

## SERVICE TERMS & CONDITIONS

To the fullest extent legally possible all contracts, dealings and/or arrangements between Rinnai Australia Pty Ltd ACN 005 138 769 trading as Yukawa Laboratory (**Yukawa Lab**) and the Client relating to the Services are subject to these terms and conditions (**Terms**) unless otherwise expressly agreed by Yukawa Lab in writing.

### 1. Definitions

In these Terms, unless the context otherwise requires:

- 1.1 **Yukawa Lab** means Yukawa Laboratory of Rinnai Australia Pty Ltd (**Rinnai**), its successors and assigns or any person acting on behalf of and with the authority of Rinnai.
- 1.2 **ACL** means the Australian Consumer Law as specified under *Competition and Consumer Act 2010 (Cth)*;
- 1.3 **Amount Owing** means at any time all amounts payable by the Client to Yukawa Lab at that time in connection with the Services whether or not due for payment under these Terms;
- 1.4 **Conformity Assessment Body** means a relevant conformity assessment body, such as SAI Global.
- 1.5 **Contract** means any agreement entered into by way of acceptance of a quotation, submission of a purchase order or instruction to which these Terms are expressed to apply;
- 1.6 **Client** means any person or entity entering into a Contract for the Services and if there is more than one such person or entity, is a reference to each person or entity jointly and severally;
- 1.7 **Documentation** means any documents (including reports and test results), designs, drawings of materials supplied, consumed, created or deposited incidentally by Yukawa Lab in the course of conducting or providing the Services to the Client;
- 1.8 **GST** means goods and services tax in accordance with *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- 1.9 **Services** mean all Services provided by Yukawa Lab to the Client from time to time in accordance with a Contract.
- 1.10 **Price** means the price payable for the Services as agreed between Yukawa Lab and the Client.

### 2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these Terms if the Client enters into a Contract for Services to which these Terms apply.
- 2.2 These Terms may only be amended with Yukawa Lab's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between Yukawa Lab and the Client.
- 2.3 The Client agrees and acknowledges that it is the responsibility of the Client to communicate any issues relating to potential conflicts of interest before commissioning Yukawa Lab to provide the Services.

### 3. Change in Control

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

### 4. Standard of Care and Provision of Information:

- 4.1 Yukawa Lab agrees to perform the Services to a standard of skill, care and diligence that would be expected of a skilled and competent professional practising in the particular fields relevant to the Services, or such higher standard as Yukawa Lab has agreed in writing with the Client.
- 4.2 The Client must promptly provide Yukawa Lab with all information reasonably necessary to enable Yukawa Lab to provide the Services and/or requested by Yukawa Lab from time to time in relation to the provision of Services.

### 5. Price and Payment

- 5.1 The fees quoted by Yukawa Lab exclude all government taxes such as GST unless expressly stated otherwise and are payable by the Client in addition to Yukawa Lab's fees.
- 5.2 Should no "fixed price" or "limiting fee" or "lump sum" be specifically mentioned in a quotation from Yukawa Lab, then the total applicable fee to be invoiced shall be determined by Yukawa Lab on completion of Services based on the instruction and Yukawa Lab's current standard rates and methods. Price is nett of any withholding taxes or other government charges levied outside Australia.
- 5.3 The Client agrees that:
  - a) formal quotations will be in writing unless otherwise agreed by Yukawa Lab;
  - b) Yukawa Lab shall not be bound by any quotation if an order is placed outside the period of the quotation's validity (if any), or **beyond 30 days** from the date of quotation;
  - c) Yukawa Lab may amend a quotation prior to acceptance by the Client; and
  - d) Yukawa Lab shall not be bound by any quotation if:
    - (i) the quotation is part of a larger transaction or series of transactions with the Client and the circumstances pertaining to those transactions have materially changed; or
    - (ii) the Client is in breach of these Terms or any Contract.
- 5.4 At Yukawa Lab's sole discretion, the Price shall be either:
  - a) as indicated on any invoice provided by Yukawa Lab to the Client; or
  - b) Yukawa Lab's quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for thirty (30) days.
- 5.5 Yukawa Lab reserves the right to change the Price if a variation to the quotation is requested or required. All variations shall be in writing and approved by the Client prior to any additional or amended Services are provided by Yukawa Lab.
- 5.6 At Yukawa Lab's sole discretion, a non-refundable deposit may be required.
- 5.7 Time for payment for the Services being of the essence, the Price will be payable by the Client on the date(s) determined by Yukawa Lab, which may be:
  - a) prior to provision of the Services;
  - b) by way of instalments:
    - (i) **fifty percent (50%) deposit** to be paid upon acceptance; and
    - (ii) balance upon completion of the Services;
  - c) the date specified on any invoice; or
  - d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by Yukawa Lab.
- 5.8 Payment may be made by electronic/on-line banking or credit card (plus a surcharge of up to two and a half percent (2.5%) of the Price), or by any other method as agreed to between the Client and Yukawa Lab.
- 5.9 Yukawa Lab may apply a payment received from the Client to any Amount Owing (including part payment of an invoice, administration, collection and other costs) in any order.
- 5.10 Yukawa Lab is entitled to set-off or deduct against any Amount Owing, any amount payable by Yukawa Lab to the Client.
- 5.11 A payment dishonour fee may be charged by Yukawa Lab if a Client's payment is dishonoured in any way. This fee will be in addition to any fees the Client's financial institution or credit provider may charge the Client.
- 5.12 Yukawa Lab reserves the right to require payment in advance (in full or in part) for Services at its discretion.
- 5.13 Yukawa Lab may issue invoices to the Client at the completion of Services, monthly or at such other periods as Yukawa Lab determines from time to time.
- 5.14 Yukawa Lab may cease and/or suspend the provision of Services with no liability to the Client if the Client is in default of payment of any Amount Owing to Yukawa Lab.

## 6. Price Increases

- 6.1 Notwithstanding any provision in these Terms or any Contract, Yukawa Lab may increase the Price of Services if the price increase is due to:
- an increase in the price of any inputs which comprise part of the Services;
  - change to the work scope or timing as a result of the Client's (or its agent's) information, instructions or lack thereof or material changes caused by others in the Client's employ; or
  - circumstances beyond Yukawa Lab's reasonable control including without limitation, any variation in exchange rates, taxes, levies, imposts, duties, premiums fees or charges however designed, cost of raw material required to provide the Services, and costs to correct errors and omissions.

## 7. Default and Consequences of Default

- 7.1 Yukawa Lab may on seven (7) days written notice to the Client, charge liquidated damages at a rate equivalent to two percent (2%) in excess of the rate of interest for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983 if payment is not received by the due date.
- 7.2 The Client is liable for all reasonable expenses (including contingent expenses such as debt collection commission) and reasonable legal costs (on a full indemnity basis) incurred by Yukawa Lab for enforcement of obligations and recovery of Amounts Owing from the Client to Yukawa Lab.
- 7.3 Without prejudice to any other remedies Yukawa Lab may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these Terms, Yukawa Lab may suspend or terminate the provision of Services to the Client. Yukawa Lab will not be liable to the Client for any loss or damage the Client suffers due to the exercise of its rights under this clause.
- 7.4 Where Yukawa Lab suspends or terminate the provision of Services pursuant to clause 7.3, Yukawa Lab may require the Client to make payment of all Amounts Owing.
- 7.5 Yukawa Lab may also require the Client to make payment of Amounts Owing, if in Yukawa Lab's opinion:
- the Client will be unable to make payment when it falls due;
  - the Client becomes insolvent, 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
  - a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

## 8. Scope of Services

- 8.1 The scope, price and timing of Services to be provided are as described in Yukawa Lab's quotation and is calculated and based on the information available to Yukawa Lab at the time, and pursuant to these Terms.
- 8.2 These Terms will apply to the Services and to any variations to those scope of Services.
- 8.3 Yukawa Lab may refuse to perform the Services (or any part thereof) without the Client's acceptance of the quotation in writing. The Client agrees that, by accepting the quotation and engaging Yukawa Lab to provide the Services, these Terms will apply to the Services provided.
- 8.4 Yukawa Lab shall undertake no obligation other than to use its best endeavours to provide the Client with usable results within the scope and timing as proposed.
- 8.5 Where Services are to be provided against a regular schedule, monthly fees may be agreed between Yukawa Lab and the Client until completion of the Services.

## 9. Provision of Services

- 9.1 Preliminary results of findings, non-conformance and any other irregularities during testing will be brought to the attention of the Client, and respective Conformity Assessment Body. Test reports will be issued in PDF format and distributed via email to the Client's nominated email address, and to the respective Conformity Assessment Body.
- 9.2 After testing has been completed, all test samples will be re-packaged. It shall be the full responsibility of the Client to organise collection of any samples, prototypes, products and documentation.
- 9.3 Unless agreed between Yukawa Lab and the Client:
- all courier costs shall be the responsibility of the Client; and
  - all uncollected test samples will be disposed of four (4) weeks from the date the final invoice is issued.
- 9.4 Any timeline specified by Yukawa Lab for the provision of the Services is an estimate only and Yukawa Lab will not be liable for any loss or damage incurred by the Client as a result of any delay resulting from any circumstances outside the control of Yukawa Lab. However, both parties agree that they shall endeavour to enable the Services to be provided at the time and place as agreed. In the event that Yukawa Lab is unable to provide the Services as agreed solely due to any action or inaction of the Client, Yukawa Lab shall be entitled to charge a reasonable fee for the provision of Services at a later date.

## 10. Risk

- 10.1 Irrespective of whether Yukawa Lab retains ownership of any Documentation, all risk shall pass to the Client as soon as the Documentation is delivered to the Client and shall remain with the Client until or unless Yukawa Lab repossess the Documentation. The Client must insure all Documentation on or before delivery.
- 10.2 Yukawa Lab reserves the right to seek compensation for any damage, destruction or loss of the Documentation as a result of the Client's failure to insure.

## 11. Title

- 11.1 Yukawa Lab and the Client agree that where it is intended that the ownership/intellectual property in the Documentation is to pass to the Client that ownership/intellectual property shall not pass until:
- the Client has paid Yukawa Lab all Amounts Owing for the Services; and
  - the Client has met all its obligations in respect of all other contracts between Yukawa Lab and the Client.
- 11.2 Receipt by Yukawa Lab of any form of payment shall not be deemed to be payment until it has been honoured, cleared or recognised. Yukawa Lab's ownership or rights in respect of the Documentation shall continue until such time.
- 11.3 It is further agreed that where the Client has not paid the Amount Owing in full:
- the Client is only a bailee of the Documentation and must return the Documentation to Yukawa Lab immediately upon request by Yukawa Lab;
  - the Client holds the benefit of the Client's insurance of the Documentation on trust for Yukawa Lab and must pay to Yukawa Lab the proceeds of any insurance in the event the Documentation is lost, damaged or destroyed;
  - the Client must not sell, dispose, or otherwise part with possession of the Documentation. If the Client sells, disposes or parts with possession of the Documentation then the Client must hold the proceeds of such sale on trust for Yukawa Lab and must pay or deliver the proceeds to Yukawa Lab on demand;
  - the Client should not convert or process the Documentation or intermingle them with other goods, but if the Client does so then the Client holds the resulting product on trust for the benefit of Yukawa Lab and must dispose of or return the resulting product to Yukawa Lab as Yukawa Lab so directs;
  - the Client shall not charge, grant or give away an encumbrance or interest over the Documentation while they remain the property of Yukawa Lab; and
  - the Client irrevocably authorises Yukawa Lab to enter any premises where Yukawa Lab believes the Documentation is kept and recover possession of the Documentation.

## 12. Personal Property Securities Act 2009 (PPSA)

- 12.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 12.2 Upon agreeing to these Terms in writing the Client acknowledges and agrees that these Terms constitute a security agreement for the purposes of the PPSA and creates a security interest in all Documentation that have previously been supplied or will be supplied in the future by Yukawa Lab to the Client.
- 12.3 The Client undertakes to:
- promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Yukawa Lab may reasonably require to:
    - register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register (PPSR);
    - register any other document required to be registered by the PPSA; or
    - correct a defect in a statement referred to in clause 12.3(a)(i) or 12.3(a)(ii);
  - indemnify, and upon demand reimburse, Yukawa Lab for all expenses incurred in registering a financing statement or financing change statement on the PPSR established by the PPSA or releasing any Documentation charged thereby;
  - not register a financing change statement in respect of a security interest without the prior written consent of Yukawa Lab; and
  - not register, or permit to be registered, a financing statement or a financing change statement in relation to the Documentation in favour of a third-party without the prior written consent of Yukawa Lab.
- 12.4 Yukawa Lab and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these Terms.
- 12.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 12.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 12.7 Unless otherwise agreed to in writing by Yukawa Lab, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 12.8 The Client must unconditionally ratify any actions taken by Yukawa Lab under clauses 12.3 to 12.5.
- 12.9 Subject to any express provisions to the contrary, nothing in these Terms is intended to have the effect of contracting out of any other provisions of the PPSA.

## 13. Security and Charge

- 13.1 In consideration of Yukawa Lab agreeing to provide the Services, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged or owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these Terms (including, but not limited to, the payment of any money).
- 13.2 The Client indemnifies Yukawa Lab from and against all Yukawa Lab's costs and disbursements including legal costs on full indemnity basis incurred in exercising Yukawa Lab's rights under this clause.
- 13.3 The Client irrevocably appoints Yukawa Lab as the Client's true and lawful attorney(s) to perform all necessary acts to give effect to the provisions of this clause 13 including, but not limited to, signing any document on the Client's behalf.

## 14. Defects, Warranties and the ACL

- 14.1 The Client must, within seven (7) days, notify Yukawa Lab in writing of any evident defect, error or omission in the Services or Documentation provided (including Yukawa Lab's workmanship) or of any other failure by Yukawa Lab to comply with the description of, or quote for, the Services which Yukawa Lab was to provide. The Client must notify any other alleged defect in Yukawa Lab's Services or Documentation as soon as it is reasonably possible after any such defect becomes evident. Upon such notification the Client must allow Yukawa Lab to review the Services or Documentation that were provided.
- 14.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the ACL), certain statutory implied guarantees and warranties (including consumer guarantees under the ACL) may be implied into these Terms (**Non-Excluded Guarantees**).
- 14.3 Yukawa Lab acknowledges that nothing in these Terms purports to modify or exclude the Non-Excluded Guarantees.
- 14.4 Except as expressly set out in these Terms or in respect of the Non-Excluded Guarantees, Yukawa Lab makes no warranties or other representations under these Terms including, but not limited to, the quality or suitability of the Services. Yukawa Lab's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 14.5 If the Client is a consumer within the meaning of the ACL, Yukawa Lab's liability is limited, to the extent permitted by law, to:
  - the supply of Services again; or
  - the payment of the cost of having the Services supplied again.
- 14.6 If Yukawa Lab is required to rectify, resupply, or pay the cost of rectifying or resupplying the Services under this clause or the ACL, but is unable to do so, then Yukawa Lab may refund any money the Client has paid for the Services but only to the extent that such refund shall take into account the value of Services and Documentation which have been provided to the Client which were not defective.
- 14.7 If the Client is not a consumer within the meaning of the ACL, Yukawa Lab's liability for any defective Services or Documentation is limited to the value of any express warranty provided to the Client by Yukawa Lab (if any).
- 14.8 Subject to the ACL, Yukawa Lab shall not be liable for any defect or damage which may be wholly or partially caused or arise as a result of:
  - the Client failing to properly maintain or store any Documentation;
  - the Client using the Documentation for any purpose other than that for which they were intended;
  - the Client continuing to use any incidental item after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
  - interference with the Services by the Client or any third-party without Yukawa Lab's prior approval;
  - the Client failing to follow any instructions or guidelines provided by Yukawa Lab; or
  - fair wear and tear, any accident, or act of God.

## 15. Liability

- 15.1 Yukawa Lab shall not be liable for any loss or damage which the Client suffers as a result of the use of Documentation provided by Yukawa Lab. Additionally, the Client indemnifies Yukawa Lab from all claims of loss or damage suffered by any third-party from the use of the Documentation by the Client, or any third-party to whom the Client has disclosed the Documentation.
- 15.2 The Client acknowledges that Yukawa Lab is only responsible for the Services provided hereunder. Yukawa Lab shall not be held responsible for any loss or damage caused by any act or omission of third-party contractors or agents.

## 16. Intellectual Property

- 16.1 Any intellectual property in all Documentation produced during the course of providing the Services shall vest in Yukawa Lab. The Client shall only have a licence to use such Documentation for the purpose expressed at the time of engaging the Services and is not entitled to any additional use without Yukawa Lab's express approval in writing.
- 16.2 The Client acknowledges and agrees that Documentation shall not be reproduced, in whole or in part, nor relied upon by any third-party for any use whatsoever, without the express written approval of Yukawa Lab.
- 16.3 The Client agrees that Yukawa Lab may (at no cost) use for the purposes of marketing or entry into any competition, any Documentation which Yukawa Lab has created for the Client.
- 16.4 If during the course of providing the Services, Yukawa Lab develops, discovers, or first reduces to practice a concept, product or process which is capable of being patented, then:
  - such concept, product or process shall be and remain the property of Yukawa Lab, and the Client shall not use, infringe or otherwise appropriate the same without first obtaining the written consent of Yukawa Lab; and
  - the Client shall be entitled to a royalty-free licence to use the same during the course of the Services.

## 17. Confidentiality

- 17.1 Unless otherwise agreed between Yukawa Lab and the Client, all information relating to the performance of the Services (including any prices and specification contained in Yukawa Lab's quotations, invoice or other Documentation) will be kept completely confidential for a period of one (1) year. Experience and test methods obtained through testing performed by Yukawa Lab may be disclosed as required.
- 17.2 The parties must treat as confidential all information one provides to the other which given its nature is confidential or which they should have reasonably known is confidential. This obligation of confidentiality does not extend to information that:
- is in or comes into the public domain in any way without a breach of a party's obligations pursuant to these Terms;
  - can be shown by a party to have been legitimately known to it prior to its receipt from the other party and which was not obtained under a duty of confidence from a third-party;
  - is independently developed by a party without any reliance on or use of the confidential information; or
  - is disclosed in response to a valid order of a court, tribunal, government body or otherwise as required by law or as necessary to establish any right pursuant to these Terms.
- 17.3 Notwithstanding clause 17.2:
- Unless it is agreed otherwise at the time the order is placed, Yukawa Lab will keep confidential for a period of one (1) year any new data directly relating to the Services. This confidentiality obligation does not apply to calculation methods, programming and experimental methods and techniques which Yukawa Lab brings to the project; and
  - confidential data belonging to the Client to which Yukawa Lab has access when carrying out the Services will be kept confidential for a period of one (1) year. If required, this term may be extended by a separate written confidentiality agreement.
- 17.4 Yukawa Lab's obligation under clause 17.3 shall not apply where Yukawa Lab is required to disclose information under a valid order of a court, tribunal, government body or otherwise as required by law.
- 17.5 Any proposals for an order, variations or extension thereof, are made on the condition that the exclusive knowledge of Yukawa Lab is only used by the Client for forming an opinion on Yukawa Lab's proposals and is not passed to third-parties without the express written approval of Yukawa Lab.
- 17.6 At no time, unless agreed in writing, will Yukawa Lab be required to refrain from accepting orders from third-parties and performing Services pursuant third-party orders even if those are within the scope of or are similar to the Client's order or the Services being provided to the Client. Should either Yukawa Lab or the Client consider there to be an actual or potential conflict of interest, they must inform the other party at the earliest opportunity.

## 18. Cancellation

- 18.1 Yukawa Lab may cancel any Contract to which these Terms apply or cancel the Services at any time before the Services are completed by giving written notice to the Client. Upon such cancellation Yukawa Lab shall repay to the Client any money paid by the Client for the Services, less any Amounts Owing by the Client to Yukawa Lab for any Services already provided. Yukawa Lab shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 18.2 In the event that the Client cancels the Services, the Client shall be liable for any loss incurred (whether direct or indirect) by Yukawa Lab as a direct result of the cancellation (including, but not limited to, any loss of profits).

## 19. Lien

- 19.1 Where the Client has left any item with Yukawa Lab for the provision of Services, and the Client has not paid the Amount Owing in full, Yukawa Lab shall have, until all monies are paid:
- a lien on the item; and
  - the right to retain or sell the item, such sale to be undertaken in accordance with any applicable laws in relation to the sale or disposal of uncollected goods.
- 19.2 The lien of Yukawa Lab shall continue despite the commencement of proceedings, or judgment for Amounts Owing been obtained in Yukawa Lab's favour.

## 20. Privacy Act 1988

- 20.1 The Client authorises Yukawa Lab to obtain from a credit reporting agency, a consumer or commercial credit report containing personal information about the Client, and or a report or information in relation to the Client's commercial credit activities.
- 20.2 The Client agrees that Yukawa Lab may exchange information about the Client with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
- to assess an application by the Client;
  - to notify other credit providers of a default by the Client;
  - to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
  - to assess the creditworthiness of the Client.
- 20.3 The Client consents to Yukawa Lab being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 20.4 The Client agrees that personal credit information provided may be used and retained by Yukawa Lab for the following purposes (and for other purposes as shall be agreed by the parties or required by law from time to time):
- the provision of Services;
  - the marketing of Services by Yukawa Lab;
  - analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services;
  - processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
  - enabling the daily operation of Client's account and/or the collection of any Amount Owing in the Client's account in relation to the Services.
- 20.5 Yukawa Lab may provide information about the Client to a credit reporting agency for the following purposes:
- to obtain a consumer credit report about the Client; and
  - to allow the credit reporting agency to create or maintain a credit information file containing information about the Client.
- 20.6 The information given to the credit reporting agency may include:
- personal information (including personal information of any authorised officer of the Client);
  - details concerning the Client's application for credit or commercial credit and the amount requested;
  - advice that Yukawa Lab is a current credit provider to the Client;
  - advice of any overdue accounts, loan repayments, and/or any Amounts Owing for over sixty (60) days, and for which debt collection action has commenced;
  - that the Client's overdue accounts, loan repayments and/or any Amounts Owing are no longer overdue in respect of any default that has been listed;
  - information that, in the opinion of Yukawa Lab, the Client has committed a serious credit infringement that is fraudulent or shows an intention not to comply with the Client's credit obligations;
  - advice that cheques drawn by the Client for one hundred dollars (\$100) or more, have been dishonoured more than once; or
  - that credit provided to the Client by Yukawa Lab has been paid or otherwise discharged.
- 20.7 The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit providers are permitted to exchange under the Privacy Act 1988.

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## 21. General

- 21.1 The failure by Yukawa Lab to enforce any provision of these Terms shall not be treated as a waiver of that provision, nor shall it affect Yukawa Lab's right to subsequently enforce that provision. If any provision of these Terms shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 21.2 These Terms and any Contract to which they apply shall be governed by the laws of Victoria, and the parties shall submit to the non-exclusive jurisdiction of the Courts of Victoria and any appeals therefrom.
- 21.3 Subject to clauses 14 and 15 above, Yukawa Lab shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Yukawa Lab of these Terms (alternatively Yukawa Lab's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).
- 21.4 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Yukawa Lab nor to withhold payment of any invoice because part of that invoice is in dispute.
- 21.5 Yukawa Lab may license, assign or sub-contract all or any part of its rights and obligations without the Client's consent.
- 21.6 The Client agrees that Yukawa Lab may amend these Terms at any time. If Yukawa Lab makes a change to these Terms, then that change will take effect from the date on which Yukawa Lab notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for Services by Yukawa Lab.
- 21.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, pandemic, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 21.8 The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and acknowledges that this agreement creates a binding and valid legal obligation on it.

## 22. Entire Agreement

- 22.1 The Contract for the provision of Services constitutes the entire agreement between Yukawa Lab and the Client with respect to those Services. All prior negotiations, proposals, previous dealings, correspondence, trade custom and/or trade usage are superseded by and will not affect the interpretation of that Contract.

## 23. Notices

- 23.1 Any notice under these Terms or any Contract must be in writing, and may be delivered, emailed or posted to a party at their address or contact details last notified by them to the other party. A party may change its contact details for notices by notifying the other party.