

1. Definitions

- 1.1 **“Contract”** means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 **“Cookies”** means small files which are stored on a user’s computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website and can be accessed either by the web server or the client’s computer. **If the Customer does not wish to allow Cookies to operate in the background when using Crash Services Limited’s website, then the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to making enquiries via the website.**
- 1.3 **“Crash Services Limited”** means Crash Services Limited, its successors and assigns.
- 1.4 **“Customer”** means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting Crash Services Limited to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
(a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
(b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
(c) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and
(d) includes the Customer’s executors, administrators, successors and permitted assigns.
- 1.5 **“Price”** means the Price payable (plus any Goods and Services Tax (“GST”) where applicable) for the Services as agreed between Crash Services Limited and the Customer in accordance with clause 5 of this Contract.
- 1.6 **“Services”** means all Services (including, but not limited to, towing, transport and storage provided by Crash Services Limited or any parts/goods supplied during the course of the Services) supplied by Crash Services Limited to the Customer at the Customer’s request from time to time.
- 1.7 **“Vehicle”** means any vehicle to be moved from one place to another by way of Crash Services Limited’s Services.

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for, or accepts Services provided by Crash Services Limited.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Customer acknowledges and accepts that:
(a) the supply of Services on credit shall not take effect until the Customer has completed a credit application with Crash Services Limited and it has been approved with a credit limit established for the account;
(b) in the event that the supply of Services requested exceeds the Customer’s credit limit and/or the account exceeds the payment terms, Crash Services Limited reserves the right to refuse delivery;
(c) Crash Services Limited shall only be responsible for their performance to the party that contracts them to undertake the Services and shall not be responsible to any third party irrespective of their relationship to the Customer; and
(d) where the Customer requesting or organising Crash Services Limited to provide Services is acting with or on behalf of any third party and that third party is intended to be responsible for the payment (or any part thereof) of the Price then in the event that the third party does not pay for the Services when due, the Customer acknowledges that they shall be liable for the payment of the Price as if they had contracted the Services on their own behalf.
- 2.5 Any advice, recommendation, information, assistance or service provided by Crash Services Limited in relation to the Services supplied is given in good faith to the Customer, or the Customer’s agent and is based on Crash Services Limited’s own knowledge and experience and shall be accepted without liability on the part of Crash Services Limited.
- 2.6 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 226 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

- 3.1 The Customer acknowledges and accepts that Crash Services Limited shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
(a) resulting from an inadvertent mistake made by Crash Services Limited in the formation and/or administration of this Contract; and/or
(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by Crash Services Limited in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of Crash Services Limited; the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Change in Control

- 4.1 The Customer shall give Crash Services Limited not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer’s details (including but not limited to, changes in the Customer’s name, address, contact phone or fax number/s, change of trustees, or business practice). The Customer shall be liable for any loss incurred by Crash Services Limited as a result of the Customer’s failure to comply with this clause.

5. Price and Payment

- 5.1 At Crash Services Limited’s sole discretion, the Price shall be either:
(a) as indicated on any invoice provided by Crash Services Limited to the Customer; or
(b) Crash Services Limited’s quoted Price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 5.2 Crash Services Limited reserves the right to change the Price:
(a) if a variation to Crash Services Limited’s quotation is requested; or

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- (b) as a result of a variation from the plan of scheduled Services or specifications of the Vehicle (including, but not limited to, due to hidden or unidentifiable difficulties not evident prior to the commencement of the Services (e.g. any delay due to any action or inaction of the Customer, or obstructed access to the site where the Vehicle is located etc); or
- (c) in the event of increases to Crash Services Limited in the cost of labour or materials, fuel, storage or towing costs which are beyond Crash Services Limited's control.
- 5.3 Variations will be charged for on the basis of Crash Services Limited's quotation, and will be detailed in writing, and shown as variations on Crash Services Limited's invoice. The Customer shall be required to respond to any variation submitted by Crash Services Limited within ten (10) working days. Failure to do so will entitle Crash Services Limited to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 5.4 Time for payment for the Services being of the essence, the Price will be payable by the Customer on the date/s determined by Crash Services Limited, which may be:
- (a) on or before delivery of the Services;
- (b) by way of instalments/progress payments in accordance with Crash Services Limited's payment schedule;
- (c) the date specified on any invoice or other form as being the date for payment; or
- (d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Crash Services Limited.
- 5.5 Payment may be made by electronic/on-line banking or by any other method as agreed to between the Customer and Crash Services Limited.
- 5.6 Crash Services Limited may in its discretion allocate any payment received from the Customer towards any invoice that Crash Services Limited determines and may do so at the time of receipt or at any time afterwards.
- 5.7 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Crash Services Limited nor to withhold payment of any invoice because part of that invoice is in dispute. Once in receipt of an invoice for payment, if any part of the invoice is in dispute, then the Customer must notify Crash Services Limited in writing within three (3) business days, the invoice shall remain due and payable for the full amount, until such time as Crash Services Limited investigates the dispute claim, no credit shall be passed for refund until the review is completed. Failure to make payment may result in Crash Services Limited placing the Customer's account into default and subject to default interest in accordance with clause 19.1.
- 5.8 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to Crash Services Limited an amount equal to any GST Crash Services Limited must pay for any supply by Crash Services Limited under this or any other agreement for providing Crash Services Limited's Services. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 5.9 The Customer acknowledges and agrees that the Customer's obligations to Crash Services Limited for the provision of Services shall not cease until:
- (a) the Customer has paid Crash Services Limited all amounts owing for the particular Services; and
- (b) the Customer has met all other obligations due by the Customer to Crash Services Limited in respect of all contracts between Crash Services Limited and the Customer.
- 5.10 Receipt by Crash Services Limited of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then Crash Services Limited's ownership or rights in respect of the Services shall continue.
- 6. Provision of the Services**
- 6.1 Any time specified by Crash Services Limited for delivery of the Services is an estimate only and Crash Services Limited will not be liable for any loss or damage incurred by the Customer as a result of delivery being late. However, both parties agree that they shall make every endeavour to enable the Services to be supplied at the time and place as was arranged between both parties. In the event that Crash Services Limited is unable to supply the Services as agreed solely due to any action or inaction of the Customer then Crash Services Limited shall be entitled to charge a reasonable fee for re-supplying the Services at a later time and date.
- 7. After Hours Call-Out Fee**
- 7.1 The Customer acknowledges and accepts that an after-hours call-out fee, equal to four (4) hours standard labour rates, will be applicable (and which will be treated as a variation to the Price as per clause 5.2 for Services provided during the timeframes as follows:
- (a) after 7pm and before 5am, Monday to Friday;
- (b) after 12pm and before 5am, Saturday;
- (c) all hours, Sunday and public holidays.
- 8. Risk**
- 8.1 The Customer shall ensure that Crash Services Limited has clear and free access to the Vehicle to enable them to provide the Services. Crash Services Limited shall not be liable for any loss or damage to any site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of Crash Services Limited.
- 8.2 It is the responsibility of the Customer to ensure that access to the Vehicle is suitable to accept the weight of laden trucks. The Customer agrees to indemnify Crash Services Limited against all costs incurred by Crash Services Limited in recovering such vehicles in the event they become bogged or otherwise immovable.
- 8.3 The Customer acknowledges and accepts that it is the Customer's responsibility to remove all personal/valuable items (where possible) from the Vehicle prior to Crash Services Limited carrying out their Services. Crash Services Limited shall not be liable in the event of any apparent loss or damage to personal/valuable items left in the Vehicle.

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- 8.4 Subject to clause 10 and in accordance with section 97 (2) of the Land Transport Act 1998 (or its amendments), in the event that a police officer or authorised enforcement officer directs Crash Services Limited to tow and store the Vehicle, the owner of the Vehicle is liable to pay the fees and charges for towage and storage.
- 9. Towing Risk**
- 9.1 Should any further damage occur to the Vehicle whilst not physically secured to Crash Services Limited's vehicle on a public roadway then Crash Services Limited shall accept no liability for the same, unless such damage is due to the negligence of Crash Services Limited.
- 9.2 If applicable, the Customer acknowledges and accepts that:
- (a) it is not always possible for Crash Services Limited to be aware of the total extent of any damage to the Vehicle and that further damage may occur when attempting to either move, lift upright or prepare the Vehicle for towing. Whilst Crash Services Limited will take all due care to avoid such damage Crash Services Limited shall accept no liability for the same and the Customer agrees to indemnify Crash Services Limited against any claims howsoever arising should such damage occur;
 - (b) braking systems and mechanical components (including, but not limited to, air fittings from air tanks, valves or lines, interconnecting air supply and service brake lines) may be removed during towing and must be inspected for serviceability before putting the towed Vehicle back into use; and
 - (c) Crash Services Limited may, where necessary:
 - (i) remove drive shaft and axle(s) from the differential to ensure safe towing;
 - (ii) collect oil from the Vehicle to be towed. All oil and fluid levels must be checked before putting the Vehicle back into use;
 - (iii) remove any equipment from the Vehicle to reduce overall height, length or width of the load.
- 9.3 Crash Services Limited shall not accept any liability or responsibility for:
- (a) any additional load with the Vehicle. Securing such load is the responsibility of the owner/driver;
 - (b) the safety of the Vehicle if the owner/driver travels with Crash Services Limited either to or from the breakdown or accident site.
- 9.4 Where recovery of the Vehicle is off-road, or where the recovery is deemed by Crash Services Limited to be extreme, the Customer agrees to indemnify Crash Services Limited against any damage to the equipment of Crash Services Limited, added costs (including the salvage of the salvage vehicle) and the replacement costs of any equipment of Crash Services Limited that is lost or damaged.
- 10. Storage**
- 10.1 All Vehicles that are to be stored under this Contract shall be checked into and out of storage and if the Customer (or the Customer's representative) is not present at the time of receipt or delivery of said Vehicle, as the case may be, then Crash Services Limited's record shall be accepted as final.
- 10.2 The Customer shall immediately notify Crash Services Limited of any change of the ownership of any Vehicle which is stored on the Customer's behalf under this Contract.
- 10.3 Crash Services Limited reserves the right at any time to require the removal of any Vehicle held in storage on the Customer's behalf by giving not less than one (1) weeks' notice to the Customer that they wish them to do so.
- 10.4 The Customer shall on request by Crash Services Limited provide samples of the signature(s) of any person(s) entitled to uplift the Vehicle from storage.
- 10.5 The Customer agrees to give Crash Services Limited at least forty-eight (48) hours of their intent to remove the Vehicle from storage. In the event the Customer fails to give such notice then Crash Services Limited may at its sole discretion agree to facilitate the immediate removal of the Vehicle but shall be entitled to charge the Customer an additional fee for so doing.
- 10.6 An inward receipt in relation to Vehicle stored by Crash Services Limited shall not constitute a document of title to that Vehicle, or be negotiable, nor shall any right of the Customer storing the Vehicle be assignable.
- 10.7 The Customer shall be liable to Crash Services Limited on demand and at any rate before removal of the Vehicle from storage, for all charges or fees in connection handling, loading or unloading, re-packing and/or delivery of the Vehicle, as the case may require, in addition to any storage fees.
- 11. Insurance**
- 11.1 Crash Services Limited shall take out, and maintain at its own expense, at all times during the Contract, Public Liability Insurance of no less than five million dollars (\$5M).
- 12. Personal Property Securities Act 1999 ("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 assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all the Customer's present and after acquired property being a charge, including anything in respect of which the Customer has at any time a sufficient right, interest or power to grant a security interest in for the purposes of securing repayment of all monetary obligations of the Customer to Crash Services Limited for Services – that have previously been provided and that will be provided in the future by Crash Services Limited to the Customer.
- 12.3 The Customer undertakes to:
- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Crash Services Limited may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, Crash Services Limited for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Services charged thereby;
 - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Services or the proceeds of Services in favour of a third party without the prior written consent of Crash Services Limited.

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- 12.4 Crash Services Limited and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 12.5 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.
- 12.6 Unless otherwise agreed to in writing by Crash Services Limited, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 12.7 The Customer shall unconditionally ratify any actions taken by Crash Services Limited under clauses 12.1 to 12.6.
- 12.8 Subject to any express provisions to the contrary (including those contained in this clause 12), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

13. Security and Charge

- 13.1 In consideration of Crash Services Limited agreeing to supply Services, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, and the Customer grants a security interest in all of its present and after-acquired property, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money). The terms of the charge and security interest are the terms of Memorandum 2018/4344 registered pursuant to s.209 of the Land Transfer Act 2017.
- 13.2 The Customer indemnifies Crash Services Limited from and against all Crash Services Limited's costs and disbursements including legal costs of a solicitor and own client basis incurred in exercising Crash Services Limited's rights under this clause.
- 13.3 The Customer irrevocably appoints Crash Services Limited and each director of Crash Services Limited as the Customer'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 Customer's behalf.

14. Defects

- 14.1 The Customer shall inspect the Vehicle prior to Crash Services Limited releasing the Vehicle and shall immediately notify Crash Services Limited of any alleged damage caused to the Vehicle whilst being stored on the Customer's behalf and/or as required by law. Upon Crash Services Limited obtaining from any person a signed Impound Release Form the Vehicle is deemed to be released free of any damage and/or to the Customer's satisfaction in accordance with this Contract. For a damaged Vehicle, which Crash Services Limited has agreed in writing to assume responsibility, Crash Services Limited's liability shall be as stated in accordance with clause 15.

15. Limitation to Liabilities

- 15.1 The Customer acknowledges and accepts that the provision of Services is at limited carrier's risk and Crash Services Limited's liability is limited to a maximum of two thousand dollars (\$2,000) of the declared value (subject to Section 259 of the Contract and Commercial Law Act 2017) for loss or damage to any Vehicle due to negligence by Crash Services Limited or Crash Services Limited's employees.
- 15.2 Crash Services Limited has no liability to the Customer for loss or damage to the extent that the loss or damage:
 - (a) arises from an event outside of Crash Services Limited's control;
 - (b) is unavoidable damage to a third-party vehicle or property during the provision of Services;
 - (c) that occurs after delivery; and
 - (d) result from any act or omission by the Customer, including a breach of the Customer's obligation under this Contract.

16. Confidentiality

- 16.1 The Customer agrees to keep confidential, and not to disclose to any third party without the prior written consent of Crash Services Limited, any information, data, designs, specifications, drawings, reports or other documents provided, made available, or brought into existence, by Crash Services Limited for the purpose of providing the Services, and shall take reasonable precautions to maintain the secrecy and confidentiality, and prevent disclosure, of all such information.

17. Consumer Guarantees Act 1993

- 17.1 If the Customer is acquiring Services for the purposes of a trade or business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 ("CGA") do not apply to the supply of Services by Crash Services Limited to the Customer.

18. Compliance with Laws

- 18.1 Crash services Limited shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services, including, but not limited to, the Land Transport Act 1998, the Contract and Commercial Law Act 2017 (or its amendments), any WorkSafe health and safety laws relating or any other relevant safety standards or legislation pertaining to the Services.

19. Default and Consequences of Default

- 19.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Crash Services Limited's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 19.2 If the Customer owes Crash Services Limited any money the Customer shall indemnify Crash Services Limited from and against all costs and disbursements incurred by Crash Services Limited in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Crash Services Limited's collection agency costs, and bank dishonour fees).
- 19.3 Further to any other rights or remedies Crash Services Limited may have under this Contract, if a Customer has made payment to Crash Services Limited, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Crash Services Limited under this clause 19, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.

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- 19.4 Without prejudice to Crash Services Limited's other remedies at law Crash Services Limited shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Crash Services Limited shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to Crash Services Limited becomes overdue, or in Crash Services Limited's opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer has exceeded any applicable credit limit provided by Crash Services Limited;
 - (c) the Customer 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
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
- 20. Cancellation**
- 20.1 Without prejudice to any other remedies Crash Services Limited may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Crash Services Limited may suspend or terminate the supply of Services to the Customer. Crash Services Limited will not be liable to the Customer for any loss or damage the Customer suffers because Crash Services Limited has exercised its rights under this clause.
- 20.2 Crash Services Limited may cancel any Contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are commenced by giving written notice to the Customer. On giving such notice Crash Services Limited shall repay to the Customer any money paid by the Customer for the Services. Crash Services Limited shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 20.3 In the event that the Customer cancels delivery of the Services the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Crash Services Limited as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 21. Privacy Policy**
- 21.1 All emails, documents, images, or other recorded information held or used by Crash Services Limited is "**Personal Information**" as defined and referred to in clause 21.3 and therefore considered confidential. Crash Services Limited acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines and as set out in the Act and any statutory requirements where relevant in a European Economic Area "EEA" under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). Crash Services Limited acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customer's Personal Information, held by Crash Services Limited that may result in serious harm to the Customer, Crash Services Limited will notify the Customer in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Customer by written consent, unless subject to an operation of law.
- 21.2 Notwithstanding clause 21.1, privacy limitations will extend to Crash Services Limited in respect of Cookies where the Customer utilises Crash Services Limited's website to make enquiries. Crash Services Limited agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to Crash Services Limited when Crash Services Limited sends an email to the Customer, so Crash Services Limited may collect and review that information ("collectively Personal Information")
- If the Customer consents to Crash Services Limited's use of Cookies on Crash Services Limited's website and later wishes to withdraw that consent, the Customer may manage and control Crash Services Limited's privacy controls via the Customer's web browser, including removing Cookies by deleting them from the browser history when exiting the website.
- 21.3 The Customer authorises Crash Services Limited or Crash Services Limited's agent to:
- (a) access, collect, retain and use any information about the Customer;
 - (i) including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice for the purpose of assessing the Customer's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Customer.
 - (b) disclose information about the Customer, whether collected by Crash Services Limited from the Customer directly or obtained by Crash Services Limited from any other source to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
- 21.4 Where the Customer is an individual the authorities under clause 21.3 are authorities or consents for the purposes of the Privacy Act 2020.
- 21.5 The Customer shall have the right to request (by e-mail) from Crash Services Limited, a copy of the Personal Information about the Customer retained by Crash Services Limited and the right to request that Crash Services Limited correct any incorrect Personal Information.
- 21.6 Crash Services Limited will destroy Personal Information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 21.7 The Customer can make a privacy complaint by contacting Crash Services Limited via e-mail. Crash Services Limited will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within twenty (20) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Privacy Commissioner at <http://www.privacy.org.nz>.

22. Lien

- 22.1 Where any Vehicle remains in storage with Crash Services Limited due to the Customer failing to collect the Vehicle within the designated timeframe being twenty-eight (28) days, and Crash Services Limited has not received or been tendered the whole of any monies owing to it by the Customer, Crash Services Limited shall have, until all monies owing to Crash Services Limited are paid:
- (a) a lien on the Vehicle; and
 - (b) the right to retain or sell the Vehicle, such sale to be undertaken in accordance with any legislation applicable or any amendments thereto to the sale or disposal of uncollected vehicles (subject to Sections 98 (1)(b) or 98 (4) of the Land and Transport Act 1998 for the purpose of recovery of all outstanding fees for towage and storage).
- 22.2 The lien of Crash Services Limited shall continue despite the commencement of proceedings, or judgment for any monies owing to Crash Services Limited having been obtained against the Customer.

23. Service of Notices

- 23.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Contract;
 - (c) by sending it by registered post to the address of the other party as stated in this Contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 23.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

24. Trusts

- 24.1 If the Customer at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not Crash Services Limited may have notice of the Trust, the Customer covenants with Crash Services Limited as follows:
- (a) the Contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;
 - (b) the Customer has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Customer against the Trust or the trust fund. The Customer will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
 - (c) the Customer will not without consent in writing of Crash Services Limited (Crash Services Limited will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Customer as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.

25. General

- 25.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 25.2 These terms and conditions and any Contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the Palmerston North Courts of New Zealand.
- 25.3 Subject to the CGA, Crash Services Limited shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Crash Services Limited of these terms and conditions (alternatively Crash Services Limited's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).
- 25.4 Crash Services Limited may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.
- 25.5 The Customer cannot licence or assign without the written approval of Crash Services Limited.
- 25.6 Crash Services Limited may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of Crash Services Limited's sub-contractors without the authority of Crash Services Limited.
- 25.7 The Customer agrees that Crash Services Limited may amend their general terms and conditions for subsequent future Contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for Crash Services Limited to provide Services to the Customer.
- 25.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc, ("Force Majeure") or other event beyond the reasonable control of either party. This clause does not apply to a failure by the Customer to make a payment to Crash Services Limited.
- 25.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.