

Christchurch City Council

(the “Council”)

Application for Trade Credit and terms of supply

Section 1: Details of the Applicant (the “Applicant”)

Please ensure that all questions are completed truthfully and completely. The provision of false or misleading information may lead to refusal of credit and may lead to civil or criminal action.

COMPANY DETAILS:

Company/Partnership/Trust – name:	
Trading Name (if applicable)	
Date of Registration:	
Registered Number:	
Principal Trading Address: (note a physical address is required in all cases)	
Postal Address:	
Suburb:	
City/Town:	Postcode:
	Mobil: Phone: Fax: Email:

DIRECTOR/PARTNER/TRUSTEES DETAILS:

Surname:	Given Names:	DOB:
Residential address: (note a physical address is required in all cases)		Home Ph: Mobile Ph:
Surname:	Given Names:	DOB:
Residential address:		Home Ph: Mobile Ph:
Surname:	Given Names:	DOB:
Residential address:		Home Ph: Mobile Ph:
Surname:	Given Names:	DOB:
Residential address:		Home Ph: Mobile Ph:

SOLE TRADER:

Full name of Applicant	
Date of Birth:	
Trading Name (if applicable)	
IRD Number:	
Principal Trading Address:	
Postal Address: (note a physical address is also required)	
Suburb:	
City/Town:	Postcode:
	Mobile: Phone: Fax: Email:

EXISTING CONTRACTUAL ARRANGEMENTS WITH COUNCIL (If Applicable):

Agreement/Contract	Name of Council Contact

GENERAL INFORMATION – ALL APPLICANTS MUST COMPLETE:

Type of Business`:	
Time in Business:	
Bank Details:	
Accountant:	
Contact Person:	
Mobile:	
Phone:	
Email:	
Fax:	
Are you a Supplier to CCC:	

Section 2: Trade References

Please submit the names of three suppliers (Referees) with whom the Applicant operated or have operated a major trading account. (Do not include financial institutions, credit card companies, phone or utility companies). By submitting these names the Applicant authorises the Council to request receive and review information regarding the credit worthiness and business practices so as to assess credit worthiness of the Applicant.

Please ensure the following suppliers agree to give Credit References:

TRADE REFERENCES:

Company:	Telephone:
1.	
2.	
3.	
Credit Limit requested: (predicted monthly volume x 2)	\$

Section 3; Credit Limited

Section 4: Personal Guarantee and Indemnity

PERSONAL GUARANTEE

In consideration of the City Council providing credit facilities to the Applicant and continuing to supply credit and Services to the Applicant, I or we) as the Guarantor(s)

- 1 Personally guarantee jointly and severally the due and punctual payment of all amounts outstanding to the Council in accordance with the attached Terms;
- 2 Agree to be deemed as principal debtor for all accounts held by the applicant with the Council;
- 3 Agree that my /our liability under this guarantee and indemnity shall be a continuing and shall not be discharged by any settlement or payment of account;
- 4 Agree that my/ our liability under this guarantee and indemnity shall not be discharged, abrogated, prejudiced or affected by:
 - 4.1.1. The granting of time, credit or the indulgence or other concession to the applicant;
 - 4.1.2. Any alteration, modification, variation or addition to any agreement in respect of the supply of goods and Services;
 - 4.1.3. Any other act, omission or event which but for this provision might operate to discharge, impair or otherwise affect my/our obligations under this guarantee and indemnity or any power or remedies conferred upon the Council by this guarantee and indemnity or by law.
- 5 The Guarantor(s) will indemnify the Council against all losses the Council may incur or suffer should the Applicant default in the performance of any obligations to be performed by the applicant under the attached Terms of Trade Credit.
6. The Guarantor(s) acknowledges and agrees that the Council may contact Veda Advantage Limited or other Credit agency for credit information about the Guarantor (s).
7. The Guarantor(s) understands that legal advice should be obtained as to the effect of the above guarantee and the personal potential liability of the guarantor.
8. The Guarantor(s) confirm that either the Guarantor (s) have obtained legal advice or elected not to obtain such legal advice and has still agreed to provide the guarantee.

GUARANTOR:

Signature of Guarantor:	Full Name of Guarantor:
Physical Address:	
Signature of Guarantor:	Full Name of Guarantor:
Physical Address:	

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Witness:

Signature of Witness:	Full Name of Witness:
Physical Address:	

Signed _____ day of _____ 2024

Section 5: Council Terms of Trade and provision of Credit to the Applicant

By receiving the Services from the Council the Applicant (and Guarantor(s)) agrees to these Terms.

1. Acknowledgement by Applicant

- 1.1 The Applicant warrants that all information given to the Council is true and correct.
- 1.2 The Applicant will notify the Council within seven (7) days of any change affecting the Applicant or legal entity, structure, management or control.
- 1.3 The Applicant agrees that these Terms prevail for all Services provided by the Council to the exclusion of all other terms and conditions.
- 1.4 The Applicant acknowledges that a separate credit limit authorisation is required from each of our trading divisions.
- 1.5 The Applicant acknowledges that the Council may:
 - a. Refuse the Applicant's application for credit facilities;
 - b. Withdraw or vary credit facilities at its absolute discretion without prior notice;
 - c. Withhold supply irrespective of whether an order has been accepted or not if for any reason the Council determine in our absolute discretion that no further credit is to be extended to the Applicant.
- 1.6 The Applicant acknowledges that:
 - a. The Council may obtain and rely upon credit reports from its credit reporting provider or other credit providers on the Applicant and if a limited liability company, on the company and its directors for the purpose of assessing this and any other application which the Applicant may make for credit;
 - b. The Council may obtain information from any other credit providers from time to time for the purpose of reviewing and assessing the Applicant for commercial creditworthiness;
 - c. The Council may disclose to or discuss credit information with any credit providers or any credit reporting agencies, any prospective guarantor and any person or body agreeing or considering whether to agree to be liable for any credit to be made available to the Applicant, any information maintained or in our possession relating to the Applicant's application and the administration of the Applicant's credit facility;
 - d. The authorisations contained in this document will continue to remain in full force and effect until all credit facilities cease to be made available to the Applicant by the Council;
 - e. The personal information provided in this application is collected by the Council and will be held in a safe and secure manner and not used for any alternative purpose;

- f. If the signatory(s) and any other person named in this application fail(s) to provide any information requested in this application or during the processing of this application the Council may cease or suspend the Services;
 - g. The Council may use the information supplied to compile mailing lists and the provision of promotional material to the Applicant;
 - h. The signatory(s) and any other person named in this application may have the right under the Privacy Act 1993 to access, and request correction of, any personal information held by the Council concerning the Applicant.
- 1.7 This application is made to the Council and its subsidiaries and such further companies as may be owned by the Christchurch City Council from time to time and whether trading under their own names or trading under any trading or business name.
- 1.8 Each signatory warrants that he or she had the full authority of the applicant or applicants to sign on their behalf.
- 1.9 These terms bind the guarantors.
- 2. Payment**
- 2.1 All invoices are due and payable in full on the 20th of the month following the month of invoice, provided however that if any invoice or invoices remain unpaid after the due date all invoices, whether due for payment or not, shall be deemed to be overdue and shall become payable on demand.
- 2.2 The Applicant shall make all payments without set-off or deduction of any kind. Receipt of a cheque, bill of exchange, or other negotiable instrument will not constitute payment and the Applicant will remain liable for payment until cleared payment is received by the Council.
- 2.3 The Council may apportion payments to outstanding account as the Council see fit.
- 2.4 The Council is under no obligation to supply any Services to the Applicant on credit, unless the Council agree otherwise in writing.
- 2.5 The Council may, subject to any statutory restraint, suspend work on the Services until outstanding accounts are paid.
- 2.6 The Council may impose a credit limit on the Applicant's account and alter that credit limit at any time without notice to the Applicant.
- 2.7 If the Applicant exceeds an approved credit limit the Council may stop supplying services to the Applicant and all invoices, whether due for payment or not, shall be deemed to be overdue and shall become payable immediately.
- 2.8 The Council can require that the Applicant provide:
- a. A personal guarantee or get another person to act as the Applicant and/or guarantor in respect of the credit arrangements; and/or
 - b. A payment performance bond from a trading bank or other approved source (the "Bond"), on such terms as the Council consider appropriate, or other surety in an amount the Council specify to secure the Applicant's obligations to the Council.

- c. Should a Bond be required it shall be in a form approved by the Council's legal advisers and the Applicant will bear the cost of the preparation and execution of the Bond.

2.9 Should the Applicant fail to pay the invoices by the due date then?

- a. Council reserve the right to charge interest, payable from the date the debt became due, calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) Schedule 2 of the Interest on Money Claims Act 2016.
- b. The Applicant shall pay all the Council's collection costs and expenses (including cheque dishonour fees, legal costs determined as between solicitor/client and collection agents fees) which may be incurred in the recovery or attempted recovery of the overdue amounts from the Applicant. Council's costs shall be calculated from the time that the Council refers the unpaid invoice to its collection agent.

2.10 Variation to any invoice must be approved by Council in writing before payment of the relevant invoice is due. You will make payment of the part invoice which is not in dispute promptly in accordance with the payment terms in clause 2.

2.11 The Council may set off any amount owed by the Council to the Applicant (whether under this agreement or any other agreement between the Council and the Applicant) against any of money that is owed, or may become owing, by the Applicant to the Council (whether under this agreement or any other agreement between the Council and the Applicant). The Applicant waives any right to set off any amount that is, or may become, owing by the Applicant to Council against any amount owing by the Council to the Applicant whatsoever or howsoever owing. This clause overrides any other document or agreement to the contrary.

3. **Price and Delivery**

3.1 The Council's prices are subject to change without notice.

3.2 The Applicant will be invoiced Services at prices current at the date of supply.

3.3 Unless specified on our invoice, all prices are inclusive of Goods and Services Tax,

3.4 Council reserves the right to correct any error or omission in any invoice.

3.5 If the Council is required to seek independent advice as part of the supply of Services to the Applicant the costs of these Services shall be passed to the Applicant and these additional costs must be paid by the Applicant.

4. **Withholding/Suspension of Services**

4.1 Subject to any statutory responsibility to provide Services, the Council reserves the right, without notice to the Applicant, to withhold or suspend supply. The Council will not be liable for loss or damage resulting directly or indirectly from such action where:

- a. The Council has not been provided with sufficient advice; or
- b. The Applicant has outstanding accounts with the Council; and
- c. The Council have determined, in its discretion that credit should no longer be extended to the Applicant.

5. Default and Cancellation

5.1 The Applicant will be in default, if any of the following events occur:

- a. The Applicant fails to pay any money owing on the due date, or if the Applicant breaches any of the Applicant's or other obligations under these Terms, under any Bond any security, or any other contract for other Services entered into at any time between the Council and the Applicant; or
- b. The Council believe the Applicant has committed or will commit an act of bankruptcy, had or enters into any composition or arrangement with the Applicant's creditors, has had or is about to have a receiver or Statutory Manager (or similar) appointed, or is wound up, declared insolvent, ceases to be of full legal capacity, or dies;
- c. The Applicant (if a company) is placed in liquidation.

5.2 Where the Applicant is in default, then the Council may, at its option, do any one or more of the following:

- a. Require the Applicant to remedy the default in the manner and within the period required by the Council;
- b. Charge default interest under Clause 2.9 on any overdue amounts;
- c. Require the Applicant to pay all amounts the Applicant owes the Council to the Council immediately;
- d. Suspend or terminate the Applicant's account with the Council;
- e. To the extent permitted by law, refrain from supplying any further Services;
- f. Exercise all or any rights the Council have under these Terms or that are available to the Council by law;
- g. Exercise its rights under any Bond.

5.3 In addition, the Council may terminate the Applicant's account at any time by written notice in our sole discretion. If the Applicant's account is terminated, the Applicant must immediately pay to the Council any amount owing to the Council. Termination will not affect any of the Council's rights that arise before or upon termination.

6. Limitation of Liability

- 6.1 Nothing in these Terms limits any rights the Applicant have under the Consumer Guarantees Act 1993 or the Fair Trading Act 1986 and these Terms are to be read subject to those rights.
- 6.2 Where these Terms would otherwise be subject to the Consumer Guarantees Act 1993 or the Fair Trading Act 1986 and the Applicant is acquiring the Services for business purposes, the Applicant agrees that the Consumer Guarantees Act 1993 does not apply and that the parties agree sections 9, 12A, 13 and 14(1) Fair Trading Act 1986 does not apply and that the parties have contracted out of these provisions.
- 6.3 Subject to the foregoing, the Applicant agrees to the exclusion of all statutory or implied conditions and warranties to the extent permitted by law.
- 6.4 To the extent permitted by law, limited to (at the direction of Council) the Council's liability under any condition or warranty which cannot legally be excluded is:
- a. The replacement of the Services; or
 - b. The payment of the costs of replacing the Services.
7. The Council shall have no further liability or responsibility for any direct, indirect or consequential injury, liability, loss or damage arising from any supply of the Services including any loss of profits or lost business, whether incurred by the Applicant or by anyone else, and whether in contract, tort or otherwise.
- 7.1 Council's duty of care in the supply of Services is only to the Applicant and not to any third party claiming through the Applicant or independently against the Council.

8. Provision of Advice

- 8.1 The Applicant, or the Applicant's agent, may supply information such as information or technical reports ("Advice"), to Council so that Council may supply the Services.
- 8.2 The Applicant warrants that such Advice is true and correct and that the Applicant accepts responsibility for the content of such advice.
- 8.3 The Applicant acknowledges that Council will rely on such Advice in the provision of Services and is not responsible for the accuracy or quality of such Advice.
- 8.4 The Council reserves the right to appoint its own advisers for the provision of Advice to Council so as to enable Council to provide the Services and, if this shall be deemed necessary by Council the Applicant will meet those costs.

9. Variation

- 9.1 Any variation to these Terms must be agreed by the Council in writing by a Council officer with delegated authority to approve such variation.

10. Assignment

- 10.1 The Applicant may not transfer or assign the Applicant's rights or obligations under these Terms without the prior written consent of the Council.
- 10.2 Council approval of any assignment is also subject to the approval of a further application for trade credit by the incoming party.
- 10.2 Council reserves the right to require full payment of outstanding invoices prior to any assignment of the Applicant's rights under this agreement and is subject to the proposed assignee being acceptable to Council and executing these terms.
- 10.3 Assignment shall not release any personal guarantee or any other term intended to have continuing effect.

11. Force Majeure

- 11.1 The Council shall not be liable for delay or failure to perform our obligations under these Terms if the delay or failure is beyond the Council's control.

12. Governing Law and Disputes

- 12.1 The laws of New Zealand shall prevail.
- 12.2 Any claim or dispute arising out of these Terms shall be determined by arbitration under the Arbitration Act 1996 if the parties are unable to resolve the dispute themselves within one (1) month of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand Courts.
- 12.3 The Applicant agrees to submit to the non-exclusive jurisdiction of the Courts of New Zealand and agrees that any legal proceedings may be heard in those Courts.

13. Clerical Errors

- 13.1 The Council reserves the right to correct clerical errors without notification.

14. General

- 14.1 These Terms replace any earlier representations, warranties, understandings and agreements (whether oral or written), and together with the Credit Application Form constitute the entire agreement between the Council and the Applicant.
- 14.2 No failure or delay of the Council at any time to require full performance by the Applicant of the Applicant's obligations, or to exercise any of its rights under these Terms or otherwise, shall operate as a waiver of those matters.
- 14.3 Any modification or variation to these Terms will only be effective and enforceable if such modification or variation has been approved in writing by the Council.
- 14.4 The Applicant is advised to seek independent advice of these terms in particular the terms of any personal joint or several guarantee provided to Council.

Section 6: Acceptance of Terms of Credit

The applicant acknowledges having read and accepts these Terms which constitute a binding contract.

Applicant's Signature

Print Full Name

Title Date 2024

Office Use Only

Customer Number:	Date Account Opened:
Approved Credit Limit:	
Reviewed by:	Signature:
Approved by:	Signature:

Approved on behalf of Christchurch City Council by:

Role and delegated authority:

Date: