



FILDES FOOD SAFETY PTY. LTD.
 ABN 55 005 050 260
 28-32 George St, Sandringham, Victoria 3191, Australia
 Telephone 1800 673 644 Fax (03) 9598 7949
 Email sales@fildesfoodsafety.com.au

CREDIT APPLICATION AND SUPPLY AGREEMENT

Date ____ / ____ / ____

COMPANY / BUSINESS NAME: _____

A.B.N: _____ YEAR ESTABLISHED: _____

TRADING AS: _____

TYPE OF BUSINESS: _____ No OF EMPLOYEES: _____

POSTAL ADDRESS: _____

DELIVERY ADDRESS: _____

TELEPHONE: _____ FAX: _____

A/C PAY CONTACT: _____ EMAIL: _____

PREVIOUS TRADING NAME IF CHANGED IN LAST 2 YEARS: _____

NAME OF DIRECTORS / PROPRETORS / PARTNERS AND ADDRESS:

1. _____ 2. _____

Address: _____ Address: _____

ESTIMATED MONTHLY PURCHASES: \$ _____

TRADE CREDIT REFERENCES (Major suppliers only)

SUPPLIER NAME: _____ AVERAGE MONTHLY PURCHASES: \$ _____ TEL: _____ FAX: _____

SUPPLIER NAME: _____ AVERAGE MONTHLY PURCHASES: \$ _____ TEL: _____ FAX: _____

SUPPLIER NAME: _____ AVERAGE MONTHLY PURCHASES: \$ _____ TEL: _____ FAX: _____

ACCEPTANCE BY CUSTOMER OF TERMS AND CONDITIONS OF PROVISION OF CREDIT

(This page must be completed and signed by all applicants, partners and directors.)

I/We agree that in consideration of the Company providing goods on credit, I/we agree to be bound by the Company's Terms and Conditions of Sale attached.

I/We confirm and agree as follows:

- (a) I/we have read and understand the Terms and Conditions of Sale and agree that, subject to the Company's acceptance of this application, those conditions will apply and will prevail over all other terms and conditions of the Customer's Order to the extent of any inconsistency. I/We agree that the Company reserves the right to accept or reject this application in its absolute discretion;
- (b) the information provided in this application is true and correct in every particular and I/we acknowledge that the Company will be relying upon the information to determine whether or not to grant this application for credit;
- (c) I/we authorise the Company to make enquiries including obtaining a credit report concerning my/our credit worthiness or as to the accuracy of the information provided in this application and consent to any credit report concerning me/us being made available to the Company for the purpose of assessing this application. I/We authorise the Company to exchange or disclose any information concerning my/our credit worthiness or this application from or to any person or source and acknowledge that all or some of the information may be disclosed to a credit reporting agency within the meaning of the Privacy Act 1988 as amended;
- (d) the Company may make additional periodic checks that it sees fit to continue its assessment of my/our credit worthiness and consent to the Company collecting any necessary private information for this purpose;
- (e) the Company's terms of payment are strictly nett 14 days;
- (f) the terms and conditions provide that interest may be charged by the Company on amounts which exceed the 14 day credit limit;
- (g) I/we understand and accept the consent we have given under the Privacy Act 1988 and the Privacy Amendment (Private Sector) Act 2000.
- (h) I/we are duly authorised by the Customer to sign this application and warrant that the Customer will perform its obligations pursuant to this application.

SIGNATURE: _____ DATE ____/____/____

SIGNATURE: _____ DATE ____/____/____

PRINT NAME: _____

PRINT NAME: _____

SIGNATURE: _____ DATE ____/____/____

SIGNATURE: _____ DATE ____/____/____

PRINT NAME: _____

PRINT NAME: _____

THIS CREDIT APPLICATION WILL NOT BE CONSIDERED UNLESS THIS SECTION IS SIGNED AND DATED

IF THE CUSTOMER IS A COMPANY OR IF THE BUSINESS IS OWNED BY A COMPANY, THE DIRECTORS ARE REQUIRED TO COMPLETE THE FOLLOWING:

WE _____ OF _____

AND _____ OF _____

BEING DIRECTORS OF THE CUSTOMER IN CONSIDERATION OF THE COMPANY GRANTING CREDIT TO THE CUSTOMER HEREBY JOINTLY AND SEVERALLY:

- (i) GUARANTEE THE COMPANY PAYMENT OF ALL DEBTS TO BE PAID, BY THE CUSTOMER AND AGREE THAT THIS GUARANTEE WILL BE A CONTINUING GUARANTEE AND WILL NOT IN ANY WAY BE WAIVED OR AFFECTED BY ANY TIME OR INDULGENCE GRANTED BY THE COMPANY TO THE CUSTOMER.
- (ii) CHARGE ANY PROPERTY OWNED BY US WHETHER ALONE OR JOINTLY AS A TENANT IN COMMON OR AS A JOINT TENANT IN FAVOUR OF THE COMPANY TO SECURE ANY MONEYS OWING HEREUNDER WHETHER OR NOT THE COMPANY HAS TAKEN OR HAS THREATENED TO TAKE ANY ACTION AGAINST THE CUSTOMER OR AGAINST ANY GUARANTOR IN RESPECT THEREOF.
- (iii) ACKNOWLEDGE THAT THEY HAVE BEEN GIVEN THE OPPORTUNITY TO SEEK LEGAL ADVICE BEFORE SIGNING THIS GUARANTEE.

DATED THIS _____ DAY OF _____ 20_____

SIGNED: _____

SIGNED: _____

PRINT NAME: _____

PRINT NAME: _____

SIGNED: _____

SIGNED: _____

PRINT NAME: _____

PRINT NAME: _____

FILDES FOOD SAFETY PTY. LTD.

ABN 55 005 050 260

TERMS AND CONDITIONS

1. GENERAL

In these terms and conditions (unless the context requires otherwise):

"Carrier" means a Carrier nominated to take delivery of the Products pursuant to clause 7.4;

"Company" means Fildes Food Safety Pty Ltd (A.C.N. 005 050 260);

"Consignment Address" means the delivery address of the Customer stated in an Order or otherwise agreed by the Company;

"Customer" means any person who enters into a contract with the Company for the purchase of Products and includes any successors or permitted assigns and if the Customer consists of more than one person both of them jointly and each of them severally;

"GST" means GST within the meaning of A New Tax System (Goods and Services Tax) Act 1999 (as amended)

("GST Act")

"Order" means an order placed with the Company for the supply or performance of Products;

"Related Body Corporate" has the same meaning as in the Corporations Act; and

"Products" means any products produced by the Company or products supplied or to be supplied as specified in an Order accepted by the Company.

2. CONTRACT FOR SALE OF PRODUCTS

2.1 Each Order constitutes an offer by the Customer to acquire or commission Products subject to these terms and conditions and to the exclusion of any other terms and conditions asserted by the Customer. A contract will be made between the Company and the Customer for the supply or commissioning of Products only when an Order is accepted by the Company in writing.

2.2 These terms and conditions supersede all previous terms and conditions and may only be varied if authorised in writing signed by the Company.

3. PAYMENT

3.1 The price in relation to Products must be paid within 14 days from the date of delivery of the Products to the Customer unless other terms of payment are expressly stated in writing and signed by the Company.

3.2 Should the Customer fail to pay the Company the invoice price, including additional or other charges (if any) and GST or applicable taxes duties etc, within 14 days from the date of delivery of the Products, then the Company is entitled to interest at the rate of 4% higher than the rate for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983 calculated from the due date to the date the Company receives payment.

3.3 Where payment is tendered by cheque, telegraphic transfer or direct deposit it shall not be taken to be made until receipt of cleared funds by Company. Customer to bear all dishonour fees and costs associated with clearance.

3.4 Time for payment is of the essence.

4. PRICES AND CHARGES

4.1 Quoted or agreed prices are subject to variation depending upon supplies of all materials being available at the time of printing and any other factors beyond the Company's control. Any changes in prices shall be borne by the Customer. Verbal quotations are subject to written confirmation.

4.2 All listed, published or quoted prices (unless otherwise expressly indicated) are exclusive of any applicable GST or any other applicable taxes, duties, costs and charges associated with the delivery of the Goods, and all such taxes, duties, costs and charges shall be included as an additional item to the invoiced price.

4.3 Where exact specifications are not available at time of quotation the prices given are only estimates. Where final specifications vary from those on which the estimate was given the price is subject to revision by the Company.

4.4 The Customer will pay for all extra costs and charges associated with:

- work carried out whether experimentally or otherwise at the Customer's request;
- extra work caused by the Customer's corrections including resetting and/or the over-running of composition;
- handling or storing property, materials or equipment supplied by or on behalf of the Customer;
- any change or correction to any film, bromides, artwork and/or any printing surface supplied by the Customer, necessary in the opinion of the Company to ensure properly finished work;
- any overtime and any other additional costs incurred as a result of the Customer requiring early delivery.

4.5 Unless otherwise agreed, the Customer shall bear the cost of type, hot metal and/or bromides, film, software, ornaments or artwork, specifically bought at his request or required for his work.

5. PROOFS

5.1 Proofs of all work may be submitted for Customer's approval. The Company shall not incur any liability for any errors not corrected by the Customer in proofs so submitted and the Customer hereby agrees to indemnify the Company against all costs, damage, expenses and other liability whatsoever including but not limited to liability for negligence arising from the error not being corrected. Customer's alterations and additional proofs necessitated thereby shall be charged as an extra. When style, type or layout is left to the Company's judgement, changes thereto made by the Customer shall be charged as an extra.

5.2 The Customer will be deemed to have accepted the completed work if, within 7 days of delivery (or such other period as the Company may stipulate from time to time), the Customer fails to notify the Company in writing that the Products have been rejected.

6. CANCELLATIONS

If for any reason an Order is suspended for a period of 30 days or more, or cancelled at any time, work already carried out and any materials specifically ordered will be charged to the Customer on terms that will indemnify the Company and payment shall be on the same terms as provided in Clause 3 hereof.

7. DELIVERY AND RISK

7.1 Without limiting any other clause, the Products remain at the risk of the Customer and not the Company and the Company will not be under any liability to the Customer or any other person (other than liability which may not be lawfully excluded) for loss or damage (including direct or consequential loss or damage such as, without limitation, loss of profit or anticipated profit, loss of data, loss of use, damage to goodwill and loss due to delay) however caused (and without limitation whether by negligence, breach of statute, breach of contract, willful act or otherwise) which may be suffered or incurred or which may arise from or in connection with directly or indirectly the supply of the Products and/or any failure by the Company to comply with or breach by the Company of any of its obligations under any Order and whether or not its occurrence was contemplated or should reasonably have been foreseen by the Company and/or the Customer, or it constitutes a fundamental breach by the Company of the contract or a breach by the Company of a fundamental term of it.

7.2 The Customer will not be relieved of any obligation to accept or pay for Products by reason of any delay in delivery or despatch. The Company reserves the right to accept any Order in whole or in part, or to decline any Order. The Company reserves the right to deliver by instalments, and each instalment will be deemed to be sold under a separate contract. Failure to deliver any instalment will not entitle the Customer to terminate the contract.

7.3 The delivery times made known to the Customer are estimates only and the Company will not be liable for late delivery or non-delivery and under no circumstances will the Company be liable for any loss, damage or delay occasioned to the Customer or its customers arising from late or non-delivery of the Products.

7.4 Delivery of the Products shall have been made in accordance with this agreement if the Products are delivered to the Consignment Address, whether or not the Company or Carrier obtains a receipt or delivery docket for the Products in question. Unless otherwise agreed between the Company and the Customer, the Company may in its absolute discretion select a Carrier to deliver the Products to the Customer. In the event that the Customer nominates a Carrier, delivery will be deemed to occur upon the Company putting the Products into the possession of that Carrier. Any receipt, consignment note or delivery docket shall be conclusive evidence of delivery in accordance with this agreement.

7.5 Should expedited delivery be agreed, reasonable efforts will be made by the Company to secure freedom from defects but the Company shall not be liable for defects caused as a result of the requirement for such early delivery nor any other consequences of the defects.

7.6 Reasonable endeavours will be made to deliver the correct quantity ordered but all estimates and/or orders are subject to a margin of 10%, irrespective of number of colours, being allowed for surplus or shortages. Such surplus shall be charged for and shortages deducted from the final cost to the Customer.

7.7 The Customer's property held by the Company and all property and material supplied to the Company by or on behalf of the Customer (including Products in transit and work kept standing) will be held at the Customer's risk, and the Company accepts no liability whatsoever for loss or spoilage of, or damage to such property or material unless otherwise agreed by the Company in writing.

7.8 Unless otherwise agreed in writing by the Company, the Company accepts no responsibility for the insurance of the Customer's property or material and in the event of the Company's agreement in writing to insure such property or material, the cost of insurance premiums shall be charged to the Customer. In the case of property and materials left with the Company for 12 months or more without specific instructions, the property and materials shall belong to the Company to deal with in its absolute discretion. When materials, property or equipment are supplied by the Customer the Company accepts no responsibility for imperfect work caused by defects in or unsuitability of such materials or equipment.

7.9 Where the Customer supplies materials, adequate quantities as specified by the Company shall be supplied to cover spoilage and the Company accepts no responsibility whatsoever arising from work not satisfactorily being completed due to inappropriate, insufficient, incorrect or faulty materials being supplied. Sheets and other materials shall not be counted or checked when received by the Customer in writing. An additional charge may be made by the Company in respect of any such counting or checking requested by the Customer.

7.10 Anchored blocks or soldered or patched plates are accepted at the risk of the Customer and no responsibility is accepted by the Company for damage to such blocks or plates. Any necessary repairs to or loss of time connected with them shall be paid for by the Customer. The Company accepts no responsibility whatsoever for the quality of work produced when using blocks or plates supplied by the Customer.

7.11 Any change or correction to any film, bromides, artwork and/or any printing surface supplied by the Customer, necessary in the opinion of the Company to ensure properly finished work, shall be paid for by, and made at the risk of, the Customer.

8. RISK AND TITLE IN PRODUCTS

8.1 It is expressly agreed and declared that the property in the Products will not pass to the Customer until payment in full of all accounts outstanding between the Customer and the Company has been made in accordance with Clause 3 hereof whether or not such account relates to the sale of the Products in question.

The buyer shall in the meantime take custody of the Works and retain them as the fiduciary agent and bailee of the Company and the property passes shall hold the Works in such a way as to identify them as Works in which the property has not passed.

8.2 The Customer may resell or supply the Works but only as a fiduciary agent of the Company. Any right to bind the Company to any liability to any third party (howsoever arising including but not limited to negligence) by contract or otherwise is however expressly negated hereby. Any such resale or supply is to be at arms length and on market terms.

8.3 The Customer will receive all proceeds whether tangible or intangible, direct or indirect of any dealing with the Works on behalf of the Company and hold the same in trust for the Company and will keep such proceeds in a separate account until the Customer's liabilities to the Company are discharged and will account fully and promptly to the Company regarding such proceeds upon receipt and/or upon request by the Company.

8.4 The Company shall have the power to appropriate payments made by the Customer to such accounts or such Works as it thinks fit notwithstanding any purported appropriation by the Customer to the contrary.

8.5 Where the Customer is in actual or constructive custody of the Works and property in them has not passed the Company shall, in the event of any default in performance by the Customer of these terms and conditions and/or while payment or any account owed by the Customer remains unpaid (whether presently due or not) the Company, without notice, will have the right to take possession of the Works remaining the property of the Company and the Customer will deliver the same up to the Company at its premises upon demand at the Customer's cost. In addition and without prejudice to its other rights under this agreement (including rights to recover all debts, costs and expenses recoverable hereunder or otherwise owing) the Customer hereby acknowledges that the Company, its servants and/or agents shall be entitled to enter upon the Customer's premises and take possession of and remove the said Works without liability for trespass or any resulting damage. Where the said Works are at a place other than the Customer's premises the Customer hereby agrees that the Company's servants or agents may enter upon those premises as the agents of the Customer and in its right and take possession of and remove the said Works in accordance with these terms.

8.6 The Company may recover the price of the Works by action, and may apply to wind up or bankrupt the Customer, if the Works are not paid for within the Company's usual credit terms, notwithstanding that property in the Works has not passed to the Customer.

8.7 At the discretion of the Company, all plates, type, cutting formes and other surfaces and/or film bromides, etc, may be cleaned off and/or broken up and/or destroyed immediately after the Customer is advised of the completion of work unless otherwise agreed by the Company in writing. All matter kept standing by the Company at the request of the Customer shall remain the absolute property of the Company. If at the request of the Customer the Company agrees to keep matter standing, an additional charge may be made for storage, maintenance and any other necessary attention including all losses and damage whatsoever arising from or occurring as a result of such work being kept standing.

8.8 Drawings, sketches, paintings, photographs, designs or typesetting furnished by the Company, dummies, models or the like devices made or procured and manipulated by the Company and negatives, positives, blocks, engravings, stencils, dies, plates or cylinders made from the Company's original design, or from a design furnished by the Customer, remain the exclusive property of the Company unless otherwise agreed upon in writing. Further, if, in the absence of any specific agreement, the Customer makes electros or stereotypes or other forms of duplication in order to cut down press work or for his own convenience, then such electros, stereotypes or other forms of duplication shall remain its property.

8.9 Sketches and dummies submitted by the Company on a speculative basis shall remain the property of the Company. They shall not be used for any purpose other than that nominated by the Company and no ideas obtained therefrom may be used without the consent of the Company. The Company shall be paid by the Customer for any use authorised or unauthorised of such sketches and dummies.

9. WARRANTY/LIABILITY

9.1 The Company agrees and acknowledges that the Customer is entitled to all rights and remedies in respect of the Works which the Customer has under the Trade Practices Act and similar State and Territory laws and which cannot be lawfully excluded, restricted or modified. These terms and conditions do not purport to, and do not have the effect of, excluding, restricting or modifying the exercise of any such right or remedy or the liability of the Company in respect of any such right or remedy.

9.2 The Customer does not have any rights or remedies in respect of the Works other than the rights and remedies expressly provided for in these terms and conditions or agreed and acknowledged by the Company in these terms and conditions and in particular all and any liability for negligence is expressly excluded hereby.

9.3 The only conditions and warranties which are binding on the Company in respect of the provision of services to the Customer by its employees, servants or agents, the Works, or their use and application are those imposed or required to be binding by statute (including the Trade Practices Act 1974).

9.4 To the extent permitted by statute, the liability, if any, of the Company arising from a breach of the conditions or warranties referred to in Clause 9.3 are, at the Company's option limited to either the supplying of the Works again or the payment of the costs or having the Works supplied again.

9.5 The Customer acknowledges that neither the Company nor any person purporting to act on its behalf has made any representation or given any promise or undertaking which is not expressly set out in the Order or these conditions whether as to the fitness of the Works for any particular purpose or any other matter.

9.6 Compliance with the requirements of any legislation relating to the marking and/or labelling and for packaging of Works shall be the sole responsibility of the Customer.

9.7 The Company will not be liable for colour variations which may occur due to limitations in the printing process.

10. COPYRIGHT

The Customer warrants that any design or instruction furnished to the Company must not be such as will cause the Company to infringe any copyright, registered design or trademark in the execution of the Order. The Customer hereby indemnifies the Company against any infringement or unauthorised use of trademark, design or copyright arising out of the use of the Works and it is specifically agreed that the sale and purchase of the Works does not confer on the Customer any licence or rights under any trademark or copyright of the property of the Company.

11. FORCE MAJEURE

An Order may be suspended by the Company in the event of any strike, lockout, trade dispute, fire, storm, pest, breakdown, riot, theft, crime, civil disturbance, war, legislation, force majeure, the inability of the Company to procure necessary materials or articles or any other occurrence preventing or retarding performance of this Agreement or delivery of work and no responsibility shall be attached to the Company for any delay, default, loss or damage due to any of the above causes or to any other cause beyond the control of the Company.

12. GENERAL LIEN

The Company shall, in respect of all unpaid debts due from the Customer, have a general lien on all work and property in its possession and shall be entitled on the expiration of 14 days' notice of default (or such other period as the Company may stipulate) to the Customer dispose of such work or property as it thinks fit and to apply the proceeds towards such debts.

13. TERMINATION

13.1 The Company will be entitled to terminate any Order with the Customer or revoke any credit terms granted if the Customer fails to punctually pay moneys due to the Company, has any security enforced against it, commits an act of bankruptcy or, being a company, passes a resolution for winding up (except for the purposes of reconstruction) or a court makes an order winding up the company or if the Company notifies the Customer that it is of the view that the Customer or any Related Body Corporate of the Customer is in financial difficulties.

13.2 Upon the occurrence of a termination event referred to in clause 13.1, the Company reserves the right to cancel an Order with the Customer (to the extent that the Order remains unperformed) in whole or in part without any liability attaching to the Company, stop any Works in transit and dispose of the Works produced for the Customer to a third party and all moneys owing to the Company in respect of any Order will be immediately payable.

13.3 Termination is without prejudice to any right or obligation which may have accrued prior to termination.

14. SUBCONTRACTORS

The Company may engage a subcontractor and that subcontractor may in turn engage another subcontractor to perform the whole or any part of the Works. The Customer agrees and acknowledges that each defence, limitation, condition and liberty contained in this agreement and every right, exemption from liability, defence or immunity of whatsoever nature applicable to the Company or to which the Company is entitled under this agreement will be available to and extend to protect all subcontractors, servants or agents of the Company or of a subcontractor.

15. CLAIMS AND DISPUTES

Any claims as to quality or quantity of Works supplied must be made within 7 days of delivery of the Works to the Consignment Address. In the event of a dispute between the Customer and the Company relating to either the quality or delivery of the Works the Customer agrees to pay the Company all such amounts owing to the Company by the Customer until such time as the dispute is resolved.

16. If any of these terms or conditions infringes any law in Australia it must be read down so that it does not infringe that law, otherwise it will be deemed void and severable.

17. NOTICES

All notices to be given under these terms and conditions must be in writing and may be given to the other party by hand delivery, prepaid post, or facsimile addressed to the other party at its last known address.

18. WAIVER

If the Company agrees in respect of any particular transaction either expressly or by implication to waive any or more of these terms and conditions, such agreement shall in no way release the Customer from any other obligation or requirement implied or set out herein nor constitute a general waiver under this agreement nor any other agreement, past, present or future.

19. GOVERNING LAW

These terms and conditions are governed by and must be construed in accordance with the laws of Victoria and the Customer hereby agrees to submit to the exclusive jurisdiction of the courts of Victoria and any court of appeal therefrom.

20. MISTAKE

Any mistake on any quotation, Order, invoice, delivery document or other document issued by the Company in relation to the Goods shall not be binding on the Company and the Company may in its discretion issue such amended document as is required to rectify such mistake. The Customer shall comply with the Company's amended document.