

# Application To Open A Credit Account

Please complete this two page document and return the original to the address below. You are asked to read the **Foremost Business Forms PTY Limited Standard Conditions of Sale** overleaf and sign this document.

Company Name: \_\_\_\_\_ Firm/Ltd/Pty

Business Type: \_\_\_\_\_ ABN:

Invoice Address: \_\_\_\_\_

\_\_\_\_\_ Post Code:

Registered Office: \_\_\_\_\_

(if different to above)

\_\_\_\_\_ Post Code:

Sales Tel No.:  Sales Contact: \_\_\_\_\_

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

Accounts Tel. No.:  Accounts Contact: \_\_\_\_\_

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

Please complete to enable us to send invoice and statements by email

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

Banker's Name: \_\_\_\_\_

Banker's Address: \_\_\_\_\_

\_\_\_\_\_ Post Code:

BSB:  -  -  Account Number:

Credit Limit Requested: \$

Trade Ref. 1: \_\_\_\_\_ Trade Ref. 2: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Authorised Signatory: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Position: \_\_\_\_\_

I have read and accept the **Foremost Business Forms PTY Limited Standard Conditions of Sale**, a copy of this form is also available as a pdf from [www.hagueaustralia.com.au/about-us/tandcs/](http://www.hagueaustralia.com.au/about-us/tandcs/)

# STANDARD TERMS AND CONDITIONS

This agreement set out the terms under which FOREMOST BUSINESS FORMS PTY LTD ACN 007 077 367 (the "Seller" or "we" or "us") provides goods or services to you (being the individual, company or legal person purchasing such goods or services) (the "Buyer" or "you").

If the Buyer orders, accepts or pays for any goods from the Seller ("Goods") after receiving or becoming aware of these terms, or otherwise indicates assent, then the Buyer is taken to have accepted these terms.

## 1. PURCHASE ORDERS

These terms will apply to all the Buyer's dealings with the Seller, including being incorporated in all agreements, quotations or orders under which the Seller is to provide Goods (each a "Purchase Order") together with any additional terms included in such Purchase Order (provided such additional terms are recorded in writing).

## 2. PAYMENT

### 2.1 PAYMENT OBLIGATIONS

Unless otherwise agreed:

- If the Seller issues an invoice to the Buyer, payment must be made by the time specified on such invoice.
- In all other circumstances, the Buyer must pay for all Goods within 30 days of delivery.
- The Buyer must not set off any money alleged to be owing by the Seller against money due by the Buyer to the Seller.

### 2.2 GST

Unless otherwise indicated, amounts stated in Purchase Orders do not include GST. In relation to any GST payable for a taxable supply by the Seller, the Buyer must pay the GST subject to the Seller providing a tax invoice.

### 2.3 CARD SURCHARGES

The Seller reserves the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa or MasterCard).

### 2.4 LATE PAYMENT

If the Buyer fails to make a payment to the Seller on or before the date the payment is due:

- the Seller may charge the Buyer interest on each amount outstanding at an annual rate of interest which is 10%, calculated on a daily basis from the due date to the date of payment; and
- the Buyer must pay all costs incurred by the Seller in connection with attempting to collect each outstanding amount, including all debt collection agent costs, repossession costs, and solicitor costs on a solicitor/client basis.

## 3. YOUR AND THIRD PARTY MATERIALS

- The Buyer understands, acknowledges and agrees that, unless otherwise indicated, the source information and raw data included as part of the Goods is provided to us by third party providers and by you.
- You warrant that all information, documentation and any other material you provide to us in connection with these terms, or otherwise for the purpose of receiving Goods, is complete, accurate and up-to-date.
- You release us from all liability in relation to any loss or damage arising out of or in connection with the Goods, to the extent such loss or damage is caused or contributed to by information, documentation or any other materials being incomplete, inaccurate or out-of-date that was:
  - provided to us by a third party; or
  - provided to us by you.

## 4. DELIVERY

### 4.1 DELIVERY

- For Goods to be delivered, the Seller may charge the Buyer for delivery at any time (notwithstanding that it may not have previously done so).
- Where prices are stated as inclusive of delivery, delivery is to the delivery point specifically accepted by the Seller.
- All delivery times provided by the Seller are estimates only and are subject to postal delays and reasons beyond the Seller's control. The Seller does not warrant or make any representation that any order will be delivered within the times indicated. The Seller will not be liable for any loss or damage suffered as a result of or in connection with late deliveries.

### 4.2 CUSTOMS AND DUTIES

The Seller reserves the right to refuse international orders. Approved international orders may be subject to customs and import duties upon reaching its country of destination. The Buyer will be responsible for paying all customs and import duties and the Buyer acknowledges that failure to pay may result in an order being held at customs. The Seller will not be liable for any costs the Buyer may incur in having its order released from customs, and the Seller will not be responsible for reimbursing the Buyer for any customs or import duties it may pay.

## 5. TITLE AND RISK

- Until the price of Goods is paid in full, title in those Goods is retained by the Seller.
- Risk in Goods will pass to the Buyer on delivery to the Buyer. Delivery may not be refused by the Customer.
- If the Buyer does not pay for any Goods on the due date for payment, the Buyer authorises the Seller, its employees and agents to enter any premises occupied by the Buyer or any other place where the Goods are located and retake possession of the Goods without liability for trespass or damage.
- The Seller may at its option keep or resell Goods retaken from the Buyer.
- If the Buyer sells the Goods or sells items into which the Goods are incorporated before payment in full to the Seller, the Buyer acknowledges that such sale is made by the Buyer as bailee for and on behalf of the Seller, to hold the proceeds of sale on trust for the Seller, in an account in the name of the Seller, and must pay that amount to the Seller on demand.

## 6. THIRD PARTY GOODS AND SERVICES

- If the Seller is required to acquire goods or services supplied by a third party, the Buyer may be subject to the terms and conditions of that third party ("Third Party Terms").
- The Buyer agrees to any Third Party Terms applicable to any goods or services supplied by a third party that the Buyer or Seller acquires as part of receiving Goods or services in connection with these terms, and the Seller will not be liable for any loss or damage suffered by the Buyer in connection with such Third Party Terms.

## 7. INTELLECTUAL PROPERTY

- (Client content)** You grant to us (and our subcontractors, employees and agents) a nonexclusive, royalty free, non-transferable, worldwide and irrevocable licence to use the Client Content to the extent reasonably required to provide any part of the Goods. You:
  - warrant that our use of Client Content as contemplated by these Terms will not infringe any third-party Intellectual Property Rights; and
  - indemnify us (and our subcontractors, employees and agents) from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement or a claim of such an infringement.
- (Developed IP)** All Developed IP will be solely and exclusively owned by us.
- (Seller IP)** We grant you a non-exclusive, royalty free, non-transferable and revocable licence to use Seller IP and any Developed IP to the extent required for you to use, enjoy the benefit of or exploit the Goods, internally within your business. The licence under this clause 7(c) does not include a right for you to reproduce the Goods (other than for your internal business purposes) or to communicate them to third parties. Unless otherwise agreed in writing by us or in this clause 7, you will not acquire Intellectual Property Rights in any Seller IP under these Terms or as part of receiving the Goods.
- (Definitions)** For the purposes of this clause 7:
  - "Client Content" means any Material supplied by you to us under or in connection with these Terms, the Website, you submitting a Purchase Order, or you receiving any Goods, including any Intellectual Property Rights attaching to that Material, and including all lease documents you supply to us.
  - "Developed IP" means any Material produced by us in the course of providing the Goods, either alone or in conjunction with you or others, and any Intellectual Property Rights attaching to that Material.
  - "Intellectual Property Rights" means any and all present and future intellectual and industrial property rights throughout the world, including copyright, trade marks, designs, patents or other proprietary rights, confidential information and the right to have information kept confidential, or any rights to registration of such rights, whether registered or unregistered.

- "Material" means tangible and intangible information, documents, reports, drawings, designs, software (including source and object code), inventions, concepts, data and other materials in any media whatsoever.
- "Seller IP" means all Material owned or licensed by us that is not Developed IP and any Intellectual Property Rights attaching to that Material.

## 8. RETURNS

- (Proof of purchase)** As a condition precedent to the Seller considering any refund or exchange, the Buyer must be able to provide valid proof of purchase of the Goods you seek to return or exchange.
- (Change of mind returns)** We do not accept change of mind returns.
- (Faulty products)** Returns of Goods will only be accepted if the Goods are not of acceptable quality and if you comply with the provisions of this clause 8, as follows:
  - You must inspect the Goods to determine whether they are of acceptable quality, within 7 days of the date you receive delivery of the Goods (**Notification Period**).
  - If you believe Goods are not of acceptable quality, please contact us via email with a full description of the fault (including images if possible), and evidence of proof of purchase.
  - If we have not received any notice from you in respect of Goods within the relevant Notification Period, you will be deemed to have accepted those Goods.
  - If we receive a notice from you within the Notification Period, and we determine that the Goods being the subject of that notice may be of unacceptable quality, we will request that you send the Good back to us, at your cost, for further inspection, including any accessories, manuals, documentation or registration shipped with the product. We reserve the right to further inspection before deeming a Good as being of unacceptable quality.
  - If we determine in our reasonable opinion that the Good is of acceptable quality, or is only of unacceptable quality due to fair wear and tear, misuse, failure to use in accordance with instructions, or failure to take reasonable care, we will refuse your return and send the Good back to you at your cost (or dispose of the Good, at your option).
  - If we determine that the Good is of unacceptable quality, you will be credited the full amount paid (including shipping costs) and you may request a refund, exchange or store credit. All refunds will be credited back to your original method of payment.
  - If you fail to comply with the provisions of this clause 8 in respect of Goods of unacceptable quality, we may, in our absolute discretion, issue you a partial refund or no refund in respect of such Goods.
  - Nothing in this clause 8 is intended to limit or otherwise affect the operation of any manufacturers' warranties which you may be entitled to or any of your rights which cannot be excluded under applicable law.
- (Guarantees at law)** Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

## 9. LIABILITY

### 9.1 LIMITATION

- (Exclusion)** To the maximum extent permitted by applicable law, the Seller excludes completely all liability to any person for loss or damage of any kind, however arising whether in contract, tort (including negligence), statute, equity, indemnity or otherwise, arising from or relating in any way to this agreement or any Goods or services provided by the Seller.
- (Release)** The Buyer releases the Seller and its employees and agents from all claims and liabilities of any nature for any loss or damage that arises in connection with an act or omission of a third party, including any error of goods or services that a Good is used in conjunction with or in connection to.
- Goods sold by the Seller will have only the benefit of any warranty given by the manufacturer. All other express or implied representations and warranties are, to the maximum extent permitted by applicable law, excluded. Where any law (including the Competition and Consumer Act 2010 (Cth)) implies a condition, warranty or guarantee into these terms which may not lawfully be excluded, then to the maximum extent permitted by applicable law, the Seller's liability for breach of that non-excludable condition, warranty or guarantee will, at the Seller's option, be limited to:
  - in the case of Goods, their replacement or the supply of equivalent goods or their repair; and
  - in the case of services, the supply of the services again, or the payment of the cost of having them supplied again.
- Nothing in this agreement is intended to limit the operation of the Competition and Consumer Act 2010 (Cth).

### 9.2 INDEMNITY

The Buyer agrees to indemnify the Seller and its employees and agents in respect of:

- all liability for loss, damage or injury which may be suffered by any person arising from the Buyer or the Buyer's representatives' use of any Goods or services provided by the Seller;
- all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise in connection with:
  - use by the Buyer of any goods or services provided by the Seller;
  - any breach of this agreement by the Buyer; or
  - any negligent, fraudulent or criminal act or omission of the Buyer or its personnel.

### 9.3 CONSEQUENTIAL LOSS

To the maximum extent permitted by law, the Seller will not be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with this agreement or any Goods or services provided by the Seller.

## 10. FORCE MAJEURE

- If the Seller becomes unable, wholly or in part, to deliver Goods or otherwise carry out its obligations under this agreement due to an event beyond its reasonable control (**Force Majeure**), the Seller must give written notice to the Buyer as soon as reasonably practicable setting out:
  - reasonable details of the Force Majeure; and
  - so far as is known, the probable extent to which Seller will be unable to perform or be delayed in performing its obligation.
- Subject to compliance with clause 10(a), the relevant obligation will be suspended during the Force Majeure to the extent that it is affected by the Force Majeure.
- The affected party must use its best endeavours to overcome or remove the Force Majeure as quickly as possible.

## 11. GENERAL

### 11.1 GOVERNING LAW

This agreement is governed by the law applying in Victoria, Australia.

### 11.2 JURISDICTION

Each party irrevocably submits to the exclusive jurisdiction of the courts of Victoria, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

### 11.3 AMENDMENTS

This agreement may only be amended by a document signed by each party.

### 11.4 WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

### 11.5 FURTHER ACTS AND DOCUMENTS

Each party must promptly do all further acts and execute and deliver all further documents required by law or reasonably requested by another party to give effect to this agreement.

### 11.6 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of each other party.