

# CHAPMAN EMPLOYMENT RELATIONS LIMITED TERMS & CONDITIONS OF TRADE

## 1. Parties And Definitions To This Agreement

- 1.1. "CER Ltd" for the purposes of this agreement, shall mean Chapman Employment Relations Limited, any person or entity acting for or on behalf of Chapman Employment Relations Limited or with the permission or authority of Chapman Employment Relations Limited.
- 1.2. "Client" shall mean the Client, any person or entity acting for or on behalf of the Client or with the permission or authority of the Client as detailed on any quotation, estimate, Engagement Agreement or notation as provided by CER Ltd to the Client.
- 1.3. "Guarantor" shall mean any person (or persons), or entity, who agrees to be held liable for the debts incurred by the Client in the course of business between the Client and CER Ltd on a principal debtor basis.
- 1.4. "Services" shall mean all services supplied by CER Ltd to the Client and includes any recommendations or consultancy advice, seminars and meeting room hire.
- 1.5. "Price" shall mean the price payable for services as agreed between CER Ltd and the Client in accordance with clause 4 of this contract.

## 2. Services

- 2.1. The Services provided shall be described on our invoices, quotation, and/or Engagement Agreement, or any other such form as provided by CER Ltd to the Client.

## 3. Service & Conduct

- 3.1. Where CER Ltd performs work for you, it will ensure that competent and suitably experienced personnel carry out all work, in a professional manner and in accordance with appropriate standards.
- 3.2. While CER Ltd will make every endeavour to ensure a fully professional approach to all work carried out, it cannot guarantee the results of recommendations as many factors are outside our control. Consequently CER Ltd shall not be liable for any consequences of the provision of services to you, except for consequences arising as a direct result of the proven negligence on the part of CER Ltd.

## 4. Price And Payment

- 4.1. The price shall be at CER Ltd's sole discretion, one or more of the following:
  - (a) The price as quoted by CER Ltd to the Client. The quoted price or rates shall not alter providing the Client accepts CER Ltd's quote in writing within thirty (30) days of the date of the quotation.
  - (b) CER Ltd's price as per CER Ltd's current rates as when the service is provided.
  - (c) Travel may be charged for travel in excess of 40 km road travel per day from the CBD of the relevant office. Kilometres travelled in excess of this daily maximum are charged at 77c per km. Time spent traveling in excesses of 30 minutes per day is charged at half the current hourly rate.
  - (d) The use of external suppliers on your behalf, excluding consultancy will be charged to you at the suppliers prevailing rates.

## 5. Payment Terms

- 5.1. Payment shall be at CER Ltd's sole discretion one or more of the following:
  - (a) All invoices shall be paid no later than the 20<sup>th</sup> day of the following month of the invoice date.
  - (b) Payment to approved Clients shall be made by instalments in accordance with CER Ltd's payment schedule.
  - (c) Payments will be made as agreed between CER Ltd and the Client. If no payment arrangement is made or payment terms agreed then payment shall be due as stated on the Invoice in cash, cheque, or by direct credit to CER Ltd's nominated account.
- 5.2. Payment shall not be deemed to have been received unless the payment is made in cash or cleared funds are deposited in CER Ltd's nominated account. Any other form of payment will not be accepted as paid until the transaction is deemed to be honoured.
- 5.3. GST and other taxes and duties that may apply will be added to the Price unless they are expressly included in the Price.

## 6. Acceptance Of Terms Of Trade

- 6.1. Any engagement of CER Ltd's Services shall constitute acceptance of the Terms and Conditions of Trade of CER Ltd by the Client. Should more than one Client enter into this agreement the Clients shall be jointly and severally liable for payment in full of the Price.
- 6.2. The terms and conditions of this agreement can only be amended with the written consent of CER Ltd and shall be binding on the Client.
- 6.3. In the event that the Client proposes any change to the structure of the Clients business, a change in Shareholding, Name, Directors, Premises, postal address, registered office or Sale of the business the Client shall give no less than fourteen (14) days written notice of the proposed change or changes. If any loss is incurred by CER Ltd the Client shall be liable for any loss suffered by CER Ltd due to the Client not complying with this provision.

## 7. Default and Consequences of Non Payment

- 7.1. If the Client defaults in payment of any invoice when due, the Client shall pay all costs and disbursements incurred by CER Ltd in pursuing the debt including legal costs on a solicitor and own Client basis and CER Ltd's collection agency costs. Disbursements incurred by CER Ltd in pursuing the debt including legal costs on a solicitor and own Client basis and CER Ltd's collection agency costs.
- 7.2. Interest on overdue or unpaid invoices shall accrue from the date when payment becomes due daily until the date payment is received at a rate of 2.5% per calendar month and all interest shall compound monthly before and after any judgement until payment is received in full.
- 7.3. CER Ltd at its discretion may suspend or terminate the supply of goods and/or services should the Client, at any time be in breach of any obligation to CER Ltd (including those relating to payment). CER Ltd will not be liable for any loss or damages the Client has deemed to have suffered because CER Ltd has exercised their rights under this clause.
- 7.4. If any account remains overdue after thirty (30) days then an amount of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) whichever is the greater, shall be charged for administration fees and shall become immediately

due and payable.

- 7.5. Without prejudice to CER Ltd's other remedies at law, CER Ltd shall be entitled to cancel all or any part of any supply agreement with the Client which remains unfulfilled and all amounts owing to CER Ltd shall, whether or not due for payment, become immediately payable in the event that:
  - (a) any money payable to CER Ltd becomes overdue of payment, or in CER Ltd's opinion the Client will be unable to meet his payments as they become due; or
  - (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
  - (c) a receiver, liquidator, manager (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

## 8. Right of Cancellation

- 8.1. CER Ltd may cancel any contract to which these Terms and Conditions apply or cancel the delivery of materials products or goods or service at any time before the materials, products or goods and the like are delivered by giving written notice to the Client. On giving notice CER Ltd shall repay to the Client any sums paid in respect of the Price. CER Ltd shall not be liable for any damages or losses arising from such cancellation.
- 8.2. Should the Client cancel any contract with CER Ltd the Client shall be liable for any loss incurred by CER Ltd (including but not limited to loss of profits) up to the time of Cancellation.

## 9. Intellectual Property

- 9.1. Where CER Ltd has designed, drafted or supplied written Works for the Client, then the copyright in those works and documents shall remain vested in CER Ltd, and shall only be used by the Client. The Client shall not distribute or sell any works or documents to any third party as supplied to the Client by CER Ltd without the written consent of CER Ltd.

## 10. Secondment

- 10.1. Where CER Ltd provides staff, contractors or any form of personnel on secondment to the Client and the Client offers a contract or employment whether full time or part time to the secondi, which is accepted by the secondi during the secondment or within 180 days of the end of the secondment the Client shall pay Chapman ER a placement fee of 25% + G.S.T of the secondi's annualised salary based on full time employment.

## 11. Privacy Act 1993

- 11.1. The Client and the Guarantor/s (if separate to the Client) authorises CER Ltd to:
  - (a) collect, use and retain any information about the Client, for the purpose of assessing the Client's creditworthiness or marketing products and services to the Client; and
  - (b) disclose information about the Client, whether collected by CER Ltd from the Client directly or obtained by CER Ltd from any other party, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.
- 11.2. Where the Client and/or Guarantors are an individual the authorities under clause 11.1 are authorities or consents for the purposes of the Privacy Act 1993.
- 11.3. The Client and/or Guarantors shall have the right to request CER Ltd for a copy of the information about the Client and/or Guarantors retained by CER Ltd and the right to request CER Ltd to correct any incorrect information about the Client and/or Guarantors held by CER Ltd.

## 12. Dispute Resolution

- 12.1. All disputes and differences between the Client and CER Ltd touching and concerning this agreement shall be referred to arbitration under a single arbitrator agreed upon by both parties, or failing agreement, by two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to arbitration), such arbitration to be carried out in accordance with provisions of the Arbitration Act 1996

## 13. General

- 13.1. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the existence, validity legality and enforceability of the remaining provisions shall not be prejudiced, affected or impaired.
- 13.2. These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of Nelson New Zealand or as otherwise directed by the Court.
- 13.3. CER Ltd shall be under no liability whatever to the Client for any indirect loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by CER Ltd of these terms and conditions.
- 13.4. In the event of any breach of this contract by CER Ltd the remedies of the Client shall be limited to damages which under no circumstances shall exceed the contract price for Services provided and limited to the amount of monies paid to CER Ltd by the Client in part or full whichever is the lesser amount.
- 13.5. The Client shall not be entitled to set off against or deduct from the price any sums owed or claimed to be owed to the Client by CER Ltd.
- 13.6. CER Ltd may license or sub-contract all or any part of their rights and obligations without the Client's consent.
- 13.7. CER Ltd reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which CER Ltd notifies the Client of such change.
- 13.8. The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if section 15(d) were omitted from the Contractual Remedies Act 1979.
- 13.9. Neither party shall be liable for any default due to any act of God, war, terrorism, fire, flood, drought, storm or other event beyond the reasonable control of either party.
- 13.10. The failure by CER Ltd to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect CER Ltd's right to subsequently enforce that provision.