

SUPPLY AND CONSIGNMENT AGREEMENT

BETWEEN:

HOSTMANN-STEINBERG NEW ZEALAND LIMITED
("Hostmann")

AND:

THE PARTY SPECIFIED IN ITEM 1 OF THE SCHEDULE ("Customer")

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THIS SUPPLY AND CONSIGNMENT AGREEMENT made on the date stated in Item 2 of the Schedule.

BETWEEN: **Hostmann Steinberg New Zealand Limited** (“**Hostmann**”);

AND: **The Party Described in Item 1 of the Schedule** (the “**Customer**”).

RECITALS

- A. Hostmann is a distributor of Products for the printing industry in New Zealand.
- B. The Customer wishes to purchase Products from Hostmann on a consignment basis.
- C. Hostmann has agreed to supply the Products to the Customer on a consignment basis on the terms and conditions of this Agreement and in accordance with the Terms and Conditions of Trade.

OPERATIVE PARTS

1. **Term**

The initial term of this Agreement will be from the commencement date stated in Item 2 of the Schedule until the date stated in Item 3 of the Schedule unless terminated in accordance with this Agreement or the terms and conditions of trade marked Annexure “A” to this Agreement, as amended from time to time (“**Terms and Conditions of Trade**”). Such amendments to the Terms and Conditions of Trade shall take effect or be binding from the date of notice being given to the Customer, including by way of publication on Hostmann’s website. After the expiry of the initial term, this Agreement continues until terminated in accordance with this Agreement or the Terms and Conditions of Trade.

2. **Supply of Products**

- 2.1. Hostmann will supply the products specified in Item 4 of the Schedule (“**Products**”) to the Customer at the delivery address specified in Item 6 of the Schedule:
 - 2.1.1. on the terms of this Agreement; and
 - 2.1.2. on the Terms and Conditions of Trade.
- 2.2. Hostmann may from time to time, at the Customer’s request, source and supply to the Customer products with special mix colours- The Customer acknowledges that these products are sourced and supplied by Hostmann for the Customer only. Subject to clauses 6.2 and 8.2 Special Mixes will be sold on the same terms and conditions as the Products.
- 2.3. To the extent that the Terms and Conditions of Trade are contrary to or inconsistent with the terms of this Agreement then the terms of this Agreement will prevail. These terms and the Terms and Conditions of Trade apply to the exclusion of any of the Customer's terms of acquisition whether, incorporated in the Customer's purchase order or elsewhere.

3. **Supply by Consignment**

- 3.1. Hostmann agrees to supply to the Customer the Products on consignment on or around the first day of each month or anytime deemed appropriate by Hostmann so that the number of Products the Customer holds in its possession on consignment does not fall below the minimum quantity specified in Item 5 of the Schedule (“**Minimum Quantity**”). Hostmann agrees to supply additional Products to the Customer on consignment on receipt of a purchase order received from the Customer from time to time.
- 3.2. Subject to the requirements in clause 9, in respect of the Products consigned to the Customer pursuant to clause 3.1, and in consideration of the delivery of the Products from Hostmann to the Customer, the Customer agrees to:

- 3.2.1. use its best endeavours to consume the Products;
- 3.2.2. maintain suitable premises for the storage of the Products and handle and store the Products in accordance with any provisions in New Zealand and any requirements provided for on the packaging and labelling of the Products;
- 3.2.3. keep the Products insured in the name of itself and Hostmann against loss or damage for an amount no less than the amount specified in Item 6 of the Schedule from the time they are at the risk of the Customer until title passes to the Customer. The Customer must produce evidence of insurance satisfactory to Hostmann from time to time upon request by Hostmann ;
- 3.2.4. allow a Hostmann representative access to consignment Products during the last week of the month without notice for the purposes of determining the amount of Product consumed and the required amount to be delivered on or around the 1st day of the following month to maintain agreed stock levels. The Customer must sign the Hostmann consignment sheet to verify that the count is correct;

4. **Prices and Payment for Products**

- 4.1. Hostmann will supply to the Customer the prices of the Products upon request and a tax invoice will be generated when stocktake has been completed for the:
 - 4.1.1. Products purchased in the preceding period; and
 - 4.1.2. Products determined by Hostmann to be damaged, destroyed, stolen, lost or otherwise unaccounted for in accordance with clause 5.
- 4.2. The Customer must pay for the Products (plus GST) in accordance with the Terms and Conditions of Trade.

5. **Deemed Purchase of the Products by the Customer**

The Customer is deemed to have purchased the Products on the occurrence of any of the following events:

- 5.1. use or re-sale of the Products;
- 5.2. expiry of the time limit of the Products in question;
- 5.3. damage, destruction, theft or loss of the Products or Products that are otherwise unaccounted for; or
- 5.4. the Products becoming shop-soiled.

The Customer must pay for and Hostmann may invoice the Customer for such Products as if the Customer had placed a purchase order for the Products under clause 3.

6. **Return of Unused Products**

- 6.1. The Customer may at any time before the expiry of the time limit of the Products specified in Item 9 of the Schedule (“**Time Limit**”) return the Products to Hostmann to the address specified in Item 8 of the Schedule provided that the Products remain in the same state and condition that they were in at the time of delivery by Hostmann to the Customer.
- 6.2. The Customer may not return Special Mixes without prior written consent from Hostmann.
- 6.3. The Customer may be required to pay for the delivery, freight, customs, duties, levies and/or insurance in respect of the return of the Products to Hostmann.

- 6.4. The Customer will bear the risk of loss or damage of the Products in transit until arrival of the Products at the address specified in Item 8 of the Schedule.
7. **Termination by Either Party**
- 7.1. Either party may terminate this Agreement by giving not less than six (6) months written notice to the other party.
- 7.2. Either party (“**innocent party**”) may terminate this Agreement immediately at any time by giving written notice if a party (“**defaulting party**”) breaches a term of this Agreement and fails to remedy that breach within fourteen (14) days from receipt of notice from the innocent party requiring the defaulting party to remedy the breach.
- 7.3. Either party may terminate this Agreement immediately at any time by giving written notice if a party becomes bankrupt or insolvent or compounds with its creditors or has a liquidator, receiver or manager or administrator appointed to all or any part of its assets.
8. **Effects of Termination**
- 8.1. Upon expiry or termination of this Agreement for any reason:
- 8.1.1. no further consignment orders may be placed by the Customer but the terms of this Agreement will apply to all Products which are the subject of consignment orders placed, or replenishment of stock made by Hostmann under clause 3, before the notice of termination is given;
- 8.1.2. the Customer must deliver to Hostmann all unused Product in its possession or control;
- 8.1.3. the Customer must deliver up to Hostmann, destroy or delete, as required by Hostmann, any samples and publicity, promotional and advertising materials featuring or referring to the Products; and
- 8.1.4. the Customer must return to Hostmann all originals and copies of all documents and information in any form containing or covering in any way any part of Hostmann's intellectual property;
- 8.1.5. the Customer must cease to use Hostmann's intellectual property, save as expressly authorised by Hostmann in writing.
- 8.2. Upon expiry or termination of this Agreement, any Special Mixes held in the Customer's stock but not yet paid for will be invoiced to the Customer and payment will be made within the terms agreed to in clause 4.2.
9. **Property, Title to Product and Risk**
- 9.1. Title, property and risk shall be governed by the Terms and Conditions of Trade.
- 9.2. Until such time that the legal and beneficial ownership of Products supplied by the Company passes to the Customer in accordance with the Terms and Conditions of Trade, the following applies:
- 9.2.1. the Customer must refrain from encumbering the Products;
- 9.2.2. the Customer must hold the Products as bailee for Hostmann subject to its right to deal with the Products in the ordinary course of the Customer's business for the account of

Hostmann and pass good title in the Products to its consumers for value without notice of the rights of Hostmann;

9.2.3. the Products will be stored in a manner so that they are readily distinguishable from other goods owned by the Customer or other persons;

9.2.4. the Customer must keep all necessary records so that the Products can at all times be identified and distinguished as the property of Hostmann

10. **Hostmann Inspections**

For as long as there are, or should be, Products which are the property of Hostmann in the Customer's possession, Hostmann, its authorised representatives and agents are irrevocably authorised to enter the Customer's premises or warehouses without notice during normal business hours as per Health and Safety Regulations to:

10.1. inspect and take inventories of the Products held by the Customer; and

10.2. conduct inspections in relation to the Customer's storage, transportation and security conditions.

11. **Repossession**

Hostmann may, at any time, without notice to the Customer, enter upon premises owned or occupied by the Customer where Hostmann reasonably believes the Products the subject of the bailment referred to in clause 9.1 may be stored and re-possess the Products without being liable for any damage caused.

12. **Records**

12.1. Records of all stock movements are kept by Hostmann and will be made available to the customer after conclusion of the monthly usage calculation.

13. **Relationship of parties**

13.1. Nothing in this Agreement constitutes a partnership between the Customer and Hostmann or, except as expressly provided, makes a party an agent of another party for any purpose.

13.2. No party can in any way or for any purpose bind the other party or contract in the name of the other party.

14. **Dispute Resolution**

14.1. The parties will meet and discuss in good faith any disputes between them arising out of this Agreement or relating to any matter which this Agreement requires to be decided by the parties.

14.2. If the dispute is not resolved by the parties within 10 days of the dispute arising then, subject to clause 14.7, the parties shall try to agree on other means of reaching a settlement before arbitration or litigation, including mediation or expert determination.

14.3. If the parties are unable to agree on other means of reaching a settlement under clause 14.2 within 5 days or if such other agreed means does not result in a settlement within 10 days of such method being agreed upon by the parties, then either party may require the dispute to be resolved by arbitration by giving written notice to the other party.

14.4. The arbitration shall be conducted by a single arbitrator. If the parties cannot agree on an arbitrator within 5 days of the date of receipt of the notice, the arbitrator shall be appointed by

the President for the time being of the Arbitrators and Mediators Institute of New Zealand. The decision of any arbitrator will be binding on the parties.

- 14.5. The parties may agree to settle the dispute at any time.
- 14.6. Pending settlement of any dispute, the parties shall continue to perform their obligations under this Agreement so far as possible as if no dispute had arisen.
- 14.7. Nothing in this clause 14 shall preclude a party from taking immediate steps to seek urgent equitable relief before a New Zealand Court.

15. **Force Majeure**

- 15.1. Neither party shall be liable for any delay in performing or failure to perform its obligations under this Agreement (other than a payment obligation) by reason of an event reasonably beyond its control, including strikes, lockouts, riots, acts of war, epidemics, governmental action superimposed after the date of this Agreement, failure of third party suppliers, fire, communication line failures, power failures, floods, storms, earthquakes, or natural disasters (in each case a "Force Majeure Event").
- 15.2. In the event that a Force Majeure Event arises:
 - 15.2.1. the party affected by that event will promptly notify the other party; and
 - 15.2.2. that party's obligations under this Agreement are suspended while the Force Majeure Event continues and to the extent that it is delayed or prevented.
- 15.3. If a Force Majeure Event continues for a period longer than one calendar month during which period the party affected cannot perform its obligations under this Agreement, the other party may terminate this Agreement by written notice.

16. **Governing law**

- 16.1. This Agreement is governed by, and construed in accordance with the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of the courts of New Zealand in relation to all disputes arising out of or in connection with this Agreement.

17. **Amendments**

This Agreement may be amended or modified only by written agreement of the parties.

18. **Assignment**

- 18.1. A party may only assign this Agreement or any part of it if it first obtains the written consent of the other party.
- 18.2. An assignment made without the permission of the other party is a breach of this Agreement.

19. **Confidentiality**

Neither party may disclose the terms of this Agreement or any information of the other party which may reasonably be deemed to be commercially sensitive or otherwise confidential, without the consent of the other party, unless compelled to by operation of law.

20. **Counterparts**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

EXECUTED AS AN AGREEMENT

Executed for and on behalf of **Hostmann-Steinberg**)
New Zealand Limited by its duly authorised officer)
in the presence of:)

.....
Signature (Witness)

.....
Print Full Name

.....
Address

.....
Address

.....
Occupation

.....
Signature (Authorised Officer)

.....
Name of Authorised Officer

.....
Office Held

Executed for and on behalf of **The Customer** by its)
duly authorised officer in the presence of:)
)

.....
Signature (Witness)

.....
Print Full Name

.....
Address

.....
Address

.....
Occupation

.....
Signature (Authorised Officer)

.....
Name of Authorised Officer

.....
Office Held

ANNEXURE A - Terms and Conditions of Trade