



TERMS & CONDITIONS OF SALE

**Wymac Gaming Solutions Pty Ltd
26 Hamilton Street
Oakleigh, Vic 3166**

TERMS AND CONDITIONS OF SALE

These terms and conditions (**these Terms**), together with the accompanying customer sales order (**Order**), form a contract under which Wymac Gaming Solutions Pty Ltd (ABN 83 300 976 098) (**Wymac**) agrees to sell and supply to the person or entity named as the customer in the Order (**Customer**), and the Customer agrees to buy from Wymac, the goods and/or services specified in the Order (respectively, **Goods and Services**).

1. Definitions

In these Terms, unless the context requires otherwise, the following terms have the following meanings:

Deposit means 50% of the Price, except that if another amount or percentage is set out in the Order as a deposit, that other amount or that percentage of the Price.

Intellectual Property Rights includes the full benefit of any rights in any copyright, trade mark, registered design, patent, trade and business names, inventions, knowhow, inventions, improvements, discoveries, confidential processes and information and includes artistic works, images, designs, motifs and photographs and any adaptation or concept relating to it.

PMSI means a *purchase money security interest*, as defined in the PPSA.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Price means the price of the Goods and/or Services as set out in the Order.

Proceeds has the meaning given to it in section 31 of the PPSA.

Service Agent means the person or entity named as the service agent in the Order.

Warranty Period – Hardware means 90 days, except that if another period is set out in the Order as a Warranty Period, that other period (in each case which period commences at the time referred to in clause 4.3).

Warranty Period – Games means 180 days, except that if another period is set out in the Order as a Warranty Period, that other period (in each case which period commences at the time referred to in clause 4.3).

2. Order

2.1 The Order is not valid or binding on Wymac unless it is signed on behalf of Wymac by its authorised representative.

2.2 The Customer may not make a change to, or cancel, the Order without Wymac's prior written consent.

2.3 If the Customer cancels an order or refuses to accept all or any of the Goods or Services other than in circumstances permitted by these Terms:

- (a) the Deposit up to 50% of the Price is forfeited to Wymac as Wymac's absolute property, whether the Deposit has been paid or not. Wymac may apply the balance of the Deposit towards any claims Wymac may have against the Customer (but only up to the amount of such claims) and may retain that balance until all such claims are fully resolved; and
- (b) the Customer will be liable for any resulting damage or loss suffered by Wymac.

3. Price and description

3.1 The Price and description of the Goods and/or Services are as set out in the Order. The Customer agrees to pay the Price of the Goods and/or Services in accordance with these Terms.

3.2 Unless the Price for particular Goods or Services is stated in the Order to include GST or any similar or other tax which may apply in any jurisdiction in respect of the Goods or Services, an amount equal to these taxes is payable by the Customer to Wymac in addition to the Price for those Goods or Services set out in the Order when Wymac invoices the Customer for the additional amount.

3.3 Any description of Goods is given by way of identification only and the use of that description does not constitute a sale by description.

3.4 The Customer is responsible for ensuring that the type of Goods ordered are suitable for the Customer or the Customer's intended use of them and Wymac is not liable to the Customer for any Goods which are unsuitable for the Customer's intended use.

4. Payment

4.1 The Customer must pay the Deposit to Wymac when the Order is signed on behalf of Wymac.

4.2 The Customer must pay the Price for the Goods and/or Services, less the amount of any Deposit received by Wymac:

- (a) in accordance with the payment terms set out in the Order; or
- (b) if no payment terms are set out in the Order - on or before delivery of the Goods to the Customer or the Service Agent, or at or before the time of provision of the Services (as the case may be).

4.3 If the payment terms in the Order are expressed as a period of time (such as a number of days), then the Customer must make the payment to which those terms relate by no later than the last day of that period, which commences:

- (a) in the case of Goods, on the date on which the Service Agent or the Customer takes possession of the Goods (whichever is the earlier date); and
- (b) in the case of Services, the date on which Wymac provides the Services.

The Warranty Period will be taken to commence at the same time as the period for payment.

4.4 Wymac will issue an invoice for the Goods and/or Services to the Customer. Any failure to issue, or delay in issuing, an invoice does not affect the Customer's obligation to make any payment to Wymac under these Terms (including this clause 4).

4.5 Unless Wymac expressly agrees to the contrary in writing, if one or more amounts owed by the Customer to Wymac (whether under these Terms or otherwise) are outstanding, all of the proceeds of any payment made by the Customer (or on the Customer behalf) will be allocated and credited: first, to any interest accrued on any outstanding amounts; secondly, to the amount which has been outstanding the longest; and then, to each other outstanding amount (in order from longest to least outstanding) until all outstanding amounts are paid in full.

5. Delivery

5.1 Delivery of Goods takes place at the time:

- (a) the Goods pass into the Service Agent's possession;
- (b) the Goods pass into the Customer's possession;
- (c) when the Customer collects the Goods or arranges for their collection from Wymac; or
- (d) when ownership of Goods passes to the Customer, whichever is earlier.

5.2 Unless Wymac agrees otherwise, the Customer is responsible for all delivery costs.

5.3 Any date for delivery of the Goods or provision of Services indicated by Wymac is an estimated date for delivery or provision only. Wymac is under no liability for any loss, including consequential loss, or damage, however it arises, if Goods or Services are not delivered or supplied by that date. In no case will Wymac be liable for any amount payable by the Customer to a third party as a result of a failure or delay in delivery or supply by Wymac due to any cause whatsoever.

5.4 If agreed by Wymac, Wymac will deliver Goods to the Customer's address as set out in the Order or, if a Service Agent is nominated in the Order, to that Service Agent's address.

If Wymac delivers Goods, then:

- (a) the Customer must pay all freight, insurance and other charges associated with the delivery outside Australian east coast capital city metropolitan areas, and Wymac may choose the mode of transport, carrier and insurer (if applicable); and
- (b) the Customer or the Service Agent must be present at the agreed place and time for delivery. If the Customer or the Service Agent is not present, Wymac may unload the Goods at that place in which case the Goods will be deemed to have been delivered and Wymac will not be responsible for any claims, costs or losses suffered by the Customer.

5.5 The Customer is responsible for obtaining and maintaining any regulatory approval, consent or authorisation (**Approval**) necessary for the operation or possession of the Goods and warrants to Wymac that such Approval will be in place when delivery of the Goods occurs. The Customer must provide Wymac with a copy of the Approval if requested to do so.

5.6 Installation and commissioning is the responsibility of, and will be at the expense of, the Customer.

6. Risk

6.1 At all times from the date of delivery, Goods are at the Customer's risk of loss or damage and the Customer is responsible for their safe custody. It is up to the Customer to arrange the Customer's own insurance.

6.2 If any Goods are damaged or destroyed prior to property in them passing to the Customer, Wymac is entitled without prejudice to any of Wymac's other rights or remedies under these Terms (including the right to receive payment of all the balance of the Price for Goods) to receive all insurance proceeds payable for the Goods. This applies whether or not the Price has become payable under these Terms. The production of these Terms by Wymac is sufficient evidence of Wymac's right to receive the insurance proceeds without the need for any person dealing with Wymac to make further enquiries.

7. Warranty

7.1 Wymac warrants that the Goods (except for any fluorescent tubes, lights, globes or other consumables) will be free from defects as a result of defective materials or manufacture during the Warranty Period.

7.2 Wymac will repair any such defects (or, at its option, replace the Goods) but only if the Customer notifies Wymac of the defect in writing during the Warranty Period, subject to clause 9.

7.3 This warranty does not:

- (a) cover defects which arise from negligent use, accident, misuse, damage or the use of Goods for any purpose not intended by Wymac; or
- (b) apply to any of the Goods which are:
 - (i) not serviced and maintained in accordance with clause 21;
 - (ii) tampered with, modified, altered or repaired by any person other than a person authorised by Wymac in writing; or
 - (iii) not installed in accordance with Wymac's published installation instructions.

7.4 Wymac warrants that the game will be free of defects and to replace any game which performs below acceptable performance levels, when compared to like for like games under normal operating conditions, for any three (3) consecutive months during the Warranty Period, subject to clause 9.

8. Title

8.1 Title to the Goods will not pass from Wymac to the Customer until the later of:

- (a) unconditional payment in full to Wymac of the Price for the Goods and the Services; and
- (b) unconditional payment in full of all other amounts owing or unpaid by the Customer to Wymac on any account including in respect of all other goods and services previously or subsequently supplied to the Customer.

8.2 Payment in full will not be regarded as having been received by Wymac unless and until payment is made in cleared funds.

8.3 Until such time as title to the Goods passes to the Customer under clause 8.1:

- (a) the Customer will hold the Goods as a fiduciary and as bailee for Wymac and will be responsible for any loss, damage or conversion of the Goods;
- (b) the Customer must store the Goods in such a manner as to show clearly that they remain Wymac's property;
- (c) Wymac may enter any premises owned or occupied by the Customer or the Customer's agents (including the Service Agent) to inspect the Goods or inspect the Customer's books or records regarding the Goods at any time; and

- (d) subject to clause 10.3(h), the Customer may only use the Goods in the ordinary course of the Customer's business
- 8.4 The Customer must ensure that, until such time as title to the Goods passes to the Customer under clause 8.1 the Goods (or any interest in them) are not sold or otherwise disposed of, and that the Goods are not and will not be subject to any security interest (including a lien) granted or created in favour of any third party (whether under contract, statute or common law) without Wymac's prior written consent. Without limiting Wymac's rights, if the Customer becomes aware of a third party's interest in or relating to a security interest, including a lien, in respect of the Goods, the Customer must notify Wymac immediately in writing and provide Wymac with all relevant details relating to the security interest, including the third party's full name and contact details, the nature of the security interest and the Goods subject to the security interest.
- 8.5 Despite this clause 8, Wymac is entitled to maintain an action against the Customer for payment of the Price of the Goods.
- 8.6 If the Order specifies a trade in product:
- that product must be made available for collection by Wymac at the same time and at the same place that delivery of Goods takes place;
 - the Customer warrants that the product will be complete and in good working order and that it is the owner of that product free from all security interests. The Customer must supply Wymac with any evidence required by Wymac to substantiate this;
 - if the Customer has complied with this clause 8.6 in respect of a product, Wymac will credit the Customer with an amount equal to the trade in value of that product as shown in the Order, but only after Wymac receives, inspects and accepts that product. Wymac is not required to accept (and may return to the Customer) any product that does not comply with this clause 8.6, in which case the Customer will not be entitled to a credit for that product and any credit previously given shall be reversed; and
 - title to that product, free from all security interests, passes to Wymac when Wymac receives, inspects and accepts that product.
- 9. Claims**
- 9.1 When delivery of Goods takes place, the Customer must inspect them immediately and carry out any test that a prudent purchaser would carry out.
- 9.2 Goods will be considered to have been supplied and delivered in good condition and in accordance with these Terms unless the Customer gives Wymac written notice of any damage or defect within 7 days after delivery. If the Customer gives Wymac this notice, the Customer must:
- preserve the Goods in the state in which they were received by the Customer or the Service Agent for 15 days after notice is received by Wymac;
 - during that period allow Wymac or Wymac's agents access to any premises where the Goods are kept for the purposes of inspecting the Goods; and
 - comply with any directions Wymac gives the Customer concerning the Goods (including, if Wymac deems it appropriate, as to their return).
- 9.3 Wymac is under no obligation to accept Goods returned by the Customer, or that the Customer claims are defective, and will do so at Wymac's discretion and then subject to the Customer having complied with clause 9.2.
- 9.4 The Customer agrees that it will make no claim against Wymac for any delay in delivery of the Goods or in the supply of Services.
- 9.5 The Customer will not be entitled to make any claim on Wymac if any amounts are overdue for payment by the Customer to Wymac. Wymac may at any time set off amounts owed by Wymac or any of Wymac's related bodies corporate to the Customer against any amounts owed by the Customer to Wymac or any of Wymac's related bodies corporate.
- 9.6 The Customer may not set off or deduct any sum from the amount due by it to Wymac for any reason whatsoever including any equitable right and any statutory right which may be excluded by agreement.
- 10. Default**
- 10.1 The Customer must pay Wymac interest on any part of the Price which is overdue for payment. Such interest will accrue daily at a rate per annum which is 2 percentage points higher than the per annum rate charged from time to time under the *Penalty Interest Rates Act 1983* (Vic), from the date when payment becomes due until the date of payment. Interest will be calculated daily, and will accrue at such a rate after, as well as before, any judgment.
- 10.2 Without prejudice to any other remedies Wymac may have, if at any time the Customer is in breach of any obligation (including relating to payment), Wymac may suspend or terminate any of Wymac's obligations under these Terms. Wymac will not be liable to the Customer for any loss or damage the Customer suffers because Wymac exercises its rights under this clause.
- 10.3 If:
- the Customer breaches any of these Terms;
 - any cheque tendered by the Customer or on its behalf is dishonoured for payment or the Customer fails to comply with any demand for payment issued by Wymac;
 - any amount payable by the Customer to Wymac becomes overdue for payment or, in Wymac's opinion, the Customer will be unable to meet the Customer's payment obligations to Wymac as they fall due;
 - the Customer ceases, or threatens to cease, carrying on its business;
 - any of the following occurs in relation to the Customer, if the Customer is a company:
 - a receiver, manager, administrator or controller becomes entitled to take possession of any of the Customer's assets, any proceedings are instituted for the Customer's winding up, or the Customer enters into a deed of company arrangement;
 - the Customer becomes an externally-administered body corporate; or
 - the Customer becomes, or states that it is, insolvent; or
 - the Customer (if the Customer is an individual) commits an act of bankruptcy or is or becomes an insolvent under administration;
- then, without prejudice to Wymac's other remedies under these Terms or at law:
- Wymac will be entitled to cancel all or any part of any of the Order which remains unfulfilled;
 - all amounts owing to Wymac by the Customer will, whether or not due for payment, become immediately payable by the Customer;
 - the Customer's right to possess and use the Goods, where title to them has not passed to the Customer under clause 8.1, will cease; and
 - Wymac will be entitled to enter any premises where the Goods in respect of which title has not passed to the Customer under clause 8.1 are kept, and remove, repossess and re-sell all or any such Goods. Wymac is not liable to the Customer if Wymac takes such action.
- 10.4 The Customer indemnifies Wymac in respect of any claims or actions against, and costs, expenses and other liabilities incurred by, Wymac in relation to the removal, repossession and sale of Goods pursuant to these Terms, including without limitation, any claims brought by third parties.
- 10.5 If:
- Wymac retains possession or control of the Goods;
 - payment of the Price of the Goods is due by the Customer to Wymac;
 - Wymac has made demand in writing to the Customer for payment of the Price of the Goods; and
 - Wymac has not received the price of those Goods,
- then (without limiting any other provision of these Terms), whether title in the Goods has passed to the Customer or remains with Wymac, Wymac may dispose of the Goods and may claim from the Customer for any loss incurred by Wymac on such disposal.
- 10.6 If the arrangements provided under this clause 10 constitute a credit contract as defined in the National Credit Code, the time for payment of any overdue account is limited to a total period of not more than 62 days from the date of Wymac's invoice. Nothing in this clause 10.6 imposes an obligation on Wymac to extend Wymac's payment terms to the Customer for any period at all.
- 11. Priority**
- These Terms override the Customer's terms and conditions. To the extent of any discrepancy between these Terms and any third party (including the Customer's own) terms and conditions, these Terms prevail.
- 12. Intellectual Property Rights**
- 12.1 The Customer must not modify, adapt, translate, reproduce, copy, sell, supply, distribute, give, reverse engineer, decompile, transfer, assign or otherwise dispose of the software contained in the Goods, convert the whole or any part of such software from object code to source code or create derivative works based on such software or have such work carried out unless otherwise permitted by law to do so.
- 12.2 These Terms do not otherwise give the Customer any Intellectual Property Rights in or in relation to the Goods or Services.
- 12.3 Wymac is not liable for any infringement or unauthorised use of any Intellectual Property Rights arising from these Terms. If any dispute or claim is made in respect of any infringement or unauthorised use of Intellectual Property Rights, Wymac may terminate these Terms by notice to the Customer and without liability to the Customer or any other person.
- 13. Assignment**
- 13.1 The Customer may not assign any rights or benefits under these Terms unless the Customer has obtained Wymac's prior written consent. Any change in any ownership interest in the Customer will be treated as an assignment. Any assignment by the Customer without Wymac's consent will release Wymac (at Wymac's discretion) from Wymac's obligations under these Terms and clause 10.3 will apply.
- 13.2 Wymac may assign, sub-contract or license any of Wymac's rights, benefits or obligations under these Terms without the Customer's consent.
- 14. Governing law**
- These Terms and the Order are governed by the laws of Victoria. Wymac and the Customer submit to the exclusive jurisdiction of the courts exercising jurisdiction there. Wymac and the Customer agree that any proceedings may be commenced in any court in Victoria and consent to that court having jurisdiction, despite that the court would not have such jurisdiction without this clause.
- 15. Whole agreement**
- 15.1 These Terms form the entire agreement on which Wymac supplies the Goods and/or Services to the Customer, and the Customer acquires the Goods and/or Services. Any previous agreement or understanding Wymac may have had with the Customer is superseded by the Order and these Terms.
- 15.2 These Terms may not be altered without Wymac's written agreement.
- 16. National Credit Code**
- The Customer acknowledges that the National Credit Code does not apply to these Terms.

17. Exclusions

- 17.1 Except as set out in clause 7, Wymac excludes all warranties and guarantees in connection with the Goods and Services (or advice regarding Goods or Services) supplied to the Customer other than those which may not be excluded under the *Competition and Consumer Act 2010* (Cth) (CCA) or other relevant legislation. For the avoidance of doubt, this exclusion includes an exclusion of all conditions and warranties implied by custom, the general law or statute, for damages suffered by the Customer arising in any way out of the supply, delay in supplying or failure to supply the Goods or Services.
- 17.2 Wymac's liability under any guarantee, condition or warranty implied or stipulated by the CCA or similar legislative provision which may not be excluded but may be limited, is limited at Wymac's option to:
- (a) in the case of the Goods:
 - (i) the replacement of the Goods or the supply of equivalent goods;
 - (ii) the repair of the Goods; or
 - (iii) the refund of the Price paid by the Customer for the Goods; or
 - (b) in the case of Services:
 - (i) the supply by Wymac of the Services again; or
 - (ii) the refund of the Price paid by the Customer for the Services.
- 17.3 Wymac is not liable for indirect or consequential loss however described, except for any such liability which may not be excluded by force of the CCA or similar legislative provision.

18. PPSA

- 18.1 The Customer agrees that these Terms and, in particular, the provisions of clause 8.1, create a security interest (including, where applicable, a PMSI) in the Goods (and their Proceeds).
- 18.2 The Customer agrees to do all things necessary and execute all documents reasonably required by Wymac to register the PMSI granted by the Customer under these Terms, and ensure that Wymac acquires a perfected security interest in the Goods under the PPSA.
- 18.3 The PMSI does not lose its priority as a result of the renewal, refinance, consolidation or restructure of the subject matter of these Terms or any of the Customer's purchase money obligations.
- 18.4 Until title to the Goods passes to the Customer under clause 8.1, the Customer waives the Customer's rights under sections 95, 118, 120, 121(4), 129, 130, 132(3)(d), 132(4), 135, 142, 143, 157(1) and 157(3) of the PPSA, to the extent that is permitted by law. Wymac may also contract out of any other provision of the PPSA not specified in this clause 18.4 as determined by Wymac from time to time, provided that is also permitted under the PPSA.
- 18.5 Where Wymac has rights in addition to those under Part 4 of the PPSA, those rights continue to apply.
- 18.6 The Customer agrees that repossession and retention of the Goods pursuant to the PPSA will only satisfy so much of the amounts owing by the Customer to Wymac as is equivalent to Wymac's estimation of the market value of the Goods (as they are to be used by Wymac) as at the date of repossession, and the repossession and retention will immediately extinguish any rights or interest the Customer has in the Goods.
- 18.7 Until title to Goods passes to the Customer under clause 8.1, the Customer must not give to Wymac a written demand, or allow any other person to give to Wymac a written demand, requiring Wymac to register a financing change statement under the PPSA in respect of the Customer or the Goods, or enter into or allow any other person to enter into the personal property securities register a financing change statement under the PPSA in respect of the Goods.
- 18.8 The Customer will be responsible for payment of any fees (and any other costs) that Wymac incurs in relation to investigating, perfecting or registering Wymac's security interest in the Goods, and those fees and costs may be added as a charge on invoices issued by Wymac to the Customer.
- 18.9 Money that Wymac receives from the Customer or on the Customer's account may be applied by Wymac in the following order, or in any other order that Wymac may determine in Wymac's absolute discretion:
- (a) first, to satisfy any obligation owed by the Customer to Wymac that is not secured by a security interest in the Goods;
 - (b) then, to satisfy any obligation owed by the Customer to Wymac that is secured by a security interest in the Goods, but not by a PMSI;
 - (c) then, to satisfy any obligation owed by the Customer to Wymac that is secured by a PMSI in the Goods for that obligation and using proceeds from the sale of the Goods secured by that PMSI; and
 - (d) then, to satisfy any obligation owed by the Customer to Wymac that is secured by a PMSI in the Goods using funds or proceeds from any source.
- 18.10 The Customer may not assign or factor the Customer's right and interest in any debt owed by a customer of the Customer to the Customer on account of the proceeds of sale of any Goods by the Customer on credit or deferred payment terms without Wymac's prior written consent.

19. Trusts

- 19.1 This clause applies if the Customer is the trustee of a trust, whether or not Wymac has notice of the trust.
- 19.2 Where the Customer comprises 2 or more persons and any of those persons is a trustee this clause applies to such trustee.
- 19.3 The Customer agrees that even though the Customer enters into these Terms as trustee of a trust, the Customer will also be liable personally for the performance and observance of every obligation to be observed and performed by the Customer, whether express or implied, in these Terms.
- 19.4 The Customer warrants that the Customer has complete, valid and unfettered power to enter into these Terms pursuant to the terms of the trust, and warrants that the Customer's entry into these Terms is in the due administration of the trust.
- 19.5 The Customer warrants that the Customer has a right of indemnity against the property of the trust and that right has not been, and in the future will not be, excluded, modified, released, lost or diminished (whether by agreement, breach of trust or otherwise).
- 19.6 The Customer must not, without Wymac's prior written consent:
- (a) resign or be removed as trustee of the trust or appoint or allow the appointment of a new or additional trustee of the trust;
 - (b) amend or revoke any of the terms of the trust;
 - (c) vest or distribute the property of the trust or advance or distribute any capital of the trust to a beneficiary or resettle any of the property of the trust;
 - (d) permit a beneficiary to have the use, occupation, employment or possession of the property of the trust;
 - (e) do or permit or omit to do an act or thing in breach of the terms of the trust, or which would permit the trustee to be removed as trustee of the trust;
 - (f) exercise or permit or allow to be exercised a power to change the vesting date of the trust or provide for an early determination of the trust;
 - (g) lend any money, give any guarantee or incur any debt other than in the ordinary course of business of the trust; or
 - (h) pay any of the income of the trust to any beneficiary of the trust if such payment will prejudice or affect the Customer's ability to pay all amounts due to Wymac.

20. Product recalls

The Customer must support and comply with the requirements of any product recall program affecting the Goods initiated by Wymac or any government agency.

21. Service and maintenance

The Customer must service and maintain the Goods in accordance with service and operations manuals published from time to time in relation to the Goods.

22. General

- 22.1 Nothing in these Terms creates any relationship of employment, agency or partnership between the Customer and Wymac.
- 22.2 Wymac will not be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond Wymac's reasonable control.
- 22.3 In the event that any of these Terms or any part thereof cannot be given effect for any reason, then the relevant term or condition or part thereof which cannot be given effect must be severed and read down respectively and the remaining terms and conditions and part of the relevant term or condition will remain valid and binding on the Customer and Wymac.
- 22.4 A statement in writing signed by any director, secretary, credit controller or other duly authorised person on Wymac's behalf will be conclusive evidence as to any of the following matters stated in it:
- (a) as to the delivery of any Goods or supply of Services:
 - (i) the description and quantity;
 - (ii) date of delivery or supply; and
 - (iii) place of delivery or supply;
 - (b) the amount of the Customer's indebtedness to Wymac at the date of that statement; and
 - (c) service of any document on the Customer (including tax invoices and statements).
- 22.5 The Customer will pay to Wymac any and all of Wymac's expenses including any legal costs (on an indemnity basis), stamp duties and other expenses payable under these Terms together with any collection costs incurred in connection with the enforcement of, or preservation of any rights under, these Terms. Such costs, duties and other expenses may be recovered by Wymac from the Customer as a liquidated debt. Any payments received by Wymac from the Customer must be applied first to any legal costs, duties and other expenses, then to interest and the remainder to the balance of monies owed by the Customer.
- 22.6 The failure by Wymac to insist on compliance with any of these Terms or any part thereof does not constitute a waiver of that term or condition or part thereof, and Wymac will be entitled to insist on compliance with all of these Terms at any time.

23. Interpretation

In these Terms, unless the context otherwise requires:

- (a) The singular includes the plural and vice versa and a gender includes any gender.
- (b) Reference to these Terms includes the Order.
- (c) Headings are for convenience only and will be ignored when construing these Terms.
- (d) Reference to a party includes that party's successors, permitted assigns or substitutes, executors and administrators.
- (e) Other parts of speech and grammatical forms of a word or phrase defined in these Terms have a corresponding meaning.
- (f) Reference to a person includes any company, firm, partnership, joint venture, association, corporation or other body corporate and any governmental agency and vice versa.
- (g) A reference to any agreement or document is also a reference to that agreement or document as amended, notated, supplemented or replaced from time to time.
- (h) A reference to a law includes regulations and other instruments under it and amendments or replacements of any of them whether now or in the future.
- (i) Terms defined in the *A New Tax System (Goods and Services Tax) Act 1999* or the *Corporations Act 2001* have the same meaning in these Terms unless provided otherwise.
- (j) "Including" and any other similar words are not words of limitation.

- (k) Any agreement, covenant, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally.
- (l) Any indemnity is an irrevocable, continuing and unconditional indemnity and remains enforceable despite any variation to the Customer's obligations or anything else which might prejudice or discharge the indemnifying party's liability under such indemnity.