

## **TERMS AND CONDITIONS OF SALE**

### **Vector HRV Pty Ltd (ABN 15 627 823 581)**

These conditions govern every contract for the sale of goods by Vector HRV to the Client, constitute all the Terms and Conditions agreed between them to the exclusion of all other Terms and Conditions. No modification to these Conditions shall bind Vector HRV, unless agreed to in writing.

#### **1 DEFINITIONS**

- 1.1 "Business day" means any day except Saturday or Sunday or a day that is a public or bank holiday in the state of New South Wales.
- 1.2 "Client" shall mean the purchaser of goods from Vector HRV.
- 1.3 "Contract of Sale" shall mean the binding contract between Vector HRV and the Client for the supply and payment of Goods as specified in the Quotation and/or contract.
- 1.4 "Deposit" means an amount payable by the Client to Vector HRV immediately upon acceptance of the Quotation and formation of the contract.
- 1.5 "Goods" shall include goods, products, materials and services supplied by Vector HRV.
- 1.6 "Vector HRV" shall mean Vector HRV Pty Ltd, its successors and assigns.
- 1.7 "Supply" means the supply of goods under these Terms and Conditions of Sale.
- 1.8 "Terms" means these terms and conditions of sale.
- 1.9 "Quotation" means the written quotation provided to the Client which specifies the goods. This may also include any design associated with the goods.

#### **2 QUOTATIONS AND PRICES**

- 2.1 Any quotation given by Vector HRV is a mere invitation to treat and does not constitute a contractual offer. All quotations hold for 30 (thirty) days after issue, however Vector HRV may withdraw a quotation at any time.
- 2.2 Prices included in the quotation are based on the specification, drawings and/or requests by the Client. Should the specification or Client's request change, Vector HRV reserves the right to withdraw, revoke or vary a written quotation prior to acceptance by the Client.
- 2.3 All written quotations override Vector HRV's prevailing price list, if any.
- 2.4 Where the period between acceptance of the quotation and delivery of the goods, Vector HRV incurs an increase in the cost of producing and/or delivering the goods, Vector HRV may increase the quoted price of those goods at any time prior to delivery.
- 2.5 Unless otherwise agreed in writing the price of goods ordered by the Client is the price applying at the time of dispatch. Any price indications or price lists are subject to change at any time.
- 2.6 All quoted prices are exclusive of GST unless otherwise stated.
- 2.7 Quotations do not include shipping, unless expressly stated.

#### **3 ACCEPTANCE AND AGREEMENT**

- 3.1 A written instruction received from Vector HRV from the Client, in the form of a signed Contract of Sale, an email stating acceptance, or verbal acceptance for the supply of Goods shall constitute acceptance of the Terms.
- 3.2 The Agreement herein constitutes the entire agreement between Vector HRV, and the Client and all prior negotiations, proposals and correspondence are superseded by this agreement.
- 3.3 These Terms shall be deemed to be incorporated into any agreement between Vector HRV and the Client. Any Terms contained in any order, offer, acceptance or other document of the Client and all representations, statements, Terms, and warranties (whether implied by statute or otherwise) not embodied herein are expressly excluded to the full extent permitted by law.
- 3.4 The Client acknowledges that no employee, agent, or reseller of Vector HRV has the right to make any representation, warranty or promise in relation to the Goods or the sale of Goods other than as contained in these Terms.

#### **4 PAYMENT**

- 4.1 Unless otherwise agreed in writing, payment terms are net 14 days from when the goods are invoiced to the Client.
- 4.2 In addition to the provisions of Clause 2, Vector HRV may increase the price of goods and/or services where it incurs an increase in its costs of supplying the goods.
- 4.3 Vector HRV may apply any monies paid to it by the Client in such a manner and at such times as Vector HRV, in its absolute discretion, determines.
- 4.4 Without prejudice to any other remedy, Vector HRV reserves the right to charge a default charge on any overdue payments at an annual rate equal to the Commonwealth Bank's current overdraft rate at the time the payment fell due.
- 4.5 Unless otherwise provided in writing, the Client shall not be entitled to retain any part of the purchase price by way of retention monies to guarantee satisfactory operation of the equipment supplied.
- 4.6 Where a purchase is cancelled by the Client, any money held by Vector HRV is non-refundable.
- 4.7 This term as to the payment shall be of the essence of this agreement.

#### **5 ABILITY TO SUPPLY**

- 5.1 Vector HRV may, in its absolute discretion, accept or reject any order whether on account of the Goods being no longer available or for any other reason whatsoever.
- 5.2 Reasonable efforts will be made to fulfil accepted orders placed with Vector HRV, but if Vector HRV's ability to do so is affected (directly or indirectly and whether by circumstances already existing or otherwise) by strikes, lockouts, Acts of God, or by any other cause whatsoever beyond the reasonable control of Vector HRV, it shall have the right:
  - 5.2.1 to elect to extend the day for fulfilment of the order or compliance with any delivery dates;
  - 5.2.2 to alter the specifications for the goods to allow the substitution of equivalent goods; or
  - 5.2.3 terminate the order without liability for breach of Contract.

5.3 In any event, Vector HRV will be entitled to full payment for all goods which have been delivered. Vector HRV will not be liable for any loss, including consequential loss and loss of profits arising from any delay in performance of the Contract or the early termination of any order.

## **6 DELIVERY**

- 6.1 The times quoted for delivery are estimates only. Vector HRV accepts no liability for failure or delay in delivery of Goods. The Client is not relieved of any obligation to accept or pay for Goods by reason of any delay in delivery. Goods may be delivered by installments at the discretion of Vector HRV.
- 6.2 Any claims to be made against Vector HRV for short delivery of Goods must be lodged with Vector HRV in writing within 7 (seven) days of the delivery date.
- 6.3 Risk in the Goods passes on delivery to the Client.
- 6.4 Unreasonable delays caused by the Client or their Builder, unsuitable access for unloading, or weather conditions, will entitle Vector HRV to charge for any extra costs that may be incurred.
- 6.5 Vector HRV is indemnified against any claim for damages resulting from the entry or exit of delivery vehicles onto the delivery site,
- 6.6 Cancellation or partial cancellation of orders will only be accepted before delivery on the basis that the Client pays for all costs incurred in procuring the goods at the date of cancellation.
- 6.7 The Client agrees to accept delivery of the goods or to make alternative delivery arrangements within 7 days of Vector HRV notifying the Client that the goods are available for delivery.
- 6.8 To the extent permitted by law, Vector HRV reserves the right to charge the Client holding fees at the daily rate set down by Vector HRV's third party logistics operator, if the client fails to accept or make alternative arrangements for delivery once they are advised the goods are available.
- 6.9 If Vector HRV quote the price as "ex factory" the Client shall take delivery of the goods at the premises of Vector HRV, or wherever the goods are held.
- 6.10 The Client bears the sole responsibility for and the risk of unloading the goods.
- 6.11 Vector HRV, its officers, employees and agents shall not be liable to the Client or any other party for any loss or damage including direct or indirect or consequential injury loss or damage whatsoever by reason of any delay in delivery or non-delivery whether the same is due to the negligence of Vector HRV or any other party, actions constituting fundamental breach of contract, strike or any other industrial action, or any other cause whatsoever.

## **7 TITLE**

- 7.1 Vector HRV and the Client agree that title to the Goods shall not pass until:
  - 7.1.1 the Client has paid Vector HRV all amounts owing for the Goods as set out in the Contract; and
  - 7.1.2 the Client has met all other obligations due by the Client to Vector HRV in respect of all contracts between Vector HRV and the Client.
- 7.2 Receipt by Vector HRV of any other form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised. Until this time, Vector HRV's ownership or rights in respect of the Goods shall continue.
- 7.3 The Client acknowledges that it receives possession of and holds goods delivered by Vector HRV solely as the bailee for Vector HRV until such time as the full price thereof is paid to Vector HRV together with the full price of any other goods then the subject of any other agreement with Vector HRV and that a fiduciary relationship exists between Vector HRV and the Client.
- 7.4 Until such time as the Client becomes the owner of the goods, it will:
  - 7.4.1 Store them on the premises separately;
  - 7.4.2 Ensure that the Goods are kept in good and serviceable condition;
  - 7.4.3 Secure the Goods from risk, damage and theft, and;
  - 7.4.4 Keep the Goods fully insured against such risks that are the usual or common to insure against in a business of a similar nature to that of the Client.
  - 7.4.5 If the Goods are processed or commingled with or accession to other goods by the Client, the Client shall record and make available to Vector HRV on request the date of the processing, or commingling or accession and hold the product, or mass or whole in a way that clearly indicates Vector HRV's title to the product, mass or whole.
  - 7.4.6 The Client shall not deal with the Goods, either in their original state or as part of a product, mass or whole, for a consideration of less value than the amount necessary to discharge the Client's liability to Vector HRV in full or in relation to the Goods and shall retain the consideration or other Proceeds of the Goods separate from all other property of the Client and in a manner, which clearly identifies it as such consideration or other Proceeds of the Goods, product, mass or whole (unless agreed in writing by Vector HRV)

## **8 PERSONAL PROPERTY SECURITY ACT**

- 8.1 The Client acknowledges that these Terms and Conditions constitute a Security Agreement for the purposes of the Personal Property Security Act ("PPS Act") and that the Goods referred to in the Terms and Conditions are commercial property for the purpose of the PPS Act.
- 8.2 By accepting the supply, the Client agrees that:
- 8.3 The Client consents to Vector HRV registering its security interest on the Personal Property Security Register (PPS Register). A Security Interest is created in favour of Vector HRV within the meaning of the PPSA in:
  - 8.3.1.1 The Goods
  - 8.3.1.2 The Proceeds of the sale of the Goods
  - 8.3.1.3 Any other property, to which the Goods become an accession or with which they are commingled;
  - 8.3.1.4 Any product or mass, of which the Goods become a part by manufacture, process, assembly or commingling.
- 8.3.2 The Security Interest secures:
  - 8.3.2.1 The Client's obligation to pay for the Goods, and;

- 8.3.2.2 Any and all other obligations of the Client to pay money or money's worth (including costs, expenses, damages or losses) for the benefit of Vector HRV now or in the future or from time to time under this agreement.
- 8.3.2.3 To the extent Vector HRV's Security Interest secures the Client's obligation to pay for any of the Goods, it constitutes as a PMSI;
- 8.4 With respect to Vector HRV's Security Interest while it is retained by Vector HRV, the Client:
- 8.4.1 Will when called upon by Vector HRV sign any further documents or provide any further information which Vector HRV may reasonably require to register a financing statement or financing change statement on the PPS Register, or in connection with the issue of a verification statement;
- 8.4.2 Will not register or apply to register a financing statement or financing change statement which is in any way connected with the Goods (or any accession, mass or product, of which they form part) without Vector HRV's prior written consent, which may be given or withheld at Vector HRV's absolute discretion;
- 8.4.3 Will pay any costs or, expenses or losses incurred by Vector HRV and keep Vector HRV indemnified against any loss, damage or liability to third parties incurred in relation to:
- 8.4.3.1 Registering or seeking the release of any document relating to Vector HRV's Security Interest on the PPS Register, or;
- 8.4.3.2 Enforcing Vector HRV's security Interest (including its legal costs, on a solicitor-client basis);
- 8.4.4 Will give Vector HRV at least 14 days written notice of any proposed change in its name, contact details, place of incorporation, address, location, nature of business, ownership, or business practice; and
- 8.4.5 It irrevocably appoints Vector HRV to be the Client's attorney to do anything which the Client agrees to do under these Terms and Conditions and anything which the attorney thinks desirable to protect Vector HRV's Security Interest and the Client will take all steps required to ratify anything done by the attorney under this clause.
- 8.5 To the extent permitted by law, the Client waives its right to notices as a grantor under section 157 of the PPSA; acknowledging, that the collateral, subject of Vector HRV's Security Interest is properly described as commercial property. To the extent that they impose any obligation on Vector HRV or grant any right to the Client and section 115(1) of the PPSA allows them to be excluded: sections 95, 118, 121(4), 125, 130, 132 (3), 132 (4), 135, 142, and 143 of the PPSA do not apply to this agreement or Vector HRV's security interest in the Goods. To the extent, that Part 4.3 of the PPSA imposes any obligation on Vector HRV or grants any right to the Client and s.115(7) permits, its application pursuant to s.116(2) is excluded.
- 8.6 Notwithstanding the payment by the Client of part or all of the price relating to the Goods, any proceeds or other property in which Vector HRV's Security Interest will continue to exist in the Goods, any Proceeds of the Goods or other property, in which Vector HRV's Security Interest may apply (by operation of these Terms and Conditions or statute) until Vector HRV's Security Interest is discharged in writing by Vector HRV.
- 8.7 The Client will not do, or omit to do, nor allow to be done or omitted to be done, anything which might adversely affect Vector HRV's
- 8.8 Security Interest. If the Client sells the Goods, either in their original state or as part of a product, mass or whole to its Clients, the Client, in its position as a fiduciary, assigns to Vector HRV and authorises Vector HRV to sue in its name to recover the benefit of any claim against its Clients for the price of the Goods, the product, mass or whole, and, in addition to its obligations under the PPSA, it shall hold on trust for Vector HRV and account to Vector HRV for the consideration and all Proceeds received in relation to the Goods, product, mass or whole.
- 8.9 This clause shall apply even though Vector HRV may give credit to the Client.
- 8.10 Without limiting the rights or remedies available to Vector HRV under these Terms and Conditions, statute (including under the PPSA) or other law, if the Client;
- 8.10.1 (Being a natural person) commits an act of bankruptcy;
- 8.10.2 (Being a corporation) does anything which entitles anyone to apply to wind up the Client or is subject to the appointment of an administrator or receiver and manager; or
- 8.10.3 Breaches any of these "Terms and Conditions", (each of which is hereafter referred to as 'an act of default'), Vector HRV may take possession of and retain, resell or otherwise dispose of the Goods or any product, mass or whole, of which they form part.
- 8.11 To the extent permitted by law, in the event of any such act of default, the Client authorises Vector HRV to enter premises where the Goods may be located to take possession of the Goods or any product, mass or whole, of which they form part without notice to the Client. The Client shall indemnify Vector HRV against all claims arising out of the entry by Vector HRV into premises to take possession of the Goods or any product, mass or whole, of which they form part.
- 8.12 For the avoidance of any doubt, the parties acknowledge and agree that it is their intention that the agreement between them is one continuing agreement and not separate agreements based on each purchase order. The security interest created by this agreement is in respect of all Goods supplied.

## 9 RISK

Unless otherwise agreed in writing, risk in the Goods shall pass to the Client at the time when the goods have been placed on the vehicle which is to effect delivery from Vector HRV's store or warehouse or delivery to the Client whichever is sooner. The Goods shall remain at the Client's risk at all times unless and until Vector HRV retakes possession of the Goods pursuant to these Terms.

## 10 CLAIMS, SHORTAGES AND DEFECTS

- 10.1 The Client agrees to check all goods received immediately upon delivery. The Client will not make any claim after the expiry of 7 days from the date of delivery of the goods for shortages or improper or defective or damaged goods.
- 10.2 Vector HRV will not be liable for any shortages or improper or defective or damaged goods unless a written claim is made by the Client within 7 days of the delivery of the goods.
- 10.3 Except to the extent to which conditions and warranties implied by law are not at law able to be excluded, all implied conditions and warranties are hereby excluded.

10.4 In so far as goods supplied by Vector HRV are not of a kind ordinarily acquired for personal domestic or household consumption, and unless the Client establishes that reliance on this provision would not be fair and reasonable, the liability for breach of a condition or warranty; implied into this agreement by the Competition and Consumer Act 2010 is limited:

10.4.1 In the case of goods to any one of the following as determined by Vector HRV;

10.4.1.1 The replacement of the goods or the supply of equivalent goods; or

10.4.1.2 The repair of the goods; or

10.4.1.3 The payment of the cost of replacing the goods or of acquiring equivalent goods; or

10.4.1.4 The payment of the cost of having the goods repaired.

10.4.2 In the case of services to any one of the following as determined by Vector HRV;

10.4.2.1 The supplying of the services again, or

10.4.2.2 The payment of the cost of having the services supplied again.

10.5 Vector HRV shall not be liable in any circumstances for any;

10.5.1 Defects or damages caused in whole or in part by misuse, abuse, neglect, electrical or other overload, unsuitable lubricant, improper installation repair or alteration or accident.

10.5.2 Any transport freight charges installation removal labour or other costs;

10.5.3 Defects in goods not manufactured by it but will endeavour to pass on to the Client the benefit of any claim made by Vector HRV and accepted by the manufacturer of such goods under a warranty given by the manufacturer of such goods provided that nothing contained in this subparagraph shall limit the rights of the Client to proceed against Vector HRV pursuant to the Competition and Consumer Act 2010.

10.5.4 Technical advice or assistance given or rendered by it to the Client in connection with the manufacture construction or supply of goods for or to the Client.

10.6 Subject to clause 10.4 herein, Vector HRV, its officers, employees or agents shall not be liable for any loss or damage whatsoever and howsoever arising whether direct indirect special or consequential or in respect of any claim whenever and however made for any loss or damage deterioration deficiency or other fault or harm in the goods supplied, work executed or services provided by or on behalf of or in any arrangement with the Client or occasioned to the Client or any third or other party or to his or their property or interest and whether or not due to the negligence of Vector HRV its officers, employees or agents or actions constituting fundamental breach of contract.

10.7 The Client releases Vector HRV, its officers, employees and agents, from all sums, money, actions, proceedings, accounts, claims, demands, costs and expenses whatsoever arising from or in relation to this Agreement.

10.8 The Client indemnifies Vector HRV, its officers, employees and agents, in respect of all loss, damages, and expenses arising from or in relation to any claim, actions, proceedings, accounts, or demands.

## 11 WARRANTY

11.1 Warranty on the Goods are subject to the manufacturer's warranty. However, where permissible by law, the Client must pay for all work undertaken in carrying out a repair if the manufacturer's assessment determines the claim does not fall within the manufacturer's warranty terms.

11.2 The Manufacturer's Warranty, as amended from time to time, are incorporated in these Terms.

11.3 If the Client wishes to make a claim under this warranty, it should contact Vector HRV.

11.4 In respect of all claims, Vector HRV shall not be liable to compensate the Client for any delay in either assessing the Claim or remedying the warranty issue.

11.5 The conditions applicable to the warranty are rendered void and of no force or effect if the Goods are repaired or altered without Vector HRV's prior written consent.

## 12 RETURN OF GOODS

12.1 Any Goods being returned to Vector HRV for credit are to be labelled in accordance with Vector HRV's procedures for return of the Goods as may be established by Vector HRV from time to time. Such procedures to be followed for the time being for the return of the Goods includes:

12.1.1 Claims for shortages, loss or damage must be made by the Client within seven (7) days of receipt of the goods;

12.1.2 Express approval for return of the Goods must first be obtained from a duly authorised officer of Vector HRV;

12.1.3 The Goods to be returned must include any and all relevant accessories. The Goods (including accessories) must be in original packaging form and must be in undamaged and saleable condition; and

12.1.4 No claim or credit in respect of any Goods may be approved unless the following information accompanies the good returned:

12.1.4.1 The purchase invoice and number;

12.1.4.2 The reason for the return; and

12.1.4.3 The name of the officer of Vector HRV who has approved such return and the details of such approval.

12.2 The Client agrees that the return of Goods is at the sole discretion of Vector HRV who may apply a restocking fee, which may be adjusted from time to time.

## 13 FORCE MAJEURE

If by reason of any fact, circumstance, matter or thing beyond the reasonable control of Vector HRV, Vector HRV is unable to perform in whole or in part any obligation under this agreement, Vector HRV shall be relieved of that obligation under this agreement to the extent and for the period that it is so unable to perform and shall not be liable to the Client in respect of such inability.

## 14 DEFAULT

Upon the occurrence of a default by the Client in compliance with these Terms or any other agreement with Vector HRV:

14.1 Vector HRV may at its discretion withhold further supplies of goods or cancel this agreement, or vary the terms of this agreement without prejudice to its rights hereunder provided however that Vector HRV may at any time and from time to time upon such terms as it may determine waive any of its rights under this Clause, but without prejudice to its rights

thereafter of any of the events hereinbefore referred to or upon the continuation after any such waiver of any state of affairs the subject of such waiver.

14.2 Vector HRV may, at its discretion, cancel any credit facility provided to the Client and by reason of the cancellation all monies due on all outstanding invoices issued to the Client shall be due and payable. Vector HRV does not need to give notice of the cancellation of the credit facility to the Client.

14.3 The Client shall pay to Vector HRV interest at the rate of 15% per annum, daily, in respect of any amounts as may from time to time be overdue until paid and such money together with all interest shall be recoverable from the Client.

14.4 Without prejudice to any other right or remedy the Client shall indemnify Vector HRV against any costs fees charges and disbursements charged by any solicitor engaged for the purpose of the collection or recovery of moneys due and payable by the Client to Vector HRV on an indemnity basis and any fees, charges, disbursements, or commissions charged by any mercantile agency or debt collecting firm.

14.5 The Client shall pay to Vector HRV an administration fee of \$50.00 on the occurrence of every event of default.

## **15 CHARGE AND SECURITY INTEREST**

15.1 The Client hereby charges with payment of any indebtedness to Vector HRV all legal and beneficial interest (freehold or leasehold) in land and property, other than Personal Property to which the Personal Property Securities Act 2009 applies, held now or in the future by the Client and upon non-payment of any monies due to Vector HRV pursuant to this agreement Vector HRV may take possession of such land or property and exercise and do all or any acts, powers and authorities vested in or given to mortgagees by any statutory provision or at common law or in equity. The Client agrees that if demand is made by Vector HRV, the Client receiving such a demand will immediately execute a mortgage (incorporating the covenants contained in Memorandum No.Q860000 registered at the Land Titles Office in Sydney) or other instrument of security, or consent to a caveat, as required, and against the event that the Client fails to do so within a reasonable time of being so requested, the Client hereby irrevocably and by way of security, appoints any credit manager or solicitor engaged by Vector HRV to be its true and lawful attorney to execute and register such instruments. Notwithstanding any other provision in this clause and in addition thereto Vector HRV may lodge a caveat noting the interest given by this charge on the title of any property of the Client whenever it so wishes.

15.2 The Client grants a security interest to Vector HRV in all of its present and after acquired property and in all of its present and future rights in relation to any personal property as defined in the Personal Property Securities Act 2009.

## **16 GST**

The Client must pay to Vector HRV any amount which is payable by Vector HRV in respect of any supply to the Client on account of GST. Each charge or fee for a supply rendered by Vector HRV does not include an amount to cover the liability of Vector HRV for GST on any supplies made under this agreement which are taxable supplies within the meaning of the GST Act. In relation to taxable supplies made under this agreement Vector HRV agrees to issue the Client with a tax invoice in accordance with the GST Act or a document satisfying the minimum information requirement set out in GSTR 2000/2003 to entitle a recipient of a taxable supply to claim an input tax credit without holding a tax invoice. "GST" means GST as defined in a New Tax System (Good and Services Tax Act 1999). "Supply" means supply as defined in a New Tax System (Goods and Services Tax Act 1999).

## **17 INTELLECTUAL PROPERTY**

17.1 Where Vector HRV has designed, drawn or written documents in relation to the Goods for the Client, the copyright in those designs, drawings and documents shall remain vested in Vector HRV, and shall only be used by the Client at Vector HRV's discretion.

17.2 Sale of Goods shall not confer upon the Client any rights or interests in any trademarks, patents, copyrights, design rights or other intellectual property rights to Vector HRV. The Client shall not dispute or question the title of Vector HRV in respect of such rights relating to goods.

## **18 LIMITED LIABILITY, INDEMNITY AND IMPLIED TERMS**

18.1 It is hereby acknowledged by the Client that, under the Australian Consumer Law, certain conditions and warranties may be implied in the contract between Vector HRV and the Client and rights and remedies conferred upon the Client and other parties in relation to Goods or services which cannot be excluded, restricted or modified by agreement ("Non-excludable Rights"). The limitations below are subject to these Non-Excludable Rights.

18.2 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Vector HRV makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Vector HRV's liability in respect of these warranties is limited to the fullest extent permitted by law.

18.3 If the Client is a consumer within the meaning of the Competition and Consumer Act 2010 (CCA), Vector HRV's liability is limited to the extent permitted by section 64A of Schedule 2.

18.4 Accordingly, subject to clause 10.1, in no event shall Vector HRV be liable (whether before or after discharge of the contract or otherwise) for any loss or damage to the Client howsoever arising including any loss or damage arising from or caused or contributed to by negligence of Vector HRV, its servants or agents, nor shall Vector HRV be liable for special, incidental, indirect or consequential loss or damage suffered by the Client as a result of a breach by Vector HRV of its obligations or otherwise including but not limited to economic or moral loss, loss of profits or revenue or costs arising from such breach.

18.5 Subject to Clause 10.1, the Client shall indemnify and keep indemnified and hold Vector HRV harmless from and against all liabilities, losses, damages, costs or expenses incurred or suffered by Vector HRV, and from and against all actions, proceedings, claims or demands made against Vector HRV, arising from one or more of the following:

18.5.1 As a result of the Client's failure to comply with any laws, rules, standards or regulations applicable in relation to the Goods or the use of the Goods;

18.5.2 As a result of any other negligence or other breach of duty by the Client; or

18.5.3 As a result of any compliance or adherence by Vector HRV with any instructions of the Client in relation to the Goods.

## **19 CONFIDENTIALITY**

**19.1** Each party warrants that it will not disclose any Confidential Information to any other person except:

- 19.1.1 With the consent of the other party and for the purpose of or in connection with the performance of the first party's obligations under this Contract;
- 19.1.2 As required by law; or
- 19.1.3 Where such Confidential Information can be demonstrated to have been in the public domain at the time of the disclosure other than as a result of a breach of this Contract.

**19.2** For the purposes of this clause 19 "Confidential Information" means:

- 19.2.1 The terms of this Contract;
- 19.2.2 All information relating to the internal management, structure, personnel, policies, strategies, clients, suppliers or affairs of a party;
- 19.2.3 All information comprised in or relating to any Intellectual Property rights of a party;
- 19.2.4 All information relating to the financial position or reputation of a party and in particular, any information relating to the assets or liabilities of a party or any other matter that does or may affect the financial position or reputation of a party,
- 19.2.5 Or any other information relating to a party which has been disclosed to or learned by the other party under or in connection with this Contract.

**19.3** The Client must not use the name, trademarks or trade names of Vector HRV nor refer to its business connection with Vector HRV at any time, whether before, during or after the term of this Contract without prior written consent of Vector HRV.

## **20 GENERAL**

- 20.1** These Terms and Conditions are to be construed in accordance with the laws from time to time in the State of New South Wales and the Commonwealth of Australia.
- 20.2** These Terms and Conditions contain all the Terms and Conditions of the contract between the parties and may only be varied by agreement in writing between the parties.
- 20.3** Any conditions found to be void, unenforceable or illegal may, to that extent may be severed from these Terms and Conditions.
- 20.4** No waiver of any of these Terms and Conditions or failure to exercise a right or remedy by Vector HRV will be considered to imply or constitute a further waiver by Vector HRV of the same or any other term, condition, right or remedy.