

PHOTO DIRECT PTY LTD

ABN 21 116 852 021

CREDIT APPLICATION FORM

I/We, the undersigned, hereby apply for a credit account with Photo Direct Pty Ltd and submit the following details in support of my/our application.

1. Business Name (IN FULL): _____
A.B.N. _____ A.C.N. _____
Address (Street): _____
Telephone no: _____ Fax: _____
Email: _____
Nature of Business: _____
Date established: _____

2. Company/Partnership/Sole Trade/Head Office/Branch/Subsidiary
(please delete as required and give below any relevant details)

Company Secretary: _____
Partners Name: _____
Directors Name(s): _____
Owners Name: _____
Head Office: _____
Parent Company: _____
Bankers & Branch: _____

3. Sales Contact: _____ Phone _____ email _____

4. Accounts Contact: _____ Phone _____ email _____

5. Accounts to be rendered to (Postal Address): _____

6. BUSINESS REFERENCES:
(a) _____ Telephone no: _____
(b) _____ Telephone no: _____
(c) _____ Telephone no: _____

7. We hereby accept your payment terms of 7/30 days nett and your other
General Terms of Sale and Supply provided as signed and attached.

I acknowledge that I have been given a copy
of this Credit Application by the Company and that:

1. I am authorised by the Customer to make this application on its behalf and warrant that the information contained in this application is true and correct.
2. **I have read and understand the terms and conditions overleaf.**
3. I agree that all dealings between the customer and the Company will be subject to the Terms and Conditions overleaf unless otherwise agreed in writing.

.....
Applicant's Signature

.....
Date

Standard pricing applies to 7 day accounts. 5% uplift is added for 30 day terms.

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TERMS & CONDITIONS

All sales of goods and services by Photo Direct Pty Ltd are made on the terms set out below.

1. GENERAL

- (a) The Contract Terms include all those statutory rights conferred on the purchaser which Photo Direct is not capable of excluding restricting or modifying ("the purchaser's statutory rights").
- (b) Unless other terms are accepted in writing by Photo Direct, the Contract Terms shall apply to the exclusion of all prior discussions representations, understandings and arrangements, and all conditions and warranties (written or oral, express or implied) and other representations (contractual or otherwise):
 - (i) whether or not arising under statute, by implication of law or by custom or usage, and
 - (ii) whether or not endorsed or delivered with or referred to in any order or other document delivered by the purchaser to Photo Direct, with respect to the supply of goods or services.

2. PRICES

- (a) Prices are exclusive of GST.
- (b) Prices include delivery from Photo Direct's warehouse to a purchaser's premises.
- (c) The prices charged will be those ruling at the date of despatch of the goods or supply of the services. Price lists are not an offer. All prices are subject to change without notice.
- (d) To obtain a valid tax invoice, the purchaser must supply Photo Direct with its ABN.

3. PAYMENT

- (a) Payment is to be made within 7 days of delivery at net invoiced prices. If payment terms are required by and granted to the purchaser, payment is to be made in full 30 days from date of invoice, with a 5% surcharge applying to the invoice value.
- (b) Payments in respect of export orders are to be made against documents by cash or confirmed irrevocable letter of credit.
- (c) All payments are to be made on or before the due date as a condition precedent to future deliveries or supplied under this or any other contract.
- (d) In the event of default by the purchaser in accordance with Clause 3(a) all debt recovery costs, including legal costs on a solicitor/own client basis and disbursements, and any Mercantile agent costs charged to Photo Direct will be part of the indebtedness of the purchaser to Photo Direct.

4. DELIVERY OR SUPPLY

Photo Direct will endeavour to deliver the goods, supply the services or otherwise complete the contract within the time agreed (if any) or within a reasonable time (in the absence of agreement), but shall not be liable for any loss or damage of any kind whatsoever caused directly or indirectly by any delay in delivery, supply or completion or failure to deliver, supply or complete. If delay or failure is caused by force majeure or labour dispute Photo Direct may suspend delivery, supply or completion and/or terminate the contract. "Force majeure" means an act of God, war, lightning, fire, earthquake, storm, flood, explosion, unavailability or delay in availability of equipment, materials or transport, and any other cause whether of the kind specifically enumerated or otherwise which is not within the control of Photo Direct.

5. SMALL ORDER HANDLING

Photo Direct applies a \$25 handling charge for orders below \$500 in value. This does not apply to partial shipments or back orders where the whole order value is over \$500.

6. EXPORT

All export sales shall be subject to the additional terms set out on the face thereof or otherwise stated by Photo Direct in writing. Terms used shall have the meaning assigned to them by the relevant provisions of incoterms current at the date of the sale, to the extent they are not inconsistent with the Contract Terms.

7. CLAIMS

The purchaser shall advise Photo Direct in writing of any claims –

- (a) For loss or damage – within 7 days of receipt in the case of Australian orders and 14 days of receipt in the case of export orders, and
- (b) For non-delivery – within 14 days of agreed or reasonable delivery time in the case of Australian orders and 21 days of agreed or reasonable delivery time in the case of export orders.
- (c) For pricing difference within 7 days of invoice.

8. WARRANTY & LIABILITY

Goods distributed by Photo Direct are warranted by the manufacturer. Photo Direct are nor responsible for damages or loss or consequential losses. Photo Direct makes no warranties, expressed or implied on any manufacturers' goods.

- (a) If any warranties are given by Photo Direct with respect to goods or services they are set out on, or on the packaging of, or enclosures with, the particular goods to which they relate.
- (b) Those warranties are in addition to the purchaser's statutory rights, but it is a term of the contract that to the full extent permitted by law the liability of Photo Direct for breach of the purchaser's statutory rights is limited solely to any one or more of the following as determined by Photo Direct namely:
 - (i) (in the case of goods) the replacement or repair of the goods, supply of equivalent goods or the payment of the cost of replacing or repairing the goods or supplying equivalent goods, and
 - (ii) (in the case of services) supplying the services again or the payment of the cost of supplying the services again.
- (c) Except for 9(b), Photo Direct will in no circumstances be liable for any loss or damage of any kind whatsoever caused directly or indirectly by any defect in material or workmanship or any defect in or unsuitability of the goods or services supplied or by any negligence of Photo Direct or of any servant, contractor or agent of Photo Direct.
- (d) Photo Direct does not make any promise other than that contained in its warranties that any parts or repair facilities in respect of the goods will be available or available at any time or at any specified location.

9. RETURNS

- (a) No claim of any nature (other than relating to warranty) will be recognised unless made within 7 days of delivery.
- (b) Goods can only be returned if prior approval has been sought and received from Photo Direct.

10. SERVICES

The purchaser warrants that processing and printing services supplied by Photo Direct will not:

- (a) infringe the copyright, design, trade marks or other rights whatsoever of any third party,
- (b) contravene any law for the time being in force.

11. WAIVER

Failure by Photo Direct to enforce any of the Contract Terms shall not be construed as a waiver of any of Photo Direct's rights hereunder or a waiver of continuing breach.

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12. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws in force in Victoria and the purchaser submits to the jurisdiction of the courts of that State.

13. CHANGE OF OWNERSHIP

The Purchaser agrees to notify Photo Direct in writing of any change of ownership of the Purchaser within seven (7) days from the date of such change and indemnifies Photo Direct against any loss or damage incurred by it as a result of the Purchaser's failure to notify Photo Direct of any change.

14. CANCELLATION

Orders placed with Photo Direct cannot be cancelled without the written approval of Photo Direct. In the event that Photo Direct accepts the cancellation of any order placed with it, it shall be entitled to charge a reasonable fee for any work done on behalf of the Purchaser to the date of the cancellation including a fee for the processing and acceptance of the Purchaser's order and request for cancellation.

15. LIEN

The Purchaser hereby acknowledges that Photo Direct has a lien over all goods in its possession belonging to the Purchaser to secure payment of any or all amounts outstanding from time to time.

16. TITLE

- (a) Property in any items or goods sold by Photo Direct shall not pass to the Purchaser until the Purchaser has paid for the items or goods in full and all other monies outstanding under any other sale of items or goods by Photo Direct to the Purchaser.
- (b) Risk of loss or damage to the items or goods passes to the Purchaser with possession. Until payment of the purchase price (or all monies outstanding) the Purchaser is to insure the items or goods against all risk. Any insurance claim in respect of loss damage or destruction of the items or goods is hereby assigned to Photo Direct.
- (c) The Purchaser hereby indemnifies Photo Direct against any loss or damage to the items or goods howsoever arising.
- (d) The Purchaser is entitled to resell the items or goods in the usual course of its business but Photo Direct is to be paid from the proceeds of the sale the purchase price owed to Photo Direct (or all monies outstanding) which proceeds, to the extent of the purchase price (or all monies outstanding) shall be kept in a separate account and held by the Purchaser in trust for Photo Direct.
- (e) The Purchaser shall, on request disclose to Photo Direct all relevant information regarding the items or goods and any sale by the Purchaser.
- (f) In the event that:-
- (i) the Purchaser has failed to pay for the items or goods as and when due;
- (ii) the Purchaser has breached any of the conditions of this Contract;
- (iii) the Purchaser commits an act of bankruptcy or becomes bankrupt;
- (iv) a receiver or manager is appointed to the Purchaser;
- (v) the Purchaser is placed into Liquidation;
- (vi) the Purchaser enters into a scheme of arrangement with its creditors;
- (vii) execution is issued against the property of the Purchaser and is returned unsatisfied; or
- (viii) the Purchaser is insolvent; and
- (ix) then Photo Direct may retake possession of any of its goods which have been supplied to the Purchaser and for which payment has not been received and for this purpose Photo Direct may enter any premises belonging to or occupied by the Purchaser. The Purchaser hereby grants right of entry to Photo Direct for the purpose of retaking possession of its goods and indemnifies Photo Direct, its servants, agents and employees in relation to any loss or damage occurring as a result of retaking of possession of the goods.

17. CHARGE

The Purchaser hereby charges its property with the Purchaser's indebtedness to Photo Direct.

18. CONSENT TO CREDIT CHECK - PRIVACY ACT

By signing this form the Purchaser acknowledges and authorizes Photo Direct pursuant to the provisions of the *Privacy Act* to:-

- a. seek from or give to a Credit Reporting Agency personal information about the Purchaser at any time after signing this form; and
- b. contact any trade references or other credit providers and acquire from them or give to them personal information to them in relation to the Purchaser and its credit worthiness.

I _____ accept these terms and conditions on behalf of _____

____/____/____

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GUARANTEE AND INDEMNITY BY DIRECTORS OF A COMPANY

I/We the undersigned, being the Company Director(s) of the Customer, and in consideration of the Company granting credit to the Customer and agreeing to supply goods or services to the Customer from time to time, **HEREBY JOINTLY AND SEVERALLY, ABSOLUTELY, UNCONDITIONALLY AND IRREVOCABLY GUARANTEE** the due and punctual payment by the Customer of all debts owing ("the guaranteed money") to the Company by the Customer from time to time and **UNDERTAKE** that if the Customer does not pay to the Company any of the guaranteed money when due, I/we will pay the guaranteed money to the Company immediately on demand.

I /WE AGREE AND ACKNOWLEDGE THAT: -

1. This is a continuing guarantee and indemnity.
2. This guarantee and indemnity will not be discharged by any time, credit, waiver, indulgence or other concession given to the Customer by the Company.
3. The Company may enforce this guarantee and indemnity against me/us without first taking any steps or proceedings, or exercising any rights which the Company may have against the Customer.
4. This guarantee and indemnity shall be valid and enforceable against any guarantor who has executed it notwithstanding that any one or more other guarantor has refused, failed or neglected for whatever reason to sign this guarantee and indemnity.

I/WE JOINTLY AND SEVERALLY, ABSOLUTELY, UNCONDITIONALLY AND IRREVOCABLY INDEMNIFY the Company against all losses, damages, costs, charges and expenses whatsoever which the Company may incur or suffer as a result of any breach by the Customer of its agreement with the Company including but not limited to its failure to pay any debts as and when due.

THIS IS AN IMPORTANT DOCUMENT. PLEASE READ IT CAREFULLY AND ENSURE THAT YOU UNDERSTAND IT BEFORE SIGNING.

Dated:

Director	Director
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Print Name	Print Name
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