



COLUMBIT (NEW ZEALAND) LIMITED

PO Box 58-351, Greenmount, Auckland. Unit B – 6 Cryers Road, East Tamaki, Auckland.
Tele: (09) 274 5278. Fax: (09) 274 6980.
Email: sales@columbit.co.nz

ACCOUNT APPLICATION FORM

ENTITY DETAILS:

APPLICANT'S FULL LEGAL NAME (i.e. not trading name): ("the Client")

(Please tick) Sole Trader Individual Partnership Ltd Company Other (please state):

Trading as: Postal Address:

Physical Address: Email:

Nature of Business: Years in Business:

Telephone: Fax: Date of Birth:

Contact Name & Position:

OWNERSHIP please insert Owner(s) / Directors Name(s) in full

1:..... Address:

2:..... Address:

IF LIMITED LIABILITY COMPANY - Address of Registered Office:

Date of Incorporation: Incorporation No:

FINANCIAL & PROFESSIONAL ADVISORS

Shareholders Funds: Paid Up:

Name of Accountant: Solicitor:

Bank:..... Branch: Acct No:

TRADE REFERENCES			
Company	Contact Name	Phone Number	Account open since

General Description of products and services to be provided:
.....

I/We have read and agree to be bound by the terms and conditions of trade as printed overleaf or attached. I/We warrant to Columbit (New Zealand) Limited that the above information is to the best of my/our knowledge, information and belief true and correct and that I/we am/are duly authorised to enter into this application and future contracts on behalf of the Client. I/we also acknowledge that pursuant to the personal guarantee contained in the terms and conditions of trade that, where relevant, I/we am/are also signing this application form in my/our personal capacity.

If the applicant is a company then this application form must be signed by a director of the company.

Signed Print Name Designation

Dated this day of 20

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1 "Columbit" shall mean Columbit (New Zealand) Limited, or any agents or employees thereof.
- 1.2 "Client" shall mean the Client, any person acting on behalf of and with the authority of the Client, or any person purchasing products and services from Columbit.
- 1.3 "Products and services" shall mean:
 - 1.3.1 all products and services of the general description specified on the front of this agreement and supplied by Columbit to the Client; and
 - 1.3.2 all products and services supplied by Columbit to the Client; and
 - 1.3.3 all inventory of the Client that is supplied by Columbit; and
 - 1.3.4 all products and services supplied by Columbit and further identified in any invoice issued by Columbit to the Client, which invoices are deemed to be incorporated into and form part of this agreement; and
 - 1.3.5 all products and services that are marked as having been supplied by Columbit or that are stored by the Client in a manner that enables them to be identified as having been supplied by Columbit; and
 - 1.3.6 all of the Client's present and after-acquired products and services that Columbit has performed work on or to or in which products and services or materials supplied or financed by Columbit have been attached or incorporated.
 - 1.3.7 The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4 "Products and services" shall also mean all products, goods, services and advice provided by Columbit to the Client and shall include without limitation the importation, export, wholesale and distribution of machinery (washing, cooking, food processing and ancillary bake ware), wine ingredients, barrels, food proteins, flavourings, product development and technical advice in relation to food products, flavours, protein shakes, meat flavours, sausages, maintenance repairs and installation of machinery and all charges for labour, hire charges, insurance charges, freight costs, or any fee or charge associated with the supply of products and services by Columbit to the Client.
- 1.5 "Price" shall mean the cost of the products and services as agreed between Columbit and the Client and includes all disbursements eg charges Columbit pay to others on the Client's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1 Any instructions received by Columbit from the Client for the supply of products and services shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The Client authorises Columbit to collect, retain and use any information about the Client, for the purpose of assessing the Client's credit worthiness, enforcing any rights under this contract, or marketing any products and services provided by Columbit to any other party.
- 3.2 The Client authorises Columbit to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Client is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1 Where no price is stated in writing or agreed to orally the products and services shall be deemed to be sold at the current amount as such products and services are sold by Columbit at the time of the contract.
- 4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the products and services that is beyond the control of Columbit between the date of the contract and delivery of the Products and services.

5. PAYMENT

- 5.1 Unless otherwise agreed payment for products and services and services shall be made in full on or before the 20th day of the month following the date of the invoice ("the due date").
- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by Columbit in the enforcement of any rights contained in this contract shall be paid by the Client, including any actual solicitor's fees or debt collection agency fees.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5 A deposit may be required.
- 5.6 Progress payments may apply.

6. QUOTATION

- 6.1 Where a quotation is given by Columbit for products and services:
 - 6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
 - 6.1.2 The quotation shall be exclusive of goods and services and services tax unless specifically stated to the contrary;
 - 6.1.3 Columbit reserves the right to alter the quotation because of circumstances beyond its control.

- 6.2 Where products and services are required in addition to the quotation the Client agrees to pay for the additional cost of such products and services.

7. RISK

- 7.1 The products and services remain at Columbit's risk until delivery to the Client.
- 7.2 Delivery of products and services shall be deemed complete when Columbit gives possession of the products and services directly to the Client or possession of the products and services is given to a carrier, courier, or other bailee for purposes of transmission to the Client.

8. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 8.1 Title in any products and services supplied by Columbit passes to the Client only when the Client has made payment in full for all products and services provided by Columbit and of all other sums due to Columbit by the Client on any account whatsoever. Until all sums due to Columbit by the Client have been paid in full, Columbit has a security interest in all products and services.
- 8.2 If the products and services are attached, fixed, or incorporated into any property of the Client, by way of any manufacturing or assembly process by the Client or any third party, title in the products and services shall remain with Columbit until the Client has made payment for all products and services, and where those products and services are mixed with other property so as to be part of or a constituent of any new products and services, title to these new products and services shall be deemed to be assigned to Columbit as security for the full satisfaction by the Client of the full amount owing between Columbit and Client.
- 8.3 The Client gives irrevocable authority to Columbit to enter any premises occupied by the Client or on which products and services are situated at any reasonable time after default by the Client or before default if Columbit believes a default is likely and to remove and repossess any products and services and any other property to which products and services are attached or in which products and services are incorporated. Columbit shall not be liable for any costs, damages, expenses or losses incurred by the Client or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Columbit may either resell any repossessed products and services and credit the Client's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed products and services and credit the Client's account with the invoice value thereof less such sum as Columbit reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 8.4 Where products and services are retained by Columbit pursuant to clause 8.3 the Client waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
- 8.5 The following shall constitute defaults by the Client:
 - 8.5.1 Non payment of any sum by the due date.
 - 8.5.2 The Client intimates that it will not pay any sum by the due date.
 - 8.5.3 Any products and services are seized by any other creditor of the Client or any other creditor intimates that it intends to seize products and services.
 - 8.5.4 Any products and services in the possession of the Client are materially damaged while any sum due from the Client to Columbit remains unpaid.
 - 8.5.5 The Client is bankrupted or put into liquidation or a receiver is appointed to any of the Client's assets or a landlord distrains against any of the Client's assets.
 - 8.5.6 A Court judgment is entered against the Client and remains unsatisfied for seven (7) days.
 - 8.5.7 Any material adverse change in the financial position of the Client.

9. PAYMENT ALLOCATION

- 9.1 Columbit may in its discretion allocate any payment received from the Client towards any invoice that Columbit determines and may do so at the time of receipt or at any time afterwards and on default by the Client may reallocate any payments previously received and allocated. In the absence of any payment allocation by Columbit, payment shall be deemed to be allocated in such manner as preserves the maximum value of Columbit's purchase money security interest in the products and services.

10. DISPUTES

- 10.1 No claim relating to products and services will be considered unless made in writing within seven (7) days of delivery.

11. LIABILITY

- 11.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Columbit which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Columbit, Columbit's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 11.2 Except as otherwise provided by clause 11.1 Columbit shall not be liable for:
 - 11.2.1 Any loss or damage of any kind whatsoever, arising from the supply of products and services by Columbit to the Client, including consequential loss whether suffered or incurred by the

Client or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from products and services provided by Columbit to the Client; and

11.2.2 The Client shall indemnify Columbit against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Columbit or otherwise, brought by any person in connection with any matter, act, omission, or error by Columbit its agents or employees in connection with the Products and services.

12. COPYRIGHT AND INTELLECTUAL PROPERTY

12.1 Columbit, owns and has copyright in all products and services designed and produced by Columbit, drawings, specifications, models, photographs, documents and software produced by Columbit in connection with the products and services provided pursuant to this contract and the client may use the products and services only if paid for in full and for the purpose for which they were intended and supplied by Columbit.

13. CONSUMER GUARANTEES ACT

13.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Client acquires Products and services from Columbit for the purposes of a business in terms of section 2 and 43 of that Act.

14. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

14.1 If the Client is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for Columbit agreeing to supply products and services and grant credit to the Client at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Columbit the payment of any and all monies now or hereafter owed by the Client to Columbit and indemnify Columbit against non-payment by the Client. Any personal liability of a signatory hereto shall not exclude the Client in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Client shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

15. GENREAL LIEN

15.1 The Client agrees that Columbit may exercise a general lien against any products and services or property belonging to the Client that is in the possession of Columbit for all sums outstanding under this contract and any other contract to which the Client and Columbit are parties.

15.2 If the lien is not satisfied within 7 days of the due date Columbit may, having given notice of the lien at its option either:

15.2.1 Remove such products and services and store them in such a place and in such a manner as Columbit shall think fit and proper and at the risk and expense of the Client; or

15.2.2 Sell such products and services or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and the costs of sale with out being liable to any person for damage caused.

16. MISCELLANEOUS

16.1 Columbit shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.

16.2 Failure by Columbit to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Columbit has under this contract.

16.3 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

16.4 The law of New Zealand shall apply to this contract.