

## APPLICATION & AGREEMENT FOR CREDIT ACCOUNT

<b>NOTE!</b> Please complete all required information as an incomplete or unsigned application will be unable to be processed	
Are you taking over an existing business? Yes <input type="checkbox"/> No <input type="checkbox"/>	Take over date / /
Name of existing Business	
Name of person selling the business	
Describe Business structure:- Limited Company <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Incorporated Society <input type="checkbox"/> Trust <input type="checkbox"/>	
If none of the above please describe	
<b>Please Note!</b> Partnerships, Incorporated Societies, Trusts and other non Limited Companies must complete sections A ,B & C for this application to be valid	

<b>This agreement made this</b>		<b>day of</b>		<b>20</b>	
<b>and</b>					
<b>Between Noel Leeming Group Limited of New Zealand</b>					
<b>A</b>	<b>Applicant / Business Name</b>	<b>The Customer</b>	Company Number		
Trading Name (if any):			Nature of business		
Contact Person(s) Name for Accounts:					
Postal Address:					
Invoice/Statement Address (if different):					
Street Address:				E-Mail:	
				<input type="checkbox"/> Opt me out of E-mail promotions/offers	
Delivery Address (if different to above):					
Telephone: Home ( )		Business ( )		Mobile: ( )	
				Fax: ( )	
Purchasing Contact Name				Order number required Yes <input type="checkbox"/> No <input type="checkbox"/>	
How much credit do you require? \$			Year Business Commenced		
<p>➤ <b>Whereas:</b></p> <p>➤ <b>The applicant/s requests to establish a credit trading account with the supplier and or it's subsidiaries and in doing so has provided the required particulars for this request</b></p> <p>➤ <b>Each signatory warrants that he/she has the full authority of the applicant to sign on their behalf</b></p> <p>➤ <b>It is agreed between the parties that should a credit trading account be established for the applicant then it shall be on the terms and conditions contained herein</b></p>					

<b>B</b>	<b>Name of Authorised Applicant / Customer / Trustee</b>				
Home Address:				Date of Birth: / /	
Previous address (if less than 2 years)				Position	
Telephone: Home ( )		Business ( )		Mobile ( )	
				Fax ( )	
<b>C</b>	<b>Additional Applicant / Customer / Trustee</b>				
Home Address:				Date of Birth: / /	
Previous address (if less than 2 years)				Position	
Telephone: Home ( )		Business ( )		Mobile ( )	
				Fax ( )	

<b>Trade References</b> (Please provide <u>ALL</u> details requested) these should be businesses you have traded with for 1 year or more	
Company Name	Ph ( )
Contact Name	Monthly expenditure \$
Company Name	Ph ( )
Contact Name	Monthly expenditure \$
Company Name	Ph ( )
Contact Name	Monthly expenditure \$

**This Application for a Credit Account constitutes a legal document. You are therefore urged to seek legal advice before you sign and bind yourself to this Credit Account Agreement. The Company will not be responsible if you choose to not seek legal advice before signing the Application. Where the Customer comprises more than one person, each of that person's liability is joint and several.**

**PRIVACY** I/We authorise the supplier or any third party to use and disclose to anyone any personal information as to my/our credit worthiness and I/We authorise the disclosure of personal information to any person, corporation or agency with a purpose of collecting any outstanding sums owing under this agreement.

**A** authorised signatures

\_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_\_  
Signature

\_\_\_\_\_ Print Name \_\_\_\_\_ Date \_\_\_\_\_  
Signature

For \_\_\_\_\_  
Business Name

**When this form is complete please return to Accounts Receivable, Noel Leeming Group, P O Box 91146 Victoria St West, Auckland**

## **Terms of Trade**

### **1. General**

1.1 This agreement covers the ongoing trade supply of goods and trade services by Noel Leeming Group to the customer from time to time by way of placement of a written order.

1.2 This agreement represents the entire terms and conditions of trade between NLG and the Customer.

1.3 This agreement relates only to supplies 'in trade' and 'for business purposes'. The provisions of the Consumers Guarantees Act accordingly do not apply to supplies made by NLG to the Customer under this agreement.

1.4 The Customer agrees to be bound by the terms and conditions of this agreement.

### **2. Ownership, Reservation of Title and Right of Entry**

2.1 Ownership of all trade supplies by NLG to the Customer remains with NLG at all times until payment in full by way of cleared funds is received by NLG from the Customer for the particular supplies in question. However, risk in the supplies passes to the Customer upon delivery to or possession taken.

2.2 Until any particular supplies are paid for in full by the Customer, the supplies are held by the Customer as bailee only and the Customer shall ensure that the supplies are clearly set apart from other supplies that may belong to the Customer and will not be incorporated in or with any other product. If the supplies are attached to any land, those supplies are regarded for all purposes to be personal property and not a fixture.

2.3 If the Customer should default in payment of the supplies then NLG may repossess the supplies for which payment has not been made by the Customer and remains overdue despite demand. For the purpose of repossession under such circumstances, the Customer irrevocably and unconditionally authorises NLG (or its authorized agent) to enter any premises or land where those supplies are stored or kept to repossess the supplies, including carrying out such work at the cost of the Customer as may be necessary to return the goods to the possession of NLG. NLG shall not be liable to the Customer nor any third party for any damage or loss arising from the repossession of goods.

### **3. Payment by the Customer**

3.1 Payment is to be made on the 20<sup>th</sup> day of the month following the date of invoice ("the due date"), without deduction or set off.

3.2 Should the customer choose to make payment by credit card a loading fee of 2% will apply to each transaction.

3.3 Payment will be applied in reduction of the Customer's account if payment is in cleared and immediately available funds.

3.4 If payment is not made by the due date, NLG may charge interest on all amounts overdue at the rate of 2% per month and calculated on a daily basis from the time that payment is due until the time when payment of the overdue amount has been received by NLG.

3.5 NLG reserves the right to, upon any default in payment by the debtor or other instance relating to the Customer under this agreement causes concern to NLG, to cancel this agreement in its entirety and upon demand, all monies then due or to become due from the Customer to NLG shall become immediately due and owing.

3.6 If payment is not made by the due date, the Customer shall indemnify NLG against any costs of enforcement (including but not limited to fees on a solicitor-client basis and debt collection fees) incurred by it in endeavoring to recover any outstanding monies.

### **4. Warranties**

To the extent permitted by the law, NLG's liability in the case of any fault of or damage to the supplies, shall be limited to the lower of the repair cost or the replacement of the supplies in question.

4.1 NLG shall not be liable for any consequential loss that the Customer may suffer as a result of faulty or damaged supplies.

4.2 The Customer acknowledges that there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied by NLG and that the Customer relies on its own skill and judgement as to the suitability of the supplies for the Customer's express purpose.

### **5. Claims and Returns**

5.1 Any claims for faulty or damaged supplies must be notified, in writing, by the Customer to NLG within 48 hours of delivery made or possession taken.

5.2 All claims are at the complete discretion of NLG. NLG must be given a reasonable time to investigate any claim made by the Customer.

5.3 Any supplies to be returned for credit to NLG, are to be returned by the Customer either in person or by courier freight within 7 days from the date of invoice, including details as to the Order number, invoice number, date of purchase and reason for credit being sought.

5.4 All credits are at the sole discretion of NLG.

### **6. Security**

6.1 The Customer shall, if required by NLG, grant a security interest over the supplies (in addition to any security granted under these terms and conditions) under the Personal Properties Securities Register.

6.2 The Customer agrees that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to this agreement, or the security under this agreement, and waives its rights under sections 117(1)(c), 121, 125, 129, 131 and 132 of the PPSA.

6.3 The Customer waives the right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to NLG's interest in the Goods. The Customer shall pay NLG any costs in relation to a financing statement or financing change statement.

### **7. Delivery**

7.1 Delivery of the trade supplies shall be deemed to have taken place when the trade supplies have been delivered to the specified address of the Customer, upon instruction and order placed with NLG.

7.2 Where delivery is unable to be effected (see clause 8.1 below), for whatever reason, NLG may elect to take the trade supplies into storage and take a lien over the trade supplies until the Customer has paid for those trade supplies along with the reasonable costs of NLG.

### **8. Obligations of the Customer**

8.1 During the term of this Agreement, the customer will:

(a) At all times indemnify NLG against all costs reasonably incurred by NLG in relation to this Agreement. Such reasonable costs will include all administrative charges in processing this Agreement, including all reasonable charges for credit checks done, debt collection costs and Solicitor fees and including any lien and other enforcement costs, where applicable;

(b) Keep a reasonable area of access clear at all times so as to allow for delivery of the trade supplies;

(c) Notify NLG immediately of any change in business or delivery address;

(d) Notify NLG immediately of any change in business activity, including a change in ownership or management.

8.2 During the term of this Agreement the customer will ensure that all invoices of NLG are paid in accordance with clause 3.1 above.

### **9. Termination**

9.1 Termination of this Agreement will occur upon any one of the following events:

(a) days written notice to the other party;

9.2 Breach of this agreement by the Customer, including default in payment of invoice moneys due by the Customer to NLG.

### Deed of Guarantee and Indemnity

In consideration of Noel Leeming Group Limited ("NLG") providing supplies to

.....  
(the Customer)

I/We jointly and severally:

- 1. **Guarantee** the due and punctual payment to you by the Customer, in the manner and at the times agreed between NLG and the Customer, or in the event that no times shall have been agreed then upon demand, of all monies which are presently owing or which may in the future become owing to NLG by the Customer, in respect of supplies provided by NLG to the Customer, or which may otherwise become payable by the Customer to NLG. This guarantee includes all default payments due by the Customer on overdue accounts (clause 3 Terms of trade).
- 2. **Acknowledge:**
  - 2.1 NLG may at any time at its discretion and without giving notice refuse further credit to the Customer.
  - 2.2 Agreement to be bound as principal debtors so that the liability of each of us under this Guarantee shall not be released by any delay or other indulgence or concession which NLG may grant to the Customer or any compromise which NLG may reach or variation NLG may agree with the Customer or any of us, or by any other act, matter, circumstance of law whereby I/we would but for the provision of this clause have been released from my/our liability under the Guarantee.
  - 2.3 I/we will not in any way compete with NLG for payment in the event of bankruptcy or liquidation of the Customer.
  - 2.4 This guarantee is in addition to, and not in substitution for, any other security or rights which NLG may presently have or may subsequently acquire and this Guarantee may be enforced against each of us without having recourse to any such securities or rights and without making demand or taking proceedings against the Customer or the other of us.
- 3. **Agree:**
  - 3.1 Independently of the Guarantee to indemnify NLG against all damages, claims and losses (including costs) which NLG may suffer or incur as a result of any failure by the Customer to make due and punctual payment of the monies detailed in clause 1 whether or not the liability of the Customer is or has become void or unenforceable for any reason and whether or not the foregoing guarantee shall be void or unenforceable against me/us or any of us for any reason.
  - 3.2 This Guarantee and Indemnity shall be an unconditional and continuing Guarantee and Indemnity and shall be irrevocable and shall remain in full force and effect until all the monies owing to NLG by the Customer and all the obligations under the Credit Account have been fully paid, satisfied or performed and may be enforced by NLG either jointly or severally.
- 4. **Privacy**  
I/We authorise any person or other Supplier to provide you with such information as you may require in response to your credit enquiries. I/We authorise you to furnish to any third party details of this application and any subsequent dealings that I/We may have with you as a result of this Guarantee being actioned by you.

Guarantor -1

SIGNED .....

Full Name:.....

D.O.B: .....

Present Address:.....

SIGNATURE OF WITNESS:.....

Name of Witness:.....

Present Address:.....

Occupation:.....

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20

Guarantor -2

SIGNED .....

Full Name:.....

D.O.B: .....

Present Address:.....

SIGNATURE OF WITNESS: .....

Name of Witness:.....

Present Address:.....

Occupation:.....

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20

I/we acknowledge that NLG has recommended that I/we obtain independent legal advice as to the effect of the above Guarantee and Indemnity and the potential liability faced by me/us as guarantor(s). I/We confirm that I/we have obtained, or elected not to obtain, such independent legal advice and have agreed to provide the Guarantee and Indemnity.

Guarantor 1 ..... Guarantor 2.....