



## ACCOUNT APPLICATION, TERMS OF TRADE, AND SECURITY AGREEMENT

The annexed terms (the *Terms of Trade*), as amended or replaced from time to time, and published on [www.charta-packaging.co.nz](http://www.charta-packaging.co.nz) govern the supply by Charta Packaging Limited (we and us) to the person named below (you) of:

- Goods including packaging and printing. (*Goods*, as defined more particularly in clause 17 of the Terms of Trade); and
- Services including artwork, typesetting, establishing systems made

up of a combination of Goods, delivery and other services (*Services*) whether for your own use or for resale by you to one of your customers (*End User*).

Also, by these Terms of Trade you:

- Apply for credit; and
- Pursuant to the Personal Property Securities Act 1999, grant us a security interest in all Goods that we supply to you.

### Your Particulars:

**Important:** you must promptly notify us of any changes to this information

**Legal Name:** \_\_\_\_\_

**Trading Name** (if different): \_\_\_\_\_

Previous trading names: \_\_\_\_\_

**Type of entity** If not a natural person:

- Company                       Incorporated Society  
 Trust                                 Incorporated Charitable Trust  
 Partnership                       Other, specify: \_\_\_\_\_

**Company Number** If a registered company: \_\_\_\_\_

**OR Date(s) of Birth** If not a company: \_\_\_\_\_

Postal Address: \_\_\_\_\_  
 \_\_\_\_\_

Delivery Address: \_\_\_\_\_  
 \_\_\_\_\_

Registered Address: \_\_\_\_\_  
 \_\_\_\_\_

Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Your Directors, Trustees or Partners** attach a separate page if necessary:

Full name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Full name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Full name: \_\_\_\_\_

Home Address: \_\_\_\_\_

### Your Credit Information:

**Important:** you must promptly notify us of any changes to this information

**Bank:** \_\_\_\_\_ **Branch:** \_\_\_\_\_

**Account Number:** \_\_\_\_\_

**Accountant:** \_\_\_\_\_

**Solicitor:** \_\_\_\_\_

**Paid up capital:** \_\_\_\_\_

**Trade References** (excluding credit cards, fuel suppliers, landlord, power and phone) include only trade references that have given you credit and with which you have done business for more than one year:

FOR OFFICE USE ONLY

1. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

2. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

3. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

4. Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

### Authorised signatory:

The person signing these Terms of Trade:

- confirms that he/she is duly authorised to apply for credit; and execute the Terms of Trade;
- confirms that the information set out on this page is accurate and complete; and
- agrees that all Goods and Services that we supply to you (either in the past or in the future) are supplied on these Terms of Trade, as amended from time to time.

Full name: \_\_\_\_\_ Position: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# Personal Guarantee

In consideration of Charta Packaging Limited granting a credit

account to the applicant

(the purchaser),

I/we,

(print full name)

of

(print full address)

1. **Guarantee** as principal debtor, with all my current and future assets, the prompt payment of all moneys payable now or in the future by the Purchaser to Charta and its assigns; and
2. **Indemnify** Charta against any liability incurred in the supply of Goods and Services to the Purchaser; and the recovery of moneys owed to Charta by the Purchaser or Guarantor.
3. **I/we consent** to the information contained in the guarantee being used by Charta and its agents for assessing the application and any enforcement relating to the credit account or guarantee.
4. **I/we consent** to Charta and its agents providing information contained in the guarantee to third parties for the purpose of credit enquiries.
5. **If** there is more than one guarantor we are each jointly and severally liable for any moneys owing under this guarantee.

I/we have read and understood this document and the information contained in the guarantee is true and correct.

Dated

**Guarantor 1** (signed)

Name

**Witness** (signed)

Name

Witness Occupation

Witness Address

Dated

**Guarantor 2** (signed)

Name

**Witness** (signed)

Name

Witness Occupation

Witness Address

# Charta Packaging Limited

Terms and Conditions of Trade as at September 2008

## 1. Interpretation

“We/us/our” means Charta Packaging Limited. “Goods” includes services. “Order” includes a confirmation of order. “Person” includes a firm or incorporation. “PPSA” means the Personal Property Securities Act 1999 and any amendments. “Transit” includes transportation, shipment, and transfer. “Purchaser/you” means any person contracting with or offering to contract with Charta. If there is more than one purchaser then the purchasers’ obligations shall be joint and several.

## 2. Quotes/Orders/Price

- 2.1 All quotes and orders shall be in terms of and subject to our Terms and Conditions of Trade (Terms) current at the date of acceptance of the quote or order.
- 2.2 The price shall include delivery costs unless expressly excluded in a quote or order.
- 2.3 The price shall not include pre-production set up costs, unless expressly included in a quote or order. Preproduction set up costs will be charged separately.
- 2.4 The price shall be increased by the amount of any GST, other taxes or duties, which may apply, unless expressly excluded in a quote or order.
- 2.5 Quotes are based on the current cost of production at the date of the quote. A quote expires thirty (30) days after the date of the quote.
- 2.6 We may make extra charges for additional work resulting from lack of precision in your specifications or if you (with our prior written consent) alter the specifications after the date of the quote or order.
- 2.7 An order may be cancelled only with our prior written consent and only on such terms as we may specify.
- 2.8 Price is subject to adjustment in terms of clause 4.6.
- 2.9 Pallets used in delivery shall be charged to and paid for by you at our then current price, unless expressly excluded in a quote or order.
- 2.10 If pallets are charged, you will receive a credit on return of pallets to us. We will pay the transport costs for return of pallets.
- 2.11 Price shall be per 1000 units.

## 3. Payment

- 3.1 Unless we otherwise agree in writing the price is due and payable seven (7) days after delivery.
- 3.2 If the credit period is extended beyond 7 days without our agreement, the amount of the extended credit shall be a secured loan on terms identical to those currently standard to the ANZ National Bank, except as those are expressly varied by these Terms of Trade.
- 3.3 We may recover any amounts owing by you in relation to goods even if property in the goods has not passed to you (refer paragraph 5).
- 3.4 We reserve the right to charge interest at the rate of 2.5 per cent (2.5%) per month calculated daily on any overdue amount including costs in terms of clause 19.
- 3.5 The price shall be paid to us in full and you will make no deduction without our prior written consent.
- 3.6 We may apply any payment received from you or on your behalf (where you have not specified the purpose of payment) in reduction of your indebtedness as we think fit.

#### 4. Delivery/Quantity

- 4.1 We will arrange delivery of the goods to the place specified in the quote or order.
- 4.2 Any date for delivery in a quote or order is an estimated date only and time shall in no case be of the essence in this contract unless we have given a separate firm written commitment to deliver by a specific date.
- 4.3 You will accept and pay for the goods even if we fail to deliver by an estimated date.
- 4.4 We may deliver by instalments and you will accept such instalment deliveries.
- 4.5 If you refuse to accept delivery or to uplift goods from our premises, we may charge you for any resulting extra cost (including storage and transportation).
- 4.6 The quantity of goods delivered by us may vary by plus or minus 10% against the quantity specified in a quote or order and the price shall be charged on the actual quantity delivered.

#### 5. Risk/Ownership/Title

- 5.1 Unless we otherwise agree in writing all goods will be at your risk on delivery to you.
- 5.2 Ownership of the goods remains with us and does not pass to you until you pay us the full amount of all moneys owing to us by you.
- 5.3 While ownership of the goods remains with us:
  - 5.3.1 It will be your duty to store them separately and keep them ascertainable.
  - 5.3.2 We authorise you to use or sell the goods for full consideration in the ordinary course of your business. We may revoke this authority by sending you notice in writing by e-mail or other means.
  - 5.3.3 You authorise us to enter your premises to remove the goods and to take control or possession of goods in transit. Goods not shipped directly to you by us remain in transit until ultimate retail sale.
  - 5.3.4 We will not be responsible for any damage caused by the use of reasonable force in entering or removing the goods. You will indemnify us for the costs of any damage.
  - 5.3.5 You will be liable to us for all costs we incur (including transport and storage) in entering and removing the goods or in taking possession or control of the goods.
  - 5.3.6 We may resell any of the goods (as we think fit) and apply the proceeds of sale in reduction of any indebtedness of yours.
  - 5.3.7 You must advise us immediately of any action by any third party (including any of your creditors) that may affect our interest in the goods.
- 5.4 If you use or resell the goods before ownership of the goods passes to you, the proceeds of use or sale shall be received and held by you (in whatever form) in trust for both you and us. Our interest as beneficiary under that trust shall be that portion of the proceeds which does not exceed your total indebtedness to us. The balance of the proceeds (if any) shall be your beneficial interest under that trust.
- 5.5 We may at any time by notice in writing require you to pay the proceeds into a bank account nominated by us for disbursement in accordance with these Terms.

#### 6. Undertaking as to title

- 6.1 We undertake that at the time of the passing of the property in the goods to you:
  - 6.1.1 We will have the right to sell the goods;
  - 6.1.2 The goods will be free from any charge or encumbrance in favour of any third party.

#### 7. Sale by Description, Purpose or Sample / Accuracy or Artwork

- 7.1 If goods are to correspond with a description, the description must be agreed in writing by us and you and confirmed in a written quote or order.
- 7.2 If goods are to be used for a specific purpose the purpose must be agreed in writing by us and you and confirmed in a written quote or order.
- 7.3 If goods are to correspond with a sample the sample must be agreed in writing by us and confirmed in a written quote or order.
- 7.4 You will be solely responsible for the checking, accuracy and signing off of artwork (including printing) and samples.

#### 8. Quality/Fitness

- 8.1 Goods shall be manufactured to our Quality Standard and reviewed by us from time to time except as specifically agreed in writing by us and you.
- 8.2 We do not undertake the quality or fitness of goods for any particular purpose except where you make known to us in terms of clause 7 the particular purpose for which you require the goods and you show that you have relied on our skill or judgment.
  - Where the goods are to a description, purpose or sample in terms of Clause 7, the goods shall be of merchantable quality, but you will examine the goods and we shall have no liability for any defects, which ought to have been revealed but which you do not detect by such examination.

#### 9. Our Liability Limited

- 9.1 Our liability shall be limited, at our option, to any one or more of the following:

*If the breach relates to goods (other than services):*

  - 9.1.1 The replacement of the goods or the supply of equivalent goods;
  - 9.1.2 The repair of the goods;
  - 9.1.3 The cost of replacing the goods or of acquiring equivalent goods;
  - 9.1.4 The cost of having the goods repaired.

*If the breach relates to services:*

  - 9.1.5 The supplying of the services again;
  - 9.1.6 The cost of having the services supplied again.
- 9.2 We will not be liable for any consequential damage, loss of profit or business revenue.

#### 10. Return of goods to us

- 10.1 You are considered to have accepted the goods unless immediately on finding defect(s) you notify us in writing of the defect(s) and of your intention to return the goods.
- 10.2 You have no right to return goods more than 14 days after delivery.
- 10.3 Goods must be in brand new condition.

#### 11. Our Rights of Disposal / Payment of Price Due

- 11.1 In the event that:
  - 11.1.1 We retain possession or control of goods; and
    - payment of the price is due to us; and
    - we have made written demand for payment of the price; and
    - we have not received payment of the price in full; We may dispose of the goods and may claim from you any loss to us on such disposal (including costs of disposal).

## 12. Personal Property Securities Act 1999 (PPSA)

- 12.1 You acknowledge that these Terms grant a security interest to us in all goods, including any proceeds of sale pursuant to the PPSA.
- 12.2 You agree that sections 114(1) (a), 133 and 134 of the PPSA shall not apply to any contract of which these Terms form part.
- 12.3 You undertake to:
- 12.3.1 sign any further documents and/or do such further acts and/or provide any further information which we may reasonably require to enable registration of a security interest including registering a financing statement or financing change statement on the Personal Property Securities Register;
- 12.3.2 not give us a written demand or allow any other person to give us a written demand requiring us to register a financing change statement under the PPSA or enter into or allow any other person to enter into the Personal Property Securities Register a financing change statement under the PPSA in respect of the goods; and
- 12.3.3 give us not less than 14 days prior written notice of any proposed change to your name and/or other change in your details (including but not limited to changes to address, facsimile number, trading name or business practice).

## 13. Intellectual Property

- 13.1 Any technical information, knowledge or processing methods at any time transmitted either orally, electronically or in writing by us to you and any samples, designs and artwork produced by or for us shall remain our property and shall be considered absolutely confidential by you and you must not use them for any purpose nor sell, transfer or divulge them in any manner to anyone without our prior written consent.
- 13.2 You warrant that the use by us of any designs or instructions supplied by you will not infringe the patents, trade marks, designs or copyright ("intellectual property") of any other person and you agree to indemnify us against any claims that relate to or arise from infringement of the intellectual property of any other person.
- 13.3 If at any time a claim is made against us or we become aware that a claim is likely to be made against us for infringement or contributing to infringement of intellectual property by us to any other person as a result of supplying goods, we may immediately terminate or suspend the manufacture or supply of the relevant goods.

## 14. Artwork, Cutting Dies & Printing plates

- 14.1 Artwork, cutting dies and printing plates produced for our use in production of the goods remain our property.
- 14.2 If any printing plate or cutting die has not been used for a period of 2 years, we reserve the right to dispose of it.

## 15. Use of Information

- 15.1 You agree that we may obtain information about you from you or any other person relating to any matter in the course of our business, including credit worthiness and you consent to any person providing us with such information.
- 15.2 You agree that we may use any information we have about you relating to your credit worthiness and give that information to any other person, including any credit or debt collection agency, for credit assessment and debt collection or other legal purposes.
- 15.3 If you are an individual (i.e. a natural person), you have rights under the Privacy Act 1993 to access and request the correction of any personal information which we hold about you.

- 15.4 You agree that we may send you commercial electronic messages. You will notify us by email if you no longer agree to receive these messages.

## 16. Force Majeure

Neither of us shall be liable to the other, because of any delay in performance, or non-performance, of any obligations to the extent that the delay or non-performance is due to any circumstances not caused or contributed to by either of us and beyond the reasonable control of either of us which has been notified by one of us to the other, and the time for performance of the obligation shall be extended accordingly.

## 17. Goods Definition

- 17.1 "Goods" means all goods that we supply to you from time to time, including packaging and printing, provided that:
- 17.1.1 (but solely for the purpose of the application of the PPSA) where the goods supplied are your inventory, all references to Goods shall be read as references to inventory while they are held as inventory; and
- 17.1.2 where the goods supplied are not or are no longer held as your inventory, all references to Goods shall, in respect of those goods, mean the goods described in any relevant order form, packing slip or invoice prepared by us and relating to those goods, on the basis that each such order form, packing slip or invoice is considered to be agreed to by you and forms part of, these Terms of Trade, and (unless the context requires otherwise) includes all proceeds of the sale of such Goods and of any product or mass which subsequently become packaged within the Goods.

## 18. Assignment

You are not entitled to assign your rights under any contract with us without our prior written consent.

## 19. Costs

All costs and expenses incurred by us to remedy any breach by you of obligations contained or implied in the Terms including collection, and legal costs on a full solicitor and client indemnity basis shall be recoverable from you in addition and without prejudice to our right to damages for breach of the Terms or breach of any agreement arising between us and you for the supply of goods.

## 20. No Set Off

You have no right of set off in payment of any amounts due to us.

## 21. Governing law

The law of New Zealand including the Sale of Goods Act 1908 and its amendments shall apply to any contract of which the Terms are part except to the extent expressly negated or varied by the Terms or in writing by the parties to such contract.

## 22. Terms and Conditions/Changes

- 22.1 Quotes and orders shall be in terms of and subject to the Terms— refer to clause 2.1 above.
- 22.1 Our current Terms available on our website ([www.charta-packaging.co.nz](http://www.charta-packaging.co.nz)). We are entitled to update our Terms without further notice and it is your duty to ascertain the current and effective Terms by reference to our website.