



**Vision Imports Limited**  
 Unit 2, 13 School Road  
 Kaiwharawhara  
**WELLINGTON 6035**

Tel: 04 815 9640, 0800 283 4677, FAX: 04 473 8117

## CREDIT ACCOUNT APPLICATION FORM

Please complete all sections and read the Terms and Conditions of Trade overleaf

DATE: \_\_\_\_\_

CLIENT'S TRADE NAME: \_\_\_\_\_

CLIENT'S FULL or LEGAL NAME: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Mobile: \_\_\_\_\_

Email: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Physical Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Postcode: \_\_\_\_\_

Postcode: \_\_\_\_\_

Requested Credit Limit: \_\_\_\_\_

Company Number: \_\_\_\_\_

Date Established: \_\_\_\_\_

Contact 1: \_\_\_\_\_

Contact 2: \_\_\_\_\_

Position: \_\_\_\_\_

Position: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

### DETAILS OF OWNER (If Sole trader) PARTNERS (If partnership) OR DIRECTORS (If Company)

Full Name: \_\_\_\_\_

Full Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Address: \_\_\_\_\_

Postcode: \_\_\_\_\_

Postcode: \_\_\_\_\_

### TRADE REFERENCES

Business Name 1: \_\_\_\_\_

Business Name 2: \_\_\_\_\_

Address or A/C No: \_\_\_\_\_

Address or A/C No: \_\_\_\_\_

Phone: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

I certify that the above information is true and correct and that I am authorised to make this application for credit. I authorise the use of my personal information as per section 12 of the terms and conditions of trade.(overleaf) I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf) of Vision Imports Limited which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. ***I agree that if I am a director or a shareholder (owning at least 15% of the shares) of the client, I shall be personally liable for the performance of the Client's obligation under this contract.***

SIGNED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Position: \_\_\_\_\_

ID: \_\_\_\_\_ DOB: \_\_\_\_\_

ID: \_\_\_\_\_ DOB: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## 1. APPLICATION OF THESE TERMS AND CONDITIONS

Unless otherwise agreed in writing, the sale and purchase of the Equipment will be subject to these terms and conditions and no other terms, conditions or representations about the Equipment will apply.

## 2. PAYMENT

- 2.1 Unless stated otherwise in the contract payment will be as follows:
- 2.2 The Company will within seven Business Days after the end of each month send to the Purchaser a valid GST tax invoice for the price of all Equipment delivered to the Purchaser in that month and any other charges payable by the Purchaser under these terms and conditions.
- 2.3 The Purchaser will pay the Company the full amount of the Monthly Invoice on or before the 20th of the month on which the invoice is sent.
- 2.4 If the Purchaser does not pay the amount of a Monthly Invoice by the Due Date and the prior written consent of the Company has not been obtained in writing by the Purchaser:
  - (a) the Company may charge interest on the amount owing at the rate of 10% per annum and all the Company's expenses and legal costs (on a solicitor/own client basis) of recovering the overdue amounts; and
  - (b) the Company may refer any overdue and unpaid amounts to a debt collection agency or agencies to recover such overdue amounts and the agencies charges for providing such services to the Company. The Company may share information about the Client with those agencies to assist with the collection of the debt.
- 2.5 The Purchaser acknowledges that any payments paid to the Company pursuant to a Monthly Invoice will be, and will be deemed to be, applied in satisfaction of all indebtedness owed by the Purchaser to the Company for the delivery of Equipment rather than in respect of any particular Equipment.

## 3. SECURITY

- 3.1 The Purchaser grants the Company a security interest in the Secured Property as continuing security for the purposes of securing payment of any amounts and performance of any obligations that are, at any time, owed to the Company under these terms and conditions including, without limitation, to pay the Charges in respect of all Equipment supplied to the Purchaser by the Company.
- 3.2 The Purchaser waives the right to be sent a copy of any verification statement in respect of registration of a financing statement or financing change statement relating to any security interest that relates to, or arises from, these terms and conditions.
- 3.3 The Purchaser agrees that if it requests the Company, and the Company agrees to, discharge or amend any financing statement which the Company has registered under the PPSA in respect of the Secured Property pursuant to section 162 of the PPSA, the Company will be entitled to charge the Purchaser such fee as the Vision Imports Ltd - Terms of Trade 2 Company may from time to time determine in respect of performing the Purchaser's request.
- 3.4 The Purchaser agrees that if, and when, requested by the Company it will at its cost do all such things as are reasonably necessary to enable the Company to obtain and maintain, in respect of all the Secured Property, a security interest in respect of these terms and conditions that is at all times perfected under the PPSA with the priority required by the Company, including:
  - (a) the provision of such information as the Company may require in order to register a financing statement (including under Part 12 of the PPSA, if appropriate) or renew the registration of a financing statement under the PPSA relating to or arising from any security interest granted to the Company pursuant to these terms and conditions; and
  - (b) the execution of such further documentation as the Company may reasonably require for that purpose.
- 3.5 The Purchaser agrees with the Company that if the rights and obligations of either the Company or the Purchaser under these terms and conditions are inconsistent with any provision of the PPSA, then to the extent permitted by PPSA, the relevant provisions of these terms and conditions will prevail.
- 3.6 To the extent that Part 9 of the PPSA applies, the Purchaser:
  - (a) agrees that it will not have any of the rights referred to in sections 114(1)(a), 133 and 134 of the PPSA;
  - (b) waives its rights to:
    - (i) receive a statement of account under Section 116 of the PPSA;
    - (ii) receive notice of a secured party's proposal to retain collateral under Section 120(2) of the PPSA;
    - (iii) object to a secured party's proposal to retain collateral under Section 121 of the PPSA;
    - (iv) not have goods damaged when a secured party removes an accession under Section 125 of the PPSA;
    - (v) be reimbursed for damage caused when a secured party removes an accession under Section 126 of the PPSA;
    - (vi) refuse permission to remove an accession under Section 127 of the PPSA;
    - (vii) receive notice of the removal of an accession under Section 129 of the PPSA; and
    - (viii) apply to the Court for an order concerning the removal of an accession under Section 131 of the PPSA.
- 3.7 Despite section 109 of the PPSA and in addition to the Company's rights thereunder, if any, the parties to these terms and conditions agree that the Company may:
  - (a) take possession of and sell the Secured Property if there has been a breach of these terms and conditions; and
  - (b) without any prior notice (and whether or not the Company may subsequently accept any money paid by the Purchaser), retake possession of any relevant Secured Property, and for that purpose may by its officers or agents enter, where necessary by force, on any property occupied by the Purchaser and (as Vision Imports Ltd - Terms of Trade 3 the agent of the Purchaser) on any other property which the Purchaser might enter upon where the Secured Property may be or is supposed to be.

## 4. DELIVERY

- 4.1 If requested to do so by the Purchaser, the Company will arrange delivery of the Equipment to the Purchaser, otherwise the Company will make the Equipment available to be uplifted from the Company's premises on a date specified by the Company.

- 4.2 When delivery is requested by the Purchaser, the Company will try to ensure that the Equipment is delivered to the Purchaser as quickly as possible but does not guarantee that delivery will be made by any particular date or within any particular time.

#### **5. RISK/OWNERSHIP/TITLE**

- 5.1 Risk in and responsibility for the Equipment will pass to the Purchaser at the time the Equipment is delivered to the Purchaser's premises or is picked up by the Purchaser from the Company.
- 5.2 Equipment will be deemed to have been delivered to the Purchaser when the Purchaser takes possession and control of the Equipment.
- 5.3 For the purposes of section 34(2) of the Sale of Goods Act 1908, the Company is not required to make a contract with any party responsible for the delivery of the Equipment with regard to the nature of the Equipment and other circumstances.
- 5.4 The Equipment will remain the property of the Company until the Purchaser has paid all the amounts due and owing under these terms and conditions. This remains the case even if the Purchaser integrates the Equipment with other equipment or property.
- 5.5 While the Equipment remains the property of the Company:
- (a) the Purchaser agrees to store the Equipment separately (not intermixed with similar equipment from other third parties) and to ensure that all such Equipment is clearly identifiable as the property of the Company;
  - (b) the Purchaser will ensure that it has adequate insurance policies in place for the replacement value of any such Equipment;
  - (c) if the Purchaser makes a claim under an insurance policy for any such Equipment, the Purchaser will direct the insurer to pay any amounts paid out on the claim to the Company, up to a maximum of any outstanding amounts payable by the Purchaser to the Company;
  - (d) the Company may recover and/or sell any of the Equipment already delivered to the Purchaser (even if it has been integrated with other Equipment or property);
  - (e) the Company or its agents may enter the Purchaser's premises to access the Equipment for the purpose of recovering and/or selling the Equipment;
  - (f) the Company will not be responsible for any damage caused by the use of reasonable force while entering the Purchaser's property and recovering the Equipment and the Purchaser will indemnify the Company for the cost of any such damage;
  - (g) if the Company recovers the Equipment from the Purchaser and sells it for a price below the amount owed to the Company by the Purchaser, then the Vision Imports Ltd - Terms of Trade 4 Company may claim the remaining amount from the Purchaser as a debt due to the Company;
  - (h) the Purchaser will be liable to the Company for all costs incurred by the Company in entering into the Purchaser's premises and recovering and/or selling the Equipment, including transportation and storage costs; and
  - (i) the Purchaser must advise the Company immediately of any action by any third party (including any of the Purchaser's creditors) affecting the Company's interest in the Equipment.

#### **6. INSPECTION OF GOODS**

- 6.1 The Purchaser will inspect all Equipment immediately after uplifting the Equipment from the Company or delivery of the Equipment to the Purchaser (as the case may be) and will immediately contact the Company after such inspection if the Equipment is damaged or faulty in any way.

#### **7. COMPANY'S LIABILITY IS LIMITED**

- 7.1 Neither the Company, nor its employees, agents or suppliers are at any time liable for:
- (a) any failure to comply, or delay in complying, with these terms and conditions caused by events beyond the control of the Company; or
  - (b) anything which relates to loss of profits, business, anticipated savings, revenue or use, or for any indirect or consequential loss at all incurred by the Purchaser.
- 7.2 The liability of the Company will be limited to the cost of refunding any amounts the Purchaser has paid to the Company in respect of the Equipment to which the liability relates.
- 7.3 The Company's employees, agents and suppliers have the benefit of any protection offered by these terms.

#### **8. COMPANY DOES NOT GIVE ANY WARRANTIES**

- 8.1 The Company does not give any warranties, guarantees or representations in respect of the Equipment and any warranties, guarantees or representations implied by law are excluded, to the extent that it is legal to do so. In particular, but without limiting this exclusion, where the Equipment is not of a kind ordinarily acquired for personal, household or domestic use or consumption, or the Purchaser acquires or holds itself out as acquiring the Equipment for the purposes of a business, the provisions of the Consumer Guarantees Act 1993 are excluded from these terms and conditions and will not apply.
- 8.2 If the Purchaser sells the Equipment to another customer and the Equipment is not of a kind ordinarily acquired for personal, household or domestic use or consumption, or the customer of the Purchaser acquires, or holds itself out as acquiring, the goods or services for the purposes of a business, the Purchaser will sell the Equipment to that customer on terms which exclude liability for any claims under the Consumer Guarantees Act 1993.

#### **9. USE OF INFORMATION**

- 9.1 The Purchaser agrees that the Company may obtain information about the Purchaser from the Purchaser or any other person in the course of the Company's business, including creditworthiness and the Purchaser consents to any person providing the Company with such information. Vision Imports Ltd - Terms of Trade 5
- 9.2 The Purchaser agrees that the Company may use any information it has about the Purchaser relating to the Purchaser's creditworthiness and give that information to any other person including any credit or debt collection agency, for credit assessment and debt collection purposes.

## 10. WAIVER

No failure or delay by the Supplier or the Dealer in exercising any right, power or privilege under this agreement will operate as a waiver, nor will any single or partial exercise of any right under this agreement preclude any other or further exercise or the exercise of any other right, power or privilege under this agreement.

## 11. AMENDMENTS

This agreement may only be altered in writing signed and dated by all parties.

## 12. SEVERABILITY

- 12.1 A provision of these terms and conditions that is illegal, invalid or unenforceable in a jurisdiction is ineffective in that jurisdiction to the extent of the illegality, invalidity or unenforceability.
- 12.2 This does not affect the validity or enforceability of that provision in any other jurisdiction, nor the remainder of these terms and conditions in any jurisdiction.

## 13. CONTINUING TERMS

Any terms or conditions that have not been fully performed will remain in force and effect even after the Equipment is delivered to the Purchaser.

## 14. GOVERNING LAW

These terms and conditions will be governed by, and construed in accordance with the laws of New Zealand.

## 15. ASSIGNMENT

The Purchaser is not entitled to assign its rights under any contract with the Company without the prior written consent of the Company.

## 16. COSTS

All costs and expenses incurred by the Company to remedy any breach by the Purchaser of obligations contained or implied in these terms and conditions will be recoverable from the Purchaser in addition and without prejudice to the Company's rights to damages for breach of the terms and conditions or for breach of any agreement arising between the Company and the Purchaser for the supply of the Equipment.

## 17. SET OFF

The Purchaser has no right of set off in any payment of any amount due to the Company.

## 18. DEFINITIONS

18.1 In these terms and conditions, unless the context otherwise requires:

**Charges** means the amount payable by the Purchaser for Equipment supplied by the Company to the Purchaser.

**Company** means Vision Imports Limited. Vision Imports Ltd - Terms of Trade 6

**Equipment** means all equipment supplied from time to time by the Company to the Purchaser provided that all references to equipment in these terms and conditions mean the equipment described in any one or more of the relevant order form, packing slip or invoice (or its equivalent whatever called) relating to that equipment, on the basis that each such document shall be deemed to be incorporated in, and form part of, these terms and conditions.

**GST** means goods and services tax within the meaning of the Goods and Services Tax Act 1985.

**Invoice** means the Company's invoice to the Purchaser in relation to the Equipment to be sold pursuant to these terms and conditions.

**PPSA** means the Personal Property Securities Act 1999.

**PPSR** means the Personal Property Securities Register.

**Purchaser** means any person contracting with or offering to contract with the Company and includes its successors and assigns.

**Secured Property** means all Equipment supplied to the Purchaser by the Company. 18.2 In these terms and conditions the terms "financing change statement, financing statement, perfected, security interest and verification statements" have the meanings given to them in, or in the context of, the PPSA.

## 19. INTERPRETATION

In these terms and conditions, unless the context requires otherwise:

- (i) headings are inserted for convenience only and shall be ignored in construing this Agreements;
- (ii) the singular includes the plural and vice versa;
- (iii) references to individuals includes companies and other corporations and vice versa;
- (iv) a reference to any legislation or to any provision of any legislation (including regulations) includes that legislation as from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under any such legislation or provision;
- (v) reference to any document includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;
- (vi) reference to a party, person or entity includes:
- (aa) an individual, partnership, firm, company, corporation, association and any other entity, whether or not incorporated and whether or not having a separate legal personality; and
  - (bb) an employee, sub-contractor, contractor, agent, successor, permitted assign, and other representative of such party, person or entity;
- (vii) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (viii) in the event of any conflict between the provisions of the Agreements, the provisions of the each of the Agreements will be applied in the following (descending) order of priority: first, these terms and conditions; then the applicable Rental Booking Form; Vision Imports Ltd - Terms of Trade 7
- (ix) reference to anything of a particular nature following upon a general statement shall not in any way derogate from, or limit the application of the general statement, unless the particular context requires such derogation or limitation; and
- (x) the rule of construction known as the contra proferentem rule does not apply to the Agreements.