



Myst Enterprise

Myst Enterprise Limited
187C Ohoka Road,
Kaiapoi - 7630
Christchurch-New Zealand
+64 27 945 6289
www.mystenterprise.com
info@mystenterprise.com
GST: 130-128-467

CREDIT ACCOUNT APPLICATION

Please complete all sections, read the Ts&Cs, and return it back to info@mystenterprise.com

Customer's Details:	Company	Other	Individual	Sole Trader	Trust	Partnership
Full or Legal Name:						
Trading Name:						
Nature Of Business:						Postcode:
Physical Address:						Postcode:
Previous Address:						Postcode:
Billing Address:						
Email Address:			PhoneNo:			Mobile No:
Solicitors Firm:			Partner:			Phone No:
Accountants Firm:			Partner:			Phone No:

Personal Details: (To be completed by individual applicants, if more than one, please attach a separate sheet)

First Name:	Last Name:	D.O.B.
Driver's Licence No:	Phone No:	Mobile No:
Private Address:	Postcode:	

Business Details: (To be completed by Sole Traders, Trust, Partnerships, Company's or Other - as specified)

Company Number:	Paid Up Capital: \$	Date of Incorporation:
Estimated Annual Purchases: \$	GST (If Applicable):	
Maximum Credit Requested: \$	If Over 20,000NZD are annual accounts available?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Business Premises: ☐ Owned ☐ Rented

Directors / Owners / Trustee (if more than two, please attach a separate sheet)

(1) Full Name:	D.O.B.	
Private Address:	Postcode:	
Driver's Licence No:	Mobile:	Phone:
(2) Full Name:	D.O.B.	
Private Address:		
Driver's Licence No:	Mobile:	Phone:

Account Terms: ☐ 7 Days ☐ 20th ☐ COD ☐ Other:
Purchase Order Required? YES NO Accounts to be emailed YES ☐ NO

Accounts Email:	
Accounts Contact:	Phone No:
Bank and Branch:	Account No:

Trade References: (please provide companies that are willing to do trade references)

Name	Location	Phone/Email
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I certify that the above information is true and correct and that I accept the supply of credit by by Myst Enterprise Limited (MEL). I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Myst Enterprise Limited which form part of, and are intended to be read in conjunction with this Credit Application Form and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein

SIGNED (CUSTOMER):

Name:	
Position:	
Date:	

SIGNED (MEL):

Name:	
Position:	
Date:	

Definitions

1.1 **Contract:** terms and conditions contained herein, together with any Price, order, invoice or relevant document expressed to be supplemental from time to time to this Contract.

1.2 **MEL** means Myst Enterprise Limited (or otherwise referred to as the "Vendor"), its successors or assigns or any person acting on behalf of and with the authority of Myst Enterprise Limited.

1.3 **Customer** means the person/s, entities or any person alone signed, acting on behalf of and with the authority of the Customer requesting MEL to provide the Goods as specified in any proposal, prices, order, invoice or other documentation; and

(a) includes the Customer's executors, administrators, successors and permitted assigns;

1.4 **"Goods"** means all Goods, or Services, supplied by MEL to the Customer supplied by MEL 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 **"Price"** means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Goods as agreed between MEL 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 any 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 By 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 that the supply of Goods on credit shall not take effect until the Customer has completed a Customer Information form with MEL and it has been approved with a credit limit established for the account, if required.

2.5 In the event that the supply of Goods requested exceeds the Customer's credit limit and/or the account exceeds the payment terms, MEL reserves the right to refuse acceptance for new orders or refuse delivery of the Goods.

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

2.7 Where MEL gives any advice, recommendation, information, assistance or service provided by MEL in relation to Goods supplied in good faith and is based on MEL's own knowledge and experience shall be accepted without liability on the part of MEL.

2.8 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, MEL reserves the right to substitute comparable Goods (or components of the Goods) and vary the Price as per clause 6.2. In all such cases MEL will notify the Customer in advance of any such substitution, and also reserves the right to place the Customer's order and/or Services on hold, as per clause 7 until such time as MEL and the Customer agree to such changes.

3. Errors and Omissions

3.1 The Customer acknowledges and accepts that MEL 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 MEL in the formation and/or administration of this Contract; and/or

(b) contained or omitted from any literature (hard copy and/or electronic) supplied by MEL in respect of the Goods.

3.2 In the event such an error and/or omission occurs in accordance with clause 3.1 and is not attributable to the negligence and/or willful misconduct of MEL the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.

3.3 Clerical errors or omissions, whether in computation or otherwise in the quotation, acknowledgement or invoice shall be subject to correction.

4. Authorized Representatives

4.1 The Customer acknowledges that MEL shall (for the duration of the Goods) liaise directly with one (1) authorized representative, and that once introduced as such to MEL, that person shall have the full authority of the Customer to order any Goods, and/or to request any variation thereto on the Customer's behalf. The Customer accepts that they will be solely liable to MEL for all additional costs incurred by MEL (including MEL's profit margin) in providing any Goods, or variations / requested thereby by the Customer's duly authorized representative.

4.2 The Customer specifically acknowledges and accepts that they will be solely liable to MEL for all additional costs incurred by MEL (including MEL's profit margin) in providing any Goods, or variations requested by the Customer's duly authorized representative.

5. Change in Contract

5.1 The Customer shall give MEL 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 details (including but not limited to, changes in the Customer's name, address, contact details, change of directors, change of trustees, or business practice). The Customer shall be liable for any loss incurred by MEL as a result of the Customer's failure to comply with this clause.

6. Price and Payment

6.1 As MEL's sole discretion the Price shall be either:

(a) indicated on invoices provided by MEL to the Customer in respect of Goods performed or Goods supplied; or

(b) MEL's quoted Price (subject to clause 6.2) which shall be binding upon MEL provided that the Customer shall accept MEL's Price in writing within one week (7) days unless specifically revised otherwise, within the quotation.

6.2 MEL reserves the right to change the Price:

(a) if a variation to the Goods which are to be supplied is requested; or

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

(c) in the event of increases to MEL in the cost of labour or materials (including but, not limited to any variation as a result of fluctuations in currency exchange rates or increases to MEL in the cost of taxes, levies, freight or insurance charges, or delays in shipment, force majeure, wholesale supply rates etc) which are beyond MEL's control.

6.3 Time for payment for the Goods being of the essence, the Price to be payable by the Customer on the date/s determined by MEL which may be:

(a) the date specified on any invoice or other form as being the date of payment; or

(b) for certain approved accounts, due monthly upon receipt of good upon which an invoice is sent to the Customer's address.

6.4 Payment may be made by electronic/on-line banking at a designated bank account number provided by MEL (a surcharge or transaction may apply).

6.5 MEL may in its discretion allocate any payment received from the Customer towards any invoice that MEL determines and may do so at the time of receipt or at any time afterwards. On any default by the Customer MEL may re-allocate any payments previously received and allocated. In the absence of any payment allocation by MEL, payment will be deemed to be allocated in such manner as preserves the maximum value of MEL's Purchase Money Security Interest (as defined in the PPSA) in the Goods.

6.6 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 MEL nor to withhold payment of any invoice because part of that invoice is in dispute.

6.7 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to MEL an amount equal to any GST. MEL must pay for any supply by MEL under this or any other agreement for the sale of the Goods. 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 the Goods

7.1 As MEL's sole discretion, delivery of the Goods shall take place when the Goods are supplied to the Customer at the Customer's nominated address, even if the Customer is not present at the address or when the Customer or the Customer's nominated carrier takes possession of the Goods at MEL's address.

7.2 As MEL's sole discretion the cost of delivery is billed separately against the cost price of the Goods.

7.3 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this Contract. If extra freight is rendered, a separate bill will be charged to the customer.

7.4 MEL may deliver the Goods by separate instalments.

7.5 Any supply specified by MEL for delivery of the Goods is an estimate only and MEL will not be liable for any loss or damage incurred by the Customer as a result of delivery being delayed for any reason. However, both parties agree that they shall make every endeavour to enable the Goods to be supplied at the time and place as was arranged between both parties. In the event that MEL is unable to supply the Goods as agreed solely due to any action or inaction of the Customer, then MEL shall be entitled to charge a reasonable fee for re-supplying the Goods at a later time and date, and/or for storage of the Goods.

8. Dimensions, Plans and Specifications

8.1 MEL shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Customer. The Customer acknowledges and agrees that in the event that any of this information provided by the Customer is inaccurate, MEL accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.

8.2 Where the Customer is to supply MEL with any design specifications the Customer shall be responsible for providing accurate data. MEL shall not be liable whatsoever for any errors in the Goods that are caused by incorrect or inaccurate data being supplied by the Customer.

8.3 In the event the Customer gives information relating to measurements and quantities of Goods required in completing the Goods, it is the Customer's responsibility to verify the accuracy of the measurements and quantities, before the Customer or MEL places an order based on these measurements and quantities. MEL accepts no responsibility for any loss, damages, or costs however resulting from the Customer's failure to comply with this clause.

9. Risk

9.1 If MEL retains ownership of the Goods under clause 9.3 then where MEL is supplying Goods only, all risk for the Goods shall immediately pass to the Customer on delivery and the Customer must insure the Goods or, before delivery, delivery of the Goods shall be deemed to have taken place immediately at the time that the Goods are delivered by MEL or MEL's nominated carrier to the Customer's nominated delivery address (even if the Customer is not present at the address).

9.2 Notwithstanding the provisions of clause 9.1 if the Customer specifically requests MEL to leave Goods outside MEL's premises for collection or to deliver the Goods to an unattended location then such Goods shall always be left at sole risk of the Customer and it shall be the Customer's responsibility to ensure the Goods are insured adequately or at all. In the event that such Goods are lost, damaged or destroyed then replacement of the Goods shall be at the Customer's expense.

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

9.4 The Customer acknowledges that Goods supplied may exhibit variations in texture, shade, tone, colour, surface, finish and may fade or change colour over time. Whilst MEL will make every effort to match batches of product supplied to minimise such variations, MEL will not be held liable in any way whatsoever, should such variations occur.

9.5 The Customer acknowledges that all descriptive specifications, illustrations, dimensions and weights stated in MEL's or the manufacturers' test 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 does not constitute a sale by description and does not form part of the contract, unless expressly stated as such in writing by MEL.

9.6 Where MEL has effected delivery, all risk passes to the Customer as per clause 9.1 and the Customer claims the Goods have been stolen, it shall be the Customer's responsibility to contact the police, and shall not excuse the Customer from fulfilling their financial obligations under this Contract.

10. On-line Presence

10.1 The Customer acknowledges and agrees that MEL has dynamic Web pages:

(a) which does not guarantee the website's performance; and

(b) display on the website does not guarantee the availability of any particular Goods; therefore, all item selection through the website shall be subject to confirmation of acceptance by MEL; and

10.2 MEL reserves the right to terminate the Customer's order if it learns that you have provided false or misleading information, interfered with other users or the administration of MEL's business, or violated these terms and conditions.

11. Insurance and Liability

11.1 In the event of any breach of this contract by MEL, the remedies of the Customer shall be limited to damages. Under no circumstance shall the liability of MEL exceed the cost of Goods supplied.

11.2 While MEL provides the Goods in good faith and to the best of its ability, MEL is not liable for any costs, damages or loss suffered by the Customer as a result of omissions or inaccuracies in the information provided. The Customer accepts MEL's Services on the basis that to the maximum extent permitted by law, any liability of MEL for the Services provided under the contract is hereby excluded. This is regardless of whether such liability arises in contract, tort (including negligence), consequential loss, equity, breach of statutory duty or otherwise.

12. Compliance With Laws

12.1 The Customer and MEL shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Customer including any relating to Workplace health and safety laws or any other relevant safety standards or legislation pertaining to the Goods.

13. Title

13.1 MEL and the Customer agree that ownership of the Goods shall not pass until:

(a) the Customer has paid MEL all amounts owing to MEL; and

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

13.2 Receipt by MEL 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.

13.3 It is further agreed that:

- until ownership of the Goods passes to the Customer in accordance with clause 13.1 that the Customer is only a bailee of the Goods and unless the Goods have become future items must return the Goods to MEL on request; and
- the Customer holds the benefit of the Customer's insurance of the Goods on trust for MEL and must pay to MEL the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed; and
- the production of these terms and conditions by MEL shall be sufficient evidence of MEL's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with MEL to make further enquiries; and
- the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, dispose or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for MEL and must pay or deliver the proceeds to MEL on demand; and
- 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 MEL and must sell, dispose of or return the resulting product to MEL as it is a direct;
- unless the Goods have become fixtures the Customer irrevocably agrees MEL to enter any premises where MEL believes the Goods are kept and recover possession of the Goods; and
- and MEL may recover possession of any Goods in transit whether or not delivery has occurred; and
- the Customer shall not charge or grant an encumbrance over the Goods nor grant or otherwise give away any interest in the Goods while they remain the property of MEL; and
- MEL may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

14. Security and Charge

14.1 In consideration of MEL agreeing to supply the Goods, the Customer 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 Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

14.2 The Customer irrevocably MEL from and against all MEL's costs and disbursements including legal costs on a solicitor and own Customer basis incurred in exercising MEL's rights under this clause.

14.3 The Customer irrevocably appoints MEL and each director of MEL as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 15 including, but not limited to, signing any document on the Customer's behalf.

15. Defects

15.1 The Customer shall inspect the Goods on delivery and shall within seven (7) days of delivery (time being of the essence) notify MEL of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford MEL 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 MEL has agreed in writing that the Customer is entitled to reject, MEL's liability is limited to either (at MEL's discretion) replacing the Goods or repairing the Goods.

15.2 Goods will not be accepted for return other than in accordance with 15.1 above, and provided that:

(a) MEL have agreed in writing to accept the return of the Goods; and

(b) the Goods are returned at the Customer's cost within fourteen (14) days of the delivery date; and

(c) MEL will not be liable for Goods which have not been stored or used in a proper manner.

16. Returns

16.1 MEL has no obligation to accept the return of Goods for credit and specifically manufactured Goods will absolutely not be returned for credit whatsoever unless meeting criteria contained in clause 16.1.

16.2 MEL may (at its sole discretion) accept the return of Goods for credit but this may incur a handling fee of thirty percent (30%) of the returned Goods plus any freight charges.

16.3 If the Goods show signs of use, in the opinion of MEL, those Goods will not be eligible for return whatsoever.

17. Warranties

17.1 For Goods not manufactured by MEL, the warranty shall be the current warranty provided by the manufacturer of the Goods. MEL 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.

18. Consumer Guarantees Act 1993

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

19. Intellectual Property

19.1 Where MEL has designed, drawn, written plans or a schedule of Goods, or created any products for the Customer, then the copyright in all such designs, drawings, documents, plans, schedules and products shall remain vested in MEL and shall only be used by the Customer at MEL's discretion. Under no circumstances may such designs, drawings and documents be used without the express written approval of MEL.

19.2 The Customer warrants all designs, specifications or instructions given to MEL will not cause MEL to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify MEL against any action taken by a third party against MEL in respect of any such infringement.

19.3 The Customer agrees that MEL may use for the purposes of referencing, marketing or entry into any competition, any documents, drawings, plans or products which MEL has created for the Customer, after Customer permission.

20. Overdue Payments

20.1 The Customer shall inform MEL in case of late payment and seek consent if agreed upon or become liable to Penalty.

20.2 Penalty 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 MEL's sole discretion such penalty shall compound monthly at such a rate) after as well as before any judgment.

20.3 If the Customer owes MEL any money the Customer shall indemnify MEL from and against all costs and disbursements incurred by MEL in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own Customer basis, MEL's collection agency costs, and bank dishonour fees).

20.4 Further to any other rights or remedies MEL may have under this Contract, if a Customer has made payment to MEL, 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 MEL under this clause 21, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.

20.5 Without prejudice to MEL's other remedies at law MEL shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to MEL shall, whether or not due for payment, become immediately payable if:

(a) any money payable to MEL becomes overdue, or in MEL's opinion the Customer will be unable to make a payment when it falls due; or

(b) the Customer has exceeded any applicable credit limit provided by MEL; or

(c) the Customer becomes insolvent or bankrupt, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

21. Cancellation

21.1 Without prejudice to any other rights or remedies MEL may have, if at any time the Customer is in breach of any obligation (including those relating to payment and/or failure to remedy any breach in respect of this Contract within (10) working days of receipt by the Customer of such notice) then MEL may suspend the Goods immediately. MEL will not be liable to the Customer for any loss or damage the Customer suffers because MEL has exercised its rights under this clause.

21.2 MEL may end any contract with notice these terms and conditions apply or cancel delivery of Goods at any time before the Goods are commenced by giving written notice to the Customer. On giving such notice MEL shall repay to the Customer any sums paid in respect of the Price, less any amounts owing by the Customer to MEL for Goods already performed. MEL shall not be liable for any loss or damage whatsoever arising from such cancellation.

21.3 In the event that the Customer cancels the delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by MEL as a direct result of the cancellation (including, but not limited to any loss of profits).

21.4 Cancellation of orders for products made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

22. Privacy Policy

22.1 All emails, documents, images or other recorded information including Personally Identifiable Information (PI) as defined and referred to in clause 22.4 held or used by MEL is considered confidential. MEL acknowledges its obligation in relation to the handling, use, disclosure and processing of PI pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines and as set out in a Schedule 6 of the Act and any statutory requirements where relevant in a European Economic Area ("EEA") then the EU Data Privacy Laws (including the General Data Protection Regulation ("GDPR") collectively, "EU Data Privacy Law"). MEL acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customer's PI, held by MEL that may result in serious harm to the Customer, MEL will notify the Customer in accordance with the Act and/or the GDPR. Any release of such PI 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.

22.2 The Customer authorises MEL or MEL'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 (e.g. email, Facebook or Twitter details), or next of kin and other contact information (where applicable), previous credit applications, credit history or any overseas fees, 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 MEL from the Customer directly or obtained by MEL 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.

22.3 Where the Customer is an individual the authorities under clause 23.2 are authorities or consents for the purposes of the Privacy Act 2020.

22.4 The Customer shall have the right to request MEL for a copy of the PI about the Customer retained by MEL and the right to request MEL to correct any incorrect PI about the Customer held by MEL.

23. Service of Notices

23.1 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; or

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

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

(d) if sent by email to the other party's last known email address.

23.2 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.

24. Trusts

24.1 If the Customer at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any Trust ("Trust") then whether or not MEL may have notice of the Trust, the Customer consents with MEL as follows:

(a) the Contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust or the trust fund; and

(b) the Customer 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 Customer against the Trust or the trust fund. The Customer will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice the right of indemnity; and

(c) the Customer will not without consent in writing of MEL (MEL will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:

(i) the removal, replacement or retirement of the Customer as trustee of the Trust; or

(ii) any alteration to or variation of the terms of the Trust; or

(iii) any advancement or distribution of capital of the Trust; or

(iv) any realisation of the trust property.

25. General

25.1 Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising hereunder, shall be submitted to, and settled by, either adjudication in accordance with the Construction Contracts Act 2002 and/or by arbitration in accordance with the Arbitration Act 1996 or its replacement(s).

25.2 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.

25.3 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Christchurch courts of New Zealand.

25.4 MEL shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profits) suffered by the Customer arising out of a breach by MEL of these terms and conditions (alternatively

MEL's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

25.5 MEL may license and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.

25.6 The Customer cannot license or assign without the written approval of MEL.

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

25.8 The Customer agrees that MEL 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 MEL to provide Goods to the Customer.

25.9 Neither party shall be liable for any default due to any act of God, war, terrorism, pandemic, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

25.10 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 intoxicated and that this Contract creates binding and valid legal obligations on them.

I acknowledge that I have read, understood, and agreed to be bound by these Ts & Cs

Name

Sign

Date

Please return the signed form back to info@mystenterprise.com