

Dynamic Group Logistics Pty Ltd ACN 127 272 502

ABN 70 127 272 502

66-72 Alexandra Place

MURARRIE QLD 4172

P: (07) 3344 9949

F: (07) 3344 9938



### APPLICATION FOR COMMERCIAL CREDIT

#### Applicant

Trading name			
Name of company, trust, person(s) or partnership operating business			
If a trust, please provide full names of all trustees			
ACN		ABN	
Business street address			
Business postal address			
Contact person		Tel (b/h)	
Fax (b/h)		Email	
Name of bank		Branch	
Account no.		BSB	
Date business commenced		Nature of business	

#### Details of partner/director

Name		DOB	
Address		Drivers licence	
Title		Mobile	
Name		DOB	
Address		Drivers licence	
Title		Mobile	

#### Trade references

Name		Telephone	
Address		Fax	
Name		Telephone	
Address		Fax	
Name		Telephone	
Address		Fax	

# TERMS AND CONDITIONS

## Payment terms

1. The terms of payment are strictly thirty (30) days (or such other period as nominated by the supplier herein) from the date of invoice. **Dynamic Group Logistics Pty Ltd ACN 127 272 502** and their related bodies corporate (as that term is defined in the *Corporations Act 2001*) (**Supplier**) may, at any time, upon the provision of 48 hours' written notice to the Applicant, vary the terms and conditions of trade.
2. If the Applicant does not agree with the variations proposed by the Supplier, they must notify the Supplier in writing within fourteen (14) days from receipt of the written notice that the variations are not agreed to. The Supplier and/or the Applicant will then be at liberty to suspend/withdraw credit facilities if no agreement can be reached between the parties regarding the proposed variations. Absent notice from the Applicant, the varied terms and conditions of trade may be deemed accepted. Clerical errors (such as spelling mistakes or grammatical errors) may be subject to correction without notification.
3. The Applicant must check all invoices and advise the Supplier of any errors or omissions within seven (7) days of receipt. Failing advice from the Applicant that the invoice contains any errors or omissions, the invoice may be deemed accepted by the Supplier.
4. Should the Applicant not pay for the goods or services supplied by the Supplier in accordance with the credit terms as provided herein, or as agreed in writing by the Supplier and Applicant from time to time, after issuing a written demand to the Applicant demanding payment within seven (7) days, the Supplier will be entitled to charge an administration fee of 10 percent of the amount of the invoice payable.

## Orders

5. Orders must clearly state:
  - (a) an order number;
  - (b) the date of order;
  - (c) the requested delivery date;
  - (d) the name of the person/entity receiving the order;
  - (e) contact details including a delivery address.
6. Within a reasonable time after receipt of an order, the Supplier may, by written notice to the Customer, notify the Applicant if there is inadequate stock to supply the products subject of the order.
7. The Supplier is not liable for any loss or damage suffered as a result of the non-supply of an order arising out of clause 6.
8. The Supplier may, at any time, upon the provision of 48 hours' written notice to the Applicant, vary the terms and conditions of any order.
9. The Supplier reserves the right to vary a quotation provided in the event of any additional services are required, including but not limited to:
  - (a) limitation to accessing the site;
  - (b) services supplied outside the Supplier's business hours;
  - (c) incomplete prerequisite third party works; or
  - (d) any increase to the Supplier in the costs of services/materials.
10. The Supplier may require the Applicant to provide documents or further information prior to accepting any order. The Supplier reserves the right to decline any order as a result of the Applicant's failure to supply the requested documents and information.
11. Prior to an order being accepted by the Supplier, the Applicant may cancel an order by providing written notice to the Supplier.
12. Any cancellation request received by the Supplier after an order has been processed by the Supplier, the cancellation will be ineffective and the Applicant acknowledges and agrees that it will be bound by these terms in relation to the order.

## Delivery

13. Any date or time for delivery stated in a quotation by the Supplier is an estimate only. The Supplier will endeavour to meet all delivery estimates provided, however failure to do so will not give rise to grounds for cancellation or termination, or claim for loss and damages by the Applicant. The Supplier will provide reasonable notice to the Applicant of any changes to the delivery times and notice ahead of the initial estimate provided.
14. The Applicant acknowledges and agrees that it is responsible and liable for:
  - (a) all delivery charges incurred at cost plus other relevant charges as notified by the Supplier;
  - (b) costs and risks involved in taking the goods from the Suppliers premises, irrespective of the form of delivery;
  - (c) any costs associated with additional delivery costs incurred as a result of the Applicant not being available to accept delivery of goods;
  - (d) the Applicant and/or Receiver taking any necessary steps to insure the goods.
15. The Supplier is not responsible for the loading or transportation of goods unless otherwise agreed to in writing by the Supplier.
16. The Applicant accepts that the Supplier may deliver goods by instalments and require payment for each separate instalment in accordance with these terms and conditions.
17. The Applicant acknowledges and accepts that it is not relieved from any obligation arising under these terms and conditions by reason of any delay in delivery.
18. If the Applicant requests that goods are delivered either to an unattended location, left outside, or are left outside the Supplier's premises for collection, the Applicant acknowledges that the Supplier will deliver the goods as requested at the Applicant's risk.
19. The Applicant and/or Receiver must inspect the goods immediately upon delivery and must within 48 hours after the date of inspection give written notice to the Supplier with particulars, of any claim that the goods are not in accordance with this agreement. If the Applicant fails to give notice, then to the extent permitted by law, the goods must be treated as having been accepted by the Applicant and the Applicant must pay for the goods in accordance with these terms and conditions.
20. The Applicant and/or Receiver cannot return goods to the Supplier without the written agreement of the Supplier. The Applicant and/or Receiver acknowledges and agrees that any return will incur a handling and administration charge of 15 per cent of the purchase price of the returned goods.

## Removal of Goods

21. The Supplier may, by written notice to the Applicant, require the Applicant to remove the Applicant's goods or part thereof. The Applicant acknowledges and agrees that within one (1) month of receipt of such notice pay any and all outstanding charges owing to the Supplier and remove the goods referred to in the notice.
22. If the Applicant fails to pay the charges and remove the goods subject of any notice under clause 21, the Supplier reserves the right to remove and store any goods in any manner as the Supplier thinks proper.
23. Any goods stored by the Supplier will continue to be stored at the risk of the Applicant.
24. Should storage of the goods by the Supplier be necessary, the Applicant acknowledges and agrees that it will pay all reasonable storage and insurance charges which are stored by the Supplier on behalf of the Applicant.
25. If in the opinion of the Supplier any of the stored goods deteriorate, become objectionable, or a source of danger, infestation or contamination, then the Supplier may at any time, by written notice to the Applicant, and at the Applicants expense remove such goods and if thought fit destroy or sell them without compensation to the Applicant. The Applicant will be liable for all costs, fees and charges incurred by the Supplier including without limitation, fumigation and pest control charges. The Applicant indemnifies the Supplier from and against all costs, expenses and charges of any nature claimed by the Supplier as a result of an infestation or contamination caused by the Applicant's product.

## Packaging Charges

26. The Applicant acknowledges and agrees that it is liable for all costs associated with any pallets or other packaging devices and materials received by the Supplier including any freight charges.
27. The Supplier may accept delivery by signing for receipt of any pallets or other packaging devices on behalf of the Applicant.

## Warranty

28. The Applicant acknowledges and agrees that it warrants that the goods:
  - (a) stored are owned by the Applicant (or are legally in control of the Applicant) who has the right, power and authority to store them with the Supplier;
  - (b) are not hazardous and are free of any deleterious or objectionable matter or odour which may affect other goods and are not explosive, flammable or liable to spontaneous combustion or otherwise dangerous or likely to become dangerous; and
  - (c) are packed in a manner adequate to withstand the ordinary risks of carriage having regard to their nature;
  - (d) are maintained by appropriate insurance cover at all times.
29. The Applicant acknowledges and agrees that the Supplier is not liable for any risk or damage caused by any repackaging of the goods by the Supplier.

## Jurisdiction

30. The Applicant acknowledges and agrees that this agreement will be governed by the laws of the state in which the goods are stored, and the laws of the Commonwealth of Australia which are in force in the relevant jurisdiction. The Applicant acknowledges and agrees that and contract relating to goods stored in New Zealand will be governed by the laws of New Zealand.
31. The Applicant acknowledges and agrees that any contract for the supply of goods or services between the Supplier and the Applicant is formed at the address of the Supplier.
32. The parties to this agreement submit to the non-exclusive jurisdiction of the courts of the state in which the goods are stored and the relevant federal courts and courts competent to hear appeals from those courts.

## Security/charges

33. The Applicant charges in favour of the Supplier all of its estate and interest in any real property, whether held in its own right or as capacity as trustee, the Applicant owns at present and in the future with the amount of its indebtedness hereunder until discharged.
34. The Applicant charges in favour of the Supplier all of its estate and interest in any personal property, whether held in its own right or as capacity as trustee, the Applicant owns at present and in the future with the amount of its indebtedness hereunder until discharged.
35. The Applicant appoints as its duly constituted attorney the Supplier's company secretary from time to time to execute in the Applicant's name and as the Applicant's act and deed any real property mortgage, bill of sale or consent to any caveat the Supplier may choose to lodge against real property that the Applicant may own in any Land Titles Office in any state or territory of Australia, even though the Applicant may not have defaulted in carrying out its obligations hereunder upon written notice and demand to the Applicant (in the event that there is no default by the Applicant in carrying out its obligations hereunder).
36. Where the Applicant has previously entered into an agreement with the Supplier by which the Applicant has granted a charge, mortgage or other security interest (including a security interest as defined in the *Personal Property Securities Act 2009 (PPSA)*) over or in respect of real or personal property, those charges, mortgages or other security interests and the terms which directly or indirectly create rights, powers or obligations in respect thereto will continue and co-exist with the obligations and security interests created in this agreement and will secure all indebtedness and obligations of the Applicant under this agreement. The Supplier may, at its election and upon the provision of written notice, vary the terms of such previous charges, mortgages or other securities to reflect the terms herein.

## Purpose of credit

37. The Applicant acknowledges and agrees that the credit to be provided to the Applicant by the Supplier is to be applied wholly or predominantly for commercial purposes.

## Formation of contract

38. Quotations made by the Supplier will not be construed as an offer or obligation to provide services in accordance with the quotation. The Supplier reserves the right to accept or reject, at its discretion, any offer to provide services received by it upon provision of written reasons to the Applicant. Only written acceptance by the Supplier of the Applicant's offer will complete a contract.
39. Placement of an order, in writing, will imply acceptance of the Supplier's offer and of these terms and conditions.

## Cancellation of terms of credit

40. The Supplier reserves the right to withdraw credit at any time upon provision of 48 hours' written notice.
41. Upon cancellation with notice, all liabilities incurred by the Applicant become due and payable to the Supplier within seven (7) days.

## Indemnity

42. The Applicant agrees to indemnify the Supplier and keep the Supplier indemnified against any claim that arises out of the goods and services supplied under this agreement. This indemnity includes any legal fees and expenses the Supplier incurs in order to enforce its rights, on an indemnity basis.

## Provision of further information

43. The Applicant undertakes to comply with any reasonable written requests by the Supplier to provide further information for the purpose of assessing the Applicant's creditworthiness, including an updated credit application.
44. If the Applicant is a corporation (with the exception of a public listed company), it must advise the Supplier of any alteration to its corporate structure (for example, by changing directors, shareholders, or its constitution). In the case of a change of directors or shareholders the Supplier may ask for new guarantors to sign a guarantee and indemnity.

## Corporations

45. If the Applicant is a corporation, the Applicant warrants that all of its directors have signed this agreement and that all of its directors may be required to enter into a guarantee and indemnity with the Supplier in relation to the Applicant's obligations to the Supplier.

## Trustee capacity

46. If the Applicant is the trustee of a trust (whether disclosed to the Supplier or not), the Applicant warrants to the Supplier that:
  - (a) the Applicant enters into this agreement in both its capacity as trustee and in its personal capacity;
  - (b) the Applicant has the right to be reasonably indemnified out of trust assets;
  - (c) the Applicant has the power under the trust deed to sign this agreement; and
  - (d) the Applicant will not retire as trustee of the trust or appoint any new or additional trustee without advising the Supplier.
47. The Applicant must give the Supplier a copy of the trust deed upon request.

## Partnership

48. If the Applicant enters into this agreement as partners, the Applicant warrants that all of the partners have signed this agreement and that all of the partners may be required to enter into a guarantee and indemnity with the Supplier in relation to the Applicant's obligations to the Supplier.
49. If the Applicant is a partnership, it must not alter its partnership (for example, adding or removing partners or altering its partnership agreement) without advising the Supplier. In the case of a change of partners, the Supplier may ask for new guarantors to sign a guarantee and indemnity.

## Insolvency

50. If the Applicant becomes insolvent, the Applicant remains liable under this agreement for payment of all liabilities incurred hereunder. The Applicant remains liable under this agreement even if the Supplier receives a dividend or payment as a result of the Applicant being insolvent.

**Costs**

- 51. The Applicant must pay for its own legal, accounting and business costs and all costs incurred by the Supplier relating to any default by the Applicant under this agreement. The Applicant must also pay for all stamp duty and other taxes payable on this agreement (if any).
- 52. The Applicant will pay the Supplier's costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against the Applicant, including collection costs, debt recovery fees and legal costs on an indemnity basis.
- 53. Subject to clause 54, payments by, or on behalf of, the Applicant will be applied by the Supplier as follows.
  - (a) Firstly, in payment of any and all collection costs and legal costs in accordance with clause 52.
  - (b) Secondly, in payment of any interest incurred in accordance with clause 58.
  - (c) Thirdly, in payment of the outstanding invoice(s).
- 54. To the extent that payments have been allocated to invoices by the Supplier in its business records, the Supplier may, at its sole and unfettered discretion, allocate and/or retrospectively reallocate payments in any manner whatsoever at the Supplier's absolute discretion, including in a manner inconsistent with clause 53 herein.
- 55. Payments allocated (and/or reallocated) under clause 53 will be treated as though they were allocated (and/or reallocated) in the manner determined by the Supplier on the date of receipt of payment.

**Taxes and duty**

- 56. The Applicant must pay GST on any taxable supply made by the Supplier to the Applicant under this agreement. The payment of GST is in addition to any other consideration payable by the Applicant for a taxable supply.
- 57. If as a result of:
  - (a) any legislation becoming applicable to the subject matter of this agreement; or
  - (b) any changes in legislation or its interpretation by a court of competent jurisdiction or by any authority charged with its administration;
 the Supplier becomes liable to pay any tax, duty, excise or levy in respect of the amounts received from the Applicant, then the Applicant must pay the Supplier these additional amounts on 48 hours' written demand.

**Interest rates**

- 58. The interest rate on any outstanding debts is a fixed rate of 10 per cent per annum.

**Set-off**

- 59. All payments required to be made by the Applicant under this agreement will be made free of any set-off, or counterclaim and without deduction or withholding, unless agreed to otherwise by the Supplier and the Applicant in writing.
- 60. Any amount due to the Supplier from time to time may be deducted from any monies which may be or may become payable to the Applicant by the Supplier.

**Miscellaneous**

- 61. The Supplier is not liable for any loss caused to the Applicant by reason of strikes, lockouts, fires, riots, war, embargoes, civil commotions, acts of God or any other activity beyond the Supplier's control.
- 62. In relation to the supply of services, the Supplier's liability is limited to:
  - (a) supplying the service again; or
  - (b) providing for the cost of having the services supplied again.

- 63. The Supplier is not liable for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, loss of a right or any other indirect loss suffered by the Applicant as a result of the goods and/or services supplied under this agreement.
- 64. The Applicant agrees to accept service of any document required to be served, including any notice under this agreement or any originating process, by prepaid post at any address nominated in this application or any other address later notified to the Supplier by the Applicant or the Applicant's authorised representative.
- 65. Nothing in this agreement shall be read or applied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any goods and/or services pursuant to this agreement of all or any of the provisions the *Competition and Consumer Act 2010* or any relevant State or Federal Legislation which by law cannot be excluded, restricted or modified.

**Severance**

- 66. If any provision of this agreement is not enforceable in accordance with its terms, other provisions which are self-sustaining are, and continue to be, enforceable in accordance with their terms.
- 67. If any part of this agreement is invalid or unenforceable, that part is deleted and the remainder of the agreement remains effective.

**Variation**

- 68. The Applicant agrees that these terms and conditions may be varied, added to, or amended by an authorised officer of the Supplier at any time by written notice to the Applicant. The Applicant will be provided with fourteen (14) days to accept the variation/s, failing which the variations may be deemed accepted by the Supplier.
- 69. Any proposed variation to these terms and conditions by the Applicant must be requested in writing. The Supplier may refuse any such request without providing reasons either orally or in writing.
- 70. Variations requested by the Applicant will only be binding upon the Supplier if they are accepted in writing.

**Entire agreement**

- 71. This agreement constitutes the entire agreement between the parties relating in any way to its subject matter, unless agreed to otherwise by the Supplier and the Applicant in writing. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of this agreement are merged in this agreement and are of no further effect. No oral explanation or information provided by a party to another affects the meaning or interpretation of this agreement or constitutes any collateral agreement, warranty or understanding.
- 72. Notwithstanding the preceding paragraph, in circumstances where there is a pre-existing written credit agreement (**Original Agreement**) between the Applicant and the Supplier, these terms and this agreement will constitute a variation of the Original Agreement whereby the terms of the Original Agreement are deleted and replaced with the terms herein, unless the terms of the Original Agreement are otherwise expressly or implicitly preserved by the terms herein in which case they will co-exist with the terms herein, and, to the extent of any inconsistency, these terms will prevail.

**Privacy Act**

- 73. The Applicant agrees to the terms of the Privacy Statement pursuant to the *Privacy Act 1988* (as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* contained in this document.

The Applicant hereby applies for the opening of an account and provides the above information in support thereof.

I am/We are authorised to sign this credit application form on behalf of the Applicant and the information given is true and correct to the best of my/our knowledge.

<b>Signature</b>	<b>Signature</b>
<b>Name (print)</b>	<b>Witness name (print)</b>
<b>Position</b>	<b>Date</b>
<b>Date</b>	
<b>Signature</b>	<b>Signature</b>
<b>Name (print)</b>	<b>Witness name (print)</b>
<b>Position</b>	<b>Date</b>
<b>Date</b>	

**FOR COMPLETION BY THE SUPPLIER**

The Applicant's credit application is accepted. Signed for and on behalf of the Supplier.

<b>Signature</b>	<b>Position</b>
<b>Name (print)</b>	<b>Date</b>

**ACCOUNT APPROVED FOR CASH ON DELIVERY / 7 DAYS / 14 DAYS / 30 DAYS**  
(supplier to nominate)

**PRIVACY STATEMENT**

- 1. This privacy statement encompasses consents, notifications and disclosures under or in relation to the *Privacy Act 1988* (as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012*) (**Act**).
- 2. The terms of this statement operate concurrently with any pre-existing privacy statement, authorisation or notification, whether contained in our credit application, terms and conditions of trade or otherwise, save to the extent of any inconsistency in which case the terms of this privacy statement shall prevail.
- 3. For the purpose of this statement, the terms "personal information", "sensitive information", "credit eligibility information", "credit information", "commercial credit purpose", "credit guarantee purpose", "consumer credit purpose", "credit reporting body", "credit provider", "credit reporting information", "credit reporting code" carry the same meaning as under the Act and the term "Information" means personal information, sensitive information, credit eligibility information, credit reporting information and credit information, both severally and collectively.
- 4. The Supplier may collect personal information about the Applicant and/or Guarantor(s) for the Supplier's primary purposes which include the assessment of a credit application, reviewing existing credit terms, assessing credit worthiness, collecting overdue payments, assessing credit guarantees (current and prospective), internal management purposes, marketing, sales and business development purposes and direct marketing.
- 5. The Applicant and/or Guarantor(s) consent to the Supplier collecting, using and disclosing personal information (including sensitive information) for both their primary purposes specified herein and purposes other than the primary purposes, including the purpose of direct marketing.
- 6. The Supplier may collect, and may already have collected, Information from the Applicant and/or Guarantor(s), other credit providers, credit reporting bodies and other third parties

- for the purposes of its functions and activities including, but not limited to, credit, sales, marketing and administration. If the Information was not collected by the Supplier it may restrict or impede upon the Supplier trading with, extending credit to, continuing to extend credit to or extending further credit to the Applicant and/or Guarantor(s) or their related bodies corporate.
- 7. The Applicant and/or Guarantor(s) consent to the Supplier obtaining and making disclosure of Information about the Applicant and/or Guarantor(s) from and to a credit reporting body and/or another credit provider for a commercial credit related purpose and/or a credit guarantee purpose and/or a consumer credit purpose and/or another related purpose. The Supplier notifies the Applicant and/or Guarantor(s) that it may use and/or disclose credit eligibility information under section 21G of the Act.
- 8. The Supplier may provide personal information about the Applicant and/or Guarantor(s) to any or all of the credit reporting bodies nominated below. The Supplier intends to disclose default information to any or all of the credit reporting bodies listed below. The Applicant and/or Guarantor(s) consent to such disclosure. The Supplier's credit reporting policy contains a statement of notifiable matters in accordance with s21C of the Act and items 4.1 and 4.2 of the Credit Reporting Code in respect of disclosure to credit reporting bodies including what the information may be used for, what the Supplier may disclose and the Applicant's and/or Guarantor(s)' right to request limitations to the use of their information.

Equifax Australia  
Level 15, 100 Arthur Street  
NORTH SYDNEY NSW 2060  
Tel: 1300 921 621

Creditor Watch  
Level 13, 109 Pitt Street  
SYDNEY NSW 2000  
Tel: 1300 501 312

NCI  
Level 2, 165 Grenfell St  
ADELAIDE SA 5000  
Tel: 1800 882 820

Dun & Bradstreet  
Level 2, 143 Coronation Drive  
MILTON QLD 4064  
Tel: 07 3360 0600

Experian  
Level 6, 549 St Kilda Road  
MELBOURNE VIC 3004  
Tel: 03 9699 0100

9. The Supplier may disclose Information to, and about them and the Applicant and/or Guarantor(s) hereby acknowledge that they consent to the disclosure of such information to the Supplier's employees, subsidiaries, employees, agents and related bodies corporate, past, present or prospective credit providers of the Applicant and/or Guarantor(s) or their related bodies corporate, including for the purpose of that person considering whether to offer to act as guarantor or offer security for that credit, and/or

- overseas recipients and recipients who do not have an Australian link in countries including New Zealand.
10. By reason of the Applicant's and/or Guarantor(s)' consent to the disclosure to overseas recipients hereunder, APP 8.1 will not apply to the Supplier's dealing with the Applicant's and/or Guarantor(s)' Information.
11. A full copy of the Supplier's privacy policy and credit reporting policy can be obtained from the Supplier's website (details above) or by making a request in writing directed to the Supplier's privacy officer. The Supplier's privacy policy and credit reporting policy contain information about how to access and seek correction of Information, or how to complain about a breach of the Act, APP, code(s) and how the Supplier will deal with any such complaint.
12. The Applicant and/or Guarantor(s) will be deemed to have acknowledged and accepted the terms of this privacy statement by either signing and returning this statement, failing to provide written notification to the Supplier within 14 days of receipt of this statement that its terms are not accepted, continuing to trade with the Supplier after receipt of this Statement or, if the Applicant and/or Guarantor(s) are directors or guarantors of a customer, by not taking steps to prevent the customer from continuing to trade with the Supplier after receipt of this statement.

## DEED OF GUARANTEE & INDEMNITY

To **Dynamic Group Logistics Pty Ltd ACN 127 272 502 and its related bodies corporate** **(Supplier)**

<b>Name</b>		<b>Address</b>	
<b>Name</b>		<b>Address</b>	

**(Guarantors)** hereby covenant and undertake and if more than one, jointly and severally, as follows.

**Jurisdiction**

- The Guarantors acknowledge and agree that this guarantee and indemnity is governed by the laws of the state in which the goods are stored, and the laws of the commonwealth of Australia which are in force in the relevant jurisdiction. The Guarantors acknowledges and agrees that any contract relating to goods stored in New Zealand will be governed by the laws of New Zealand.
- The parties to this guarantee and indemnity submit to the non-exclusive jurisdiction of the courts of the state in which the goods are stored and the relevant federal courts and courts competent to hear appeals from those courts.

**Consideration**

- In consideration of the Supplier extending or agreeing to extend credit or further credit to the Applicant at the Guarantors' request (testified by the Guarantors' execution of this agreement) for goods sold or to be sold from time to time, the Guarantors guarantee payment to the Supplier of all money which is now or at any time in the future becomes due and payable to the Supplier by the Applicant on any account or accounts whether now existing or which may in the future be opened or in any manner whatsoever, including but not limited to amounts payable by the Applicant to the Supplier arising out of a relationship of trustee and beneficiary.

**Guarantee and indemnity**

- The Guarantors agree to guarantee and indemnify the Supplier against all losses damages or expenses that the Supplier may suffer as a result, either directly or indirectly, of any failure by the Applicant to make due payment of any money owing to the Supplier whether for goods sold or otherwise or to observe the terms of any agreement between the Applicant and the Supplier, including costs on an indemnity basis of any attempt or attempts to recover from the Applicant or any Guarantor and whether successful or not or whether frustrated by the Applicant or Guarantor or by operation of law and including costs ordered by a court to be paid by the Supplier to the Applicant or to any Guarantor including the costs of lodging and withdrawing caveats and/or obtaining injunctions and enforcing any security over real and personal property given to the Supplier.
- This guarantee and indemnity will be a continuing guarantee and indemnity and will not be considered as wholly or partially satisfied or discharged by any money which may at any time or times in the future be received or applied by the Supplier to the credit of any account of the Applicant or the Guarantors, or deemed to be held on trust by the Applicant for the Supplier, and will be available as a Guarantee and Indemnity for the whole of the sums referred to in clauses 3 and 4 of this guarantee and indemnity.
- Where two or more persons execute this guarantee and indemnity, the guarantors, covenants and obligations in this guarantee and indemnity given or undertaken by the Guarantors will be deemed to bind the Guarantors jointly and each of the Guarantors severally and the Supplier will be entitled to seek payment in full from any one or more of the Guarantors without seeking payment from the other Guarantors.
- The Supplier will have the right to proceed against the Guarantors under the Guarantee and Indemnity, irrespective of default of the Applicant to pay and with or without notice to the Applicant, as if the primary liability for any money owing was the Guarantors' own. Further, the Suppliers will have the right to proceed against the Guarantors notwithstanding any other rights it may have in relation to the recovery of the amounts hereby guaranteed.
- This guarantee and indemnity will continue in force until such time as the Supplier releases the Guarantors in writing, and notwithstanding the fact that the Guarantors are no longer directors, shareholders or owners of the Applicant.
- This guarantee and indemnity is without prejudice to and will not be affected by nor will the rights or remedies of the Supplier against the Guarantors or any of the Guarantors be in any way prejudiced or affected by:
  - any other security taken by the Supplier from the Applicant or from any other person;
  - any waiver or indulgence, whether as to time or otherwise, given to the Applicant or to the Guarantors or any one or more of the Guarantors;
  - by any other act, matter or thing which under the law relating to sureties would or might but for this provision release the Guarantors or any of the Guarantors from all or any part of the Guarantors obligations contained in this guarantee and indemnity; or
  - any person named in this guarantee and indemnity as Guarantor failing to execute this guarantee and indemnity or failing or ceasing to be bound by the terms of this guarantee and indemnity.

**Right of subrogation**

- In the event of the Guarantors and/or the other Guarantors making any payment in respect to an obligation of the Applicant whether under a guarantee or indemnity or otherwise, the Guarantors will not exercise any rights of subrogation against any other Guarantors or the Applicant unless and until the Supplier has been paid in full.
- In the event of the Applicant going into liquidation, the Guarantors will be prohibited from proving in competition with the Applicant unless and until the Supplier has been paid in full.

**Insolvency of Applicant**

- No sum of money which the Applicant pays to the Supplier and the Supplier later pays, is obliged to pay, allows in account or is obliged to allow in account to a liquidator, administrator, receiver or trustee in bankruptcy of the Applicant by reason of the *Corporations Act 2001*, *Bankruptcy Act*

1966 or otherwise will, for the purpose of this guarantee and indemnity, be considered as discharging or diminishing the Guarantors' liability and this guarantee and indemnity will continue to apply as if the said sum(s) had at all times remained owing by the Applicant.

**Costs**

- The Supplier is at liberty from time to time to charge the account of the Applicant with all costs, charges and expenses, legal or otherwise that the Supplier incurs in connection with:
  - the account of the Applicant;
  - this guarantee and indemnity;
  - any other security in respect of the indebtedness of the Applicant to the Supplier;
  - the preparation, completion and stamping of this deed; or
  - the exercise or attempted exercise of any right, power or remedy conferred on the Supplier under or by virtue of this deed;
 and the same will be part of the monies secured by this deed.

- The Guarantors agree to pay the Supplier's costs and disbursements incurred in recovering monies secured by this deed, including debt recovery agency fees and legal costs on an indemnity basis.

- The Guarantors appoint as their duly constituted attorney the Supplier's company secretary from time to time to execute in the Guarantors' names and as the Guarantors' act and deed any real property mortgage, bill of sale or consent to any caveat the Supplier may choose to lodge against real property that the Guarantors may own in any Land Titles Office in any state or territory of Australia, even though the Guarantors may not have defaulted in carrying out their obligations hereunder.

**Variation**

- The Guarantors authorise the Supplier to give time or any other indulgence or consideration to the Applicant in respect of compliance with its obligations to the Supplier, even if giving time or any other indulgence or consideration has the effect of increasing the Guarantors' liability under this guarantee and indemnity.
- The Guarantors agree that this guarantee and indemnity will not be avoided, released or affected by the Supplier making any variation or alteration in the terms of its agreement(s) with the Applicant, even if such variation or alteration has the effect of increasing the Guarantors' liability under this guarantee and indemnity.

**Severance**

- If any provision of this guarantee and indemnity is not enforceable in accordance with its terms, other provisions which are self-sustaining are and continue to be enforceable in accordance with their terms.

**Security/charge**

- The Guarantors charge in favour of the Supplier all of their estate and interest in any real property, whether held in its own right or as capacity as trustee, the Guarantors own at present and in the future with the amount of their indebtedness hereunder until discharged, such indebtedness to include all amounts referred to in clauses 3 and 4.
- The Guarantors charge in favour of the Supplier all of their estate and interest in any personal property, whether held in its own right or as capacity as trustee, the Guarantors own at present and in the future with the amount of their indebtedness hereunder until discharged, such indebtedness to include all amounts referred to in clauses 3 and 4.
- This guarantee and indemnity secures the repayment of all monies owed by the Applicant whatsoever, and this deed constitutes the entire guarantee.
- Where the Guarantors have previously entered into an agreement with the Supplier by which the Guarantors have granted a charge, mortgage or other security over real or personal property, those charges, mortgages or other security interests will continue and co-exist with the obligations and security interests created in this deed and will secure all indebtedness and obligations of the Guarantors under this deed. The Supplier may, at its election, vary the terms of such previous charges, mortgages or other securities to reflect the terms herein.

**Personal Property Securities Act**

- For the avoidance of any doubt, the security interest(s) created by this instrument in favour of the Supplier constitutes security interests pursuant to the *Personal Property Securities Act 2009*.
- The Guarantors waive any right or entitlement to receive notice of the registration of any security interest(s) created by this instrument on the Personal Property Securities Register.

**Service of notices**

- The Guarantors agree to accept service of any document required to be served, including any notice under this agreement or the PPSA or any originating process, by prepaid post at any address nominated in this application or any other address later notified to the Supplier by the Guarantors or the Guarantors' authorised representative.

**Privacy Act**

- The Guarantors agree to the terms of the Privacy Statement pursuant to the *Privacy Act 1988* (as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* contained in this document.

**Dated**

<b>Signed, sealed and delivered by the guarantor</b>	<b>Signature</b>	
	<b>Name</b>	
	<b>Position</b>	
	<b>Witness signature</b>	
	<b>Name</b>	
<b>Signed, sealed and delivered by the guarantor</b>	<b>Signature</b>	
	<b>Name</b>	
	<b>Position</b>	
	<b>Witness signature</b>	
	<b>Name</b>	