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**cleandirect.nz**

### CREDIT ACCOUNT APPLICATION FORM

#### ENTITY DETAILS:

APPLICANT'S FULL LEGAL NAME (i.e. not trading name): \_\_\_\_\_ ("the Customer")

(Please circle) Sole Trader | Individual | Partnership | Ltd Company | Other (please state): \_\_\_\_\_

Trading as: \_\_\_\_\_ Postal Address: \_\_\_\_\_

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

Nature of Business: \_\_\_\_\_ Years in Business: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Contact Name & Position: \_\_\_\_\_

#### OWNERSHIP: Owner(s) / Directors Name(s) in full

1: \_\_\_\_\_ Address: \_\_\_\_\_

2: \_\_\_\_\_ Address: \_\_\_\_\_

IF LIMITED LIABILITY COMPANY – Address of Registered Office: \_\_\_\_\_

Date of Incorporation: \_\_\_\_\_ Incorporation No: \_\_\_\_\_

TRADE REFERENCES			
Company	Contact Name	Phone Number	Account open since

#### General Description of Products to be provided to customer:

\_\_\_\_\_

I/We have read and agree to be bound by the terms and conditions of trade as printed overleaf or attached or supplied. I/We warrant to the Supplier that the above information is to the best of my/our knowledge and belief, true and correct and that I/we am/are duly authorised to enter into this application and future contracts on behalf of the Customer. I/We also acknowledge that pursuant to the personal guarantee contained in the terms and conditions of trade that, where relevant, I/we am/are also signing this application form in my/our personal capacity.

**If the applicant is a company then this application form must be signed by a director of the company.**

Signed: \_\_\_\_\_ Print Name: \_\_\_\_\_ Designation: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

# CLEAN DIRECT LIMITED - TERMS & CONDITIONS OF TRADE

## 1 DEFINITIONS

- 1.1 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing Products from the Supplier.
- 1.2 "Products" shall mean:
- 1.2.1 all Products supplied by the Supplier to the Customer; and
- 1.2.2 all Products supplied by the Supplier and further identified in any invoice issued by the Supplier to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
- 1.2.3 all Products that are marked as having been supplied by the Supplier or that are stored by the Customer in a manner that enables them to be identified as having been supplied by the Supplier; and
- 1.2.4 the above descriptions may overlap but each is independent of and does not limit the others.
- 1.3 "Products" shall also mean all products, goods, services and advice provided by the Supplier to the Customer and shall include without limitation all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Products by the Supplier to the Customer.
- 1.4 "Supplier" shall mean Clean Direct Limited.

## 2 APPLICATION OF TERMS OF TRADE

- 2.1 These Terms of Trade shall apply between the Supplier and you ("the Customer") for the sale of all Products to you by the Supplier unless otherwise agreed in writing. All price estimates will be given, and all orders for Products will be accepted, on the basis of these Terms of Trade. Any instructions received by the Supplier from the Customer for the supply of Products shall constitute a binding contract and if you accept delivery of Products from us, you will be deemed to be in acceptance of these Terms of Trade notwithstanding anything that may be stated to the contrary in your enquiries or your order.

## 3 COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises the Supplier to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Products provided by the Supplier.
- 3.2 The Customer authorises the Supplier to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.
- 3.4 The Customer understands that it has the right of access and may request correction of personal information held by us about you.

## 4 PRICE

- 4.1 Where no price is stated in writing or agreed to orally the Products shall be deemed to be sold at the current amount as such Products are sold by the Supplier at the time of the contract.
- 4.2 The price of the Products may be increased without notice by the amount of any reasonable increase in the cost of supply of the Products that is beyond the control of the Supplier between the date of the contract and delivery of the Products.
- 4.3 Stated or quoted prices are exclusive of GST.
- 4.4 Unless otherwise agreed all freight, insurance, delivery and travel charges associated with the Products will be additional to any price quoted.

## 5 PAYMENT

- 5.1 Unless payment is required immediately upon submission of a website order, payment for Products shall be made in full on or before the 20th day of the month following the date of the invoice ("the due date").
- 5.2 If full payment for the Products is not received by the due date, then without prejudice to any other remedies available to the Supplier, the Supplier may:
- 5.2.1 cancel or withhold supply or delivery of further Products;
- 5.2.2 make the Customer pay (at the Supplier's discretion) interest on the amount due at the rate of 8% per month calculated on a daily basis from the due date until the date payment is received in full by us. Any payments received by us will be firstly applied against such additional interest. The Supplier may in its discretion allocate any payment received from the Customer towards any invoice that the Supplier determines and may do so at the time of receipt or at any time afterwards and on default by the Customer may reallocate any payments previously received and allocated.
- 5.3 Any expenses, disbursements and legal costs incurred by the Supplier in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5 If the Supplier deems your credit to be unsatisfactory, the Supplier may, at its sole discretion, immediately:
- 5.5.1 require further security for payment and may also suspend performance of its obligations under any contract until the provision of sufficient security is received from you; or
- 5.5.2 revoke your active credit account and require you to pay prior to the supply of any Products; or
- 5.5.3 revoke any discount arrangement between the Customer and Supplier, if applicable.
- 5.6 All costs and expenses incurred by the Supplier as a result of any of the matters noted in clauses 5.5.1 to 5.5.3 shall be payable by the Customer upon demand.

## 6 QUOTATION

- 6.1 Where a quotation is given by the Supplier for Products:
- 6.1.1 the quotation shall be valid for thirty (30) days from the date of issue, unless otherwise agreed in writing between the parties; and

- 6.1.2 the quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
- 6.1.3 the Supplier reserves the right to alter the quotation because of circumstances beyond its control.

- 6.2 Where Products are required in addition to the quotation the Customer agrees to pay for the additional cost of such Products.

## 7 PLACE AND MANNER OF DELIVERY

- 7.1 Delivery of the Products to the Customer ("delivery") shall be at the place of business of the Supplier. The expenses of, and incidental to, the delivery, insurance and transit of the Products after delivery shall be at the Customer's cost.
- 7.2 Where the Supplier arranges (as your agent and at your expense) for the Products to be sent to you then:
- 7.2.1 delivery of the Products to a carrier either named by you, or failing such naming, to a carrier at the discretion of the Supplier for the purpose of delivery to you, is deemed to be delivery of the Products to you;
- 7.2.2 the Supplier will insure, at your cost, the Products during transit against all losses which may be incurred due to any cause whatsoever.
- 7.3 The Supplier accepts no liability where delivery of the Products within any agreed time is prevented or hindered by reason of delays in supply or transportation or other circumstances beyond the reasonable control of the Supplier.
- 7.4 Delivery of Products shall be deemed complete when the Supplier gives possession of the Products directly to the Customer or possession of the Products is given to a carrier or courier for purposes of delivery to the Customer.
- 7.5 The time agreed for delivery shall not be an essential term of this contract unless the Customer gives written notice to the Supplier making time of the essence.

## 8 TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 8.1 Title in any Products supplied by the Supplier passes to the Customer only when the Customer has made payment in full for all Products provided by the Supplier.
- 8.2 You agree that until all sums due to the Supplier in respect of Products supplied have been paid, the Supplier has a security interest in all Products and any account. The Customer acknowledges and agrees this clause creates a security interests in the Products for the performance of all of your obligations to the Supplier, either pursuant to these Terms of Trade or any other outstanding contract with the Supplier.
- 8.3 The Customer agrees at the Supplier's request to promptly sign any documents, provide all necessary information (which information you warrant to be complete, accurate and up-to-date in all respects) and do anything else reasonably required by the Supplier to ensure that any such security interests constitute perfected purchase money security interests including executing any variations to these terms of trade reasonably requested by the Supplier.
- 8.4 If any Products are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Products shall remain with the Supplier until the Customer has made payment for all Products, and where those Products are mixed with other property so as to be part of a constituent of any new Products, title to these new Products shall be deemed to be assigned to the Supplier as security for the full satisfaction by the Customer of the full amount owing between the Supplier and Customer.
- 8.5 The Customer gives irrevocable authority to the Supplier to enter any premises occupied by the Customer or on which Products are situated at any reasonable time after default by the Customer or before default if the Supplier believes a default is likely and to remove and repossess any Products and any other property to which Products are attached or in which Products are incorporated. The Supplier shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. The Supplier may either resell any repossessed Products and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and credit the Customer's account with the invoice value thereof less such sum as the Supplier reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 8.6 Where Products are retained by the Supplier pursuant to clause 8.1 and 8.2 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
- 8.7 The following shall constitute defaults by the Customer:
- 8.7.1 non-payment of any sum by the due date;
- 8.7.2 the Customer intimates that it will not pay any sum by the due date;
- 8.7.3 any Products are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products;
- 8.7.4 any Products in the possession of the Customer are materially damaged while any sum due from the Customer to the Supplier remains unpaid;
- 8.7.5 the Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distrains against any of the Customer's assets;
- 8.7.6 a Court judgment is entered against the Customer and remains unsatisfied for seven (7) days;
- 8.7.7 any material adverse change in the financial position of the Customer.

## 9 DISPUTES AND RETURNS

- 9.1 Except as provided in this clause, the Customer is not entitled to return the Products to the Supplier for any reason. For defective Products which the Customer is entitled to reject, the Supplier's liability is limited to either (at the Supplier's discretion) replacing the Products, or refunding the purchase price, provided that:
- 9.1.1 the Customer must notify the Supplier within 4 days of delivery that the Products are defective;
- 9.1.2 the Supplier is given a reasonable opportunity to investigate your claim;

- 9.1.3 the Supplier will not be liable for Products which have been tampered with or modified without the Supplier's approval or which have not been stored or used in a proper manner and must be returned in an "as new" condition;
- 9.1.4 the Supplier will not be liable to pay you any amount more than the amount (if any) the Supplier actually receives from our supplier of the defective Products.
- 9.2 No returns will be considered for Products which are not the Supplier's standard stock.
- 10 LIABILITY**
- 10.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon the Supplier which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on the Supplier, the Supplier's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 10.2 Except as otherwise provided by clause 10.1 the Supplier shall not be liable for:
- 10.2.1 any loss or damage of any kind whatsoever, arising from the supply of Products by the Supplier to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products provided by the Supplier to the Customer; and
- 10.2.2 the Customer shall indemnify the Supplier against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of the Supplier or otherwise. Brought by any person in connection with any matter, act, omission, or error by the Supplier its agents or employees in connection with the Products.
- 11 WARRANTY**
- 11.1 No representation, condition, warranty or premise expressed or implied by law or otherwise applies to the Products except where Products are supplied pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this contract.
- 11.2 In particular information relating to the Supplier's Products contained in the advertising, catalogues, price lists, illustrations or other similar matter submitted to the Customer whilst given in good faith, must be regarded only as information and intend to present to the Customer a general guide, the accuracy of which the Customer must test for itself. The Customer shall be deemed to rely upon its own judgement as to the nature and quality of the Products and their suitability for its purposes and not upon any representation made by the Supplier, its servants or agents either orally or in writing (including any advertisements).
- 11.3 Details of warranties available, if any, will be provided upon request but are always subject to clauses 11.1 and 11.2.
- 11.4 The Supplier shall not be liable:
- 11.4.1 where the Customer has altered or modified the Products, mis-applied the Products, or have subjected them to any unusual or non-recommended use, servicing or handling;
- 11.4.2 for loss caused by any factors beyond the Supplier's control;
- 11.4.3 for any indirect or consequential loss of any kind;
- 11.4.4 where the terms of any written warranty have not been complied with, or any manufacturer's handbook provided or known to you has not been complied with.
- 11.5 The Supplier's total liability under any warranty for:
- 11.5.1 damaged or defective Products supplied is limited at the Supplier's option to either:
- 11.5.1.1 replacing the defective or damaged Products, or
- 11.5.1.2 refunding the price of the defective or damaged Products.
- 11.5.2 The Supplier provides no warranty to its website's performance (if applicable) or the availability of Products.
- 12 CONSUMER GUARANTEES ACT**
- 12.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Products from the Supplier for the purposes of a business in terms of section 2 and 43 of that Act.
- 13 PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES**
- 13.1 If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for the Supplier agreeing to supply Products and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to the Supplier the payment of any and all monies now or hereafter owed by the Customer to the Supplier and indemnify the Supplier against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.
- 14 TERMS AND CONDITIONS TO PREVAIL**
- 14.1 These terms of trade shall prevail where there is any inconsistency or variance with:
- 14.1.1 any previous terms of trade, invoice or document;
- 14.1.2 any previous usage of trade or course of dealing between the parties;
- 14.1.3 anything that may have been stated by either party (or their representatives) to the other party unless specifically agreed to in writing by the Supplier.
- 14.2 No alteration or variation of these terms of trade will be binding upon the Supplier unless authorised by the Supplier in writing. These terms of trade will without further notice apply to all future transactions between the parties whether or not this document is delivered to you in the course of such a transaction.
- 15 BACK ORDERS**
- 15.1 Should you order a normally stocked item and the Supplier is unable to supply, the backordered Product shall be sent freight free as soon as it arrives. If you choose to cancel your backorder that Product will be refunded by the Supplier at the purchase price.
- 16 SEVERANCE**
- 16.1 Should these terms of trade or any part of them be held by a Court to be ineffective by virtue of non-registration, illegality or otherwise, such term or part of it may in the Supplier's sole discretion be severed from the rest without affecting the validity or enforceability of the remaining terms.
- 17 WAIVER**
- 17.1 The delay or failure by the Supplier to enforce its rights at any time or for any period in relation to any one or more of these terms of trade shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of these terms of trade.
- 18 ALTERNATIVE DISPUTE RESOLUTION**
- 18.1 If any dispute shall arise touching the construction or interpretation of any of these terms of trade or in regard to the rights and obligations of the parties generally (save for where the default by you of these terms of trade is not in doubt), the same shall be settled by arbitration in accordance with the Arbitration Act 1996.
- 19 NOTICES**
- 19.1 Any notice or communication required or permitted to be given under these terms of trade shall be valid and effective only if in writing. Any notice given and any payment made by any party to the other which is:
- 19.1.1 delivered by hand during the normal business hours of the addressee at the addressee's last known address shall be presumed to have been received by the addressee at the time of delivery;
- 19.1.2 posted by prepaid registered post to the addressee at the addressee's last known address shall be presumed to have been received by the addressee on the second day after the date of posting;
- 19.1.3 transmitted by email to the Customer's last known email address shall be deemed to have been received by the Customer on the date of transmission thereof provided the sender has not obtained an undeliverable message.
- 19.2 You agree to immediately notify the Supplier in writing of any change of your contact details or your legal or business name.
- 20 TERMINATION**
- 20.1 The Supplier reserves the right to terminate your order if it learns that you have provided false or misleading information or violated the terms and conditions.
- 20.2 Without prejudice to any other remedies the Supplier may, if at any time the Customer is in breach of any obligations under these terms and conditions, suspend or terminate the supply of Products to the Customer. The Supplier will not be liable to Customer for any loss or damage the Customer may suffer because the Supplier exercised its right under this clause.
- 20.3 The Supplier may, at its sole discretion, cancel any contract to which these terms and conditions apply or cancel the delivery of Products at any time before the Products are delivered by giving notice to the Customer. On giving such notice the Supplier will refund the Customer for the Products. The Supplier will not be liable to Customer for any loss or damage the Customer may suffer because the Supplier exercised its right under this clause.
- 20.4 In the event that the Customer cancels delivery of Products, the Customer shall be liable for any and all loss incurred (whether direct or indirect) by the Supplier as a result of the cancellation (including, but not limited to, any loss of profit).