



Authorised Purchaser Agreement.

Terms and Conditions
(NEW ZEALAND)

1 March 2015

FURTHER TERMS AND CONDITIONS OF AUTHORISED PURCHASER AGREEMENT

THESE TERMS AND CONDITIONS FORM PART OF THE AUTHORISED PURCHASER AGREEMENT ("**AGREEMENT**") BETWEEN CAPRICORN SOCIETY LIMITED ACN 008 347 313 ("**CAPRICORN**"), THE APPLICANT AND THE COVENANTOR (IF ANY).

Interpretation

1. In this Agreement, unless the context requires otherwise:

1.1. the term "Applicant" includes all applicants to this Agreement and the term "Covenantor" includes all covenantors to this Agreement;

1.2. the singular includes the plural and vice versa;

1.3. an obligation, representation or warranty on the part of 2 or more persons binds them jointly and severally;

1.4. any reference to a person or party includes that person's or party's servants, employees, executors, administrators, personal representatives, insurers, successors and assigns (and, where applicable, the party's legal personal representative);

1.5. a reference to this Agreement is a reference to this Agreement as amended, extended, changed, varied or supplemented from time to time; and

1.6. a reference to any statute or statutory provision: (i) is a reference to the statute or statutory provision as amended, modified, re-enacted or replaced from time to time; and (ii) includes all regulations; other statutory instruments made under it.

Application

2. If Capricorn accepts the Applicant's application to trade as an authorised purchaser, the Applicant will be issued with a number ("Authorised Purchaser's Number"), which will enable it to order goods and/or services from a range of Capricorn's preferred suppliers. Capricorn may accept or reject the Applicant's application at Capricorn's sole and absolute discretion. Any Applicant with an existing Authorised Purchaser's Number will retain that number for the purposes of these terms and conditions.

3. The Applicant acknowledges that the Applicant's Authorised Purchaser's Number may be used to order goods and services from a wide range of suppliers, with which Capricorn has entered into agreements (as principal) to pay for goods and/or services which are ordered using an Authorised Purchaser's Number. The Applicant agrees that before making any purchase using an Authorised Purchaser's Number the Applicant shall inform Capricorn of any facts, including the Applicant's capacity to pay such charges, which might reasonably affect Capricorn's decision to extend credit to the Applicant and which are known or ought to be known by the Applicant, and any failure to do so will constitute a material breach of this Agreement giving rise to a right for Capricorn to terminate this Agreement forthwith (without limiting any other remedies

or causes of action that may arise at law).

4. The grant of any credit facility or nomination of any credit limit by Capricorn is at Capricorn's absolute and unfettered discretion. Notwithstanding any other clause herein, Capricorn may vary and/or withdraw any credit facility at any time without notice in its absolute and unfettered discretion excluding any implied term of good faith and without any liability to the Applicant or any other person.

Ordering and Payment

5. Capricorn will issue the Applicant a statement on a monthly basis through written and/or electronic means ("Account Statement"). The Account Statement will record purchases made using the Applicant's Authorised Purchaser's Number during the preceding month and may also include purchases from previous months not recorded on an earlier Account Statement. The Applicant is deemed to have received the Account Statement by the 14th day of each month if the Applicant has not communicated otherwise to Capricorn by this time.

6. In consideration of Capricorn accepting the Applicant's application or continuing to allow the Applicant to be and trade as an Authorised Purchaser of Capricorn, the Applicant hereby agrees and undertakes to pay all amounts specified in each Account Statement issued by Capricorn by the last business day of the calendar month in which that Account Statement is issued to the Applicant.

7. The Applicant acknowledges and agrees that in the event of it failing

to pay an Account Statement by the due date for payment Capricorn shall be entitled to immediately raise against the Account Statement an interest charge equal to 7% of the unpaid balance of the Account Statement ("the Interest Charge"). The Interest Charge shall be payable on the Account Statement rendered by Capricorn the following month. The Applicant and the Covenantor acknowledge and agree that the Interest Charge is a genuine pre-estimate of Capricorn's loss arising from late payment of the Applicant's Account Statement.

8. In consideration of the Applicant agreeing to pay the Interest Charge (which defined term is repeated herein), Capricorn also agrees to grant the Applicant a further 14 days in which to pay the Applicant's overdue Account Statement (the "Extension Period"). Capricorn reserves the right during the Extension Period to vary or withdraw the Applicant's credit facility in accordance with clause 4.

9. The Applicant acknowledges that should it fail to pay any Account Statement issued to it in accordance with this Agreement and Capricorn elects to commence recovery proceedings against the Applicant, then Capricorn shall be entitled to recover payment for all amounts due by the Applicant to Capricorn together with payment for any subsequent goods or services ordered by the Applicant from the date of issue of Capricorn's last Account Statement addressed to the Applicant, up to and including the date upon which recovery proceedings are commenced by Capricorn.

10. The Applicant acknowledges

and agrees that it is the Applicant's responsibility (and not Capricorn's) to ensure that the Authorised Purchaser's Number is not used by unauthorised persons to obtain goods or services, and the Applicant will be liable to pay to Capricorn all amounts shown on the Applicant's Account Statement, even if amounts that have been charged to the Applicant are for:

10.1. goods or services that were not ordered by the Applicant or were ordered but never received by the Applicant (unless Clause 11 applies); or

10.2. goods or services that were ordered or obtained as a result of the unauthorised use of the Applicant's Authorised Purchaser's Number or any other number code or identifier issued by Capricorn whether or not the Applicant received such goods or services (unless Clause 11 applies).

11. If the Applicant's Account Statement contains a claim for goods or services which were not delivered or received by the Applicant, the Applicant must notify Capricorn in accordance with clause 11 within 14 days of the date of issue of the Account Statement, in which case Capricorn may in its absolute and unfettered discretion, excluding any implied term of good faith, release the Applicant from any obligation to pay Capricorn in respect of those goods or services. No such release will be provided by Capricorn where the Applicant assisted, facilitated or was aware that goods and services were being ordered by a person other than the Applicant.

12. The Applicant acknowledges and agrees that if the Applicant does not notify Capricorn within 14 days of the date of issue of the Account Statement, all goods and services to which the invoices referred to on the Applicant's Account Statement relate shall be deemed to have been received by the Applicant, and the Applicant will be liable to pay Capricorn for the same, whether or not those goods or services were in fact received by the Applicant.

Security for Payment

13. The Applicant and the Covenantor agree, for the purposes of securing the obligations and liabilities arising from this Agreement or their obligations and liabilities on any other basis whatsoever to Capricorn, to hereby charge and mortgage all their legal and equitable interests of whatever nature held in any real property both present and future. Furthermore, each of the Applicant and Covenantor hereby consent to Capricorn lodging a caveat (or equivalent thereof) or caveats noting Capricorn's proprietary interest arising from this Agreement. The Applicant and Covenantor agree to execute any documents or do all such things as may be required by Capricorn to effect such security upon demand by Capricorn. For the purposes of giving effect to the Applicant's obligation under this clause and any other obligation under this Agreement, the Applicant hereby irrevocably appoints Capricorn's Credit Manager or successor(s) or equivalent thereto as the Applicant's attorney.

Warranties

14. The Applicant warrants that, as at the date of execution of this Agreement and at all times while this

Agreement remains in force:

14.1. all information provided to Capricorn as part of the Applicant's application to become an Authorised Purchaser is correct and accurate;

14.2. it shall use its Authorised Purchaser's Number wholly or predominantly for the purpose of purchasing goods for the purposes of its business rather than for domestic, personal or household use;

14.3. it is solvent and able to pay all of its debts as and when they fall due.

15. If, as at the date of execution of this Agreement or at any time afterwards while this Agreement remains in force, the Applicant is a trustee of any trust (the "Trust"), the Applicant warrants that:

15.1. it has full power and authority to execute, or continue with its obligations under, this Agreement on behalf of the Trust as they are doing so in its individual capacity and in its several capacity as trustee;

15.2. it shall be bound by terms and conditions of this Agreement in its individual capacity, or further or alternatively, in its several capacity as trustee; and

15.3. the assets of the Trust shall be available to meet payment of its obligations to Capricorn,

and the Applicant further agrees to produce a copy of the Trust deed certified true and correct (with all amendments) if and when requested by Capricorn.

Liability

16. To the fullest extent permitted by law Capricorn and any of its officers, employees or agents shall not be liable for any kind of loss, claim or damages including but not limited to for personal injury, any damage to property, any loss of profits and/or any contingent, consequential, direct, indirect, special or punitive damages, whether due to negligence or otherwise and whether foreseeable or otherwise, and the Applicant and Covenantor acknowledge this limit of liability and agree to limit any claim accordingly. The Applicant acknowledges and agrees that it is acquiring goods and/or services under this Agreement for the purposes of a business and accordingly the provisions of the Consumer Guarantees Act 1993 will not apply to such supply.

17. Capricorn excludes from this Agreement all conditions, warranties and terms implied by statute, general law, international convention or custom, except any implied condition or warranty the exclusion of which would contravene any statute or cause this clause to be void ("Non-excludable Condition").

18. Capricorn's liability to the Applicant for breach of any Non-excludable Condition shall be limited, at Capricorn's option, to any one of re-providing the relevant services to the Applicant or refunding any amount paid by the Applicant to Capricorn in respect of such services.

Default and Termination

19. Without limiting the operation of any other clause of this Agreement, the Applicant is in default under this Agreement if:

19.1. the Applicant does not pay on time any amount payable under this Agreement;

19.2. the Applicant breaches any warranty, representation or covenant provided or made by the Applicant under this Agreement; or

19.3. the Applicant does not comply with any other term or condition of this Agreement.

20. If the Applicant is in default, then Capricorn may, without notice to the Applicant:

20.1. deem that all amounts owing by the Applicant under this Agreement are immediately due and payable;

20.2. institute legal proceedings for recovery of the moneys owed by the Applicant to Capricorn on any basis whatsoever; or

20.3. terminate this Agreement with immediate effect

or do any or all such things in any order.

21. The Applicant agrees Capricorn may institute recovery proceedings without notice to the Applicant for the full balance outstanding on any basis whatsoever as at the date of commencement of recovery proceedings and the Applicant agrees to pay on demand such amount together with, in addition to the Interest Charge, interest accrued at the rate of 15% per annum calculated daily on the amount outstanding from the date of commencement of such recovery proceedings to Capricorn on any basis whatsoever for each and every day during which

the Applicant's account remains unpaid or any other amount owed by the Applicant to Capricorn is unpaid together with any legal or other debt collection expenses incurred by Capricorn on a full indemnity basis in instituting recovery proceedings or taking any other action to recover amounts not paid by the Applicant.

22. The Applicant acknowledges and agrees that in any proceedings commenced by Capricorn to recover amounts due by the Applicant under this Agreement or otherwise, a certificate which purports to be signed by an authorised officer of Capricorn stating the amount of the Applicant's indebtedness shall be prima facie evidence of the matters set out in the certificate.

23. Capricorn may terminate this Agreement if it is entitled in accordance with Capricorn's Constitution or pursuant to the terms of or procedure established by any resolution passed at a meeting of Capricorn's shareholders, to purchase or obtain the Applicant's shares in Capricorn. For so long as the Applicant holds shares in Capricorn, the Applicant agrees to be bound by and fully comply with Capricorn's Constitution (as amended or replaced from time to time).

24. Termination of this Agreement shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to any party and all provisions which are to survive this Agreement or impliedly do so shall remain in force and in effect.

25. Clauses 13, 16 to 26, 28 to 30 survive termination of this Agreement.

General

26. This Agreement is governed by and will be construed in accordance with the laws of New Zealand, irrespective of where this application has been completed by the Applicant, signed by the Covenantor and submitted to Capricorn. In any action or other legal process with respect to any matter or thing in connection with this Agreement the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of New Zealand.
27. None of the rights or obligations of the Applicant nor the Covenantor under this Agreement may be assigned, encumbered or transferred without the prior written consent of Capricorn.
28. This Agreement represents the entire agreement between the Applicant, Covenantor and Capricorn, and supersedes and replaces any previous contracts, agreements, understanding or arrangement concerning its subject matter.
29. Each provision of this Agreement is severable and any invalid or unenforceable provision shall be severed from and shall not affect the validity of the remainder of this Agreement.
30. The failure of a party to exercise or delay in exercising a right, power or remedy under this Agreement does not prevent its exercise. A provision or right under this Agreement may not be waived except by a waiver in writing signed by the party granting the waiver, and will be effective only to the extent specifically set out in the waiver.
31. Nothing in this Agreement is to be construed adversely against one party on the basis that that party was responsible for the drafting of this Agreement.
32. The parties to this Agreement must do all things reasonable and necessary or desirable to implement and give full effect to the provisions of this Agreement.
33. Capricorn reserves the right to make any changes (whether material or otherwise) to the terms and conditions of this Agreement. Subject to the operation of clause 4, the terms of which provision do not require notice to be given, Capricorn will advise the Applicant of material changes to the terms and conditions of this Agreement by 30 days written notice.
34. The Covenantor agrees that it shall be deemed to have notice of any change to the terms and conditions of this Agreement upon such change being notified by Capricorn to the Applicant and whether or not the Covenantor has actual notice thereof. The Covenantor shall be bound by any terms and conditions of this Agreement which may be adopted by Capricorn and to the Applicant is so bound and notwithstanding any other purported or pre-existing terms and conditions or law which might otherwise have applied.
35. Where this Agreement requires or contemplates that Capricorn shall provide notice to the Applicant, the Applicant will be taken to have received the notice referred to if Capricorn sends such notice (in person, by courier or by mail) to the address of the Applicant used for receipt of Account Statements under this Agreement.



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(NEW ZEALAND) MARCH 2015 REVISION

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