

# Credit Application

## CUSTOMER

Limited Liability Company  Partnership  Sole Trader  Other

Legal Name

Company Number if a company / Date of Birth if an individual

Postal Address

Email  Telephone

Contact Person

Name and Address of Directors / Partners / Proprietors / Shareholders

Name	Designation	Residential Address and Telephone Number	Date of Birth
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

## GOODS AND SERVICES TO BE SUPPLIED

## CREDIT REFERENCES Name, address and telephone numbers (minimum of 2 regular established accounts)

1.

2.

## DECLARATION AND AGREEMENT

In consideration of Mirage agreeing to provide goods and services to the Customer named above, then, on behalf of the Customer, you:

- In accordance with the Privacy Act 1993, consents to Mirage contacting the above credit references to discuss the Customer's credit record
- Agree to Mirage's Terms and Conditions (which can be found at [www.miragevisual.com](http://www.miragevisual.com)); and
- Declare that the information supplied in this form is correct.

Full Name  Signed

Designation  Date

## GUARANTEE

In consideration of Mirage agreeing to supply goods and services to the Customer at my/our request:

- I/We unconditionally guarantee to Mirage the due and punctual payment by the Customer of all moneys payable in accordance with the Terms and Conditions set out on the reverse side of this form as and when the same become due and payable by the Customer.
- I/We agree to be deemed as principal debtor for all accounts held by the Customer with Mirage.
- I/We agree that this guarantee will be a continuing guarantee and will not be discharged by any settlement or payment of account and that this guarantee is both joint and several.
- I/We agree that our liability under this guarantee will not be discharged, abrogated, prejudiced or affected by:
  - the granting of time, credit or the indulgence or other concession to the Customer;
  - any alteration, modification, variation or addition to any agreement in respect of the supply of goods and services; or
  - any other act, omission or event which but for this provision might operate to discharge, impair or otherwise affect, my/our obligations under this guarantee or any powers or remedies conferred on you by this guarantee or by law.
- I/We confirm that I/we have been advised by Mirage that I/we should seek legal advice before signing this guarantee.

Name <input type="text"/>	Signed <input type="text"/>	Designation <input type="text"/>
Witness Name <input type="text"/>	Witness Signed <input type="text"/>	Date <input type="text"/>
Name <input type="text"/>	Signed <input type="text"/>	Designation <input type="text"/>
Witness Name <input type="text"/>	Witness Signed <input type="text"/>	Date <input type="text"/>

**FOR SUPPLIER USE ONLY:** Credit limit \$  Customer No

Authorised by  Approved by

**Create  
Produce  
Deliver.**

**mirage**

# MIRAGE VISUAL LIMITED

## TERMS OF TRADE

In these Terms of Trade ("Terms") we have used we, us and our to refer to Mirage Visual Limited and you to refer to our customer. By agreeing to acquire goods and services from us you agree to these Terms to the exclusion of your terms (if any). Please note that acceptance of these Terms by you does not create an obligation for us to provide any specific goods and services for you at any time unless we have agreed to complete that particular work.

### WHEN WILL GOODS AND SERVICES BE MADE AVAILABLE?

1.1 Unless we agree otherwise, "Delivery" of any goods will be deemed to be made when we confirm they are available for collection at our premises.

1.2 We may charge you storage and transportation expenses if you fail or refuse to take or accept delivery or indicate to us that you will fail to do so.

1.3 If we have given you a time for collection of the goods (or any part of them) or performance of services, such time is approximate only and is not deemed to be of the essence.

1.4 Please note that, as per clause 3 below, we do not have any responsibility for insuring your goods after they have been made available for collection by you under clause 1.1.

### WHAT ARE YOUR OBLIGATIONS?

2.1 If we agree to provide goods and services to you, we do so on the basis that it is your responsibility to:

(a) Give us timely, accurate and complete instructions and to provide updates or clarifications as we may request in the same manner.

(b) Where you provide materials and services, only provide us with high-quality materials that meet our standards and in sufficient quantity as we determine in a prompt manner.

(c) Retain a copy of any electronic images or files supplied to us.

(d) Ensure that any material you provide us with is not, in our view, defamatory, illegal, objectionable or which infringes the Intellectual Property Rights of any third party.

### WHEN WILL OWNERSHIP AND RISK PASS TO YOU?

3.1 We will retain title to all goods we supply until they have been paid for in full and you have performed all your other obligations under these Terms.

3.2 Risk in all goods passes to you when the goods are Delivered. You will insure goods for their full price, and will not sell, dispose or part with possession of them or do anything else inconsistent with our ownership of the goods, from Delivery until title in them passes to you.

3.3 If we agree to ship goods to you, our liability for damage to you is strictly limited to the amount recoverable by us under any insurance policy provided by the shipping provider in respect of such damage.

### HOW ARE OUR PRICES SET?

4.1 All prices exclusive of GST and other taxes and duties, which will be paid by you and are in New Zealand dollars.

4.2 Our prices are subject to change without notice.

4.3 Unless we agree otherwise in writing, the amount you will be charged will be the price as at the date of Delivery.

4.4 If we provide a quotation to you, it is based on information available to us at that time and we may charge you more than the amount quoted if our costs (eg the cost of labour, materials, transport, tax, exchange rates or other costs) or the specifications change, including where we judge this to be reasonably necessary for reasons beyond our control.

4.5 Any quotation that we provide will be subject to your meeting all your obligations under these Terms and must be accepted within 30 days of its being provided to you.

4.6 Any quotation that we provide you will be open for acceptance by you for a maximum of 30 days.

4.7 If we provide you with an estimate then you shall pay to us our actual cost of completing the Work which will be calculated by totalling the following:

(a) the number of hours of service multiplied by the hourly rates for the workers involved on the date which the Work is undertaken or if the supply occurs over more than one day, the relevant hourly rates on the last day on which services are rendered;

(b) any disbursements (including without limitation delivery costs) incurred by us on your behalf;

(c) the cost of any goods supplied by us.

4.8 You acknowledge and accept that, except where expressly included in any quotation or estimate, you will be liable to pay our charges for any work required to:

(a) Translate, edit or otherwise complete programming to utilise your supplied files and images.

(b) Any preliminary work we undertake to provide you with an estimate or quotation as well.

(c) Any background, creative or experimental work we undertake while providing goods and services to you.

### WHEN WILL YOU HAVE TO PAY US?

5.1 You must pay for all goods on Delivery unless we decide otherwise.

5.2 We may require you to pay a deposit at our discretion.

5.3 We are under no obligation to supply Goods to you on credit. If we grant you credit, you agree to pay our invoices by the 20th of the month following the date of the invoice.

5.4 You agree to give any further securities as we may from time to time require, in the form required by us, and to comply with all your obligations under those securities.

5.5 We may notify you at any time that we are going to stop supplying goods and services to you on credit. This will be without prejudice to your obligation to pay any amounts owing.

5.6 All payments must be made without set-off or deduction. Receipt of a cheque, bill of exchange, or other negotiable instrument will not constitute payment and you remain liable for payment until payment is received by us.

5.7 We may apportion payments to outstanding accounts as we see fit.

### WHAT HAPPENS IF YOU DEFAULT?

6.1 You will be in Default if any of the following happens:

(a) You fail to pay an amount due under these Terms by the due date for payment.

(b) You commit a breach of any of your other obligations under these Terms, the security or the terms of any other contract you have entered into, or enter into in the future, with us or one of our related entities.

(c) You become insolvent, are wound up, have a receiver appointed, enter into any composition or arrangement with your creditors, do any act which would render you liable to be placed in liquidation or have a receiver appointed over your property, commit an act of bankruptcy, cease to be of full legal capacity.

(d) Goods that we have retained title to are at risk.

(e) An event or a series of events (whether related or not) occurs which, in our opinion, may cause a material adverse change in your ability to meet your obligations to us.

6.2 If you are in Default then we may, at our option, do any one or more of the following.

(a) Charge you default interest at 22% per annum on any late payments calculated daily from the due date until the date payment is received.

(b) Require you to remedy the default in the manner and within the period that we tell you.

(c) Require you to pay to us all amounts you owe us immediately.

(d) Suspend or terminate your account with us.

(e) Enforce security interests created by these Terms.

(f) Exercise any rights that we have under these Terms or that are available to us at law.

6.3 We may suspend or terminate your account with us at any time in our sole discretion. If your account is terminated, you must immediately pay us any amount you owe us. Termination will not affect any of our rights that have arisen before termination.

### WHO GUARANTEES PAYMENT?

7.1 This clause 7 applies to any person who has signed our Credit Account Application as a "Guarantor".

7.2 Each Guarantor acknowledges that any work done for, or goods supplied to, you is done or supplied at the request of the Guarantors and that the security provided or to be provided by the Guarantor extends to all your obligations, at any time and from time to time, to us whether or not arising out of and in relation to any work requested by you.

7.3 Each Guarantor jointly and severally guarantees to us the due payment by the Customer of all moneys payable by you and covenants with us that on any default or defaults by you of any obligation to us will upon demand pay to us the amount (or from time to time the amounts) due and payable by you.

7.4 It is declared that between us and each Guarantor that each Guarantor will be deemed to be a principal debtor and the Guarantor shall not be released from liability to us by reason of any time or other indulgence granted to the Customer or by any alteration or variation in the obligations between you and us or by any other act matter or thing whatsoever whereby a person liable as a mere surety would have been released and this guarantee shall be a continuing guarantee until actual payment and fulfillment by you of your obligations in respect of any outstanding moneys.

7.5 Each Guarantor jointly and severally indemnifies us against any losses we may incur or suffer should you default in the performance of any of your obligations to us.

### WHAT SECURITY DO WE HAVE?

8.1 These Terms create a security interest in goods we supply to you.

8.2 You will not grant any other security interest or any lien over any goods that we have a security interest in.

8.3 At our request you will promptly sign any documents and do anything else required by us to ensure our security interest constitutes a first ranking perfected security interest in any such goods.

8.4 We may at any time enter your premises and properties to uplift goods that we have a security interest in.

8.5 If goods that we have a security interest in are processed, included or dealt with in any way causing them to become accessions, processed or commingled goods, our security interest will continue in the whole in which they are included. You will not grant any other security interest or any lien in either the goods or in the whole.

8.6 You waive any rights you may have under sections 114(1)(a), 116, 120(2), 121, 125, 129, 131, and 133 of the Personal Property Securities Act 1999 ("PPSA").

8.7 You waive your right to receive a copy of any verification statement (as that term is defined in the PPSA).

8.8 You will give us prior written notice of any proposed change of your name or address.

### WHAT WARRANTIES DO WE PROVIDE?

9.1 You acknowledge that we are unable to guarantee any particular outcome in terms of the match between colour proofs and production prints. Accordingly, our warranty to you is limited to using our best endeavours to provide a commercially acceptable product that is fit for the purposes for which goods of that type are commonly bought.

9.2 You agree that we are not liable for any errors other content issues in any goods and services provided where such error or issue is contained in any proof submitted to you for approval.

9.3 The Consumer Guarantees Act 1993, the Fair Trading Act 1986, and other statutes may impose warranties, conditions or obligations on us which cannot by law (or which can only to a limited extent by law) be excluded. Other than as expressly provided for in these Terms, we exclude all such imposed warranties, conditions or obligations to the extent permitted by law and exclude any warranty, condition or obligation imposed or implied under common law, equity or otherwise.

9.4 Where you acquire goods and/or services from us for the purposes of a business the parties acknowledge and agree that:

(a) You are acquiring the goods and/or services covered by these Terms for the purposes of a business in terms of sections 2 and 43(2) of the Consumer Guarantees Act 1993;

(b) The goods and/or services are both supplied and acquired in trade for the purposes of the Fair Trading Act 1986 and the parties agree to contract out of sections

9 (Misleading and deceptive conduct generally), 12A (Unsubstantiated representations), and 13 (False or misleading representations); and

(c) All warranties, conditions, and other terms implied by the Consumer Guarantees Act 1993 or sections 9, 12A, and 13 of the Fair Trading Act 1986 are excluded from these Terms to the fullest extent permitted by law and the parties further acknowledge and agree that it is fair and reasonable that the parties are bound by this clause.

#### WHAT IS THE EXTENT OF OUR LIABILITY?

10.1 Except as expressly otherwise provided elsewhere in these terms, we will not be liable for any loss or damage or liability of any kind whatsoever (including consequential loss or lost profit or business) whether suffered or incurred by you or another person and whether in contract, tort, or otherwise and whether such loss or damage arises directly or indirectly from goods or services provided by us to you.

10.2 If we agree to store any products for you at any of our premises then you acknowledge that it is your sole responsibility for ensuring those items are insured and we do not have any liability for damage or loss that occurs while they are stored with us (apart from any intentional damage). It is also your responsibility to ensure that you have taken adequate steps to secure your ownership under the PPSA.

10.3 To the extent that we are liable for any reason for any loss suffered or liability incurred by you arising from any breach of these Terms or for any other reason, such liability is limited to the amount of the price of the goods and services concerned. If goods are returned by you, or if you make a claim in writing to us in relation to goods and services provided, we may, in our discretion, repair or replace the goods or re-perform the services, or refund the price to you, provided that:

(a) the goods must be returned or the claim must be made in writing to us within fourteen (14) days of Delivery; and

(b) you must supply the date and number of any invoice relating to the goods and services; and

(c) we must be given a reasonable opportunity to inspect the goods and services.

#### WHO OWNS EXISTING INTELLECTUAL PROPERTY?

11.1 In respect of Intellectual Property used in or arising from the production of the goods or the performance of any services:

(a) all pre-existing Intellectual Property the subject of an Intellectual Property right resides with the owner as at the date of these Terms (whether you or us);

(b) any new Intellectual Property will be dealt with in accordance with clause 12.

11.2 If any goods are to be supplied to your design, you warrant that the manufacture and supply of such goods by us will not infringe any third party's Intellectual Property rights and you indemnify us against any loss, liability, costs and expenses in the event of any claim being made that the manufacture or supply of such goods by us infringes any patent, copyright or other rights of any other person.

#### WHO OWNS NEW INTELLECTUAL PROPERTY?

12.1 Subject to clauses 11.1(a) and 12.4 we are and will remain the exclusive owner everywhere in the world of all Intellectual Property rights and interests in the goods and services, and any other work performed by us for you, as first owner of those Intellectual Property rights and interests.

12.2 We will retain exclusive worldwide ownership at all times of our artistic styles, methods of working, techniques, ideas, skills and know-how.

12.3 You must not attribute any goods and services

performed by us to anyone other than us or remove any of our trade marks, signatures, logos or similar from any goods.

12.4 On payment of all amounts owing to us in accordance with these Terms, we assign to you the copyright in the final form of any goods which we have specifically created for you for and for the purposes as specified in the description of the work to be performed.

#### WHAT INFORMATION CAN WE COLLECT?

13.1 You authorise us to:

(a) collect, retain and use information about you from any person for the purpose of assessing your creditworthiness;

(b) disclose information about you:

(i) to any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to your obligations to us;

(ii) to such persons as may be necessary or desirable to enable us to exercise any power or enforce or attempt to enforce any of our rights, remedies and powers under these Terms.

#### WHERE WILL NOTICES BE SENT?

14.1 Any notice may be given by phone, in person, posted, or sent by email to you or where you are a company, to any of your directors.

#### WHAT ARE YOUR CONFIDENTIALITY OBLIGATIONS?

15.1 You will always treat as confidential all non-public information and material received from us and will not publish, release, or disclose the same without our prior written consent. For clarity, confidential information includes any new Intellectual Property and prices.

#### WHAT COSTS WILL YOU BE LIABLE FOR?

16.1 You must pay our costs (including legal costs, as between solicitor and client) of and incidental to the enforcement or attempted enforcement of our rights, remedies and powers under these Terms.

#### CREDIT INFORMATION

17.1 You consent to us, or any financier or credit-rating agency, making enquiries of and obtaining any information about your financial standing and credit worthiness.

#### WHAT LAW APPLIES AND WHERE WILL CASES BE HEARD?

18.1 These Terms are governed by and construed according to the laws of New Zealand. Subject to clause 19, you may take legal action against us only in a New Zealand court however we are entitled to commence any action arising out of or in respect of these Terms in any other court.

#### HOW WILL DISPUTES BE RESOLVED?

19.1 Any claim or dispute arising under these Terms will be determined by arbitration under the Arbitration Act 1996 if the parties are unable to resolve such dispute themselves within one (1) month of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand Courts.

#### WHAT IF SOME UNFORESEEN EVENT OCCURS?

20.1 We will not be liable for any failure or delay in complying with any obligation imposed on us under these Terms if the failure or delay arises directly or indirectly from a cause reasonably beyond our control.

#### WHAT CLAUSES SURVIVE TERMINATION?

21.1 Any provision which by its nature is intended to survive the termination or expiration of these Terms will survive the termination or expiration of these Terms or Delivery of the Goods.

#### WHAT OTHER GENERAL TERMS APPLY?

22.1 These Terms supersede and cancel any earlier representations, warranties, understandings and agreements (whether oral or written), and together with

your Credit Application constitute the entire agreement between us and you relating to their subject.

22.2 You may only assign, sell, or otherwise dispose of any right or obligation under these Terms if we consent in writing first.

22.3 If you have entered into these Terms as the trustee of a trust and you have no right to or interest in any of the assets of the trust except in your capacity as trustee of the trust, your liability will be limited to the value of the assets of the trust which now or in the future are (or, but for your wilful neglect or default, would be) in the hands of the trustees for the time being of the trust. This clause does not limit any liability you have to us as a personal guarantor.

22.4 No failure or delay by us to exercise (in whole or in part) any right, power or remedy under these Terms will operate as a waiver of that right, power or remedy.

22.5 We may change these Terms at any time. Any change applies from when it is published on our website [www.miragevisual.com](http://www.miragevisual.com)

#### WHAT DO CERTAIN WORDS AND PHRASES MEAN?

23.1 In these Terms unless the context otherwise requires:

Intellectual Property means all intellectual property rights including, without limitation, copyright, patent and design rights, drawings, documents, data, ideas, procedures, calculations and all other statutory and common law rights and interests.

23.2 The rule of construction known as the contra proferentem rule does not apply to these Terms.

23.3 Words referring to the singular include the plural and vice versa.

23.4 Any reference to a party includes:

(a) that party's executors, administrators, or permitted assigns; or

(b) if a company, limited partnership, or any other body corporate, its successors or permitted assigns or both.

23.5 Clause headings are for reference only.

23.6 References to clauses are references to clauses of these Terms.

23.7 References to money will be New Zealand currency, unless specified otherwise.

23.8 Expressions referring to writing will be construed as including references to words printed, typewritten or otherwise visibly represented, copied or reproduced (including by fax or email).

23.9 References to statutory provisions will be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions from time to time.