

1. Definitions

- 1.1 **"Contract"** means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 **"BTI"** means BTI Direct Limited, its successors and assigns or any person acting on behalf of and with the authority of BTI Direct Limited.
- 1.3 **"Customer"** means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting BTI to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
 (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
 (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
 (c) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and
 (d) includes the Customer's executors, administrators, successors and permitted assigns.
- 1.4 **"Goods"** means all Goods or Services supplied by BTI to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).
- 1.5 **"Confidential Information"** means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, **"Personal Information"** such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.6 **"Cookies"** means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including personal information) specific to a particular client and website, and can be accessed either by the web server or the client's computer.
- 1.7 **"Price"** means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Goods as agreed between BTI and the Customer in accordance with clause 6 below.

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts Delivery of the Goods.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Customer acknowledges and accepts that:
 (a) the supply of Goods on credit shall not take effect until the Customer has completed a credit application with BTI and it has been approved with a credit limit established for the account;
 (b) in the event that the supply of Goods requested exceeds the Customer's credit limit and/or the account exceeds the payment terms, BTI reserves the right to refuse Delivery;
 (c) the supply of Goods for accepted orders may be subject to availability and if, for any reason, Goods are not or cease to be available, BTI reserves the right to vary the Price with alternative Goods as per clause 6.2, subject to prior confirmation and agreement of both parties; and
 (d) any advice, recommendation, information, assistance or service provided by BTI in relation to Goods or Services supplied is given in good faith to the Customer, or the Customer's agent, and is based on BTI's own knowledge and experience and shall be accepted without liability on the part of BTI.
- 2.5 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Authorised Representatives

- 3.1 Unless otherwise limited as per clause 3.2, the Customer agrees that should the Customer introduce any third party to BTI as the Customer's duly authorised representative, that once introduced that person shall have the full authority of the Customer to order any Goods, and/or to request any variation thereto, on the Customer's behalf (such authority to continue until all requested Goods has been returned to BTI, or the Customer otherwise notifies BTI in writing that said person is no longer the Customer's duly authorised representative).
- 3.2 In the event that the Customer's duly authorised representative as per clause 3.1 is to have only limited authority to act on the Customer's behalf, then the Customer must specifically and clearly advise BTI in writing of the parameters of the limited authority granted to their representative.
- 3.3 The Customer specifically acknowledges and accepts that they will be solely liable to BTI for all additional costs incurred by BTI (including BTI's profit margin) in providing any Goods, or variation/s thereto, requested by the Customer's duly authorised representative (subject always to the limitations imposed under clause 3.2 (if any)).

4. Errors and Omissions

- 4.1 The Customer acknowledges and accepts that BTI 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 BTI 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 BTI in respect of the Goods.
- 4.2 In the event such an error and/or omission occurs in accordance with clause 4.1, and is not attributable to the negligence and/or wilful misconduct of BTI; the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.

5. Change in Control

- 5.1 The Customer shall give BTI not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address and contact phone or fax number/s, change of trustees or business practice). The Customer shall be liable for any loss incurred by BTI as a result of the Customer's failure to comply with this clause.

6. Price and Payment

- 6.1 At BTI's sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by BTI to the Customer;
 - (b) the Price as at the date of Delivery of the Goods according to BTI's current price list; or
 - (c) BTI's 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 BTI reserves the right to change the Price:
- (a) if a variation to the Goods which are to be supplied is requested;
 - (b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested;
 - (c) if during the course of the Services, the Goods cease to be available from BTI's third party suppliers, then BTI reserves the right to provide alternative Goods, subject to prior confirmation and agreement of both parties; or
 - (d) in the event of increases to BTI in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond BTI's control.
- 6.3 Variations will be charged for on the basis of BTI's quotation, and will be detailed in writing, and shown as variations on BTI's invoice. The Customer shall be required to respond to any variation submitted by BTI within seven (7) working days. Failure to do so will entitle BTI 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.
- 6.4 BTI reserves the right to change the Price where a bulk discount (quantity pricing) has been offered by BTI, if the Customer subsequently reduces the quantity of Goods then any discounts or special prices will be revoked and the full Price for the Goods will apply.
- 6.5 At BTI's sole discretion a non-refundable deposit may be required.
- 6.6 Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date/s determined by BTI, which may be:
- (a) before Delivery of the Goods for cash account holders;
 - (b) for credit account Customers, due 20th month following invoice.
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) failing any notice to the contrary, the date which is twenty (20) days following the date of any invoice given to the Customer by BTI.
- 6.7 Payment may be made by cash, electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Customer and BTI.
- 6.8 BTI may in its discretion allocate any payment received from the Customer towards any invoice that BTI determines and may do so at the time of receipt or at any time afterwards. On any default by the Customer BTI may re-allocate any payments previously received and allocated. In the absence of any payment allocation by BTI, payment will be deemed to be allocated in such manner as preserves the maximum value of BTI's Purchase Money Security Interest (as defined in the PPSA) in the Goods.
- 6.9 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by BTI nor to withhold payment of any invoice because part of that invoice is in dispute.
- 6.10 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to BTI an amount equal to any GST BTI must pay for any supply by BTI under this or any other contract for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer 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 Goods

- 7.1 Delivery ("Delivery") of the Goods is taken to occur at the time that:
- (a) the Customer or the Customer's nominated carrier takes possession of the Goods at BTI's address; or
 - (b) BTI (or BTI's nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address.
- 7.2 At BTI's sole discretion the cost of Delivery is in addition to the Price.
- 7.3 BTI may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 7.4 The Customer acknowledges and accepts that:
- (a) any time specified by BTI for Delivery of the Goods is an estimate only and BTI will not be liable for any loss or damage incurred by the Customer as a result of Delivery being late;
 - (b) BTI is entitled to Deliver the Goods between 8am and 5pm on any weekday (Monday to Friday (exclusive of Public Holidays)), unless otherwise agreed between BTI and the Customer; and
 - (c) although both parties agree that they shall make every endeavour to enable the Goods to be delivered at the time and place as agreed between the parties, in the event that BTI is unable to supply the Goods as agreed solely due to any action or inaction of the Customer (including failure of the Customer to be present at the Delivery address), then BTI shall be entitled to charge a reasonable fee for redelivery and/or storage.

8. Risk

- 8.1 Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.
- 8.2 If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Customer, BTI is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by BTI is sufficient evidence of BTI's rights to receive the insurance proceeds without the need for any person dealing with BTI to make further enquiries.
- 8.3 If the Customer requests BTI to leave Goods outside BTI's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Customer's sole risk.
- 8.4 The Customer acknowledges that all descriptive specifications, illustrations, drawings, data stated in BTI's or the manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer shall not be entitled to rely

- on such information, and any use of such does not constitute a sale by description, and does not form part of the Contract, unless expressly stated as such in writing by BTI.
- 8.5 In the event the Customer gives information relating to measurements and quantities of the Goods required, it is the Customer's responsibility to verify the accuracy of the measurements and quantities, before the Customer or BTI places an order based on these measurements and quantities. BTI accepts no responsibility for any loss, damages, or costs however resulting from the Customer's failure to comply with this clause.
- 9. Compliance with Laws**
- 9.1 The Customer and BTI shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Goods.
- 9.2 The Customer agrees that BTI shall not be liable for any damage or loss including personal injury, death, sickness, inconvenience, or expense (including loss of income) as a result of BTI providing the Goods.
- 10. Title**
- 10.1 BTI and the Customer agree that ownership of the Goods shall not pass until:
- (a) the Customer has paid BTI all amounts owing to BTI; and
 - (b) the Customer has met all of its other obligations to BTI.
- 10.2 Receipt by BTI 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.
- 10.3 It is further agreed that until ownership of the Goods passes to the Customer in accordance with clause 10.1:
- (a) the Customer is only a bailee of the Goods and must return the Goods to BTI on request;
 - (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for BTI and must pay to BTI the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;
 - (c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for BTI and must pay or deliver the proceeds to BTI on demand;
 - (d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of BTI and must sell, dispose of or return the resulting product to BTI as it so directs;
 - (e) the Customer irrevocably authorises BTI to enter any premises where BTI believes the Goods are kept and recover possession of the Goods;
 - (f) BTI may recover possession of any Goods in transit whether or not Delivery has occurred;
 - (g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of BTI; and
 - (h) BTI may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.
- 11. Personal Property Securities Act 1999 ("PPSA")**
- 11.1 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:
- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) a security interest is taken in all Goods and/or collateral (account) – being a monetary obligation of the Customer to BTI for Services – that have previously been supplied and that will be supplied in the future by BTI to the Customer.
- 11.2 The Customer undertakes to:
- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which BTI may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, BTI for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;
 - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of BTI; and
 - (d) immediately advise BTI of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 11.3 BTI and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 11.4 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.
- 11.5 Unless otherwise agreed to in writing by BTI, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 11.6 The Customer shall unconditionally ratify any actions taken by BTI under clauses 11.1 to 11.5.
- 11.7 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.
- 12. Defective Goods, Returns and Warranty**
- 12.1 The Customer shall inspect the Goods on Delivery and shall within five (5) days of Delivery (time being of the essence) notify BTI of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford BTI an opportunity to inspect the Goods within a reasonable time following Delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be presumed to be free from any defect or damage. For defective Goods, which BTI has agreed in writing that the Customer is entitled to reject, BTI's liability is limited to either (at BTI's discretion) replacing the Goods or repairing the Goods.
- 12.2 Goods will not be accepted for return other than in accordance with 12.1 above, and provided that:
- (a) BTI has agreed in writing to accept the return of the Goods;

- (b) the Goods are returned at the Customer's cost within ten (10) days of the Delivery date;
 - (c) BTI will not be liable for Goods which have not been stored or used in a proper manner; and
 - (d) the Goods are returned in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances.
- 12.3 BTI's liability shall be limited and shall not exceed the Price of the Goods. Under no circumstances shall BTI be liable for any costs associated with the repair or replacement of the Goods/Services which exceeds the Price of the Goods/Services originally sold, including but not limited to any travel costs, courier costs or third party labour costs.
- 12.4 BTI may (in its discretion) accept the return of Goods for credit but this may incur a handling fee of ten percent (10%) of the value of the returned Goods plus any freight.
- 12.5 Subject to clause 12.1, non-stocklist items or Goods ordered to the Customer's specifications are not acceptable for credit or return.
- 12.6 For Goods not manufactured by BTI, the warranty shall be the current warranty provided by the manufacturer of the Goods. BTI shall not be bound by nor be responsible for any term, condition, representation or warranty other than that which is given by the manufacturer of the Goods.

13. Consumer Guarantees Act 1993

- 13.1 If the Customer is acquiring Goods for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 ("CGA") do not apply to the supply of Goods by BTI to the Customer.

14. Default and Consequences of Default

- 14.1 An event of default ("**Default Event**") occurs if:
- (a) any money payable under this Contract is not paid before or on the due date for payment;
 - (b) the Customer fails to observe and perform any of the Customer's covenants, other than the failure to pay money, and such failure continues for more than three (3) days after BTI had given the Customer notice requiring the Customer to remedy the breach;
 - (c) the Customer, being an individual, commits an act of bankruptcy, is declared mentally ill or is convicted of a criminal offence or dies;
 - (d) a receiver, or an agent in possession for a mortgagee, is appointed in respect of any property of the Customer;
 - (e) a mortgagee takes possession of any property of the Customer;
 - (f) any execution or similar process is made against the property of the Customer;
 - (g) an application is made, a resolution is passed or a meeting is convened for the purpose of considering a resolution for the Customer to be wound up, unless the winding up is for the purpose of reconstruction or amalgamation;
 - (h) a compromise or arrangement is made between the Customer and its creditors;
 - (i) a resolution is passed, or a meeting is convened for the purpose of considering a resolution for the Customer to be placed under official management;
 - (j) the Customer admits in writing its inability to pay its debts;
- 14.2 On the occurrence of an Default Event:
- (a) BTI may:
 - (i) take possession of the Goods with, or without notice to the Customer, in accordance with clause 10.3(e);
 - (ii) charge interest on overdue invoices, which shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and one half percent (2.5%) per calendar month (and at BTI's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment;
 - (b) if the Customer owes BTI any money, the Customer shall indemnify BTI from and against all costs and disbursements incurred by BTI in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, BTI's contract default fee, and bank dishonour fees);
 - (c) further to any other rights or remedies BTI may have under this Contract, if the Customer has made payment to BTI and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by BTI under this clause 14 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract;
 - (d) without prejudice to BTI's other remedies at law, BTI shall be entitled to cancel, suspend or terminate the supply of Goods and/or Services or any part of any order of the Customer which remains unperformed in addition to and without prejudice to any other remedies BTI may have and all amounts owing to BTI shall, whether or not due for payment, become immediately payable. BTI will not be liable to the Customer for any loss or damage the Customer suffers because BTI has exercised its rights under this clause.

15. Cancellation

- 15.1 Without prejudice to any other remedies BTI may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions BTI may suspend or terminate the supply of Goods to the Customer. BTI will not be liable to the Customer for any loss or damage the Customer suffers because BTI has exercised its rights under this clause.
- 15.2 BTI may cancel any contract to which these terms and conditions apply or cancel Delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. On giving such notice BTI shall repay to the Customer any money paid by the Customer for the Goods. BTI shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 15.3 In the event that the Customer cancels Delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by BTI as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 15.4 Cancellation of orders for Goods made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

16. Privacy Policy

- 16.1 All emails, documents, images or other recorded information held or used by BTI is Personal Information as defined and referred to in clause 16.3 and therefore considered confidential. BTI acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines and as set out in Schedule 8 of the Act and any statutory requirements where relevant in a European Economic Area "EEA" under the EU Data Privacy Laws (including the

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- General Data Protection Regulation “GDPR”) (collectively, “EU Data Privacy Laws”). BTI acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customer’s Personal Information, held by BTI that may result in serious harm to the Customer, BTI will notify the Customer in accordance with the Act and/or the GDPR. Any release of such personal information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Customer by written consent, unless subject to an operation of law.
- 16.2 Notwithstanding clause 16.1, privacy limitations will extend to BTI in respect of Cookies where the Customer utilises BTI’s website to make enquiries. BTI agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer’s:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to BTI when BTI sends an email to the Customer, so BTI may collect and review that information (“collectively Personal Information”)
- If the Customer consents to BTI’s use of Cookies on BTI’s website and later wishes to withdraw that consent, the Customer may manage and control BTI’s privacy controls via the Customer’s web browser, including removing Cookies by deleting them from the browser history when exiting the site.
- 16.3 The Customer authorises BTI or BTI’s agent to:
- (a) access, collect, retain and use any information about the Customer;
 - (i) (including, name, address, D.O.B, occupation, driver’s license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Customer’s creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Customer.
 - (b) disclose information about the Customer, whether collected by BTI from the Customer directly or obtained by BTI from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
- 16.4 Where the Customer is an individual the authorities under clause 16.3 are authorities or consents for the purposes of the Privacy Act 2020.
- 16.5 The Customer shall have the right to request (by e-mail) from BTI, a copy of the Personal Information about the Customer retained by BTI and the right to request that BTI correct any incorrect Personal Information.
- 16.6 BTI will destroy Personal Information upon the Customer’s request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 16.7 The Customer can make a privacy complaint by contacting BTI via e-mail. BTI 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 twenty (20) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at <http://www.privacy.org.nz/comply/comptop.html>.
- 17. Service of Notices**
- 17.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (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 email to the other party’s last known email address.
- 17.2 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.
- 18. General**
- 18.1 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.
- 18.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Manukau, New Zealand.
- 18.3 Except to the extent permitted by law “CGA”, BTI shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by BTI of these terms and conditions (alternatively BTI’s liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).
- 18.4 BTI may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer’s consent.
- 18.5 The Customer cannot licence or assign without the written approval of BTI.
- 18.6 BTI may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of BTI’s sub-contractors without the authority of BTI.
- 18.7 The Customer agrees that BTI may amend their general terms and conditions for subsequent future contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for BTI to provide Goods to the Customer.
- 18.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc., (“Force Majeure”) or other event beyond the reasonable control of either party.
- 18.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.