



## TERMS OF BUSINESS

The following Terms apply for use of the Website and the Services provided. By registering as a Member of WOFNOW and choosing to use the Website and Services you agree to accept and abide by these Terms. If you do not accept these Terms you must stop using the Website and Services immediately.

### 1. DEFINITIONS

1.1 In these Terms, unless the context requires otherwise:

**Account** means your account with WOFNOW;

**Application** means the WOFNOW application form completed by you to become a Member;

**Business** means your business providing vehicle Warrant of Fitness inspection and certification services and all other services provided by you;

**Calendar** means the online calendar provided by us on the Website for coordinating and managing bookings for Warrant of Fitness inspection and certification services;

**Charges** means our charges for the use of the Website, we charge a minimum of \$8 per WOF booking made through the website OR 20% of the payment received from an End-user in respect of the Deliverable; i.e. of the fee charged to the client for the Warrant/Certificate of Fitness test. (this fee includes all the charges for the Bank fees, Credit Card Fees, Payment Gateway charges, Email notification Charges, SMS notification Charges) These charges are subject to change. All rights reserved.

**Deliverable** means any Warrant of Fitness inspection and certification booking or any other service booking made through our Website by an End-user and completed by you;

**End-user** means any third party user of the Website and purchaser of a Deliverable;

**Inspecting Organisation** has the same meaning as provided for in the LT Rule;

**Intellectual Property** means all copyright in source and object code, software and screen displays, associated packaging and documentation, registered and unregistered trademarks, trade names, patents, registered designs, confidential information and trade secrets layout or design, plan, drawing or design, or scientific, technical or engineering information or document relating to the Website, Services and WOFNOW;

**Listing** means your Business listing on the Website;

**LT Rule** means the Land Transport Rule: Vehicle Standards Compliance 2002;

**Member** means any applicant who has registered and been accepted by WOFNOW to use the Services and Website as a provider of the Deliverable;

**Membership** means your registration as a Member of the WOFNOW Services and Website;

**Membership Fee** means the non refundable fee payable by you to become a Member and for continued Membership;

**NZTA** means New Zealand Transport Agency;

**Payment Due Date** means the 20<sup>th</sup> day of the month following the month in which you have provided the Deliverable;

**Representative** means any director, officer, employee, contractor or agent;

**Services** means the Calendar, online facilities, products and services for advertising, co-ordinating and managing bookings for Warrant of Fitness inspection and certification services provided by us through the use of our Website;

**Terms** means these Terms of Business, the Application and any additional terms, as set out on the Website from time to time;

**Vehicle Inspector** has the same meaning as provided for in the LT Rule;

**Warrant of Fitness** has the same meaning as provided for in the LT Rule;

**Website** means the website at [www.wofnow.co.nz](http://www.wofnow.co.nz) or any successor URL;

**WOFNOW, we, us or our** means Agents Abroad Limited, together with its related companies (as that term is defined in the Companies Act 1993);

**You or your** means you as the applicant as recorded on the Application and registered Member and as the provider of the Deliverables.

## **2. MEMBERSHIP**

### **Membership fee**

- 2.1 Membership is effective only when the Application is accepted by us and the Membership Fee is paid and received by us. Continued Membership is at all times after acceptance conditional upon payment by you of the Membership Fee. We may vary the Membership at any time by notice to you or be posting on the Website
- 2.2 If paying by credit or debit card you hereby certify that the credit used to make payment is held in your name or that you are an authorized user of the card or account.
- 2.3 You hereby authorise us to charge your credit card identified in your Application, or advised to us from time to time, with the Membership Fee.
- 2.4 You confirm that you understand and agree that the transaction contemplated by this purchase of our Services consists of the Membership Fee until the Membership is cancelled by notice in writing in accordance with these Terms. Any Membership Fees paid will be non refundable.

### **Information supplied**

- 2.5 You warrant that you:
  - (a) employ and will continue to employ Vehicle Inspector(s) who will undertake and complete the Deliverable;
  - (b) operate from or have access to an Inspecting Organisation where the Deliverable will be undertaken and completed for the End-user;

- (c) will provide Warrant of Fitness inspection and certification services in accordance with the LT Rule;
  - (d) you have provided complete, accurate and current information when completing the Application and registering as a Member.
- 2.6 You will immediately advise us in writing at [support@wofnow.co.nz](mailto:support@wofnow.co.nz) of any changes in your details (including but not limited to any revocation by NZTA of the appointment of your Vehicle Inspectors or Inspecting Organisation) to ensure the information and warranties provided by you are accurate and up to date at all times.

#### **Assignment and transfer of Membership**

- 2.7 Your Membership:
- (a) is not transferable or assignable;
  - (b) cannot be sold, leased, let or traded.

#### **Suspension and Termination of Membership**

- 2.8 We may terminate your Membership and use of the Website and Services immediately if:
- (a) the NZTA suspends or revokes the whole or any part of the appointment of your Vehicle Inspectors or Inspecting Organisation;
  - (b) you are in breach of these Terms and such breach is not remedied to our satisfaction within 5 working days written notice by us;
  - (c) you have entered into, or propose, any arrangement, compromise or composition with your creditors; go into liquidation or have a receiver, administrator, statutory manager or similar officer appointed in respect of you; have an order made, resolution passed or other step taken against you by any person for your dissolution; cease to carry on your Business or threaten to cease trading in a normal manner; or are unable to pay your debts as they become due;
- 2.9 We may suspend your Membership and use of the Website and Services at any time if we believe you have contravened the rights of any End-user.
- 2.10 You may terminate your Membership by providing us with 60 working days written notice from the date of your last booking confirmed by you in the Calendar. Notwithstanding any termination, you will undertake and complete all Deliverables which you have accepted.

#### **Website Security**

- 2.11 You:
- (a) will nominate a password in connection with your use of our Website and Services;
  - (b) are responsible for keeping your login information (email and password) secure and secret;
  - (c) will not permit any other person to use your Membership or disclose information to others that would enable them to gain access to your Membership or the Services;
  - (d) are responsible for all actions undertaken under your Membership and or login.

### **3. LISTING AND TRANSACTING**

**Authority to list and transact**

- 3.1 You must be a/the Business owner, or a Representative authorized by the Business owner, to become a Member and list and/or transact through the Website. By listing the Business on the Website you warrant that you have this authority.

**Ability to supply**

- 3.2 By listing your Business and transacting through the Website you warrant that you are able to meet your obligation to supply the Deliverable requested on any bookings you accept. This includes, but is not limited to, adherence to any rules, regulations, laws or other controls imposed by the local authorities and governing bodies as it applies to the provision of Warrant of Fitness inspection and certification services.
- 3.3 You agree to indemnify and keep indemnified WOFNOW against any claims related to the marketing of your Business or your failure to provide a Deliverable.

**Introduction service only**

- 3.4 WOFNOW provides an on line service that enables an End-user to book a Warrant of Fitness inspection service with you. We do not take part in the transaction between you and the End-user.
- 3.5 All transactions carried out by you and any Member or End-user on the Website are conducted entirely at your own risk.

**Indemnity**

- 3.6 We are an aggregator based business model only. We do not act as an agent for either party and do not participate in the transaction or undertake the Deliverables.
- 3.7 You accept that we take no responsibility or liability for any misconduct by Members or End-users.
- 3.8 You agree to release, indemnify and keep us indemnified from any and all actions, claims, costs (including legal costs and expenses), losses, proceedings, damages, liabilities, or demands suffered or incurred by you arising out of use of the Website or Services.

**Meeting applicable rules and standards**

- 3.9 By Listing your Business and transacting through the Website you warrant that you will provide the Deliverable in accordance with the LT Rule and any rules, codes or standards required by the NZTA for the provision of Warrant of Fitness inspection and certification services.
- 3.10 You agree to indemnify WOFNOW against any claims related to the marketing of your Business or Deliverables that does not meet the LT Rule, or any rule, code or standard required by the NZTA, or your failure to provide the Deliverable due to non-compliance.

**Dispute resolution process:**

- 3.11 As WOFNOW is not a party to any purchase transaction including any further services provided by you between you and the End-user, you agree not to involve or attempt to involve WOFNOW in any dispute or in the resolution of disputes that arise between you and any End-user as a result of the Deliverable.
- 3.12 Notwithstanding clause 3.11, in the event of a dispute you agree to provide WOFNOW with all relevant materials needed to assist our End-users. This includes any agreement(s), emails or other records held by you in respect of the Deliverable and the booking of the Deliverable.

**No endorsement:**

- 3.13 Listing your Business on the Website does not constitute an endorsement or recommendation by us for you, your Business or your Deliverable.

**Pricing**

- 3.14 You agree to keep your pricing current (up to date) and honour any pricing you have represented for a particular Deliverable.
- 3.15 Prices are displayed in New Zealand dollars and are GST inclusive.

**Claims of endorsement or affiliation**

- 3.16 You agree to not misrepresent your affiliation with any person or organisation, or claim any endorsement you are not entitled to.

**4. MANAGING YOUR BOOKINGS****Use of calendar**

- 4.1 You acknowledge that we rely on the availability information you provide to us in the form of bookings on your Calendar to provide End-users with an accurate availability-based search.
- 4.2 You warrant and undertake to use the Calendar for all of your Business and agree to keep the Calendar up to date at all times in real time through the access specifically provided for you. You will:

- (a) add your bookings received directly by you;
- (b) add any bookings received from other sources; and
- (c) keep the status of these bookings up to date
- (d) ensure that any the Calendar has all closure times, any periods for which you are unavailable including any breaks are marked up and noted in the Calendar. ,

on the Calendar.

- 4.3 Failure to keep your Calendar up to date may result in your:
- (a) Calendar being disabled;
  - (b) Listing being removed from the Website;
  - (c) Business being removed from the Website and your Membership terminated.

**Responding to enquiries**

- 4.4 You agree to:
- (a) respond to enquiries in a timely and professional manner;
  - (b) act in best faith in all your dealings with End-users introduced to you through the Website.

**5. CHARGES AND PAYMENT****Authority to take and hold payments**

- 5.1 You:
- (a) authorise us to take payment on your behalf from the End-user for the Deliverable;
  - (b) agree to allow us to hold these payments on your behalf until the Payment Due Date;
  - (c) Agree to our deducting the Charges before payment of monies to you. We may vary the Charges from time to time by notice in writing to you.

5.2 All payments we receive will be clearly shown in your Account.

**Holding and disbursing of funds**

5.3 The payment is held in our account and will be paid to you provided the following criteria are met:

- (a) you have set-up and validated your New Zealand bank account;
- (b) you are not on credit-hold with us;
- (c) the related funds, to the best of our knowledge, are not at risk of charge back.

5.4 Funds can only be paid out to a New Zealand bank account that accepts electronic transfers.

5.5 We will not disburse funds to credit cards, by cheque, PayPal, wire service or to offshore accounts.

**Processing Cancellations**

5.6 In the event that an End-user notifies you of their desire to cancel a booking, you agree to cancel the booking on the Website and indicate the date you were notified by the End-user of their intention to cancel. You will immediately inform (no later than 30 minutes of the request being received) WOFNOW of the cancellation by email and request the action by logging into your member account. WOFNOW reserves the right to cancel or reschedule the booking with the customer and update/ modify your calendar accordingly.

5.7 We will arrange any refund due to be passed back to the End-user and any remaining funds held by us will be made available to you (subject to clauses 5.3-5.5). Our charges, if applicable, will apply to any funds paid out to you.

**Failure to provide the Deliverable**

5.8 If the Deliverable is not provided to the End-user for any reason beyond their control, you accept that we may provide the End-user with a 100% refund and on charge any expenses incurred by us to you.

**Payment facility only**

5.9 You acknowledge that the facility is not a debt collection service. We will not be required to, nor will we attempt to recover outstanding money owed on bookings on your behalf.

**Charge backs**

5.10 We will use our reasonable endeavours to limit the possibility of credit card charge backs by following eCommerce and anti-fraud best practice.

5.11 In the event of a charge back, we will notify you in writing as soon as possible and in any event within 5 working days of us becoming aware of the charge back.

- 5.12 We may pass on the cost of any charge backs by applying charge back debits to your Account.

#### **Abandoned Accounts**

- 5.13 We will hold funds in our account for a period of 12 months from the Payment Due Date. If after this we are unable to contact you, and your Account is showing no activity, we may deem your Account to be abandoned. In this case we may choose to suspend your Account. Any credit remaining in your Account will be forfeit.

### **6. MARKETING/PROMOTIONS**

- 6.1 You will fully participate in all marketing and promotional activities that we may undertake to promote the Website and the Services.
- 6.2 You will install signage approved by us to promote the Website at your premises and on any motor vehicles used by you in the Business. All marketing activities undertaken by you should include a reference to the Website.
- 6.3 In order to enable us to market and promote the Website, we may ask you to provide one complementary Deliverable (being a WOF inspection) per month to us. We will provide you with details of the recipient of this Deliverable.

### **7. GENERAL**

#### **Scope of these Terms**

- 7.1 These Terms represent:
- (a) the general terms of use for the Website and Services. They replace any previously published version;
  - (b) the complete agreement between you as a “member” or “user” of the Website and Services and us.
- 7.2 No advice or information that is obtained by you from us or anyone else shall create any warranty by us that is not expressly stated in these Terms.

#### **Right to make changes and discontinue**

- 7.3 We may modify or discontinue the Website, and/or make changes to the Services we offer and our Terms without prior notification to you. You agree that we will not be liable to you or any third party as a result of such changes.
- 7.4 We reserve the right to remove your Membership, Account and Listing that are deemed non-active or have not been accessed for sometime, or have breached any of these Terms.

#### **Intent and purpose**

- 7.5 You agree:
- (a) To use the Website and Services for its intended purpose;
  - (b) not to damage, interfere with or harm the Website or Services, or any network, or underlying system part thereof, or attempt to do so;
  - (c) not to use a robot, spider, scraper or other automated means of accessing information from the Website;

- (d) not to attempt to access secure or non-public areas of the Website without appropriate authorisation.

#### **Non-solicitation**

- 7.6 You must not solicit other Members via the Website for any related or unrelated products or services. Attempts to solicit Members may result in suspension or termination of your Membership.

#### **System availability**

- 7.7 We:
  - (a) will use our reasonable endeavours to ensure availability of the Website and Services, subject to any downtime required for routine maintenance and upgrades;
  - (b) take no responsibility for any system unavailability, or for any losses incurred as a result of the Website or Services being unavailable;
  - (c) assume no responsibility for the corruption of any data or information held by us.

#### **No warranty**

- 7.8 You accept that the Website is provided on an “as is” and “as available” basis and use of the Services is at your own risk. We do not warrant that the Services provided will be uninterrupted, timely, secure or error free, or that any information provided on the Website is error-free or reliable

#### **No liability**

- 7.9 You agree that to the maximum extent permitted by law any and all liability and responsibility of WOFNOW to you or any other person under or in connection with these Terms, or in connection with the Services, this Website, another Member's or End-user's acts or omissions, or your use of or inability to use the Services or the Website, is excluded regardless of whether such liability arises in contract, tort (including negligence), equity, breach of statutory duty or otherwise. WOFNOW's liability and responsibility is excluded in respect of any and all loss or damage, whether direct or indirect, including, without limitation, loss of profits, loss of data, loss of business or anticipated savings, general and special damages, and consequential and incidental loss.

#### **Indemnity**

- 7.10 You agree to release, indemnify and keep indemnified WOFNOW from and against all actions, claims, costs (including legal costs and expenses), losses, proceedings, damages, liabilities, or demands suffered or incurred by us to any person arising out of or in connection with your failure to comply with these Terms.

#### **Intellectual Property Rights**

- 7.11 WOFNOW owns all proprietary and intellectual property rights in the Website (including text, graphics, logos, icons, video and sound recordings) and the software and other material underlying and forming part of the Services and the Website.
- 7.12 You may not without our prior written permission, by any form or by any means adapt, reproduce, copy, store, distribute, print, display, perform, publish or create derivative works for any part of the Website; or commercialise, copy, or on-sell any information obtained from any part of this Website.



**Force Majeure**

- 7.13 WOFNOW has no liability for any lack of performance, unavailability or failure of the Services or the Website, or for any failure of WOFNOW to comply with these Terms where the same arises from any cause reasonably beyond the control of WOFNOW.

**No Waiver**

- 7.14 If we choose not to exercise or enforce any right available to us under these Terms it does not constitute a waiver of those rights.

**Consumer Guarantees Act 1993 (CGA)**

- 7.15 You agree that the Services are supplied for business purposes in terms of the CGA and that the provisions of the CGA do not apply to the supply of the Services to you.

**Partial Invalidity**

- 7.16 If any provision of these Terms becomes or is held to be invalid, unenforceable or illegal for any reason, and in any respect, that provision shall be severed from the remaining Terms, which shall continue in full force and effect.

**Governing Law**

- 7.17 These Terms are governed by the laws of New Zealand. You agree to submit to the non-exclusive jurisdiction of the Courts of New Zealand.