

CREDIT APPLICATION & AGREEMENT

NEW

UPDATE

NET 25

PLEASE PRINT CLEARLY

Dealer's Legal Name: _____

DBA: _____

Date Business Started: _____ Phone#: _____ Fax#: _____

Address: _____ City: _____ State: _____ Zip: _____

Email Address: _____ Website URL: _____

Type of Business: Corporation Division Partnership Sole Proprietorship LLC

Subsidiary of: _____ if incorporated, State of Incorporation _____

Sales Tax Resale# _____ From which State: _____

RESALE TAX CERTIFICATE AND BUSINESS LICENSE REQUIRED, PLEASE INCLUDE WITH YOUR APPLICATION.

Federal EIN ID#: _____

Contact for account Payable: _____ Are Purchase Order Required? YES NO

A/P PHONE#: _____ A/P FAX#: _____ A/P EMAIL: _____

FULL NAME AND ADDRESS OF OFFICERS / PRINCIPALS:

(ATTACHED ADDITIONAL PAGES IF NEEDED)

Name: _____ Social Security _____ - _____ - _____ Title: _____

Home Address: _____

Phone#: _____ Fax#: _____ Email: _____

Bank Name: _____ Account#: _____

Contact: _____ Phone: _____ Email: _____

Name: _____ Social Security _____ - _____ - _____ Title: _____

Home Address: _____

Phone#: _____ Fax#: _____ Email: _____

Bank Name: _____ Account#: _____

Contact: _____ Phone: _____ Email: _____

TRADE REFERENCES MINIMUM 3 REQUIRED

1. _____ ACC# _____ PHONE# _____ EMAIL/FAX# _____

CREDIT AGREEMENT AND SECURITY AGREEMENT

This is Credit Agreement and Security Agreement ("Agreement") between the Applicant identified on page 1 hereto ("Applicant") and Empire Wholesale Inc. dba Empire Pro is entered into in consideration of the extension of credit by Empire Pro to the applicant on the following terms and conditions:

1. This agreement and each invoice for inventory, goods or services to be provided by Empire Pro to Applicant govern the terms and conditions of all charges on Applicant's credit account ("Account") from the date of this Agreement until terminated. Empire Pro reserves the right to grant, revoke, or modify the terms of the Account at any time and nothing in this Agreement shall be constructed as a guarantee or assurance of any extensions of credit on the Account at any time.
2. The Applicant shall pay the Account in US dollars, in accordance with terms of each invoices and this Agreement. If Applicant has not paid all sums due Empire Pro by the due date stated on invoice, a monthly finance charge of 1.5% per month or the highest amount legally allowed shall accrue and be payable each month until paid in full. The waiver of a finance charge or any portion thereof shall not be deemed to be waiver of any future finance charges. Should it become necessary to place the account with a collection agency or attorney for collection, the Applicant shall pay collection cost equal to a minimum of twenty-five percent(25%) of the amount then outstanding and all attorney's fee and costs in addition to all other sums due. Empire Pro will charge a returned check fee of \$ 35.00 per check per deposit.
3. The Applicant authorizes Empire Pro to obtain credit and financial information concerning the Applicant at any time and from any source.
4. This agreement shall constitute a security agreement within the meaning of the California Uniform Commercial Code ("UCC"). Applicant hereby grant a security interest to Empire Pro in (i) all inventory and goods purchased by Applicant from Empire Pro (whether shipped to Applicant or Applicant's customer and whether retained or returned by such customers); (ii) all credit card receivable of Applicant arising from any source whatsoever; (iii) all records, writings, papers and data kept or relating to any part of component of the foregoing collateral, and all proceeds to secure payment and performance of all debts, liabilities and obligations of Applicant to Empire Pro, including , without limitation, obligation arising under this Agreement or any invoice, of any kind whatever and however or whenever incurred.
5. Applicant shall provide Empire Pro with at least fifteen (15) days prior notice of any changes in Applicant's legal name, state of formation, principal place of business.
6. If Applicant makes a false statement on attached Credit Application or fails to perform any of its obligations hereunder, Applicants fails to make any payment on the account when due, or Applicant or any guarantor of Applicant's obligations becomes insolvent, files petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, then Applicant becomes shall be in default under this Agreement and all sums owed by Applicant shall become immediately due and payable in full without further notice or demand, Empire Pro shall be entitled to exercise all remedies available to it at law or in equity, including, without limitation, its rights as a secured creditor of Applicant without limiting the generality of the forgoing, Empire Pro may enter Applicant's premises without legal process and take possession of the Collateral. Any requirement of reasonable notice of disposition of the Collateral shall be satisfies if such notice is mailed to Applicant's billing address at least ten (10) days before such deposition. Applicant waives any and all rights it may have under the UCC with respect to the enforcement of Empire Pro's security interest in the Collateral and disposition thereof to the maximum extent permissible by law.

Sales Tax

7. The resale certificate must be submitted for the state in which shipping address is located. If an exemption certificate is not available or if the Buyer wishes to pay the sales tax, a statement on the company letterhead advising that the Buyer will pay sales tax, must be provided. If any certificate of Buyer is deemed invalid by any applicable taxing authority, Buyer shall pay all such taxes and any fines, penalties, or costs arising out of such invalid certificate.

Additional Provisions

8. Additional or Different Terms – Seller shall not be bound by any printed matter appearing on forms or orders submitted by Buyer which attempts to impose upon Seller terms and conditions which are different from and/or additional to these Terms and Conditions. Any such additional and/or different terms and conditions are deemed to materially alter the Terms and Conditions and are hereby objected to and rejected by Seller. Any such additional and/or different terms and conditions submitted by the Buyer shall constitute proposals for additions to the Agreement and shall not become part of the Agreement unless an authorized representative of Seller consents in writing to such additional and/or different terms and conditions by making specific reference to the additional and/or different terms and conditions.
9. **WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY** – ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WHETHER APPEARING IN THE SELLER'S CATALOG OR ADVERTISING MATERIALS OR ELSEWHERE STATED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE EXCLUDED. SELLER SHALL IN NO EVENT BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES.
10. **Assignment** – Buyer shall not assign any of its rights nor delegate any of its duties or obligations under this Agreement without the prior written approval of Seller. Any such assignment or delegation without Seller's prior written consent shall be null and void. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the successors, legal representatives and assigns of Seller and Buyer.
11. This agreement is governed by the laws of the State of California. The Applicant accepts unconditionally the exclusive jurisdiction of any state or federal court located in Los Angeles County, California over any action or proceeding arising out of this Agreement and waves any claim that the State of California is not a convenient forum or the proper venue.
12. There will be 25% restocking fee for all returned items. No returns on special orders, stylus, cartridges, microphones and headphones. No refunds.
13. For our products, as with any electrical device, you must disconnect from power supply before service or relamping. Service should be performed by qualified personnel only. Periodic inspection and maintenance is required to keep equipment operating properly and at peak performance. Do not mount fixtures on or adjacent to combustible materials. Safety cables should be used at all times for mounting fixtures overhead.
14. Return Authorization from our customer service department prior to return. This number must be marked on all related return. All material must be returned within 30 days after authorization is received. Products must be new, unaltered, in original cartons and in resalable condition. Return freight is to be prepaid by customer, unless otherwise authorized. Return goods are subject to 25% restocking charge. Material that is special order, closeout, or obsolete is not returnable for credit. No return on cartridge, stylus, fader, microphone, headphone, bulb and software. Credit will be given in the form of credit memo, no cash. All returns are subject to inspection of quality and count. No credit is authorized or implied until Empire Pro or the manufacturer performs an evaluation.
15. Territorial restrictions may apply to some items.
16. **California Proposition 65** – As a retail seller or distributor you are legally responsible for the placement and maintenance of warning materials on products that you sell that are subject to the requirements of Proposition 65, including warnings for products sold over the internet. If you fail to provide a Proposition 65 Warning to a California consumer, Empire Pro will have no responsibility or liability to you for such failure, and any penalties, costs or attorneys' fees assessed in any civil action against you will be solely your responsibility.
17. **Waiver** – No course of dealing between Seller and Buyer or delay on the part of Seller in exercising any rights here under shall operate as a waiver of any of Seller's rights hereunder. Seller's waiver or acceptance of any breach by Buyer of any provision of the Agreement shall not constitute a waiver of or excuse for nonperformance as to any other provision of the Agreement nor as to any prior or subsequent breach of the same provision.

Enforceability – The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other terms or conditions hereof.

Integration – This Agreement is intended by the parties as a final expression of their agreement and is also intended as a complete and inclusive statement of the terms of their agreement. This Agreement shall not be altered, modified or changed in any manner except by an instrument in writing signed by a duly authorized representative of Seller.

THE UNDERSIGNED WARRENTS (I) ALL THE INFORMATION ON THE CREDIT APPLICATION IS TRUE AND CORRECT; (II) THE UNDERSIGNED HAS FULL POWER AND AUTHORITY TO ENTER INTO THIS AGREEMENT ON THE BEHALF OF THE APPLICANT; AND (III) THIS AGREEMENT HAS BEEN CAREFULLY READ AND IS LEGALLY BINDING ON APPLICANT UPON ACCEPTANCE OF THE CREDIT APPLICATION BY EMPIRE WHOLESALE, INC.

APPLICANT BUSINESS NAME: _____

BY: _____
(Signature and Title)

PRINT NAME: _____ DATE: _____

PERSONAL GUARANTY

Each of the undersigned individuals authorizes Empire Pro to obtain credit and financial information concerning him or her at any time and from any source. Each of the undersigned represents and warrants that all the information in the attached Credit Application is true and correct.

In consideration of Empire Pro extending credit after acceptance date hereunder for on behalf of the Applicant, the undersigned hereby unconditionally and irrevocably, jointly and severally guarantee to Empire Pro the full, prompt and complete payment of any and all indebtedness of Applicant at any time and from time to time, to Empire Pro under Agreement. The undersigned authorized Empire Pro, without notice or demand, to renew, compromise, extend, accelerate or otherwise amend the terms of the Agreement. The undersigned hereby waives any right to require Empire Pro to proceed against any security, any demand for payment, presentment, demands or protest, any and all other rights the undersigned may have prior to or in connection with enforcement of this Guaranty, to the maximum extent permitted by law. This obligation shall remain in effect and apply to all transactions not withstanding any change in the composition of Applicant.

Guarantor Signature _____ Spouse Guarantor Signature _____

Print Name _____ Print Name: _____

Date: _____ Date: _____

APPLICANT:

TO EXPEDITE THE PROCESSING OF YOUR APPLICATION, PLEASE SIGN THIS RELEASE FORM.

THANK YOU,

Empire Pro Mgmt.

CREDIT DEPARTMENT:

I AUTHORIZE THE RELEASE OF INFORMATIONS TO EMPIRE PRO ON MY ACCOUNT:

NAME OF BANK: _____

ACCOUNT NUMBER: _____

ACCOUNT NAME: _____

SIGNATURE: _____ **DATE:** _____

PRINT NAME: _____

Company Policy

We understand that you may need to change or cancel an order. The purpose of this policy is to recoup any costs we have incurred as a result of the change or cancellation.

- If you cancel or change your order before it has been processed, we will not charge you a fee.

In addition:

- If you cancel or change your order after it has been picked and packed for shipping, but before it ships, we will charge you a restocking fee of up to 25% of the value of the portion of the order subject to cancellation or change.
- If you cancel or change your order after it has shipped, we will charge you a restocking fee of up to 25% of the value of the portion of the order subject to cancellation or change. In addition, we will charge you for any freight charges incurred on your behalf, both for delivery and return of products, including the actual shipping cost of any “free freight” offers for which the order may have been eligible. This includes orders which are refused at delivery.

Please also note the following:

- Returned product must be received in like-new condition with all accessories, and in original packaging. Product returned in less than new condition, missing accessories, and/or in unoriginal packaging may be assessed a larger restocking fee.
- Cancellation of orders of products manufactured to specific customer requirements will be subject to a charge dependent upon the stage of design or manufacture at the time of written cancellation from the customer.

No cancellation on special orders. All sales final. No refunds. All merchandise covered by manufacturers warranty only. A service charge of 1.5% Per month shall be applied to all past due accounts. A charge shall be added for all dishonored checks. In the event empire pro finds it necessary to institute collection proceeding or legal action to inforce the payment of funds due under this agreement. The vendee shall pay all cost including attorney fees and court cost reasonably incurred. A restocking charge will be added for the returned goods. All disputes must be reported within 10 days. No returns on headphones, micro-phones, or phono cartridges and stylus. Return items must be approved, unused, & in original packaging. All returned goods are subject to a 25% restocking fee.