

CREDIT ACCOUNT APPLICATION

To Be Completed By Applicants - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

Client's Details: <input type="checkbox"/> Individual <input type="checkbox"/> Sole Trader <input type="checkbox"/> Trust <input type="checkbox"/> Partnership <input type="checkbox"/> Company <input type="checkbox"/> Other:			
Full or Legal Name:			
Trading Name: <i>(If different from above)</i>			
Physical Address:			Postcode:
Billing Address:			Postcode:
Email Address:			
Phone No:	Fax No:	Mobile No:	
Personal Details: <i>(please complete if you are an Individual)</i>			
D.O.B.		Driver's Licence No:	
Business Details: <i>(please complete if you are a Sole Trader, Trust, Partnership, Company or Other – as specified)</i>			
Company Number:		Date Incorp. <i>(current owners):</i>	
Nature of Business:			
Paid Up Capital: \$	Estimated Monthly Purchases: \$	Credit Limit Required: \$	
Principal Place of Business is: <input type="checkbox"/> Rented <input type="checkbox"/> Owned <input type="checkbox"/> Mortgaged <i>(to whom):</i>			
Authorised Manager/ Directors / Owners / Trustee <i>(if more than two, please attach a separate sheet)</i>			
(1) Full Name:		D.O.B.	
Private Address:			Postcode:
Driver's Licence No:	Phone No:	Mobile No:	
(2) Full Name:		D.O.B.	
Private Address:			Postcode:
Driver's Licence No:	Phone No:	Mobile No:	
Account Terms: <input type="checkbox"/> 20 Days <input type="checkbox"/> COD <input type="checkbox"/> Other:			
Purchase Order Required? <input type="checkbox"/> YES <input type="checkbox"/> NO		Accounts to be emailed? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Accounts Email Address:			
Accounts Contact:		Phone No:	
Bank and Branch:		Account No:	
Trade References: <i>(please provide companies that are willing to do trade references)</i>			
Name:	Address:	Phone / Fax / Email:	
1.			
2.			
3.			

I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Excel Digital 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 authorise the use of my personal information as detailed in the Privacy Act clause therein. **I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Client I shall be personally liable for the performance of the Client's obligations under this contract.**

SIGNED (CLIENT): _____ **SIGNED (SELLER):** _____
 Name: _____ Name: _____
 Position: _____ Position: _____

WITNESS TO CLIENT'S SIGNATURE:

Signed: _____ **Name:** _____ **Date:** _____

OFFICE USE ONLY				
Account / Ref. No.	CREDIT LIMIT	APPROVED BY	DATA INPUTTED	DATE
	\$			/ /

20. Ancillary Materials

20.1 Ancillary materials are those products which come into existence during the preparation or processing of the Client's order but which are not the final products and shall be subject to one of the two following options:

- (a) drawings, sketches, painting, photographs, designs, typesetting, dummies, models, negatives, positives, blocks, engravings, stencils, dies, plates or cylinders, electros, stereotypes, discs, tapes, DVD's, or other media or data and other material produced by the Seller in the course of, or in preparation of, supplying the Goods (whether or not in fact used for the purposes of supplying the Goods) are the property of the Seller. Under no circumstances may such designs, drawings and documents be used without the express written approval of the Seller; or
- (b) where agreed between the contracting parties, ownership of any ancillary materials will pass to the Client upon payment of an agreed fee.

21. Default and Consequences of Default

21.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two percent (2%) per calendar month (and at the Seller's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

21.2 If the Client owes the Seller any money the Client shall indemnify the Seller from and against all costs and disbursements incurred by the Seller in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Seller's collection agency costs, and bank dishonour fees).

21.3 Further to any other rights or remedies the Seller may have under this contract, if a Client has made payment to the Seller, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Seller under clause 20 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this agreement.

21.4 Without prejudice to the Seller's other remedies at law the Seller shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Seller shall, whether or not due for payment, become immediately payable if:

- (a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Client will be unable to make a payment when it falls due;
- (b) the Client has exceeded any applicable credit limit provided by the Seller;
- (c) 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

- (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

22. Cancellation

22.1 Without prejudice to any other remedies the Seller may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions the Seller may suspend or terminate the supply of Goods to the Client. The Seller will not be liable to the Client for any loss or damage the Client suffers because the Seller has exercised its rights under this clause.

22.2 The Seller may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Client. On giving such notice the Seller shall repay to the Client any money paid by the Client for the Goods. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.

22.3 In the event that the Client cancels delivery of Goods the Client shall be liable for any and all loss incurred (whether direct or indirect) by the Seller as a direct result of the cancellation (including, but not limited to, any loss of profits).

22.4 Cancellation of orders for Goods made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

23. Dispute Resolution

23.1 All disputes and differences between the Client and the Seller 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 empire (appointed by them prior to arbitration), such arbitration to be carried out in accordance with provisions of the Arbitration Act 1996.

24. Privacy Act 1993

24.1 The Client authorises the Seller or the Seller's agent to:

- (a) access, collect, retain and use any information about the Client;
- (i) (including any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Client's creditworthiness; or

(ii) for the purpose of marketing products and services to the Client.

(b) disclose information about the Client, whether collected by the Seller from the Client directly or obtained by the Seller from any other source, 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.

24.2 Where the Client is an individual the authorities under clause 24.1 are authorities or consents for the purposes of the Privacy Act 1993.

24.3 The Client shall have the right to request the Seller for a copy of the information about the Client retained by the Seller and the right to request the Seller to correct any incorrect information about the Client held by the Seller.

25. General Lien

25.1 Where the Client has left any Property with the Seller for the supply of the Goods, and the Seller has not received or been tendered the whole of any amounts owing to it by the Client, the Seller shall have, until all amounts owing to the Seller are paid:

- (a) a lien on the Property; and
- (b) the right to retain or sell the Property, after providing fourteen (14) days' notice to the Client, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.

25.2 Where clause 25.1 applies and the Property held by the Seller is subject to copyright in favour of the Client, the Client hereby grants the Seller a licence to exercise the rights conferred on the Seller under this clause 25.

25.3 The lien of the Seller shall continue despite the commencement of proceedings, or judgment for any moneys owing to the Seller having been obtained against the Client.

26. Service of Notices

26.1 Any written notice given under this contract shall be deemed to have been given and received:

- (a) by handing the notice to the other party, in person;
- (b) by leaving it at the address of the other party as stated in this contract;
- (c) by sending it by registered post to the address of the other party as stated in this contract;
- (d) if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of the transmission;
- (e) if sent by email to the other party's last known email address.

26.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

27. General

27.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

27.2 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 New Zealand.

27.3 The Seller shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Seller of these terms and conditions (alternatively the Seller's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

27.4 The Seller may licence and/or assign all or any part of its rights and/or obligations under this contract without the Client's consent.

27.5 The Client cannot licence or assign without the written approval of the Seller.

27.6 The Seller may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of the Seller's sub-contractors without the authority of the Seller.

27.7 The Client agrees that the Seller may amend these terms and conditions by notifying the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for the Seller to provide Goods to the Client.

27.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

27.9 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.