



## HCB TECHNOLOGIES LIMITED – JAS OCEANIA

### APPLICATION FOR CREDIT AND/OR CONSIGNMENT ACCOUNT

TRADING NAME (if not Company name): \_\_\_\_\_  
 REGISTERED NAME OF COMPANY: \_\_\_\_\_  
 REGISTERED COMPANY NUMBER: \_\_\_\_\_ NZBN: \_\_\_\_\_  
 POSTAL ADDRESS: \_\_\_\_\_ POST CODE: \_\_\_\_\_  
 DELIVERY ADDRESS: \_\_\_\_\_  
 PHONE NO: \_\_\_\_\_ FAX NO: \_\_\_\_\_  
 MOBILE NO: \_\_\_\_\_ EMAIL ADDRESS: \_\_\_\_\_  
 NATURE OF BUSINESS: \_\_\_\_\_ HOW LONG HAVE YOU BEEN OPERATING THIS BUSINESS: \_\_\_\_\_ YRS  
 NAME ANY ACCOUNTS HELD WITH US: \_\_\_\_\_ ORDER NUMBER REQD: YES / NO  
 LIMITED COMPANY  PARTNERSHIP  SOLE TRADER  OTHER  PLEASE STATE: \_\_\_\_\_

FULL NAMES AND ADDRESSES OF DIRECTORS / PARTNERS / SOLE TRADER / OTHER			
SURNAME	FIRST NAMES	PRIVATE ADDRESS	PRIVATE PH NO

TRADE CREDIT REFERENCES (Nominate businesses dealing with you on credit terms, or if none, any personal dealings made on credit)		
NAME	ADDRESS OR BRANCH	PHONE NO

I declare the above particulars to be true and correct.

I have read, understand and accept the General Conditions of Sale and Consignment of HCB Technologies Limited – JAS Oceania (JAS) as shown on the back hereof, and I/we agree to be bound by them. The General Conditions of Sale that apply at the time of any order will govern the terms of any order.

I authorise JAS to obtain such information as is necessary to establish my/our credit worthiness from any person or entity, including but not limited to the above named referees and any credit reporting agency.

I authorise JAS to furnish to any third party, including but not limited to any credit reporting agency, details of this application and any subsequent dealings that I/we may have with JAS as a result of this application being actioned by JAS.

At JAS we like to keep our customers up to date with our latest products and developments. Tick here if you wish to receive marketing and promotional emails from JAS and other JAS group companies.

NAME: _____	DIRECTOR / PARTNER / OWNER: _____
SIGNATURE: _____	DATE OF BIRTH: _____ DATE: _____

#### GUARANTEE

This guarantee (*Guarantee*) is given by \_\_\_\_\_ (*Guarantor*) in favour of HCB Technologies Limited – JAS Oceania (JAS) in respect of money and obligations owed to JAS by \_\_\_\_\_ (*Buyer*).

In consideration of JAS supplying and continuing to supply goods and/or services to the Buyer, the Guarantor:

- 1 unconditionally and irrevocably guarantees the performance of all of the obligations (including payment) of the Buyer under the General Conditions of Sale and Consignment (*Terms*) entered into between JAS and the Buyer and shown on the back of this page (*Liability*); and
- 2 indemnifies JAS from and against any loss, claim, demand, costs (including solicitor-client costs), action or proceeding whatsoever which JAS may incur resulting from the default of the Buyer of any of its obligations under the Terms.

The Liability of the Guarantor under this Guarantee constitutes a principal obligation of the Guarantor and that Liability is not relieved or in any way affected in a manner prejudicial to JAS by any granting of time, credit or any forbearance to sue by JAS.

JAS may demand payment from the Guarantor of any Liability or the performance of any Liability without first taking any steps or proceedings against the Buyer in relation to that Liability.

This Guarantee shall remain in full force and effect until JAS grants a written release to the Guarantor, and shall not be discharged by the receivership, administration, liquidation, or bankruptcy of the Buyer.

<b>SOLE DIRECTOR / INDIVIDUAL</b>	in the presence of:	<b>SECOND DIRECTOR (IF ANY)</b>
SIGNATURE: _____	NAME: _____	SIGNATURE: _____
NAME: _____	OCCUPATION: _____	NAME: _____
DATE: _____	ADDRESS: _____	DATE: _____

**Note:** Where an individual or a company with only one director is to act as the Guarantor, the signature of the director or individual should be witnessed. Where a company with more than one director is to act as the Guarantor, two directors should sign (these signatures do not need to be witnessed).

**HCB TECHNOLOGIES LIMITED – JAS OCEANIA**  
**GENERAL CONDITIONS OF SALE AND CONSIGNMENT (EFFECTIVE 1 SEPTEMBER 2017)**

1. **General**
- 1.1 **Definitions**

'Buyer' means the person, individual, firm, company or entity (whether legal or otherwise) named as applicant on the Application for Credit and/or Consignment Account or otherwise placing an order for goods and/or services from the Seller.

'Goods' means all goods which are supplied by the Seller under any contract for consignment, sale, purchase, or other arrangement to the Buyer, and includes any services supplied by the Seller incidental to such goods.

'Seller' means HCB Technologies Limited and any successor or assignee.

'Terms' means these General Conditions of Sale and Consignment.
- 1.2 These Terms apply to all offers, quotations, and agreements entered into between the Seller and the Buyer for the supply of Goods. The placement of an order shall be deemed to be acceptance of these Terms by the Buyer. We may update these Terms from time to time and when we do so we'll post the new effective date on the Terms. The Terms in force at the time of the order will be the Terms that apply to that order.
- 1.3 Unless otherwise agreed to in writing by the Seller, in the case of any conflict arising between these Terms and any other terms between the Buyer and the Seller, these Terms shall prevail.
2. **Goods and Price**
- 2.1 The price shown on the Seller's website or otherwise confirmed by the Seller excludes the cost of delivery. The Seller reserves the right to charge the Buyer for delivery.
- 2.2 All prices are exclusive of goods and services tax, unless otherwise stated, and the amount of goods and services tax shall be added to the price payable by the Buyer.
- 2.3 Upon receipt of a purchase order the Seller will endeavor to supply the Buyer with the goods or services ordered, but the Seller will not be liable to the Buyer or any person if it declines to fulfil, or is unable to fulfil an order.
3. **Payment**
- 3.1 Payment is due on the 20th of the month following:
  - (a) in the case of Goods supplied on credit, of dispatch of the Goods by the Seller to the Buyer; or
  - (b) in the case of Goods supplied on consignment, following the date of the invoice issued under clause 3.3, unless otherwise specified and shall be made without deduction or set-off.
- 3.2 Payment not made by the due date shall be considered an overdue account and shall bear interest at a rate equal to 2% per month, calculated on a daily basis, from the due date until the date of actual payment. The Buyer agrees to pay to the Seller on a full indemnity basis all costs and expenses incurred by the Seller, including costs on a solicitor-client basis and debt collector's costs, enforcing or attempting to enforce any of the Seller's rights under these Terms. In the event of an overdue account the Seller may without prejudice to any other rights of the Seller under these Terms or otherwise at law or in equity:
  - (a) postpone further deliveries without notice until payment is made;
  - (b) reduce discounts (if any) on Goods purchased by the Buyer;
  - (c) take all legal action necessary to recover payment and/or the return of the Goods (without being under any obligation to accept Goods returned).
- 3.3 Where the Goods are to be supplied on consignment, the Seller will keep records of Goods delivered to the Seller (Delivery Records). At least monthly, the Seller's staff may conduct a stock count at the Buyer's premises (Stock Count). The Buyer will be invoiced for the difference between the Delivery Record and the Stock Count.
- 3.4 If the Seller shall at any time form the opinion that the Buyer may not make payment of any monies owing or to become owing to the Seller when due for any reason the Seller may require payment in full of all or any such monies, or provision of security for payment acceptable to the Seller, before commencing or continuing manufacture or making delivery of Goods to the Buyer.
4. **Risk, Delivery and Title**
- 4.1 The risk in the Goods shall pass to the Buyer when the Seller (or a third party on instruction by the Seller) hands possession or control of the Goods to the Buyer (or a third party on instruction by the Buyer). Until payment has been made the Buyer acknowledges and agrees that:
  - (a) the Buyer will hold the Goods as bailee pending resale and will resell them as agent for the Seller (provided that vis a vis any third party the Buyer will be deemed to be acting as a principal);
  - (b) title to the Goods is retained by the Seller until the Buyer has paid the Seller in full for all Goods in accordance with these Terms. Part payment of any amount for the Goods does not convey any part right, title or interest in the Goods;
  - (c) the Buyer will keep the Goods in a new condition and will ensure that all serial numbers, identification marks, stickers and packaging are kept intact until the Goods are resold;
  - (d) the Seller, its agents and servants may, at any time and without notice, for any reason, and at its sole discretion, enter any land or premises where the Goods are kept in order to search for and take possession of and/or remove the Goods (including detachment where the goods are wholly or partly attached to other items) without being responsible for any damage caused in doing so. The Buyer agrees to procure all rights or consents necessary to enable the Seller to enter and take possession and remove the Goods, and to indemnify the Seller (and its employees and agents) against any liability incurred in connection with such entry, taking possession, and removal.
  - (e) any costs incurred by the Seller in exercise of its powers of repossession, storage or resale of the Goods (including legal costs as between solicitors and own client) will be immediately on demand due and payable by the Buyer to the Seller (without deduction or set-off);
  - (f) nothing in this clause permits the Buyer to return any of the Goods because they are surplus to requirements or for non-payment by the Buyer, or for any other reason whatsoever.
- 4.2 Time of delivery shall not be treated as a condition of sale. The Seller shall not be liable in any way to the Buyer or any other party for loss resulting from delay. The Seller reserves the right to deliver the Goods by instalments and each instalment shall be deemed to be a separate contract governed by these Terms.
- 4.3 The Buyer may return non-faulty Goods to the Seller at the Seller's sole discretion, and the Seller will give the Buyer a credit for those goods only if the following conditions are met:
  - (a) the Goods are returned at the Buyer's expense, unused, and the same condition in which they were dispatched;
  - (b) the Goods are returned within seven days of the date of dispatch together with the correct reference to the delivery note number and the date of dispatch.
5. **Liability**
- 5.1 Subject to any rights the Buyer may have under the Consumer Guarantees Act 1993, the Seller shall, at its option, replace or give credit for Goods that the Seller determines to be defective and shall, at its option, arrange for delivery of replacement Goods or give credit for shortages in the quantity of Goods dispatched, but only if the following conditions are met:
  - (a) claims must be received by the Seller within 48 hours after delivery of the Goods;
  - (b) claims in respect of defective Goods must specifically identify the defect;
  - (c) Goods in respect of which a defect is claimed must be returned to the Seller in accordance with the provisions of Clause 4.3 of these Terms.
- 5.2 Except as set out in these terms and, subject to any liability that cannot be excluded by law (including where the Buyer is a consumer under the Consumer Guarantees Act), it is expressly agreed and declared by the Seller and the Buyer that:
  - (a) all warranties, descriptions, representations or conditions (whether implied by law, trade custom or otherwise) are, and all other liability of the Seller, whether in tort (including negligence), contract or otherwise are expressly excluded to the fullest extent permitted by law;
  - (b) to the maximum extent permitted by law, the Consumer Guarantees Act 1993 will NOT apply if the Buyer acquired, or held itself out as acquiring, the Goods in trade; and
  - (c) except where the Buyer is a consumer for the purposes of the Consumer Guarantees Act: (i) the total liability of the Seller whether in tort (including negligence), contract or otherwise for any loss, damage or injury arising directly or indirectly from any defect in Goods supplied by the Seller or any other breach of the Seller's obligations shall be limited at the Seller's option to the lesser of the purchase price of the Goods complained of, the cost of repairing or replacing the defective Goods or workmanship or the actual and direct loss or damage suffered by the Buyer; and (ii) the Seller shall not be liable for any consequential, indirect or special damage, loss or injury of any kind suffered by the Buyer or any other person (including, but not limited to loss of income, loss of revenue, business disruption, and damage to vehicles).
- 5.3 For the purposes of section 43(2)(a) of the Consumer Guarantees Act 1993, these Terms shall be deemed to form an agreement in writing between the Seller and the Buyer upon acceptance of the Goods by the Buyer.
6. **Miscellaneous**
- 6.1 No order once accepted by the Seller may be cancelled or varied by the Buyer except by the written agreement of the Seller and no returns will be accepted except by written agreement of the Seller (unless the return is of faulty Goods and the Buyer is a consumer under the Consumer Guarantees Act).
- 6.2 The Seller shall not accept responsibility for any loss or damage to Goods or to any other property, held at or stored within the Seller's premises for any purpose whatsoever and any such property shall be accepted into the Seller's custody at "owner's risk" and it shall be the responsibility of the owner of the Goods to arrange insurance protection of these Goods.
- 6.3 The Buyer acknowledges the following shall be deemed to be a default under these Terms:
  - (a) if any amount payable by the Buyer is overdue; or
  - (b) if the Buyer fails to meet any obligation under, or breaches any provision of these Terms, or if there is a breach of any obligation under any other agreement between the Buyer and the Seller; or
  - (c) if the Buyer becomes or is likely to become insolvent or an arrangement is made with its creditors; or
  - (d) if a receiver is appointed in respect of any assets of the Buyer; or
  - (e) if the Buyer no longer carries on business or threatens to cease carrying on business.
- 6.4 Following any default under these Terms, the Seller shall be entitled to do any or all of the following without notice:
  - (a) refuse to supply any Goods;
  - (b) call up all amounts owing by the Buyer to the Seller which such amounts shall immediately be due and payable;
  - (c) cancel or demand payment of all or any part of any contract or contracts (including these Terms) with the Buyer.
- 6.5 The enforcement, partial enforcement, waiver of rights, invalidity, or grant of time, of any of the Seller's rights under these Terms shall not be deemed to be a waiver or invalidity of any other of the Seller's rights under these Terms.
- 6.6 These Terms shall be governed by and construed in accordance with the laws of New Zealand and each of the parties submits to the non-exclusive jurisdiction of the courts of New Zealand.
7. **Privacy Statement**
- 7.1 The Seller is collecting information about the Buyer and each of the individuals identified in an Application for Credit and/or Consignment Account or other registration with HCB Technologies Limited (each an 'Individual') to determine whether to open a credit and/or consignment account in the name of the Buyer, to accept an Individual as a guarantor of the Buyer's obligations and thereafter from time to time to determine whether or not to continue offering credit to the Buyer. If all the requested information is not provided, the Buyer may not be able to open a credit and/or consignment account or purchase Goods on credit from the Seller. Information collected and held about the Buyer and each Individual may be used from time to time for credit assessment and control and debt recovery purposes, to register any security interest granted to the Seller, for marketing and promotional purposes and generally to do business with the Seller. Information (including default information) may from time to time be disclosed to, and collected from, the Buyer's trade references, credit reporting agencies, debt collection agencies and other companies in the Seller's group of companies (the 'Group') for credit assessment and control and debt recovery. Information disclosed to credit reporting agencies (including default information) will be held by each agency on its system accessed by the customers of the credit reporting database and used to provide its credit reporting services (including the maintenance of credit information files and supplying the information to other customers of the relevant credit reporting agency). Under the Privacy Act 1993, Individuals have rights of access to, and correction of, their personal information.
8. **Personal Property Securities Act 1999**
- 8.1 The Buyer acknowledges and agrees that:
  - (a) these Terms constitute a security agreement for the purpose of the Personal Property Securities Act (the 'PPSA'); and
  - (b) a security interest is taken in all Goods previously supplied by the Seller to the Buyer (if any) and all Goods that will be supplied in the future by the Seller to the Buyer during the continuance of the parties' relationship.
- 8.2 The Buyer undertakes to:
  - (a) sign any further documents and/or provide any further information such information to be complete, accurate and up-to-date in all respects, which the Seller may reasonably require to register a financing statement or financing charge statement on the Personal Property Securities Register;
  - (b) indemnify, and upon demand reimburse, the Seller for all expenses incurred in registering a financing statement or financing charge statement on the Personal Property Securities Register or releasing any Goods charged thereby;
  - (c) not register a financing charge statement or a charge demand without the prior written consent of the Seller;
  - (d) give the Seller not less than fourteen (14) days prior written notice of any proposed change in the Buyer's name and/or any other change in the Buyer's details (including but not limited to, changes in the Buyer's address, facsimile number, or business practice); and
  - (e) immediately advise the Seller of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 8.3 The Seller and the Buyer agree that nothing in section 114(1)(a), 133 and 134 of the PPSA shall apply to the enforcement by Seller of any security interest created or provided for under these Terms.
- 8.4 The Buyer waives its right as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.
- 8.5 Unless otherwise agreed to in writing by the Seller, the Buyer waives its right to receive a verification statement in accordance with section 148 of the PPSA.