

## TERMS AND CONDITIONS OF TRADE

I/We have read and agree to be bound by the terms and conditions of trade as printed overleaf or attached.

**If the applicant is a company, then this application form must be signed by a Director of the company.**

Signed : .....

Print Name in Full : .....

Designation : .....

Dated this ..... day of ..... 20.....

### **1. DEFINITIONS**

- 1.1. "LASER" shall mean Laser [Trade] [IBL], or any agents or employees thereof. Laser [Trade] [IBL] is a trading company of [Original Company Name] and trades independent to Laser [Trade] Group Limited. Laser [Trade] [IBL] uses the LASER™ name pursuant to a franchise agreement with Laser [Trade] Group Limited.
- 1.2. "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from LASER.
- 1.3. "Goods" shall mean all products and / or services purchased by the Customer from LASER. This includes all goods and services supplied by LASER to the Customer. Without limitation, this includes all contracting and maintenance services and the supply of components and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of products and services by LASER to the Customer.
- 1.4. "Price" shall mean the price of products and services as agreed between LASER and the Customer and includes all disbursements.

### **2. QUOTATION**

The Customer may request a quotation from LASER setting out the price and quantity of the goods to be supplied. If the quotation is acceptable to the Customer, the Customer must place an order within thirty (30) days from the date of issue of the quotation.

### **3. ACCEPTANCE**

- 3.1. Any instructions received by LASER from the Customer for the supply of Goods shall constitute a binding contract and acceptance of the Terms and Conditions contained within this document.
- 3.2. These terms and conditions and any subsequent terms and conditions issued by LASER shall apply to all orders for goods made by the Customer after the date and time at which these conditions are first delivered or sent via email or facsimile or otherwise brought to the notice of any employee, staff member or representation of the Customer. It shall be the Customer's responsibility to ensure that these conditions are promptly brought to the attention of the appropriate staff of the Customer and accordingly any order made by the Customer after the date and time described above in this clause shall be deemed to be acceptance of those conditions.

### **4. COLLECTION AND USE OF INFORMATION**

- 4.1. The Customer authorises LASER to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Goods provided by LASER to any other party.

- 4.2. The Customer authorises LASER to disclose any information obtained to any person for the purposes set out in Clause 4.1.
- 4.3. Where the Customer is a natural person the authorities under Clauses 4.1 and 4.2 are authorities or consents for the purposes of the Privacy Act 1993.

## **5. PRICE**

- 5.1. The price shall be as indicated on invoices provided by LASER to the Customer in respect of Goods supplied; or
- 5.2. The price shall be the price at the date of delivery of any Goods as determined by LASER.
- 5.3. The Customer agrees that the cost price shall be determined by LASER and shall take into consideration one off costs such as design and production.
- 5.4. LASER reserves the right to implement a surcharge for alterations to specifications of Goods after the order has been placed.

## **6. PAYMENT**

- 6.1. Payment for Goods shall be made in full on or before the 20<sup>th</sup> day of the month following the date of the invoice ("the due date").
- 6.2. Interest may be charged on all amounts owing after the due date at a rate of 2.5% per month or part month. This will be payable until the date payment is received in full by LASER, but without prejudice to LASER's other rights or remedies in respect to the Customer's default in failing to make payment on or before the due date.
- 6.3. Any expenses, disbursements and legal costs incurred by LASER in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable Solicitor's fees or debt collection agency fees.
- 6.4. The method of payment will be made by cash, or by cheque, or by Bank cheque, or by direct credit or by any other method agreed to between the Customer and LASER.
- 6.5. Without prejudice to any other remedies LASER may have, if at any time the Customer is in breach of any obligation (including those relating to payment) LASER may suspend or terminate the supply of goods to the Customer and any of its other obligations under the terms and conditions. LASER will not be liable to the Customer for any loss or damage the Customer suffers because LASER exercised its rights under this Clause.

## **7. RISK**

- 7.1. Risk in any Goods supplied by LASER shall pass when the Goods are delivered to the Customer and it shall be the Customer's obligation to insure the Goods from that time.

## **8. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)**

- 8.1. Title in any Goods supplied by LASER passes to the Customer only when the Customer has made payment in full for all Goods provided by LASER and of all other sums due to LASER by the Customer on any account whatsoever. Until all sums due to LASER by the Customer have been paid in full, LASER has a security interest in all Goods.
- 8.2. If the Goods are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Goods shall remain with LASER until the Customer has made payment for all Goods, and where those Goods are mixed with other property so as to be part or a constituent of any new Goods, title of these new Goods shall be deemed to be assigned to LASER as security for the full satisfaction by the Customer of the full amount owing between LASER and Customer.
- 8.3. The Customer gives irrevocable authority to LASER to enter any premises occupied by the Customer or on which Goods are situated at any reasonable time after default by the Customer or before default if LASER believes a default is likely and to remove and repossess any Goods and any other property to which Goods are attached or in which Goods are incorporated. LASER shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability

cannot be excluded. LASER may either resell any repossessed Goods and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Goods and credit the Customer's account with the invoice value thereof less such sum as LASER reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

- 8.4. Where Goods are retained by LASER pursuant to Clause 8.3 the Customer waives the right to receive notice under S.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under S.121 of the PPSA.
- 8.5. The following shall constitute defaults by the Customer:
  - 8.5.1. Non payment of any sum by the due date.
  - 8.5.2. The Customer intimates that it will not pay any sum by the due date,
  - 8.5.3. Any Goods are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Goods.
  - 8.5.4. Any Goods in the possession of the Customer are materially damaged while any sum due from the Customer to LASER remains unpaid.
  - 8.5.5. The Customer is bankrupted or put into Liquidation or a Receiver is appointed to any of the Customer's assets or a landlord distains against any of the Customer's assets.
  - 8.5.6. A Court Judgment is entered against the Customer and remains unsatisfied for seven (7) days.
  - 8.5.7. Any material adverse change in the financial position of the Customer.

## **9. SECURITY INTEREST FOR SERVICE PROVIDERS**

The Customer gives LASER a security interest in all of the Customer's present and after-acquired property that LASER has performed services on or to or in which Goods supplied or financed by LASER have been attached or incorporated.

## **10. GOVERNING LAWS**

These terms of trade will be interpreted in accordance with applicable Government legislation, which will have exclusive legal jurisdiction over any dispute in relation to the goods or these terms of trade. The applicable governing law is that of the New Zealand Government Legislation

## **11. DISPUTES**

No claim relating to Goods will be considered unless made within seven (7) days of delivery in writing of such a dispute.

## **12. LIABILITY**

- 12.1. The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon LASER which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on LASER, LASER's ability 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.
- 12.2. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods from LASER for the purposes of a business in terms of Section 2 and 43 of that Act.
- 12.3. Except as otherwise provided by Clause 12.1 LASER shall not be liable for:
  - 12.3.1 Any loss or damage of any kind whatsoever, arising from the supply of Goods by LASER 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 provided by LASER to the Customer: and,

12.3.2 The Customer shall indemnify LASER against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of LASER or otherwise, brought by any person in connection with any matter, act, omission, or error by LASER, its agents or employees in connection with the Goods.

### **13. WARRANTY**

Manufacturer's warranty applies where applicable.

### **14. MISCELLANEOUS**

14.1. Force Majeure, LASER shall not be liable for delay or failure to perform its obligations directly or indirectly if the cause of the delay or failure is beyond its control including "acts of God", wars or failure of third parties such as suppliers or subcontractors.

14.2. Failure by LASER to enforce any of the Terms and Conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations LASER has under this contract.

14.3. If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

### **15. LIEN**

The Customer hereby acknowledges that LASER has a Lien over all goods in its possession belonging to the Customer to secure payment of any or all amounts outstanding from time to time.

### **16. CANCELLATION**

16.1. Orders placed with LASER cannot be cancelled without the written approval of LASER. In the event that LASER accepts the cancellation of any order placed, it shall be entitled to charge a reasonable fee for any work done on behalf of LASER to the date of the cancellation including a fee for the processing and acceptance of the Customer's order and request for cancellation.

16.2. LASER reserves the right to cancel the order at any time by LASER giving the Customer written notice. The Customer shall indemnify LASER against all claims and loss of any kind whatsoever however caused or arising as a result of this clause brought by any person in connection with any cancellation by LASER, its agents or employee in connection with the cancelled Goods.

### **17. INTELLECTUAL PROPERTY**

All quotes, plans, PLC code, HMI code and other material supplied by LASER contain intellectual property that cannot be copied or given to other parties without the written consent of LASER. LASER reserves the right to charge a consultancy fee and the customer agrees to pay the consultancy fee for misuse of this material.