrections to prices, produces and specifications without notice.
- 27.4 The Website may contain links to other Websites. Those links are provided for convenience only and may not remain current or be maintained. NZR will not be responsible for the content or privacy policies associated with the linked Websites.
- 27.5 The Parties acknowledge and agree that NZR is an independent contractor and nothing in this Agreement shall be deemed to constitute a partnership, joint venture, employment, or other relationship between the parties. Nothing in this Agreement shall constitute NZR as agent of the Client other than in the provision of Service.
- 27.6 Access to NZR's database will be via a communication method agreed between NZR and the Client. The Client will be responsible for any communication costs incurred relating to access to NZR's database.
- 27.7 The Client may not assign its right, interests, or obligations under this Agreement to any other third party without first obtaining NZR's written consent.
- 27.8 A reference to a right or obligation of any two (2) or more persons confers that right or imposes that obligation jointly and severally.
- 27.9 The failure of NZR or the Client to enforce any provisions of this Agreement at any time shall not operate as a waiver of that provision in respect of that act or omission or any other act or omission.
- 27.10 If a payment owing to NZR by the Client is not forthcoming, NZR will be able to commence legal proceedings against the Client.
- 27.11 The Client agrees to advise NZR of any changes in personnel that may affect their access permissions to any of NZR's Services.
- 27.12 Due to changing market forces, changes and other extenuating circumstances that effect product availability and prices stability, NZR reserves their rights to withdraw any product NZR advertises and change Prices by providing the Client 30 days written notice.
- 27.13 Further to Clause 27.12 NZR reserves their right to increase their Price and Commission rate at any time in accordance with the Consumer Price Index each year or by 4% per annum, or by prevailing market conditions, (whichever is higher) by providing the Client 30 days written notice.
- 27.14 Headings in these Terms and Conditions are for convenience only and do not form part of the Agreement.
- 27.15 Words denoting the singular numbers includes the plural (and vice versa).