

# Application for Credit

FAX COMPLETED FORM TO: 513-326-2005



INTERNAL USE ONLY

Credit Amt. Granted: \_\_\_\_\_

Date: \_\_\_\_\_

Sales Rep: \_\_\_\_\_  
Account Coordinator: \_\_\_\_\_

Company Name _____	DBA _____
Address _____	
Phone _____	Fax _____
Billing Address _____	
Parent Company Name _____	
Federal Employer ID Number _____	Tax Exempt: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, certificate is required

**CORPORATION** (if Corporation, list officer names, titles, and addresses below)

**PROPRIETORSHIP** (if Proprietorship, list name, address, and social security number below.)

**PARTNERSHIP** (if Partnership, list names, addresses, and social security numbers of each below.)

Estimated Annual Sales \_\_\_\_\_ Years in Business \_\_\_\_\_  
Purchasing Contact \_\_\_\_\_ Phone \_\_\_\_\_  
Accounts Payable Contact \_\_\_\_\_ Phone \_\_\_\_\_

## TRADE REFERENCES

Name _____	Contact _____
Address _____	
Phone _____	Account Number _____
Name _____	Contact _____
Address _____	
Phone _____	Account Number _____
Name _____	Contact _____
Address _____	
Phone _____	Account Number _____

## BANK REFERENCE

Name _____	Contact _____
Address _____	
Phone _____	Checking/Savings Acct.# _____

I/we hereby apply for credit with Elite Media Ink, LLC. and subsidiaries. If credit is granted pursuant to this application, I/we agree to pay all invoices and service charges, if any, in accordance with the terms of such invoices or any agreement that I/we enter into with Elite Media Ink, LLC and subsidiaries. I/we acknowledge and agree that a service charge of 1-1/2% per month may be charged on all invoices not paid within 20 days. I/we authorize Elite Media Ink, LLC and subsidiaries to contact the references provided in this application and such references are hereby authorized to convey any information requested by Elite Media Ink, LLC and subsidiaries. The undersigned hereby represents that he/she is duly authorized to sign this application on behalf of the business entity set forth at the beginning of this application and the information set forth in this application is true and correct. I/we understand and agree that the credit terms set forth above and the terms and conditions contained on the reverse will be binding upon the business entity making this application.

Print Name \_\_\_\_\_ Title \_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_

# Terms and Conditions for Manufacture and Duplication of CD-ROM, CD-R, Diskette, Audio Cassette, Video

This Agreement contains the entire agreement and understanding between the parties concerning the services and product provided hereunder, and it shall not be amended, altered, or changed except by written agreement signed by both parties. There are no oral understandings, and neither party has relied upon any representation, express or implied, not contained herein.

1. **SHIPMENTS** All shipments shall be delivered to Client's designated facility or destinations, but all transportation charges shall be the responsibility of Client. All risk of loss and claims for damage or shortage in transit shall be the responsibility of the party contracting with the shipping carrier.

## 2. PAYMENT TERMS

(a) Except as otherwise provided in this Agreement: (i) Elite Media Ink shall issue an invoice for amounts due for services at the time the services are provided; and (ii) subject to Elite Media Ink's continuing approval of Client's credit, amounts payable to Elite Media Ink are due 20 days after the date of its invoice. Any claim for adjustment in an amount invoiced by Elite Media Ink must be presented by Client prior to the due date. (b) Elite Media Ink shall have the right to charge Client a late fee at the rate of 1 1/2% per month for all amounts not paid when due, which late fee shall be payable upon demand. Elite Media Ink shall have the right to delay or withhold shipment of any order or provision of any service if (i) payment in full has not been received when due on any prior order or service, or (ii) Client's credit limits, as established by Elite Media Ink from time to time, have been or will then be exceeded. (c) Client shall pay when due all sales, use, gross receipts, excise, and other taxes or similar charges (other than taxes based upon Elite Media Ink's net income), together with any interest or penalties thereon, imposed by any governmental agency or authority as a result of the transactions under this Agreement. (d) Prices to be charged for all shipments shall be the prices applicable at the date of receipt of the Client's order.

## 3. PROPRIETARY RIGHTS

(a) Client represents and warrants that it is the sole owner of, or has the absolute right to possess and use, all data, content, software, graphics, artwork or other materials delivered to Elite Media Ink by Client or for its account (the "Client Materials") and has the absolute right to allow Elite Media Ink to possess and use the Client Materials as contemplated by this Agreement. Client shall indemnify Elite Media Ink and its affiliates against any and all liabilities, losses, damages, claims, costs, and expenses (including without limitation reasonable attorneys' fees) directly or indirectly arising out of or in connection with the publication, processing, use, distribution, contents or exhibition of Client Materials, including without limitation liability for infringement of patent, copyright, trademark, or other proprietary rights. (b) Client shall retain title to the intellectual content on any master or stamper containing the data provided to Elite Media Ink by Client. (c) Except as may be expressly provided to the contrary in any Addendum, Elite Media Ink shall retain all rights and interests in all of the computer programs, specifications, and data utilized or developed by Elite Media Ink for the performance of this Agreement and all tooling, including without limitation masters and stampers, produced by Elite Media Ink. (d) Elite Media Ink shall have the right to display any work on which Elite Media Ink's name or copyright notice appears; provided that neither Party shall use the name of the other Party in any commercial or promotional manner without the other Party's prior written consent.

## 4. WARRANTY

(a) Elite Media Ink warrants that the CDs will be free from manufacturing defects in accordance with general industry standards for the period of ninety days from the date of shipment by Elite Media Ink; provided that manufacturing defects shall not include defects present in the Client Materials or in any final prototypes or samples approved for manufacturing by Client. If at any time during the applicable one-year period Client is not satisfied that the CDs are free from manufacturing defects, Client may return those CDs to Elite Media Ink for replacements, at Elite Media Ink's expense; provided that Elite Media Ink's shipping expense for such replacement CDs shall be limited to the amount of shipping fees and charges paid by Client to Elite Media Ink for the defective CDs.

(b) EXCEPT AS EXPRESSLY PROVIDED IN SECTION 4(a), ELITE MEDIA INK MAKES NO REPRESENTATIONS OR WARRANTIES, AND HEREBY EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, RELATED DIRECTLY OR INDIRECTLY TO THE COMPACT DISCS, ANY OTHER ITEMS OR SERVICES PROVIDED BY ELITE MEDIA INK PURSUANT TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, OR ARISING BY USAGE OF TRADE OR COURSE OF DEALING, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE REMEDY PROVIDED TO CLIENT UNDER SECTION (6)(a) IS CLIENT'S SOLE REMEDY FOR ANY BREACH OF ELITE MEDIA INK'S WARRANTY UNDER THAT SECTION. (c) Elite Media Ink makes no representations or warranties of any kind to Client's agents or customers, and Client shall not make, nor shall Client have any authority to make, any representations or warranties for or on behalf of Elite Media Ink.

5. **LIMITATION ON LIABILITIES EXCEPT AS A RESULT OF ANY CLAIMS, LIABILITIES, OR OBLIGATIONS ARISING UNDER SECTION 3(a) OR ANY OTHER PROVISIONS OF THIS AGREEMENT EXPRESSLY PROVIDING FOR THE INDEMNIFICATION OF EITHER PARTY BY THE OTHER, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL, OR OTHER SIMILAR DAMAGES, EVEN IF INFORMED OF THE POSSIBILITY OF ANY SUCH DAMAGES, AND WHETHER CLAIMED UNDER CONTRACT, WARRANTY, TORT, OR ANY OTHER LEGAL THEORY.**

## 6. STORAGE AND PROTECTION OF MATERIALS

(a) At Client's request, Elite Media Ink shall store Client Materials while it is providing services related to those Client Materials. Within 30 days after notice from Elite Media Ink, Client shall remove from Elite Media Ink's facilities the Client Materials described in that notice. In the event Client fails to remove those Client Materials within that 30-day period, Elite Media Ink shall have the right to destroy or return those Client Materials, without liability. (b) Client shall be solely responsible for insuring all Client Materials against all insurable risks or making such back-up copies or taking such other precautions as may be necessary for Client to protect its interests in the Client Materials. (c) Client may also request that Elite Media Ink store other goods ordered by Client for delivery at a later date ("Finished Goods"). Client is responsible for payment of all discs, materials, assembly, and other services relating to the Finished Goods at the time they are completed and moved into inventory. At that time, Client also assumes ownership of all the Finished Goods.

## 7. CONFIDENTIALITY

If either Party discloses its confidential information to the other Party and clearly identifies that information in writing as "confidential," the receiving Party shall exercise reasonable efforts to assure that such information is disclosed by that Party only to those employees and independent contractors of that Party or its affiliates needing access thereto in connection with this Agreement and only if such persons are subject to confidentiality restrictions similar to those contained in this Agreement. Each Party also shall keep confidential the terms and conditions of this Agreement and all related prices, proposals, and discussions. Notwithstanding the foregoing, this section shall not limit either Party's rights to: (a) make any disclosures required by law; or (b) use or disclose information that (i) becomes available in the industry in which either Party conducts business without any breach of this section by that Party or its agents, (ii) is lawfully acquired by that Party from a third party without any violation of any confidentiality restriction; or (iii) is in the possession of that Party at the time of disclosure by the other Party.

## 8. NOTICES

Any notice or other communication required or desired to be given to either Party under this Agreement shall be in writing.

## 9. GENERAL

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. The Parties to this Agreement hereby: (i) designate the Court of Common Pleas of Hamilton County, Ohio, and the court of general jurisdiction for the county or parish in which the Client's principal office in the United States is located as courts of proper jurisdiction and venue for any and all actions or proceedings relating to this Agreement; (ii) irrevocably consent to such designation, jurisdiction, and venue; and (iii) waive any objections or defenses relating to jurisdiction or venue with respect to any action or proceeding initiated in either of such courts. (b) If the performance of either Party under this Agreement is delayed or prevented at any time due to circumstances beyond the reasonable control of that Party, including without limitation those resulting from labor disputes, fire, floods, riots, equipment or communications failures, civil disturbances, weather conditions, control exercised by a governmental authority, unavoidable casualties, or acts of God or a public enemy, the performance of that Party of its obligations under this Agreement, other than payment obligations, shall be excused until those circumstances no longer exist. (c) This Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and assigns of the Parties; provided that Client shall not assign this Agreement or any rights or obligations under this Agreement without the prior written consent of Elite Media Ink. (d) This Agreement is intended for the exclusive benefit of the Parties and their respective successors and permitted assigns, and nothing contained in this Agreement shall be construed as creating any rights or benefits in or to any third party.