



# **BOAT SERVICE GOLD COAST**

**YOUR MERCSERVICE CENTRE**

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## **STANDARD TERMS**

**<http://www.boatsevicegc.com.au>**

This version of the Standard Terms (“**Standard Terms**” or “terms”) is applicable from 4 September 2020.

Previous versions of the Standard Terms are available by contacting us at michael@ramgroup.cloud:

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## **1. GENERAL**

1. Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. This clause does not apply where Australian Consumer Law does not apply.
2. This entire document comprises the Standard Terms which are intended to cover all dealings that you have with us.
3. We, us, our means RAM Group Pty Ltd ACN 080 030 173. Where relevant it includes our managers, employees, or any person or entity we authorise.
4. You, your means you (the person and/or entity dealing with us). Where relevant it includes your employees, agents and any person you bring or invite onto our premises.
5. These Standard Terms are incorporated by reference to all dealings with us and where there is any conflict with any other agreement, contract or document these Standard Terms are to prevail to the fullest extent.
6. We may change these Standard Terms from time to time without notice to you and without obtaining your consent and it is your responsibility to regularly check these Standard Terms. We will assume that you agree to the Standard Terms applicable at the relevant time by your continued dealing with us.
7. You must print these Standard Terms at the relevant time of entering into any agreement with us, we will take reasonable measures to ensure that previous Standard Terms are maintained in our database for your reference, however we are not obligated to do so.
8. Interpretation
  - a. Headings are for reference only and do not form part of the Standard Terms.
  - b. Unless the contrary intention appears:
    - i. the singular includes the plural, and the plural includes the singular;
    - ii. reference to a gender includes any other gender;
    - iii. other forms of defined words have corresponding meanings;
    - iv. if an obligation is imposed on two or more parties, each party is liable for the obligation individually and together with each other person;
    - v. reference to a person includes any other entity or association;
    - vi. reference to a party includes that party's personal representatives, successors and assignees;
    - vii. reference to a document includes any variation or replacement of it;
    - viii. reference to something which comprises more than one part or aspect includes a reference to each or any such part or aspect;

- ix. reference to a group of persons includes a reference to all of them collectively, any two or more of them collectively, and each of them individually;
  - x. when the Standard Terms require anything not to be done, this includes not allowing or permitting the thing to be done;
  - xi. if a clause of the Standard Terms is void or voidable, it may be severed from the Standard Terms without affecting the validity of the other provisions of the Standard Terms;
  - xii. sub-sub-clauses are to be read cumulatively; and
  - xiii. a reference to legislation includes an amendment of or substitution for it and a regulation or statutory instrument issued under it.
9. We do not have to notify you if we make changes to the websites, [merservice.com.au](http://merservice.com.au), [boatservicegc.com.au](http://boatservicegc.com.au) website or any other website we own or operate.
10. All children must be supervised when on our premises. No children should be allowed to climb or play on boat or other equipment or accessories and it is your sole responsibility to ensure the child's safety at all times.
11. Footwear must be worn at all times by all persons on our premises.
12. Unless as required in an emergency, no unauthorised persons are to enter the workshop area unless while accompanied by a staff team member.
13. All persons are to obey our directions while on our premises.
14. Our premises including the outside display area is an entirely non-smoking area.
15. Our dealing with you and these Standard Terms will be governed by the law in force in the State of Queensland, Australia, and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland, Australia and courts of appeal from them for determining any dispute concerning this agreement.
16. If we do not act in relation to a breach by you of the Standard Terms, this does not waive our right to act with respect to such breach, subsequent or similar breaches.
17. You may not assign or transfer your rights or benefits under the Standard Terms to any other person or entity without our prior consent.
18. Any document referring to these Standard Terms may be signed and sent by facsimile or email and then signed by the other party. A facsimile or email copy of such document may be taken to be an original.
19. Not applicable.

## **2. SALES TERMS**

### **2A. General**

1. This section 2A applies to all sales of goods by us including but not limited to boats, motors, trailers and chandlery.

2. All prices and estimates which are quoted by us are subject to vary at any time and are not binding until accepted by a company director of RAM Group Pty Ltd.
3. In the case of used units or where a manufacturer's warranty is applicable you have read, understood and accepted the conditions of the used warranty and/or any manufacturer's warranty applicable to the goods and we have not made any representations as to the applicability of any manufacturer's warranty.
4. All express and implied conditions or warranties whether statutory or otherwise are hereby negatived to the extent permitted by law.
5. Before purchasing the goods or accepting delivery of the goods you have examined the goods and satisfied yourself that the goods were of a satisfactory quality and in satisfactory order and condition and fit for the purpose for which you require them. Additionally, on acceptance of delivery of goods you have inspected those goods and are completely satisfied that the goods match the quantity, description, and quality of the goods ordered.
6. You have relied entirely upon your own skill and judgment in selecting the goods.
7. To the extent permitted by law, no cancellation of orders will be allowed except:
  - a) for online orders: where we are unable to reasonably dispatch the goods within seven (7) days of order (unless we notify you of a longer lead time); or
  - b) for all other orders: where we are unable to reasonably deliver the goods within three (3) months (or alternatively five (5) months in the case of imported goods) of the date of this order becoming binding on us (unless we notify you of a longer lead time).
8. In the case of any cancellation due to your default then we may elect to have 100% of the proceeds of sale that have been received for the order which may have been accepted by us in part payment of the purchase price (including any deposit payments), **or** 30% of the total purchase price (whichever the lesser), **forfeited** to us completely. Should the amount forfeited not cover our costs hereinafter mentioned then you will be liable to an additional amount for such costs. Any refund we give is strictly without prejudice to our rights under these Standard Terms and at law to enforce or terminate the order, and recover any and all damages, including loss of profits, resale costs, and legal costs on an indemnity basis which you agree to pay on demand.
9. Where an order is "subject to water test" then the order is subject to you being reasonably satisfied with the performance of the goods on a water test at an agreed date which must be during our usual business hours at a location nominated by us. If you wish to elect to cancel the order under this sub-clause then you must:
  - a) give us written notice of your cancellation to michael@ramgroup.cloud, our post office box, or by hand delivery to us at our premises which must be received no later than 5PM on the calendar day following the water test; and
  - b) include in your written notice the reason or reasons why you are not satisfied with the goods (which reasoning must be not be unreasonably concluded).
    - i. Where there is a valid cancellation under this clause then we will refund you all proceeds of sale that have been received by us for the order as part payment of the purchase price (including any deposit payments) **minus** \$350 for our costs associated with the water test. If we do not receive the notice required by this sub-clause then the water test condition will be considered satisfied.
10. Where an order is "subject to finance" then the order is subject to you obtaining satisfactory finance within ten (10) calendar days of the date of the order ("**Finance Date**"). If you wish to cancel the order under this sub-clause then you must:
  - a) give us written notice of your cancellation to michael@ramgroup.cloud, our post office box, or by hand delivery to us at our premises which must be received no later than 5PM on the Finance Date.
    - i. If we require you to then you must provide evidence of your attempts to obtain finance within a reasonable time of our request. If we do not receive the notice required by this sub-clause then the finance condition will be considered satisfied.

11. Any order is not binding on us until signed by us but is still subject to these terms.
12. When so accepted, the order form, tax invoice, and these Standard Terms shall constitute the entire agreement between the parties. Errors or omissions on tax invoices may be corrected from time to time, in which case a revised invoice will be issued.
13. The risk in the goods shall pass to you immediately on delivery and/or your acceptance of the goods. When collecting any vessel or trailer from us it is your sole responsibility to ensure that the vessel and trailer are securely fastened, connected to your vehicle and suitable for towing, even if we aid in fastening and/or connecting same. It is your responsibility to ensure your vehicle is suitable for towing any goods and we have made no representations in this regard.
14. The “goods” shall mean all goods sold by us to you which are detailed on the order form and tax invoice.
15. The benefit conferred by the “warranty” referred to in 3(a) hereof are in addition to all other rights and remedies had by you at law in respect of the goods.
16. You must pay us the balance of the purchase price within seven (7) calendar days notice by us that your goods are available for collection or delivery. Your goods must be collected or delivered within seven (7) days of the date due for payment in this clause and subsequent to us receiving cleared funds. If you fail to pay for or collect/arrange for delivery of your goods as required then you must pay us an additional sum of \$150 per week (or our reasonable holding costs, whichever the lesser) as a liquidated debt due and owing and accruing weekly for our storage.
17. Payment terms: cash, bank cheque, EFTPOS, direct deposit. A credit card surcharge may apply on credit card payments as varied from time to time. Any surcharge fee applicable will be advised to you prior to processing.
18. To the extent permitted by law, you indemnify us against and release us from any action or demand due to any damage, loss, costs, injury or death caused by any:
  - a) work done by us;
  - b) installation of goods or equipment carried out by us; or
  - c) goods or equipment supplied by us.
19. Where we supply parts to you for a engine or boat where you have not provided a serial number or hull identification number then there is a risk that the parts supplied will be for the incorrect model as there are a number of models for each horsepower range. When you supply us with a serial number or hull identification number this helps to ensure that the correct part is supplied. To the extent permitted by law we will not be liable for any incorrect part supplied where you have not supplied us with the correct engine serial number or hull identification number.

## **2B. Used and Second Hand Boats, Motors and Trailers Warranty**

1. This section 2B applies to all used/ second hand boat/motor/trailer sales made by us and is in addition to all other rights and remedies had by you at law in respect of the goods
2. Subject to the exclusions set out below this warranty supplied by us provides for rectification on a 50/50 basis, of the relevant goods, for a period of 90 days (where the goods are less than 10 years old), or otherwise for 30 days from the date of sale, to the extent of putting such goods into a reasonably seaworthy or roadworthy (as applicable) condition as determined in the sole discretion of us.
3. 50/50 means that you pay, in cash, half of the retail cost of parts and labour found necessary to correct the performance of the unit. A part or unit may be worn but still quite safe and serviceable. It must be remembered that the unit purchased is used and many of its parts may be worn. It is when a particular item on an engine ceases to perform the function for which it was designed as determined us that it becomes defective and therefore eligible for replacement.
4. It is the responsibility of us to repair the defect “to place the motor in a seaworthy condition having regard to its age”. This could mean in some cases the use of serviceable used parts to effect a repair as determined at the sole discretion of us.

5. All decisions on whether repairs to an engine or vessel or trailer fall within the exclusions below shall be in our sole and final discretion, the following exclusions apply:
  - a. GENERAL – “Cosmetic” items, such as cracks, chips, blemishes and colour fadeout, scratches, etc. Defects caused through wear and tear, misuse, negligence, bad trailering, faulty installation, failure to properly maintain, racing, accident, or repairs carried out by other parties; and
  - b. SPECIFIC ITEMS – Because of the unknown environment in which the motor may be operated (e.g. sand, mud, rocks, weed) and the accidental misuse to which the electrical components may be subjected (e.g. batteries connected with reverse polarity, also the unknown road and ramp conditions to which a trailer may be subjected), all of which are uncontrollable and unascertainable by the dealer, then the following items must also be excluded:- propeller damage, water pump failure, together with any subsequent damage resulting from failure thereof, batteries and all electrical components either directly or indirectly connected thereto, including lights, instruments, gauges, radios, GPS units and aerials, sounders, stereos, transducers, alternators and ignition components, trailer springs and wheel bearings, osmosis, electrolysis, damage as a result of damage from the use of incorrect oil and/or fuel or both, ethanol blended fuels are not to be used. Refer to the engine manufacturer if in doubt.
6. Warranty repairs must be effected by, or done at the written direction of us, and we have no liability for repairs performed without our knowledge or written authority, nor for any towage or transport or salvage costs incurred without our consent.
7. You must inform us promptly of any damage requiring repair within this warranty. The following procedure must be strictly followed:
  - a. you must notify us in writing (to our postal address) detailing the specific problems that you wish us to repair under this warranty;
  - b. if we determine the problem is not excluded then we will book in the goods and notify you accordingly; and
  - c. you must arrange at your cost to transport the goods to our premises or arrange a suitable alternate location agreed to by us (eg marina hardstand).
8. The Service Terms (section 3 of these Standard Terms) will also apply to all work done under this warranty.
9. To the extent permitted by law, you indemnify us against and release us from any action or demand due to any damage, loss, costs, injury or death caused by either directly or indirectly any:
  - a. work done by us;
  - b. installation of goods or equipment carried out by us; or
  - c. goods or equipment supplied by us.

### **3. SERVICE & REPAIR TERMS**

1. You hereby authorise the repair work listed on the relevant job card and authority, and any other work required or agreed (whether or not this is subsequent to the job booking), to be done along with the purchase of materials and parts and hereby grant us permission to operate the vessel/unit for any purpose. Where we provide any estimate or quote for work to be done then this is not binding and is intended as a guide only. We are not able to provide accurate estimates for repairs as some factors remain unknown until work has commenced and the engines have been tested however we will attempt to provide you with estimates of the work as the work proceeds. You may tell us to stop work at any time which we may require you to confirm in writing but you will be responsible for all costs incurred up until that time and also for any reassembly that may be required from that time.

2. You warrant that if you are not the owner of the vessel, engine or unit that you have the specific authority and consent of the owner of the vessel, engine or unit to engage us to provide service and repairs.
3. You warrant that all information given to us is true and correct and that you have full power to agree to these terms including any authorities and consents needed from any co-customer, financier or other entity. You also warrant that you have given us all information that may be relevant to us in operating your vessel or engine including but not limited to any information relevant to the safe operating of the vessel or engine.
4. To the extent permitted by law, we are not to be held responsible for any damage or loss of the vessel or equipment and/or contents in the case of fire, theft and/or any other cause, but in any case liability is limited to resupply, replacement or repair of the goods or services supplied or payment of the cost of having the service supplied again.
5. Payment will be at unit pick up or at completion, whichever occurs first.
6. All works carried out off site will require a completed Credit Card Authority available on request.
7. To the extent permitted by law you indemnify us against and release us from any action or demand due to any damage, loss, costs, injury or death caused by us including as a result of:
  - a. work done by us;
  - b. installation of goods or equipment carried out by us; or
  - c. goods or equipment supplied by us.
8. The title to the goods delivered or supplied to you shall remain in us until the total of all invoices of all goods delivered or supplied to you have been fully paid by you and you hereby grant us an irrecoverable licence to access your premises and vessels to recover any goods under this clause and the Standard Terms. You also acknowledge a lien over the vessel and or units and you agree that we may place any security over the goods and your vessel as we see fit whilst any monies are owed to us or you are otherwise in default of these terms. We shall hold the lien over your vessel until you have paid all outstanding moneys for service or repair work carried out and for any parts supplied or installed and also until you are not in default of these terms. We shall be entitled to take such action as may be necessary to prevent the removal of your vessel or unit from our premises whilst it is subject to a lien, or you are in default of any of these terms or any monies by you to us.

8A. Security interest You grant (and where you are not the owner of the Vessel, warrant that you have the authority of the owner of the vessel to grant) us a Security Interest in the vessel as security for the payment of all amounts owing to us and the performance of all obligations under this document. You authorize us to file all financing statements and other documents and otherwise do all things necessary to perfect and continue the Security Interest, to protect and preserve the Vessel, and to realize the Security Interest held by us. The Security Interest granted pursuant to this clause shall become immediately enforceable upon the breach of these Terms by the you, in which case we may:

(i) take possession of and sell or lease the vessel (either by public auction, private treaty or otherwise and either in full or in part, and otherwise subject to any conditions that we consider appropriate); and

(ii) appoint and remove any one or more persons to be a receiver of the whole or any part of the vessel, the income and proceeds of the Vessel (or both) and to pay such receiver the remuneration as we consider appropriate.

To the extent permitted by law: for the purposes of sections 115(1) and 115(7) of the PPSA: we need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and sections 142 and 143 are excluded; and for the purposes of section 115(7) of the PPSA, we need not comply with sections 132 and 137(3).

9. Your vessel/unit must be collected or delivered within three (3) calendar days of us notifying you that it is ready to collect. If you fail to pay for or collect/arrange for delivery of your vessel/unit as required then you must pay us an additional sum of \$65 per day (or the hardstand rate whichever the greater) as a liquidated debt due and owing and accruing daily for our storage. If you have not paid your bill for the work completed and we do not allow you to collect your vessel/unit due to non-payment then you still must pay our fees under this clause.
10. Not applicable.
11. You must pay us (as a liquidated debt due and owing) interest (calculated daily) at the Default Rate on any monies due by you to us but unpaid for 7 days, from the due date up until the money is received by us.
  - a. In this part Default Rate means 10% per annum.
12. You must not bring onto our premises any animals, pets, pests, insects or vermin and must keep you vessel free of people, animals, pets, insects, infectious diseases and vermin while on our premises.
13. You must not conduct, any auction, fire, bankruptcy or liquidation sale on our premises or do anything which is immoral, unlawful, noxious, offensive, hazardous, or likely to cause nuisance, damage or injury to us or any other person.
14. On acceptance of delivery of your vessel and or units you have inspected them and are completely satisfied that the work done and/or goods supplied match the quantity, description, and quality of the work ordered or invoiced. Additionally upon acceptance you have immediately inspected the vessel or unit and notified us of any damage or other items.
15. During the process of repair or service, some or all of your stored data may be lost. Please ensure that you have saved this data elsewhere prior to repair.
16. ***Lifting & Hardstand Terms***
  - a. You are liable for all lifting and hardstand fees incurred by your vessel. Sometimes there may be delays beyond our control which will result in your vessel being on the hardstand longer than expected, this may arise from including but not limited to unavailability of parts, weather, employee sickness and other causes, you will still be liable for all lifting and hardstand fees incurred.



- b. We are not responsible for safe lifting or storage of your vessel at any marina or hardstand, you must obtain the relevant lifting and hardstand agreement or terms and conditions from the marina or hardstand office which state the terms of the lifting and or storage.
    - i. For your reference, The Boat Works Lifting and Hardstand Agreement is attached to these Terms and you agree for us to enter into these terms as required.
  - c. You must abide by all rules and regulations of any hardstand and or marina where you vessel is held (available from the relevant marina or hardstand office) and you hereby fully indemnify and hold us harmless in relation to any breach or rule or regulation by you or your vessel.
  - d. You acknowledge that no promise, representation or warranty is given:
    - i. as to the suitability or adequacy of the lifting or hardstand service provided; or
    - ii. regarding the sufficiency or efficiency of the lifting or hardstand service provided.
17. You must maintain comprehensive insurance on your vessel for its market value at all times. You must also hold public risk insurance for at least \$5,000,000 in respect of any single incident in connection with your vessel.
18. The acceptance of your motor vehicle, boat, motor, parts and/or other goods for inspection, custody, storage, repair or other treatment is subject to the Disposal of Uncollected Goods Act 1967 (Qld) and the Act confers on us a right of sale exercisable in certain circumstances after an interval not less than 6 months from the date on which the goods are ready for re-delivery and if after 6 months of the goods being ready for re-delivery they are not collected then we have a right of sale under the Act.
- 19. Notice Regarding Refurbished Goods or Parts (Australian Consumer Law)**
- a. Goods presented for repair may be replaced by refurbished goods of the same type rather than being repaired. Refurbished parts may be used to repair the goods.

***Credit Card Authority Terms***

20. It is our policy that where offsite jobs are attended to that we obtain a credit card authority which allows you to pay an invoice within 7 days of invoice issue (invoice terms are COD) by your preferred method, however if the invoice remains unpaid by close of business on the seventh day then we will charge your credit card. For example if we email the invoice to you on Saturday 1 September then you have until Saturday 8 September to pay your invoice, if we have not received cleared funds by close of business on Saturday 8 September then we will charge your nominated card:
- a. We will issue bills and invoices as soon practicable to either the email or fax supplied at their discretion, but is not obligated to do so where those contacts are unreachable. If unreachable then the bill/invoice is considered as issued for the purposes of this agreement and is available on request from our premises. **2)** We will keep all information pertaining to your nominated account at the Financial Institution private and confidential. **3)** You (the customer) may terminate the drawing arrangements at any time by giving written notice to us. Such notice will only be applicable to future works not commenced at the time such notice is received by us. **4)** Where you consider that a charge has been initiated incorrectly (outside the drawing arrangements) you must take the matter up directly with us as soon as practicable. **5)** You will ensure that sufficient funds are available on the card to meet a charge under an invoice. **6)** It is

your responsibility to ensure that the authorisation given to charge on the nominated card is identical to the card signing instruction held by the Financial Institution where the account is based. **7)** It is your responsibility to advise us if the card nominated by you to is transferred or cancelled. **8)** It is your responsibility to arrange with us a suitable alternate payment method if the charging arrangements are cancelled either by yourselves or the nominated Financial Institution. **9)** If you do not agree with your bill/invoice you must give written notification to us within 7 calendar days from the Issue Date inclusive. **10)** Any discount is subject to change at any time and the customer must confirm the discount at the time of each order. Discounts may be removed where an account is outside of terms (ie not paid within 7 days).

#### **4. WATER TEST & DEMONSTRATION TERMS**

It is possible that the boat or the engine on the boat which you test drive or demonstrate, is unfamiliar to you. Even if it is not, you will understand that, in the test-driving of any boat, you do so at your own risk. To cover us against any loss or damage which you may suffer in connection with or during the actual testing of the boat including arising from anything done by us, including our negligence, you indemnify and hold us harmless against all liabilities, losses, damages, cost or expenses incurred or suffered by you and against all actions, proceedings, claims or demands made against us arising directly or indirectly out of your participation (whether as driver, passenger or spectator) in the test-driving or demonstration of any boat.

#### **5. WEBSITE TERMS OF USE**

From time to time, we may make services and information available via our websites. These services and information, from our websites, will be collectively referred to as "website" in these terms of use.

Your access to and use of websites is subject to these terms, our Privacy Statement and the our copyright, whether or not you become a member of websites. Prior to using websites, you should read and understand the Terms of Use.

Unless expressly stated otherwise in these terms, websites is for residents of Australia only.

##### **What you must do**

1.1 You must use websites in accordance with these terms of use.

##### **What you must not do**

2.1 You must not:

- a) use websites for any activities, or post or transmit to or via websites any information or materials, which breach any laws or regulations, infringe a third party's rights or privacy, or are contrary to any relevant standards or codes;
- b) use websites in a way, or post to or transmit to or via websites any material, which interferes with other users or defames, harasses, threatens, menaces or offends any person or which inhibits any other user from using or enjoying websites;
- c) use websites to send unsolicited commercial or bulk electronic mail messages to anyone;
- d) make any fraudulent or speculative enquiries, bookings, reservations or requests using websites;
- e) provide false information when registering or changing your websites registration details;
- f) impersonate another person when using websites;
- g) post to or transmit to or via websites any obscene, indecent, inflammatory or pornographic material or material that could give rise to civil or criminal proceedings;
- h) tamper with, hinder the operation of or make unauthorised modifications to websites;

- i) knowingly transmit any virus or other disabling feature to or via websites; and
- j) attempt any of the above acts or permit another person to do any of the above acts.

### **Third party content**

3.1 Many of the products and services offered for sale or advertised and much of the information provided via websites are the products, services and information of third parties.

3.2 The third party products, services and information are not provided or endorsed by us. Where it is apparent that products, services and information are not provided by us, your legal relationship in respect of those products, services and that information is with the third party supplier.

3.3 We have not checked the accuracy or completeness of the information or the suitability or quality of the products and services of the third parties. You must make your own enquiries with the relevant third party supplier direct before relying on the third party information or entering into a transaction in relation to the third party products and services supplied via websites. You should check with the third party supplier whether there are additional charges and terms which may apply.

3.4 We may receive fees and/or commissions from third parties for goods and services of such third parties displayed or made available on websites or accessible through a hyperlink on websites. You acknowledge and consent to us receiving the fees.

### **Prices and products and services are subject to change**

4.1 All prices displayed and products and services offered for supply on websites are subject to change without notice. You should check the price of a product or service before placing an order for it.

### **Privacy**

5.1 We may use and provide personal information about you that is collected by us on websites. The collection and provision of this information is subject to privacy laws. We will comply with the our Privacy Statement in dealing with any personal information provided by you via websites.

5.2 By requesting via websites that we send billing and payment information to a person's email address or phone number, you authorise us to disclose to that person your personal information, in each case including information related to your billings and payments.

### **Email Bills**

6.1 You can register for email billing by calling us. You will need to notify us of the email address you would like your email bill to be sent to.

6.2 We will use our best endeavors to deliver your email bill to the email address nominated by you to receive it. If we cannot deliver your email bill to that email address, we may send you a paper bill copy or, in our discretion, change your billing preference to a paper bill for future bills or contact you to request that you update your email address. The paper bill will be sent to the billing address on your account so you should also notify us of any changes to this address.

6.3 Your account(s) remain payable by you, whether or not you receive or read your email bill or any emails from us regarding your email bill. Please refer to clause 6.4 for ways to minimise the inconvenience associated with a failure to receive your email bill.

6.4 To help ensure you can continue to receive your email bill, it is your responsibility to:

- a) notify us if your email bill email address changes;
- b) ensure that you have sufficient space available in your email mailbox to receive your email bill;
- c) check your junk email folder to see if your email bill has been delivered there instead of your inbox;
- d) contact us if you do not receive your email bill; and
- e) keep your email account secure to protect the privacy of your personal and credit information contained in the email bill.

6.5 If you request that we send your email bill to a person's email address, you nominate that person as your agent for the purpose of receiving your billing and payment information.

## **Other**

7.1 Given the nature of telecommunication systems, particularly the internet, we cannot guarantee that websites will always be available or fault or virus free.

7.2 The terms that apply to the supply of websites are those that are expressly set out in this document and those implied by consumer protection laws to the supply of this service that are unable to be excluded. No other terms apply.

7.3 We are not responsible for: loss caused by factors which could reasonably be considered to be outside our control such as faults in third party equipment loss of data or loss of profits or revenue and any loss to the extent that it is caused by you, for example, through your negligence or breach of contract.

7.4 You must take reasonable steps to minimise the extent of the loss you may suffer as a result of websites.

7.5 You must notify us in writing of your loss as soon as is reasonably possible.

## **Your liability to us**

8.1 You are liable to us for breach of contract or negligence under the principles applied by the courts.

8.2 You are not liable for any loss to the extent that it is caused by us, for example, through our negligence or breach of contract.

## **Termination**

9.1 You may stop using websites at any time, for any reason.

9.2 We may stop making websites, or a part of websites, available at any time.

9.3 If you enter a contract for the supply of goods and/or services via websites, that contract will not be affected if we stop making websites or part of websites available to you, unless the goods and/or services are supplied via websites.

## **Communication with you**

10.1 As part of some websites services available via websites, we may communicate with you via email, or an SMS, or both, to an email address or a mobile phone number nominated by you. When we do this, the following will apply:

- a) you are responsible for ensuring that your contact details for the online service/s are current, your email service or mobile phone account is operational and that you check your emails or mobile phone regularly for messages; and

- b) you must notify us as soon as possible of any changes to your contact details for the online services using the online method provided by us.

### **Use of your information and material**

10.2 When you send us any feedback, suggestions, ideas or other materials in relation to or via websites, you agree that we can use, reproduce, publish, modify, adapt and transmit them to others free of charge and without restriction, subject to our obligations in our Privacy Statement.

### **Goods and Services Tax**

11.1 If GST is imposed on any supply made by us through websites, you must pay to us, in addition to any consideration payable or to be provided by you for this supply, an additional amount for the supply calculated by multiplying the prevailing GST rate by the consideration for the relevant supply payable or to be provided (without any deduction or set off) by you under any other clause in the Standard Terms. Any amount payable by you is payable on demand by us, whether such demand is made by an invoice or otherwise.

## **6. PRIVACY STATEMENT**

This policy sets out how we comply with the requirements of the Privacy Act 1988 (Cth) and how that compliance is incorporated within policy and procedural documents for the use of our team members.

### **Policy snapshot**

1.1 We are committed to the principles and practice of privacy, as set out in the National Privacy Principles described in the Privacy Act 1988 (Cth) as amended. This document sets out the detail that backs up that commitment. Personal information which is collected, stored and used in our operations is any information that may be identified with an individual, that extends beyond what information exists about that individual in the public domain, eg what is in the phone book. Sensitive information is personal information about a person's ethnicity, colour, sex, sexual orientation, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, trade union membership & activity, nationality, social origin, health record, credit record or criminal record. The rules set out in this document apply to all personal and sensitive information held by us.

### **The information that is held**

2.1 Personal information that is held may include, but is not limited to:

- a) account information, file notes and databases;
- b) applications, and associated documentation and background information about customers, applicant and team members;
- c) resumes, documentation associated with job applications, training notes and other personnel records;
- d) correspondence;
- e) mailing lists and databases containing information other than basic contact details; and
- f) details supplied when making a complaint.

### **Collecting information**

3.0 Whenever personal information is collected and intended to be recorded, we will ensure that the information is collected from the person directly, and not from third parties, unless the individual consents for the information to be collected from others.

### **Storing information**

4.0 All personal information will be handled securely. This means it will be:

- a) handled only by those whose job role requires them to use it;
- b) where possible, used only in the work area of the personnel authorised to use it; and
- c) stored in an environment where it is secure from casual or deliberate unauthorised access.

### **Using information**

5.0 Use of information will be governed by the following:

- a) If personal information is used for research, marketing or media purposes, it will be de-identified unless written permission from the relevant individual for its use is gained.
- b) Personal information about customers and team members is not to be disclosed to any outside parties, unless their written consent to do so is obtained, or it is a reasonable disclosure under legislation or required for us to conduct our legitimate activities.
- c) Files or data containing personal information is not to be removed from the premises unless there is a legitimate reason to do so, and security is assured.
- d) Personal information is to be used only for the purpose for which it was originally obtained, or for something that is reasonably related (such as administering accounts). If personal information is going to be used for something that the individual would not reasonably expect, their consent for the use must be obtained in writing.
- e) It is possible for us to disclose sensitive health information about individuals even where consent has not been given, provided it is to ensure that they receive appropriate care or treatment or where it is necessary for compassionate reasons.
- f) Where feasible and indicated, before personal information that is recorded is used, check that it is accurate and current.
- g) We may use your email and telephone details for our own marketing or information purposes, you can opt out of receiving our emails by using hyperlink specified to Unsubscribe in each email or by contacting us at [coomera@mercservice.com.au](mailto:coomera@mercservice.com.au)

### **Opt out rules**

6.0 An individual can opt to be removed from the our information mailing or SMS list.

### **Requests for access to records**

7.0 We ask you to contact us with privacy related requests by phoning, faxing or emailing us.

## **7. EMAIL TERMS**

1. Although we have taken reasonable precautions to ensure no viruses are present in any email, we cannot accept responsibility for any loss or damage arising from the use of any email or attachments.
2. No employee or agent is authorised to conclude any binding agreement on behalf of us with another party by email without express written confirmation by the Managing Director.
3. Any views or opinions presented in an email are solely those of the author and do not necessarily represent those of us.
4. Employees of us are expressly required not to make defamatory statements and not to infringe or authorise any infringement of copyright or any other legal right by email communications. Any such communication is contrary to company policy and outside the scope of the employment of the individual concerned.
5. Quotes and price estimates are not binding and are subject to the Standard Terms.
6. All emails and any files transmitted with any email are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you are not the intended recipient you must notify us and delete the email immediately, you must not distribute, disclose or cause to be disclosed any email, contents or attachments to any other person.