

Supply of Services – Terms and Conditions

1. Definitions

The following definitions apply to these Terms and Conditions:

- (a) “**Agent**” means the managing agent appointed for management of the Owner’s Property and any other agent or person duly authorised by the Owner to do so.
- (b) “**Agreement**” means this Agreement and any variation in writing after the date of the agreement.
- (c) “**Authorisation Form**” means the authorisation form to be completed by the Client confirming the Order and Services to be provided by VIPP.
- (d) “**Business Day**” means a day which is not a Saturday, Sunday, public holiday or bank holiday in the applicable State in Australia.
- (e) “**Client**” means the Party engaging VIPP to provide the Services, being the Owner or the Agent (as the disclosed agent of the Owner) and any other authorised representative.
- (f) “**Confidential Information**” means information or documents provided to, received by or produced by a Party in respect of the Services but excluding information that is generally available to the public or is known to a Party before the date of this Agreement.
- (g) “**Consumer Law**” means the consumer legislation set out in Schedule 2 of the Competition and Consumer Act 2010 (Cth).
- (h) “**Fee**” means the amount payable to VIPP for providing the Services.
- (i) “**Goods**” means any goods supplied by VIPP under these Terms and Conditions, including but not limited to fire alarms and temporary hot water services.
- (j) “**Order**” means a request by the Client for the provision of particular Services from VIPP at a Property.
- (k) “**Owner**” means the owner of the Property.
- (l) “**Party**” means a Party to this Agreement and includes all assignees, employees, agents or sub-contractors.
- (m) “**Property**” means the property at which VIPP has been engaged to provide the Services.
- (n) “**Services**” means any services provided by VIPP to the Client and as may be listed on VIPP’s website from time to time.
- (o) “**Terms and Conditions**” means these Terms and Conditions of this Agreement.
- (p) “**Total Care Package**” means the package of Services described on VIPP’s website, as may be variously named from time to time, which may include services such as electrical safety check, gas safety check and smoke alarm operation check;
- (q) “**Third Party**” means any other party who is not a party to this Agreement.
- (r) “**VIPP**” means Victorian Investment Property Protection Pty Ltd and shall be referred to as “VIPP”, “we”, “us” or “our.”

2. Interpretation

Interpretations in this Agreement, unless the context requires otherwise:

- (a) The singular includes the plural and vice versa.
- (b) If something is to be done on a day which is not a Business Day then that thing must be done on the next or following Business Day.

- (c) The words “in writing” include any communication sent by letter or email.
- (d) These Terms and Conditions are applicable to any provision of Services to the Client by VIPP except where otherwise expressly provided.
- (e) Nothing in these Terms and Conditions is to be read or implied so as to exclude, restrict or modify any condition, warranty, guarantee, right or remedy implied by law and which by law cannot be excluded, restricted or modified.

3. Formation of Agreement

- (a) The Client acknowledges that this Agreement consists of these Terms and Conditions, any Order, any proposal for the provision of Services accepted by the Client, the Authorisation Form, and any annexures or documentation expressly incorporated as part of the Agreement.
- (b) The Client agrees that they have read and understood the Terms and Conditions.
- (c) The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these Terms and Conditions if the Client or its Agent places an Order for, or accepts Services or pays for Services, provided by VIPP.
- (d) Where the Agent enters into this Agreement, it warrants that it has the full authority of the Owner to engage VIPP to provide the Services and enter into this Agreement and bind the Owner and indemnifies VIPP for any loss, expense, claim, cost or damages suffered by it as a result of a breach of such warranty.

4. Client’s Obligations

- (a) The Client agrees to provide VIPP with all information and documentation which VIPP considers necessary for the timely provision of the Services.
- (b) The Client acknowledges that VIPP will not independently verify the information and documents supplied by the Client or any external information that VIPP is required to obtain to perform the Services. VIPP will not be liable for any loss or damage arising from any inaccuracy or other defect in the information, documentation or external information.
- (c) The Client will, as soon as practicable, or as required by this Agreement, advise VIPP of any new information or changes to the information provided which may be relevant to the provision of the Services.

5. Provision of Services

In providing the Services, VIPP will:

- (a) provide the Services in a timely manner and with the appropriate qualified skill and expertise;
- (b) act at all times in the best interest of the Client;
- (c) comply with any reasonable direction given by the Client in relation to the Services;
- (d) provide the Services in accordance with all applicable standards, awards, laws, and regulations, including any relevant requirements of government authorities relating to the provision of the Services including ASIC, ASX, CPA Australia and AICD;
- (e) endeavour to adhere to any timeframes required by the Client provided that unless otherwise expressly agreed, the dates and timeframes provided to the Client are indicative dates intended for planning purposes and estimating purposes only and are not legally binding;

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however, VIPP will not be liable for any failure or delay in performing the Services if that failure arises from anything beyond VIPP's reasonable control or the failure of the Client to comply with these Terms and Conditions.

6. Services

- (a) The Client warrants and acknowledges that:
 - (i) it will secure from any Third Party the necessary authority to enter and perform the Services at the Property on behalf of VIPP;
 - (ii) it does not engage VIPP on an ongoing annual or bi-annual or other repeated basis and the Services to be provided are in respect of the particular Service and for the Property detailed in the Order, quote and / or otherwise confirmed in writing with the Client; and
 - (iii) it is the Client's responsibility to engage VIPP for future or repeat Services and that VIPP accepts no responsibility for any future or repeat Services for which the Client has not to engaged VIPP.
- (b) The Client acknowledges that upon engaging the Services of VIPP by completing the required Authorisation Form, the Client opts into receiving reminders ("**Reminders**") from VIPP that relevant inspections and Services are due ("**Opt In**").
- (c) The Client acknowledges that, if they engage VIPP's Services for multiple properties, the Client Opts In for each individual Property upon completion of the Authorisation Form in relation to that Property and submission of the relevant Order.
- (d) If the Client Opts In for Reminders in accordance with clause 6(b) they may opt out at any stage by providing VIPP with written notice, specifying the relevant Property, at the following email address: info@vipproterctions.com.au, or by selecting the "Opt Out" button in the reminder email ("**Opt Out**").
- (e) The Client acknowledges and agrees that if it chooses to Opt Out of the Reminders in accordance with clause 6(d), that Opt Out will only apply to the Property that that Reminder is provided for. If the Client wishes to Opt Out of Reminders for multiple Properties, they must follow the process set out in clause 6(d) for each individual Property.
- (f) For the avoidance of doubt, any Reminders sent by VIPP do not constitute an Order, contract or quote for Services by VIPP and the Client must engage VIPP by submitting a written Order for each Property in accordance with these Terms and Conditions.
- (g) The Owner authorises their Agent to Opt In and Opt Out of receiving Reminders on the Client's behalf and if the Agent Opts In and Opts Out of receiving Reminders it warrants that it does so with the authority of the Owner.

7. Fees and Payment

- (a) In order to engage VIPP and to place an Order for VIPP's Services, the Customer is required to complete and submit an Authorisation Form to the following address: info@vipproterctions.com.au or if available, completing the Authorisation Form on VIPP's website.
- (b) Notwithstanding clause 7(a), VIPP may, if it deems necessary in its sole discretion, give the Client a quote which will specify:
 - (i) an estimate of VIPP's Fees for the provision of the Services; and

- (ii) an estimation of the anticipated period for the provision of the Services.
- (c) These Fees may be reviewed from time to time and may change. For example, if the scope of the Services is extended or additional information is provided. VIPP will notify the Client in writing of any change as soon as practicable after the change occurs.
- (d) The Client is required to pay the Fee without any deductions, discount or debt within fourteen (14) days from receiving an invoice(s) and in the manner stated in these Terms and Conditions. Any alternative agreements must be agreed by the Client and VIPP before being agreed to.
- (e) The Client will be required to pay any additional costs or Fees incurred by VIPP as a result of:
 - (i) a delay by the Client in performing an obligation under this Agreement;
 - (ii) a failure to provide accurate information; or
 - (iii) additional work or Services required to be performed at the request of the Client or recommendation of VIPP and accepted by the Client.
- (f) If the Client fails to pay the Fees within the time referred to in clause 7(d):
 - (i) VIPP may suspend the provision of the Services until payment is received; and
 - (ii) interest of two percent (2%) per annum more than the rate from time to time fixed by the *Penalty Interest Rates Act 1983* (Vic) is payable on the amount outstanding from the due date until the date of payment if requested by VIPP.

8. Community Donation Schemes

- (a) The Client acknowledges that VIPP may, from time to time and in its absolute discretion, provide support to community organisations, including but not limited to financial donations from a portion of Fees paid by the Client to community organisations ("**Community Donation Schemes**").
- (b) The Client acknowledges that any Community Donation Schemes are applied to Total Care Packages only.
- (c) The Client acknowledges that the Community Donation Schemes provided by VIPP are agreed upon with Agents on an individual basis and do not form part of these Terms and Conditions.

9. Documents

- 10. All documents and ideas obtained and produced for the provision of the Services other than original documents provided by the Client and including all electronic documents and files, are the property of VIPP and constitutes confidential information.
- 11. VIPP retains the right to make a reasonable number of copies of any documentation for their records or to enable the provision of Services.
- 12. At the end of the engagement VIPP are permitted to retain the Client's file and documents for the minimum period stipulated by any relevant legislation as amended from time to time. At the end of the minimum period stipulated by legislation, the file and documents may be destroyed.
- 13. Should the Client become aware that any document relating to the engagement is, or is reasonably likely to be, required as evidence in a legal proceeding, the Client must immediately advise VIPP at which time the

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documents will be returned to the Client for safekeeping.

14. GST

VIPP's Fees are exclusive of GST, unless stated otherwise. Any applicable GST will be added to the fee in a tax invoice and will be paid by the Client.

15. Data Protection and Electronic Communication

- (a) The parties will ensure that the appropriate back-up, security and virus checking procedures are in place for any data or information provided to or received from the other party electronically.
- (b) VIPP will also follow all appropriate virus-checking procedures if it makes use of the facilities made available by the Client.
- (c) VIPP will not be liable for any loss, corruption, delay or loss of confidentiality arising from any data or information transmitted electronically if it has followed appropriate virus checking procedures.
- (d) If the Client allows a Third Party to use any data in the provision of the Services, the Client acknowledges that VIPP may allow the Third Party to access the data as required. VIPP shall not be responsible for any disclosure, modification or deletion of the Client's data as a result of access by a Third Party.
- (e) The Client will indemnify and release VIPP from all claims arising as a result of use of email and electronic communications with the Client or Third Party or in the course of carrying out the Services.

16. Confidentiality

The Parties, and any employees, agents or sub-contractors of the Parties, must not disclose Confidential Information belonging to the other Party without the other's prior written consent unless the disclosure is to:

- (a) a Third Party in relation to the provision of the Services;
- (b) the insurers or legal advisors of a Party;
- (c) required by law or a regulatory authority.

This clause shall survive termination of the Agreement.

17. Privacy

- (a) The Client acknowledges that VIPP are required and permitted to collect Personal information from the Client in order to provide the Services.
- (b) VIPP will comply with the legal requirements of the *Privacy Act 1988* (Cth), including Australian Privacy Principles and its Privacy Policy which may be inspected on our website.

18. Termination

- (a) Either Party may terminate the Agreement immediately by written notice to the other Party if the other Party assigns any of its property for the benefit of its creditors, enters into or threatens to enter into bankruptcy, receivership, voluntary administration, liquidation or any other type of insolvency regime or if the other Party substantially ceases its involvement in performing the Services.
- (b) Notwithstanding any other provision of this Agreement, VIPP may immediately suspend or terminate the provision of Services if:
 - (i) any invoice issued by VIPP to the Client remains unpaid;
 - (ii) the Client breaches this Agreement;

- (iii) the Client fails to provide VIPP with all information necessary to effectively provide the Services;

- (iv) VIPP is unable to access the Property for any reason whatsoever;

- (v) VIPP determines, in its sole discretion, that performing the Services at the Property is unsafe;

- (vi) the Client has failed to take VIPP's professional advice and recommendations on provision of the Services to undertake further works, repairs or replacement to any plant or equipment at the Property.

- (c) The Client may terminate the Agreement upon 14 days prior notice to VIPP.

- (d) From the date of termination of the Agreement, the Client shall be required to make all payments which are due under the Agreement prior to the date of termination.

- (e) Termination under this clause will be without prejudice to any other rights or remedies to which either Party may be entitled.

19. Client warranties

The Client warrants that:

- (a) all information supplied to VIPP in connection with these Terms and Conditions, whether supplied by the Owner or their Agent, is true and correct;
- (b) it is authorised to enter into this Agreement;
- (c) on entering this Agreement and engaging the Services of VIPP, the Client has not relied upon any representation or statement made by VIPP or any of VIPP's representatives;

and indemnifies and indemnifies VIPP for any loss, expense, claim, cost or damages suffered by it as a result of a breach of such warranty.

20. Limitation of Liability and Indemnity

- (a) The parties acknowledge that, under applicable State and Commonwealth law, certain conditions and warranties may be implied in these Terms and Conditions and there are rights and remedies conferred on the Client in relation to the provision of the Services which cannot be excluded, restricted or modified by the Agreement ("**Non-excludable Rights**").
- (b) To the extent permitted by law, VIPP, its employees and any agents or contractors will not be liable for and the Client will indemnify and hold harmless against any claims, actions, expenses (including all reasonable legal expenses), loss or damages of a Third Party resulting from or arising out of the provision of the Services or the use of information provided by the Client.
- (c) To the extent permitted by law, VIPP, its employees and any agents or contractors will not be liable for and the Client will indemnify and hold harmless against any claims, actions, expenses (including all reasonable legal expenses), loss or damages resulting from or arising out of:
 - (i) interference with VIPP's Services for which it is not responsible;
 - (ii) any breach of the warranties provided by the Client under this Agreement;
 - (iii) damage or loss caused by unusual or non-recommended use of its Services;

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- (iv) loss caused by any factors beyond VIPP's control;
 - (v) incorrect or incomplete information provided by the Client;
 - (vi) failure by the Client to engage VIPP's Services, whether or not Reminders have been sent;
 - (vii) failure by the Client to pay Fees and the subsequent suspension of Services; and
 - (viii) failure by the Client to implement any recommendations that VIPP makes following the provision of the Services.
- (d) VIPP will not be held liable for any inspections, services, repairs or other works required by the relevant laws and for which the Client or Agent has not engaged VIPP, including any works, inspections or repairs which occur after the provision of the Services, that are not performed by VIPP, and whether in accordance with or against the advice of VIPP.
- (e) VIPP will not be liable for any special, indirect, consequential or economic loss or damage or loss of profits suffered by the Client or any other person resulting from any act or omission by VIPP.
- (f) VIPP may also be entitled to make a claim in respect of, indirect loss or consequential loss (such as, without limitation, loss of profits) incurred or sustained by the Client or any other person as a result of any omission or act of the Client or their Agent or as a result of a breach of this Agreement.
- (g) The indemnity in clause 20(f) does not apply to the extent that the claims, actions, expenses, loss or damages of a Third Party are determined to have resulted from the negligence of VIPP.
- (h) Any advice, recommendation, information, assistance or service given by VIPP in relation to Goods or Services under this Agreement, is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given. It is provided without any warranty of accuracy, appropriateness or reliability. VIPP does not accept any liability or responsibility for any loss suffered as a result of the Client's reliance on such advice, recommendation, information, assistance or service.
- (i) The Parties acknowledge and agree that VIPP provides no warranties or guarantees in relation to any Goods supplied by VIPP under the Services, with such Goods covered by the relevant manufacturer's warranty.
- (j) To the extent permitted by law, VIPP's limits its total liability under this Agreement (as determined by VIPP) to
- (i) the supply of Services again; or
 - (ii) the payment of the cost of having the Services supplied again.

21. General Matters

- (a) Variation
These Terms and Conditions may only be varied by written agreement, as mutually agreed by the Parties.
- (b) Assignment
Unless VIPP expressly consents, the Client must not assign any obligation, entitlement, charge or otherwise deal with VIPP's rights or obligations under this Agreement.
- (c) Relationship

The Client acknowledges that at no time is there any relationship of agency with VIPP and that the Client does not act as principal and VIPP does not act as the Client's agent.

(d) Dispute resolution

The Client must notify VIPP of any complaint or claim it has against VIPP and must take reasonable steps to resolve these matters with VIPP before making a complaint to a regulatory authority, or issuing proceedings in a court or tribunal.

(e) Severability

If any provision of these Terms and Conditions offends any law applicable to it and is as a consequence illegal, invalid or unenforceable then:

- (i) where the offending provision can be read down so as to give it a valid and enforceable operation of a partial nature it must be read down to the extent necessary to achieve that result; and
- (ii) in any other case the offending provision must be severed from these Terms and Conditions, in which event the remaining provisions of the Terms and Conditions operate as if the severed provision had not been included.

(f) Governing Law and Jurisdiction

These Terms and Conditions are governed by the law in force in the State or Territory in which VIPP's premises are located and the parties submit to the non-exclusive jurisdiction of the courts of that State or Territory in respect of any proceedings in connection with these Terms and Conditions.