

## CREDIT ACCOUNT APPLICATION

**To Be Completed By Applicants** - Please complete all sections and read the Terms and Conditions of Trade overleaf or attached.

<b>Customer's Details:</b> <input type="checkbox"/> Bars And Restaurants <input checked="" type="checkbox"/> Sports Clubs <input type="checkbox"/> Friends And Family <input type="checkbox"/> Private Functions				
Full or Legal Name: 1 1				
Trading Name: 1 (If different from above)				
Physical Address: 1 1 1			Postcode: 1	
Billing Address: 1 1 1			Postcode: 1	
Email Address: dsfgedfgbgsdefdfswdnjn@dfjhds.com				
Phone No: 1		Fax No:		Mobile No: 1
<b>Personal Details:</b> (please complete if you are an Individual)				
D.O.B. 03-02-1911		Driver's Licence No:		
<b>Business Details:</b> (please complete if you are a Sole Trader, Trust, Partnership, Company or Other - as specified)				
Company Number: 1		Date Incorp. 2/12/2020 (current owners):		
Nature of Business: 1			GST No: 1 (if applicable)	
Paid Up Capital: \$ 1.00		Estimated Monthly Purchases: \$ 1.00		Credit Limit Required: \$ 1.00
Principal Place of Business is: <input checked="" type="checkbox"/> Rented <input type="checkbox"/> Owned <input type="checkbox"/> Mortgaged (to whom):				
Directors / Owners / Trustee (if more than two, please attach a separate sheet)				
(1) Full Name: 1			D.O.B. 12-02-2020	
Private Address: 1			Postcode: 1	
Driver's Licence No: 1		Phone No: 1		Mobile No: 1
<b>Liquored Licence Details:</b>				
Licensee Full Name: 1			Company No. 1	
Liquore License No: 1			Expiry Date. 1/12/2020	
Tobacco License No: N/A			Expiry Date. N/A	
Premises Address: 1			Postcode: 1	
Previous License Details:			Phone. 1	
Facsimile No: 1		Landlord Name:		Date Leased From/To: 23/12/2020 /
<b>Account Terms:</b> <input checked="" type="checkbox"/> 20 Days <input type="checkbox"/> COD <input type="checkbox"/> Other:				
Purchase Order Required? <input type="checkbox"/> YES <input type="checkbox"/> NO		Accounts to be emailed? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Accounts Email Address: fenchurch.nz@gmail.com				
Accounts Contact: 1			Phone No: 1	
Bank and Branch: 1 / 1			Account No: 1	
<b>Trade References:</b> (please provide companies that are willing to do trade references)				
Name:		Address:		Phone / Fax / Email:
1. 1		1		1
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I certify that the above information is true and correct and that I am authorised to make this application for credit. I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf or attached) of Makan Distiller Ltd which form part of, and are intended to be read in conjunction with this Credit Account Application and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein. ***I agree that if I am a director/shareholder (owning at least 15% of the shares) of the Customer I shall be personally liable for the performance of the Customer's obligations under this contract.***

**SIGNED (CUSTOMER):** \_\_\_\_\_ **SIGNED (MDL):** \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Position: \_\_\_\_\_ Position: \_\_\_\_\_

**WITNESS TO CUSTOMER'S SIGNATURE:**

Signed: \_\_\_\_\_ Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Terms and Conditions**

**1. Definitions**

**1.1** "Contract" means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.

**1.2** "MDL" means NZ Makan Distiller Ltd, its successors and assigns or any person acting on behalf of and with the authority of Makan Distiller Ltd.

**1.3** "Customer" means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting MDL to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:

- (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
- (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
- (c) if the Customer is a part of a trust, shall be bound in their capacity as a trustee; and
- (d) includes the Customer's executors, administrators, successors and permitted assigns.

**1.4** "Goods" means all Goods or Services supplied by MDL to the Customer at the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).

**1.5** "Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, "Personal Information" such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.

**1.6** "Price" means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Goods as agreed between MDL and the Customer in accordance with clause 2 of this Contract.

**2. Price and Payment**

**2.1** The Price shall be as indicated on invoices provided by MDL to the Customer in respect of the Goods supplied.

**2.2** Time for payment for the Goods shall be of the essence and will be stated on the invoice, quotation, or any other order forms. If no time is stated, then payment will be due seven (7) days following the date of the invoice.

**2.3** The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by MDL nor to withhold payment of any invoice because part of that invoice is in dispute.

**2.4** Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to MDL an amount equal to any GST MDL must pay for any supply by MDL under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

**3. Risk**

**3.1** Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery.

**3.2** If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, MDL is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by MDL is sufficient evidence of MDL's rights to receive the insurance proceeds without the need for any person dealing with MDL to make further enquiries.

**4. Title to Goods (Including any incidental items supplied as part of any Services)**

**4.1** MDL and the Customer agree that ownership of the Goods shall not pass until:

- (a) the Customer has paid MDL all amounts owing to MDL; and
- (b) the Customer has met all of its other obligations to MDL.

**4.2** Receipt by MDL of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

**4.3** It is further agreed that:

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- (a) until ownership of the Goods passes to the Customer in accordance with clause 4.1 that the Customer is only a bailee of the Goods and must return the Goods to MDL on request.
- (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for MDL and must pay to MDL the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
- (c) the Customer must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of any such act on trust for MDL and must pay or deliver the proceeds to MDL on demand.
- (d) the Customer should not convert or process the Goods or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of MDL and must sell, dispose of or return the resulting product to MDL as it so directs.
- (e) the Customer irrevocably authorises MDL to enter any premises where MDL believes the Goods are kept and recover possession of the Goods.
- (f) MDL may recover possession of any Goods in transit whether or not delivery has occurred.
- (g) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of MDL.
- (h) MDL may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Customer.

## **5. Personal Property Securities Act 1999 ("PPSA")**

**5.1** Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:

- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
- (b) a security interest is taken in all Goods and/or collateral (account) - being a monetary obligation of the Customer to MDL for Services - that have previously been supplied and that will be supplied in the future by MDL to the Customer.

**5.2** The Customer 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 MDL may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
- (b) indemnify, and upon demand reimburse, MDL for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any Goods charged thereby;
- (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of MDL.

**5.3** MDL and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.

**5.4** The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.

**5.5** Unless otherwise agreed to in writing by MDL, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.

**5.6** The Customer shall unconditionally ratify any actions taken by MDL under clauses 5.1 to 5.5.

**5.7** Subject to any express provisions to the contrary (including those contained in this clause 5), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

## **6. Default and Consequences of Default**

**6.1** Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at MDL's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

**6.2** If the Customer owes MDL any money the Customer shall indemnify MDL from and against all costs and disbursements incurred by MDL in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, MDL's collection agency costs, and bank dishonour fees).

**6.3** Further to any other rights or remedies MDL may have under this Contract, if a Customer has made payment to MDL, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by MDL under this clause 6 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.

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## 7. Security and Charge

**7.1** In consideration of MDL agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

**7.2** The Customer indemnifies MDL from and against all MDL's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising MDL's rights under this clause.

**7.3** The Customer irrevocably appoints MDL and each director of MDL as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 7 including, but not limited to, signing any document on the Customer's behalf.

## 8. Privacy Policy

**8.1** All emails, documents, images or other recorded information held or used by MDL is Personal Information as defined and referred to in clause 8.3 and therefore considered confidential. MDL acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1993 ("the Act") including Part II of the OECD Guidelines and as set out in Schedule 5A of the Act and any statutory requirements where relevant in a European Economic Area "EEA" then the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). MDL acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customers Personal Information, held by MDL that may result in serious harm to the Customer, MDL will notify the Customer in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Customer by written consent, unless subject to an operation of law.

**8.2** Notwithstanding clause 8.1, privacy limitations will extend to MDL in respect of Cookies where transactions for purchases/orders transpire directly from MDL's website. MDL agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:

- (a) IP address, browser, email client type and other similar details;
- (b) tracking website usage and traffic; and
- (c) reports are available to MDL when MDL sends an email to the Customer, so MDL may collect and review that information ("collectively Personal Information")

In order to enable / disable the collection of Personal Information by way of Cookies, the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via MDL's website.

**8.3** The Customer authorises MDL or MDL's agent to:

- (a) access, collect, retain and use any information about the Customer;
  - (i) (including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Customer's creditworthiness; or
  - (ii) for the purpose of marketing products and services to the Customer.

**8.4** Where the Customer is an individual the authorities under clause 8.3 are authorities or consents for the purposes of the Privacy Act 1993.

**8.5** The Customer shall have the right to request MDL for a copy of the Personal Information about the Customer retained by MDL and the right to request MDL to correct any incorrect Personal Information about the Customer held by MDL.

## 9. General

**9.1** The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

**9.2** These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand in which MDL has its principal place of business, and are subject to the jurisdiction of the courts of New Zealand.

**9.3** Where applicable, nothing in this Contract is intended to have the effect of contracting out of the Consumer Guarantees Act 1993 (CGA). MDL shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by MDL of these terms and conditions (alternatively MDL's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

**9.4** Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

**9.5** Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.

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