

TERMS&CONDITIONS

Definitions

"Company" means Dataprint a division of New Zealand Document Exchange

"Customer means the name under which this account will be opened and whose details appear on the application form.

"Agreement" means this credit application and these Terms & Conditions "Goods" means goods supplied by the Company to the Customer at any time.

"Order" or "Orders" means the order or orders of the Customer to the Company to supply Goods and Services.

"Services" means services supplied by the Company to the Customer at any time. Headings in this Agreement are for the purpose of ease of reading, and in no way effect the content of this Agreement.

1. Orders and Acceptance

1.1 Orders will be on such forms as the Company may require from time to time.

1.2 Each Order shall constitute acceptance by the Customer of these Terms and Conditions of Trade.

1.3 If the Customer seeks to cancel any Order, any credit or refund will be at the sole discretion of the Company.

1.4 The Company may at any time at any time refuse an order by the Customer or decline to approve any application by the Customer for any lawful reason whatsoever.

1.5 The existence of an account by the Customer with the Company does not automatically entitle the Customer to credit in the future.

2. Credit Enquiries, Privacy Act 2020 and Privacy Notice

2.1 By completing this application for credit, the Customer authorises the Company to obtain information from any relevant source in support of the Customer's application for a credit account. The information obtained will be used by the Company for the purpose of assessing the Customer's credit worthiness both now and in the future while this Agreement remains in force.

2.2 The Company may collect personal information from the Customer (if it is an individual for the purposes of the Privacy Act 2020) or its personnel (if it is an entity) as provided in the Company's Privacy Policy (as amended from time to time) which is available at <https://www.dataprint.co.nz/privacy-policy>. Individuals may request access and correction of any personal information held by the company, as well as make any privacy complaint, by contacting the company at privacy@dataprint.co.nz or the Freightways Privacy Officer at privacy@freightways.co.nz. For further details please see the Company's Privacy Policy.]

3. Liability

3.1 To the maximum extent permitted by law, the Company's liability to the Customer shall be limited to the value of the Order supplied.

3.2 The Contract and Commercial Law Act 2017, the Consumer Guarantees Act 1993, and the Fair-Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon the Company which cannot by law (or which can only to a limited extent by law) be excluded or modified. Except for the Fair-Trading Act 1986, in respect of any such implied warranties, conditions or terms imposed, the Company's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute. This includes that the Consumer Guarantees Act 1993 will not apply to the extent that the Customer is in trade.

3.3 Except as otherwise provided above and to the extent that such loss or damage is caused by the Customer the Company shall not be liable for any loss or damage of any kind whatsoever, arising from the supply of Goods and Services by the Company to the Customer including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods and Services provided by the Company to the Customer.

3.4 The Customer shall indemnify the Company against all claims and loss of any kind to the extent that these are caused by the Customer or arise due to the fault of the Customer.

4. Risk and Ownership

4.1 From the time of dispatch to the Customer by the Company, risk in all Goods supplied shall pass to the Customer and except to the extent that such loss, damage or deterioration is caused by the Company, any loss, damage or deterioration to the Goods shall be borne by the Customer. The Customer shall notwithstanding any loss, damage or deterioration to the Goods remain liable to pay for the Goods.

4.2 Legal and beneficial ownership of the goods remains with the Company until the Company has received payment for the goods and for all indebtedness of the Customer to the Company on any other account regardless of the time payment is due.

4.3 If the Goods are sold prior to property passing to the customer, the proceeds of that sale must be held by the Customer on trust for and on behalf of the Company in a separate account.

5. Personal Property Securities Act 1999 ("PPSA")

5.1 The Customer hereby acknowledges that these Terms and Conditions of Trade constitute a security agreement which creates a security interest in favour of the Company in all Goods and Services supplied by the Company to the Customer (or for the Customer's account) to secure the payment from time to time and at a time, including future advances. The Customer agrees to grant a "purchase money security interest" to the Company, as that term is defined in the PPSA.

5.2 The Customer

- must on request, render all assistance and information as is necessary to register a financing statement under the PPSA in respect of the Goods;
- agrees to the Company registering a financing statement under the PPSA in respect of the Goods;
- must pay the Company promptly on request, the cost of registering the financing statement, and the costs of enforcing or attempting to enforce the agreement evidenced by these terms and conditions and the security interest granted under clause 5.1;
- agrees that sections 114(a), 121, 131 of the PPSA will not apply to the security interests created and waives the right to receive a verification statement under section 148 of the PPSA.

6. Prices

6.1 The Company reserves the right to increase prices at any time to cover any increases in the cost of labour, materials, Government taxes, public holidays or delivery costs (where applicable). Not less than 30 days' notice of any price increases will be provided by the Company in writing.

6.2 The Company's written quotation shall be deemed to interpret the Customers instructions written or verbal. The Customer is advised to exercise due care and attention when checking quotations before any further work proceeds. The term quotation shall include estimates for the purpose of these Conditions.

6.3 Unless the quotation is accepted in its existing form within 30 days from the date on which it is given it may be deemed to have lapsed.

6.4 Quotations are based on the original specifications. If through the Customer's error or change of mind extra work is involved, then such work will be charged at current rates. In such a case the Company will notify the Customer in advance of the rates to be applied.

6.5 If any plant is set up to work on the customer's job or on Goods being prepared for the Customer and the progress or completion of the work is delayed by or on behalf of the Customer, the Customer will pay the Company's waiting charges for such plant

6.6 The Company reserves the right to charge for any samples or development work requested by the Customer.

7. Invoice Queries

7.1 Any dispute regarding payment of an invoice must be notified to the Company within 14 days of the date appearing on the invoice. The Company's decision shall be final in all claims relating to the quantum or any other item on an invoice.

8. Payment Terms

8.1 Where not specified, all amounts are stated exclusive of goods and services tax ("GST") and are payable plus GST.

8.2 The terms of this credit application are that all invoices are payable on the 20th of the month following invoice date.

8.3 Should payment not be received by the Company on or before the due date for payment, the Company may charge interest on sums owing at the rate of 2% per month calculated daily and accruing monthly at the end of each calendar month ("Late Payment Fee"), on any invoice or part invoice unpaid until the date of payment. Any payments received for credit to the Customer's account where a Late Payment Fee has been applied, shall be credited firstly against the Late Payment Fee and secondly in reduction of any invoice amounts outstanding.

9. Payment Default

9.1 Where the Customer is in default of the terms and conditions as outlined in this Agreement, the Company may lodge the particulars of the default with any credit bureau or agency at its discretion. To the extent that such particulars of default are valid and accurate, the Company is not liable for any action which may be taken by any party who becomes aware of the default lodged against the Company.

9.2 The Customer undertakes to indemnify and make payment on all of the Company's reasonable costs, including legal costs, debt collection costs, and related costs, in regard to the valid collection of any overdue monies owed by the Customer.

9.3 Should the Company choose to extend to the Customer for any reason credit over and above the payment terms stipulated in this Agreement, the Company retains the right at all times to request immediate payment of the total balance outstanding of the Customer's account and undertake collection action to recover any balance outstanding.

10. Cancellation

10.1 Without prejudice to any other remedy, the Company has the right to and may at its option, terminate these terms and conditions and/or immediately cease supplying Goods and/or repossesses all Goods the property of the Company which are in the possession or under the control of the Customer if:

- The Customer is in material breach of any terms and conditions contained in this agreement or the Customer is in breach of these terms and conditions and such breach is not capable of remedy or is not remedied within 14 days.
- The Customer becomes insolvent within the meaning of the Insolvency Act 2006 or the Companies Act 1993, or commits an act of bankruptcy
- a receiver or a receiver and manager of the Customer is appointed
- some steps or proceedings are commenced leading to the appointment of a liquidator of the Customer
- the Customer in its absolute discretion forms the opinion that the Customer cannot or will not be able to pay its debts as they fall due to the Company

For the purpose of this clause, the Customer irrevocably grants the Company the rights set out in clause 9.2.

Termination of this agreement does not affect any accrued rights or remedies.

10.2 The Company has the right to enter any of the Customer's premises where Goods that are the property of the Company, which are in the possession or under the control of the Customer are stored and the Company shall have the right to remove and carry away such Goods from the premises.

10.3 The Customer indemnifies and keeps indemnified the Company from and against all and any costs, claims, losses or damages suffered or incurred by the Company as a result or consequence of the Company or any of its employees or agents validly exercising or attempting to validly exercise any rights set out in clause 10.2.

11. Copyright

11.1 Unless negotiated and agreed in writing, the copyright of general artwork, commissioned artwork and illustrations and anything else whatsoever prepared, developed or created by the Company shall vest in and belong to the Company. The Company may use any artwork or printing produced by itself for the purposes of promoting the Company. The Customer shall be responsible for obtaining all necessary authorities and consents to reproduce pictures, artwork, photographs, copyright text and/or any other reproducible materials ("Materials") prior to instructing the Company to reproduce the same.

11.2 The Customer shall indemnify and hold the Company and its agents and representatives harmless against all claims, demands, actions, costs, expenses (including but not limited to legal costs and disbursements), losses and damages arising from or suffered or incurred by reason of any claim (including but not limited to the defence of such claim) that the reproduction of the Materials by the Company infringes the intellectual property or other rights of any third party or misuses the confidential information of a third party.

11.3 All design, text, illustrations, graphics, photographs, diagrams, drawings, logos and the selection and arrangement thereof, and all source code and all other material content of any website owned, controlled or operated by the Company are the intellectual property of the Company or its content providers and as between the Company and the customer all intellectual property rights (including all copyright) arising out of or connected with such content shall belong to the Company. No reproduction of any part is allowed without written permission.

12. Miscellaneous

12.1 Upon provision of reasonable notice to the Customer, the Company may assign to another party the whole or part of this Agreement. The Customer may elect to terminate this Agreement within 14 days of receiving such notice. Where the Company assigns to any other person or company all or any part of the Customer's Indebtedness to the Company, the assignee shall be entitled to claim all or part of the indebtedness and shall have the same rights of recovery as the Company.

12.2 The Customer is not entitled to assign, transfer or otherwise dispose of any rights under this agreement to anyone else without the Company's prior written consent.

12.3 This Agreement is governed by the laws of New Zealand and any legal proceedings required to be commenced or continued pursuant to this Agreement shall be held in a Court in New Zealand.

12.4 Any part of these provisions is severable, and if any provision in this Agreement is held to be invalid or unenforceable for any reason, then the unenforceability of that condition shall not affect the remainder of these terms and conditions which shall remain in full force and effect, and the parties shall adjust their respective rights and obligations in accordance with the spirit and intent of this Agreement.

12.5 A failure or apparent failure to exercise or enforce any rights by a party does not amount to a waiver of such rights under this Agreement.

12.6 The Company may, upon giving one month's written notice to the Customer, amend these Terms & Conditions. Any amendments will be made available on the Company's website. The Customer's continued use of the Company's goods and services will be taken as acceptance of any amended Terms & Conditions. No variations to this Agreement by the Customer will be accepted unless approved in writing by the Company.

12.7 Neither the Company nor the Customer will be liable to the other for any breach of this Agreement by any extraordinary occurrences which are beyond the reasonable control of the party in question.

12.8 These Terms and Conditions of Trade constitute the entire agreement and supersede and extinguish all prior agreements and understandings between the Company and the Customer.

13. Address for Notification

13.1 It is the Customer's responsibility to ensure the Company is kept informed in writing of all changes of address and contact details. Notice in writing may be served on either party by personal service or by posting to the address as set out in this Agreement or if the address has been superseded to the last known trading, postal or residential address.