

**NORTHPOWER LTD (“NORTHPOWER”)
CUSTOMER INFORMATION; CREDIT APPLICATION; TERMS OF TRADE; SECURITY AGREEMENT**

CUSTOMER - Trading Name:

If in a partnership, what is the Trading Name?

Postal Address:

GENERAL

Street Address:

Phone:

Fax:

Email Address:

Contact Person re Accounts – Name:

DDI if any:

This person will be registered as the person acting on behalf of an organisation.

Address:

Order No. required?

Yes:

No:

Unchecked means none required.

SOLE TRADER

CUSTOMER – Full name:

DOB:

Name should be the same as appears on a NZ driver’s licence, or NZ passport.

Home Address:

Home Phone:

Home Fax:

Home Email:

Previous Address:

Cellphone:

COMPANY/PARTNERSHIP/TRUST/INCORPORATED SOCIETY

Full names of Directors or Partners or Trustees or Committee

Full name:

DOB:

Name should be the same as appears on a NZ driver’s licence, or NZ passport.

Home Address:

Home Phone:

Home Fax:

Home Email:

Previous Address:

Cellphone:

Not PO Box no.

Full name:

DOB:

Name should be the same as appears on a NZ driver’s licence, or NZ passport.

Home Address:

Home Phone:

Home Fax:

Home Email:

Previous Address:

Cellphone:

Not PO Box no.

Full name: _____ DOB: _____
Name should be the same as appears on a NZ driver's licence, or NZ passport.

Home Address: _____

Home Phone: _____ Home Fax: _____ Home Email: _____

Previous Address: _____ Cellphone: _____
Not PO Box no.

MAJOR COMPANY SHAREHOLDERS

Full name: _____ DOB: _____
Name should be the same as appears on a NZ driver's licence, or NZ passport.

Home Address: _____

Home Phone: _____ Home Fax: _____ Home Email: _____

Previous Address: _____ Cellphone: _____
Not PO Box no.

Full name: _____ DOB: _____
Name should be the same as appears on a NZ driver's licence, or NZ passport.

Home Address: _____

Home Phone: _____ Home Fax: _____ Home Email: _____

Previous Address: _____ Cellphone: _____
Not PO Box no.

CREDIT REFERENCES

Must be major trading accounts by value and not landlords, solicitors, accountants, local bodies or utilities suppliers.

1. _____ Annual value of trade \$

2. _____ Annual value of trade \$

3. _____ Annual value of trade \$

Declaration by Signatory (NB Privacy terms do not bind non signing partners, trustees or other members of unincorporated bodies. In order to enquire disclose or hold information about any human being that human being must consent personally)

1. I/we (full name/s) _____ warrant to Northpower that I am authorised to enter into this contract on behalf of the customer and agree that this application form and terms of trade apply with respect to the supply of goods and services to the customer by Northpower and
2. I for myself and for the customer acknowledge and consent to the personal information provided in support of the application (whether in this document or otherwise) being held by Northpower and to it being used by it for all or any of the following purposes:
 - (a) Determining eligibility and terms for the provision of credit to the customer from time to time and administering the customer's credit account,
 - (b) Supplying the customer with goods and or services including information and offers relating thereto by way of any delivery service, fax and commercial electronic messages.
 - (c) Enforcing debts and other legal obligations.

3. I for myself and for the customer hereby authorise all persons to provide Northpower and its successors and assigns with such information as it may at any time request about me and about the customer with respect to all or any of the purposes listed above or any related purposes. Further, Northpower may provide information about its dealings with the customer and with me to any third party and if that third party is a debt collection agency or credit reporter I consent to them also disclosing that information to others. I acknowledge that I am entitled to request access to, and (if required) correction of, any personal information held about me by Northpower.
4. I for myself and for the customer warrant that the information given in this application is, to my best knowledge, information and belief, correct.

Signature: _____ **Signature:** _____ **Date:** _____
Signed for the signatory and the customer

Signature: _____ **Signature:** _____ **Date:** _____
Signed for the signatory and the customer

WITNESS ON BEHALF OF NORTHPOWER

Signature: _____ **Name of Witness:** _____
Witness on behalf of Northpower

Witness Address: _____ **Occupation:** _____
Witness on behalf of Northpower

TERMS OF TRADE

- 1 These terms (i) override any terms contained in a customer's order or otherwise proposed by a customer and (ii) may not be varied unless Northpower Limited ("Northpower ") specifically agrees to the contrary in writing. If the customer or a person who has previously represented the customer with Northpower obtains goods or services on credit through or on behalf of another legal entity (which for the purposes of these terms includes an organisation as defined in the Personal Property Securities Act 1999 ("PPSA")), the customer shall remain personally liable in addition to the new entity until the debt is paid and Northpower has received and granted a fresh formal application for credit from the new entity.
- 2 These terms may be supplemented by terms contained in any New Zealand standard agreed to in writing by the parties or any quotation or other writing provided by Northpower to the customer and accepted by the customer. Any conflicting terms of that other writing shall prevail over these terms save that Northpower's rights and powers on the customer's default in these terms shall prevail over contrary terms in such standard, quotation or other writing. If there is no agreed standard for the provision of goods or services, good industry practice shall apply.
- 3 Any quotation for provision of goods or services remains open for acceptance for 30 days after its date or, if it is undated, the date of receipt by the customer. Acceptance of a quotation is an order for the goods and services to be supplied. If the customer cannot provide work for which a quotation has been provided within 60 days of the quotation being accepted, Northpower will not be bound to the quoted price. Unless specified to the contrary, quoted prices will have GST added.
- 4 If the customer amends the nature or extent of work to be carried out by Northpower after a quotation has been provided or accepted, Northpower may increase the cost of the work by the extent necessary to cover additional costs if any and provide a profit from the amendment.
- 5 Unless Northpower grants credit, goods and services must be paid for before they are provided to the customer. If Northpower grants credit, the customer shall pay the amount of any invoice for goods or services (i) no later than the 20th of the month following that in which Northpower's invoice is dated and (ii) without deduction whether by way of set-off, counter-claim or any other equitable or legal claim.
- 6 Northpower may terminate or suspend the grant of credit or vary the terms upon which it grants credit at will by notice to the customer, even if an order has been accepted by Northpower. If the grant of credit is terminated or suspended, the customer must pay any outstanding debt forthwith and pay for any existing order in advance.
- 7 All accounts not paid by the 20th of the month following date of invoice or by the date provided for in any other agreement with respect to the debt shall bear penalty interest at the rate of 2.0% per month compounding. The obligation to pay penalty interest shall not merge with and shall be payable after judgment. The customer must also pay (i) all costs and expenses (including, without limitation, legal fees on a solicitor client basis and debt collection agency costs and commissions) incurred in collection of such overdue accounts and interest and (ii) costs of Northpower's compliance under Section 162 of the PPSA and of obtaining any order maintaining registration under s165. If Northpower finds it necessary to sue the customer, service of any document will be deemed to be effected on the customer if that document is left at any address shown as the customer's.
- 8 Northpower retains title to any transformers supplied by it to the customer until all goods and services supplied to date are paid for in full (i.e until the customer has a nil balance (whether or not for goods and services in respect of which Northpower has sent an invoice) with Northpower). As soon as and from such time that all goods and services supplied to date are paid for in full, the customer shall own all such transformers and remain the owner notwithstanding further supply of goods and Northpower's retention of title shall apply only to transformers supplied after such full payment until the customer again pays in full for all goods and services supplied to date (i.e. until the customer again has a nil balance with Northpower). Notwithstanding Northpower's ownership of any transformer, the risk of damage to or loss of that transformer falls on the customer from the time of delivery of the transformer to the customer's site and the customer shall insure any such transformer for full replacement value from time of delivery.
- 9 Northpower may appropriate any payment received from the customer or money which is proceeds of the sale of collateral against any debt owed by the customer in any manner and at any time that Northpower may decide, notwithstanding any appropriation the customer claims to have made.

- 10 The customer shall be in default under this agreement if any invoice is not paid on due date or the customer causes or allows any transformer owned by Northpower to be or become liable to be subject to any lien, destroyed, damaged, endangered, disassembled, removed or concealed from Northpower or if the customer sells or otherwise disposes of the transformer or the transformer becomes liable to seizure by another creditor.
- 11 If the customer has defaulted in any due payment Northpower shall be entitled without prejudice to its other rights and remedies, to seize transformers subject to its security interest and to enter (if necessary by force) any premises, without notice, for that purpose. The customer hereby irrevocably authorises Northpower's agents to enter the premises of the customer or where the goods may be to locate and seize the goods and, if necessary to use the customer's equipment to lift and transport the goods. The customer will indemnify Northpower against any claim from any other party for damage caused during such entry or seizure and the customer has no claim whatsoever against Northpower for such damage.
- 12 In the event of payment default, Northpower may suspend or arrange to suspend supply of electricity to the customer until the customer has paid Northpower in full.
- 13 The customer waives the right to receive a copy of the verification statement confirming registration of a financing statement relating to any security interest under these terms and further waives its rights under sections 120(2), 121, 125, 129, and 131 of the PPSA and further agrees that nothing in sections 114(1)(a) and 133 of that Act shall apply to any contract or the security interest granted.
- 14 Where the customer acquires or holds itself out as acquiring goods or services or both for the purposes of a business the provisions of the Consumer Guarantees Act 1993 will not apply to the supply of goods or services under this agreement.
- 15 Northpower shall supply goods and perform services in accordance with statutory standards but, save for any liability
- (a) Imposed by such statute or
 - (b) specifically by any separate contract

which cannot by law be excluded, shall not be liable to the customer (in contract, tort, by statute or otherwise) for damages or costs in excess of those directly associated with Northpower's repairing or replacing goods and Northpower's performing services in accordance with its (but no other party's) statutory or contractual obligations. If loss or damage is caused by Northpower and another party, Northpower will be liable only for its proportionate share of the costs of replacement, repair or performance. Subject as aforesaid, Northpower will not be liable for any indirect or consequential loss to the customer or to any third party whatsoever and however caused arising from goods which do not perform to specification or from work which is not carried out to statutory or contractual standards or from delay in provision of services or delivery of goods. Indirect or consequential loss includes (without limitation) loss of profit or revenue, loss of goodwill or a contract, liability to a third party and any loss or damage from loss or corruption of electronically stored or transmitted data. In any event, Northpower's liability under this clause shall cease with respect to any claim notification of which is received three years or more from the date of the last invoice for the goods or services in relation to which the claim is made. This limitation of liability is not intended to limit any rights a consumer may have under the Consumer Guarantees Act 1993.

- 16 Northpower shall not in any event be responsible for any delay, default, loss or damage due to any industrial disputes, accidents, acts of God, equipment failure (not caused by its negligence or failure to maintain) or other cause beyond its reasonable control.
- 17
- (a) If the customer becomes aware of any defect in goods or services supplied by Northpower it must advise the Northpower by facsimile or email immediately it becomes aware of that defect and
 - (b) Subject to (a), if the customer disputes its obligation to pay under any invoice, it must within 7 days of receipt of the invoice notify Northpower of the nature of the dispute and the date and number of the invoice

and if the customer fails so to notify Northpower, the customer must pay for the goods or services on the due date.

- 18 The customer will indemnify Northpower against any loss or damage suffered by or claims against Northpower as a result of the customer's breach of contract or any deficiency in any specification provided by the customer or the customer's misuse of goods and services supplied by Northpower.

- 19 Northpower will be sole owner of any intellectual property which arises or is created by its staff or contractors.
- 20 Northpower may apply (at its absolute discretion and without prior notice) all or any part of any credit balance with Northpower towards satisfaction of any amount owing (whether or not due for payment) by the customer to Northpower. Northpower may so apply such credit balance even if any amount is contingently due or at the time is unquantified.
- 21 The customer may not assign any debt which Northpower owes to it and must not to attempt such an assignment.
- 22 Receipt of a cheque, bill of exchange or other negotiable instrument or electronic payment shall not be deemed to be payment if the negotiable instrument or electronic payment is dishonoured, cancelled or invalidated. The customer must forthwith advise Northpower of any payment by direct credit (other than internet banking) by advising it of date of deposit, payment amount and the customer's name and contact person.
- 23 If Northpower accepts any payment or banks any cheque, which the customer has made or forwarded in purported full settlement of any amount owed by the customer, or in terms connoting any accord and satisfaction, Northpower will not be deemed by such acceptance or banking to have accepted the terms upon which the payment is made or the cheque is forwarded unless Northpower has, before it receives the payment or cheque, agreed in writing to accept the amount in full settlement or otherwise as an accord and satisfaction.
- 24 No amendment to this agreement shall have any effect unless in writing and signed by on behalf of Northpower. Northpower may exercise all or any right, power or remedy at any time and failure to do or delay in doing so shall not constitute a waiver unless the Northpower grants it in writing and a continuous breach shall only be waived if Northpower specifies in writing that the waiver is continuous

DEED OF GUARANTEE AND INDEMNITY

This deed made between Northpower Limited at Whangarei together with its successors and assigns referred to as "Northpower") and the person named below together with his successors called "the guarantor")

Background

- A Northpower is to supply or supplies goods, services or both to the customer named as such on page one of the attached application for credit. (together with its successors referred to as "the customer")
- B The guarantor has agreed to guarantee payment of all sums which the customer has agreed to pay to Northpower and the performance of the terms and conditions of sale of the goods and services between Northpower and the customer ("the terms of trade").

This deed witnesses and the parties agree

- (a) In consideration of Northpower supplying goods and services to the customer the guarantor guarantees to Northpower payment of the price charged to the customer and payment of all money and the performance of all obligations provided for in the terms of trade.
- (b) The guarantor acknowledges that goods and services are and will be supplied to the customer at the request of the guarantor and that Northpower would not supply if the guarantor did not sign this guarantee and indemnity.
- (c) The guarantor shall be liable for the price of all goods and services and payment of all moneys owed from time to time by the customer to Northpower and for the performance of the customer's obligations under the terms of trade as if the guarantor were a principal debtor to Northpower and shall be liable to pay and perform upon demand by Northpower and in any event, as a separate obligation, shall indemnify Northpower in respect of any failure by the customer to pay or perform. Northpower may demand payment from any guarantor without first making demand on the customer or any other guarantor;
- (d) Where this Deed is signed by more than one person as guarantor the expression "the guarantor" shall include all such persons and the liability of the guarantor under this Deed shall be the joint and several liability of such persons and any demand made by Northpower to any one or more of the persons so jointly and severally bound shall be deemed to be a demand made to all such persons.
- (e) The guarantor shall not be released from the guarantor's obligations under this deed by any lack of legal capacity or other reason which would result in the terms of trade not being enforceable against (or any moneys not being recoverable from) the customer or (where more than one persons signs as guarantor) any other guarantor. Without limiting the generality of the last sentence, no waiver, giving of time, indulgence, compromise, failure to or delay in exercising remedies, variation of security, variation of the terms of trade nor other dealings by Northpower with the customer or (where more than one persons signs as guarantor) any other guarantor nor any failure to register or validly register personal property security interest nor the bankruptcy or liquidation of the customer shall release the guarantor from any obligations and the guarantor waives all defences which might be available to a surety;
- (f) The guarantor's rights of subrogation and of indemnity against the customer and (where more than one persons signs as guarantor) contribution against any other guarantor shall not arise until Northpower has received payment (from the customer or other guarantor as the case may be) in full of all moneys owed to Northpower on any account whatsoever.
- (g) If any payment from the customer is set aside or avoided for any reason whether by statute or otherwise then (i) such payment shall be deemed not to have been made; and (ii) the liability and obligations of the Guarantor shall be the same as if no payment had been made and (iii) if this deed has been discharged, the Guarantor shall notwithstanding be liable for such payment.
- (h) Northpower shall not be bound to dispute or influence any claim or decision by the Official Assignee in the event of the borrower's bankruptcy, entry into the No Asset Procedure or becoming subject to a Summary Instalment Order under the Insolvency Act 2006 nor any claim from the Official Assignee or the liquidator of the customer.
- (i) This guarantee is for the benefit of and may be enforced by any person for the time being entitled to payments of the monies due under the terms of trade and an assignment of the lender's rights under the loan agreement shall not release any guarantor from liability.

- (j) This guarantee shall continue in force notwithstanding that the customer may not be in debt or may be in credit with Northpower from time to time and further shall remain in force until discharged in writing. Northpower may delay providing a discharge until satisfied that any payment is unlikely to be made void but in any event any discharge shall be conditional on no payment to Northpower subsequently being avoided or set aside on the liquidation or bankruptcy of the borrower.
- (k) Where the context requires one the singular shall include the plural and vice versa and one gender shall include other genders.

Executed as a deed this _____ day of _____ 20____

SIGNED BY THE GUARANTOR:

Signature: _____ **Print Name:** _____
Signature of guarantor *Print Name of Guarantor clearly*

IN THE PRESENCE OF:

Signature: _____ **Print Name:** _____
Signature of Witness *Print name of Witness clearly*

Occupation: _____ **Address:** _____
Occupation of Witness *Address of Witness*

SIGNED BY THE GUARANTOR:

Signature: _____ **Print Name:** _____
Signature of guarantor *Print Name of Guarantor clearly*

IN THE PRESENCE OF:

Signature: _____ **Print Name:** _____
Signature of Witness *Print name of Witness clearly*

Occupation: _____ **Address:** _____
Occupation of Witness *Address of Witness*