

NEW CUSTOMER ACCOUNT APPLICATION

PLEASE NOTE: Device Technologies Australia/ New Zealand recommends using the **Google Chrome browser** to complete this application.

Section A - Business Details

1. Legal name of customer ("Customer") *

2. Trading as

3. Type of business:

- ☐ Sole Trader
☐ Partnership
☐ Company
☐ Trust
☐ Limited Partnership

4. Date of commencement (dd/mm/yy) *

5. Director's/owner's name *

6. Director's/owner's address *

7. Director's/owner's phone *

8. Director's/owner's email *

9. Business postal address *

10. Delivery address for goods*

11. Phone

12. Email

13. Fax

14. Website

15. Accounts payable contact

16. Phone

17. Email

18. Type

- ☐ Cash
☐ Credit

19. Estimated monthly spend

Section B - Trade References*

Contact name*

Business

Phone

Section C - Declaration

I/We **acknowledge** and **warrant** to **DEVICE TECHNOLOGIES NEW ZEALAND LIMITED and / or ADVANCED SKIN TECHNOLOGY NZ LIMITED (the Company)** that:

- I/We make this application for an account to be opened with the Company on the terms set out in this application;
- The information in this application is true and correct to the best of my/our knowledge;
- I/We have read, understood and agree to be bound by the terms and conditions of the Terms of Trade attached (**Terms**) which will govern every purchase of Goods and/or Services that I / we make from the Company;
- For the purposes of the Personal Properties Securities Act 1993 (**PPSA**) the Terms:
 - a) constitute a Security Agreement for the Goods and their proceeds as Collateral,
 - b) create a Purchase Money Security Interest in all and any Goods previously supplied and in any and all Goods that will be supplied by the Company in the future;
 - c) I/We waive certain rights under the PPSA as set out in the Terms.
- I/We are authorised Directors, Employees or Agents of the Customer and have express authority to enter into this contract on behalf of the Customer.
- I/We irrevocably authorise:
 - a) any person or company to provide the Company with any information as the Company may require for its credit enquiries;
 - b) the Company to:
 - (i) obtain any information as the Company may require for its credit enquiries;
 - (ii) exchange with any credit reporting agencies information about the Applications credit activities and credit worthiness;
 - (iii) disclose to or provide any other person with other information in relation to the Application.

For the Applicant by its Authorised signatory

Name

Signature

Witness Applicant signature

Position held

Date (dd/mm/yy)

Director/owner to complete:

In consideration of the Company agreeing to open an account with the Customer and/or providing credit to the Customer I / we unconditionally and irrevocably (and where there are more than one guarantors jointly and severally) guarantee all payments due to the Company from the Customer and the due performance by the Customer of all obligations owed to the Company.

Name

Signed as a personal guarantor(s)

Name

Signed as a personal guarantor(s)

DEVICE TECHNOLOGIES NEW ZEALAND LIMITED / ADVANCED SKIN TECHNOLOGY NZ LIMITED to complete:

Credit limit

Authorised by

15. *I declare that :*

- *I have read and agree to Device Technologies Terms and Conditions*
- *I have read and agree to Device Technologies Privacy Policy*

Name of person completing this form *

Email of person completing this form *

Signature *

Date *

*Upon signing the Company Credit Application
OR signing acceptance of a Company
quotation OR providing an order to the
Company, the Customer agrees that these
Terms shall apply.*

Click above button to submit the form or send the
completed form to ***accounts@device.co.nz***

Section D - Terms and Conditions of Trade

Reference: QF-911 Rev 0 2018 08 22

1. General

1.1 These Terms apply to all Goods and Services supplied by the Company to the Customer.

1.2 In these Terms:

Claims means all damages, losses, expenses and costs (including solicitor own client costs, debt collection costs and consequential losses) on a full indemnity basis;

Catalogue Goods means Goods that are not designed or procured specifically for the Customer;

Collateral means all present and after acquired Goods supplied by the Company to the Customer and all proceeds of sale of those Goods;

Company means Device Technologies New Zealand Limited (company no. 1020095) and / or Advanced Skin Technology NZ Limited (company no. 1884041);

Company IP means all intellectual property owned, or used by the Company, including patents, trademarks, copyrights, written instructions, drawings, plans, manuals and other information;

Consumer means the Customer where he purchases Goods and/or Services for personal, domestic, or household use or consumption and not for the purpose of resupplying in trade, using them in the course of production or manufacture or in the case of Goods, repairing or treating in trade other goods or fixtures on land;

Contract means a contract made between the Company and the Customer for Goods and / Services governed by these Terms;

Customer means the person or entity purchasing Goods and/or Services from the Company;

Customer IP means any intellectual property owned, used, or supplied by the Customer to the Company, including any drawings, plans or specifications provided by the Customer to the Company;

Event of Default means any of the following events: the Customer failing to make a payment to the Company when it is due; the Customer otherwise breaching or failing to comply with any of these Terms; the Customer commencing a proceeding under applicable bankruptcy law or other law for the relief of debtors, a petition being filed in relation to the Customer's bankruptcy, insolvency, reorganization (other than a voluntary reorganisation), winding-up, or composition or readjustment of debts, the Customer becoming insolvent or is unable to pay its debts as they become due;

Goods means all goods supplied by the Company to the Customer including medical, surgical, optometry and/or critical care products, medical instruments, equipment and implants and, where the context admits, Loaned Goods;

Includes means includes without implying any limitation and including shall be interpreted in the same manner;

Loaned Goods means any Goods which are loaned to the Customer;

Non-Catalogue Goods means goods that are non-standard that are designed and/or procured specifically for the Customer;

Order means an order for Goods or Services made by the Customer;

PPSA means Personal Property Securities Act 1999;

Price means the price (excluding GST) which is set out in the Company's price list at the time of an Order, or the price which is set out in a Quotation (whichever is applicable) subject to amendment in accordance with clause 3.7;

Quotation means a written quotation provided by the Company to the

Customer;

Services means all repair or other services performed by the Company for the Customer;

Terms means these Terms and Condition of trade (as amended from time to time).

2. Nature of these Terms

2.1 Unless agreed in writing by the Company, these Terms shall apply to all dealings between the Company and the Customer and apply and take precedence over any document provided or sought to be relied on by the Customer.

2.2 No variation of these Terms shall be effective unless it is in writing signed by the Company.

2.3 These Terms are drafted on the basis that the Customer is not a Consumer. The Customer shall inform the Company if the Goods or Services are to be acquired in the Customer's position as Consumer prior to placing an Order.

3. Quotations, Orders and Price

3.1 All Quotations will be provided in writing and subject to clause 3.2 are valid for 30 days from the date of the Quotation.

3.2 The Company may withdraw any Quotation at any time before receiving the Customer's confirmed Order.

3.3 The Customer may make an Order by the following methods:

(a) by emailing customers@device.co.nz or such other replacement e-mail address in place from time to time;

(b) by faxing 09 913-2009 or such other telephone number in place from time to time;

(c) verbally by phoning 09 913 2000;

(d) by writing to Technical Service Department, 47 Arrenway Drive, Albany. AUCKLAND.

3.4 The Customer should provide as much information as possible when placing an Order.

3.5 Orders are not binding on the Company until the Company has confirmed the Order in writing

3.6 Orders that have been accepted may not be cancelled by the Customer.

3.7 All prices are exclusive of GST, insurance, freight and other handling charges.

4. Payment

4.1 Unless otherwise agreed in writing, the Customer shall make all payments to the Company on the 20th day of the month following the invoice.

4.2 All payments must be made without set off or deduction (whether by way of counterclaim or otherwise).

4.3 The Company may apply payments received from the Customer to any transaction or invoice at the Company's discretion.

4.4 If at any time the Company deems the credit of the Customer to be unsatisfactory (in the Company's absolute discretion) the Company may require the Customer to provide at the Customer's cost, security for payment and/or the Company may suspend performance of its obligations under any Order until security is provided to its satisfaction.

5. Interest for Late Payment

5.1 The Company may charge interest on any monies outstanding under these Terms on a daily basis at a rate equal to 5% above the interest rate charged by Westpac New Zealand from time to time or such other major New Zealand bank nominated by the Company

5.2 Interest may be charged from the date payment was due until the date the Company receives payment in full.

5.3 The right of the Company to charge interest is without prejudice to its other rights or remedies for the Customer's late payment, and the Company may suspend performance of any of its obligations until payment is made in full.

6. Delivery

6.1 Delivery will be performed upon supplying the Goods or Services to the site designated by the Customer or Customer's agent or where the Customer collects the Goods from the Company.

6.2 The Customer shall ensure that it or an employee or agent is available to accept delivery.

6.3 The Customer agrees that any employee or agent of the Customer who signs for delivery shall be authorised to accept delivery and the Company will not be held liable for missing Goods where a signature has proven delivery.

6.4 The Company will make every reasonable effort to ensure that Goods and Services are supplied on time but is not be responsible for any Claims arising from delays in delivery.

6.5 Goods may be delivered separately and in such case each delivery will be regarded as a separate contract and subject to the same payment terms.

6.6 Failure or delay by the Company in making delivery at a specified time shall not entitle the Customer to cancel or repudiate the contract.

7. Risk, Ownership and Title

7.1 Risk in the Goods passes to the Customer on Delivery and the Customer is responsible for any loss, theft, damage or deterioration of or to the Goods from Delivery.

7.2 Notwithstanding the passing of risk, title (ownership) to the Goods remains with the Company until the Company has received payment in full in respect of all Orders.

7.3 The Customer shall:

(a) properly store the Goods separately in its premises and in such a way that they are identifiable as the property of the Company;

(b) shall not alter the Goods in any way or mix the Goods with other goods owned by the Customer

(c) protect and insure the Goods under its risk policy at all times.

8. Security over Collateral

8.1 The retention of title to the Goods under clause 7.2 creates a Purchase Money Security Interest (as that term is defined in the PPSA) in the Collateral and these Terms create a Security Agreement (as that term is defined in the PPSA).

8.2 The Company is entitled to file a financing statement in relation to the security interest created by these Terms and the Customer waives its right to receive a verification statement in relation to that registration.

8.3 The Customer agrees that it will not have, and to the extent required waives, the following rights set out in the PPSA:

(a) the right to receive notice of sale of Goods under section 114(1)(a);

(b) the right to receive a statement of account following sale of the Goods under section 116;

(c) the right to receive notice of our proposal to retain the Goods under section 120(2);

(d) the right to object to our proposal to retain the Goods under section 121;

(e) the right to not have the Goods damaged when we remove an accession under section 125;

(f) the right to receive notice of removal of accession under section 129;

(g) the right to apply to court concerning the removal of accession under section 131;

(h) the right to reinstate the Agreement under section 133; and

8.4 The Customer irrevocably grants the Company the unreserved right to enter the premises of the Customer or its agents during normal business hours and remove Goods relating to the unpaid amount.

8.5 The Company is not responsible for any Claims that the Customer may suffer as a result of the Company's repossession or entry into the Customer's premises, whether or not the Goods are attached to other goods or property owned by the Customer.

9. Non-Catalogue Goods

9.1 Without limiting clause 3.5, the Customer shall not cancel any Order for Non-Catalogue Goods.

9.2 The Company is entitled to rely upon the design and specifications supplied by the Customer in respect of Non-Catalogue Goods. The Company bears no responsibility for any costs or expenses which are incurred as a result of any mistake in designs, specifications or instructions given by the Customer.

9.3 Where the Company properly supplies Non-Catalogue Goods in accordance with the Customer's design and /or specification, the Customer will not make any claim against the Company that the Non-Catalogue Goods are not fit for purpose.

10. Loaned Goods

10.1 Loaned Goods remain the property of the Company at all times. The Customer shall not do anything, or omit to do anything, that would interfere with the Company's ownership of the Loaned Goods.

10.2 The Customer shall take all care and responsibility of the Loaned Goods, which shall include: not using them for any purpose other than the purpose agreed to in writing by the Company, not reverse engineering, changing, damaging, disassembling, reassembling, changing or adding parts to them, not mixing them with the Customer property; keeping them insured at all times for full replacement value.

10.3 The Customer shall reimburse the Company for all costs and expenses that it incurs in repairing or replacing any Loaned Goods.

11. Intellectual Property

11.1 All Company IP shall remain the property of the Company at all times.

11.2 The Customer shall not use any Company IP in any manner whatsoever without the written authorisation of the Company.

11.3 Where the Customer provides Customer IP to the Company, the Customer:

(a) authorises the Company to use the Customer IP solely for the purpose of supplying the Goods and/or Services;

(b) indemnifies the Company from all Claims that the Company may incur from its use of the Customer IP including in relation to any

purported infringement of any third party intellectual property rights.

12. Guarantees, Warranties and Liability

12.1 The Company warrants Catalogue Goods (excluding pneumatic equipment and all cutting instruments and drill bits, screws, taps chisels and osteotomes, reamers, periosteal elevators and gouges) for the period declared by the original manufacturer of the Goods as to:

(a) merchantable quality; and

(b) fitness for purposes declared in the Company catalogue, packaging or published or written specifications for the use of the Goods.

12.2 To the extent permitted by law the Company makes no representation, assurance, condition or warranty of any kind to the Customer in respect of Non Catalogue Goods.

12.3 Save as provided in clause 12.1 the Company will not be responsible for failure of the Customer to satisfy itself as to the fitness of any Goods for any other purposes intended by the Customer.

12.4 The Company shall not be liable for any indirect or consequential loss to the Customer arising out of any breach of the obligations of the Company and the aggregate liability of the Company whether in contract or otherwise in respect to all claims for loss, damage or injury shall be limited to the price of the Goods.

12.5 The Company shall not be liable for any breach, failure or delay in performing any of its obligations under these Terms where such breach, failure or delay is caused by war, civil commotion, hostilities, strike or lock-out, act of God, fire, flood, explosion, earthquake, inclement weather, Governmental regulations or directions, industrial or labour disturbance, failure of suppliers, inability to obtain raw materials or any other cause beyond the Company's reasonable control.

13. Claims for Damaged or Defective or Deteriorated Goods

13.1 Subject to clause 13.2, where the Company accepts liability in respect of the Goods it will, at its absolute discretion:

(a) repair the Goods;

(b) replace the Goods; or

(c) refund the price of the Goods.

13.2 The Company will not be responsible under clause 13.2 and the Customer will be deemed to have accepted the Goods unless

the Customer makes a claim specifically identifying the damage or defect(s) within seven (7) days of delivery of Goods or the damage or defect occurring, as the case may be.

13.3 The Customer agrees that claims shall not be considered in respect of Goods which:

(a) are not intact and in original condition and packaging;

(b) have been improperly stored causing damage or deterioration;

(c) have been altered in any way different to the conditions in which they have been supplied.

(d) have been mixed with or attached to other goods of the Customer causing damage or deterioration to the Goods.

(e) are outside of the warranty period.

13.3 Where the Customer has a claim in respect of the Goods he shall provide full details to the Company and such other information as the Company may reasonably require.

14. Grounds for Termination by the Company

14.1 The Company may terminate any and all Contracts immediately by written notice to the Customer if an Event of Default occurs.

14.2 Upon the termination of a Contract for any reason, all rights of the Customer granted by the Contract shall terminate. Termination of a Contract shall not relieve the Customer of its obligations to pay all monies owed by it to the Company on any account whatsoever, which money shall be payable immediately notwithstanding that the date for payment of the money may not have arrived. Termination of a Contract shall not relieve the Customer from liability arising from any antecedent breach of these Terms.

15. Guarantee

Where the Customer is a company or trust or partnership, the Company may require that a person(s) acceptable to the Company shall personally guarantee the obligations of the Customer.

16. Invalidity

If any of these Terms are invalid, void, illegal or unenforceable the remaining Terms shall not be affected, prejudiced or impaired.

17. General

17.1 Where the Company fails to enforce or delays in enforcing any right or remedy under these Terms the Company will not be deemed to have waived such right or remedy. Any waiver must be in writing by the Company to be effective.

17.2 If any of these Terms are invalid, void, illegal or unenforceable the remaining Terms shall not be affected, prejudiced or impaired.

17.3 The Customer shall not assign any of its rights or obligations without the Company's prior written consent.

18. Governing Law and Jurisdiction

18.1 These Terms shall be governed by New Zealand law.

18.2 The Customer agrees that the courts of New Zealand shall have non-exclusive jurisdiction to deal with any dispute arising from or in relation to these Terms.